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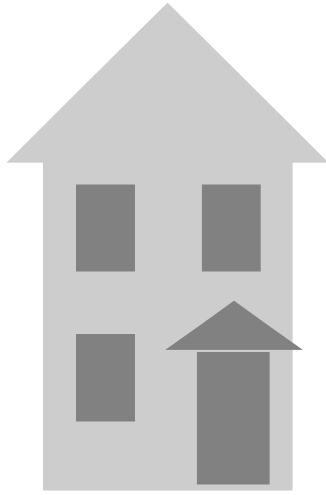
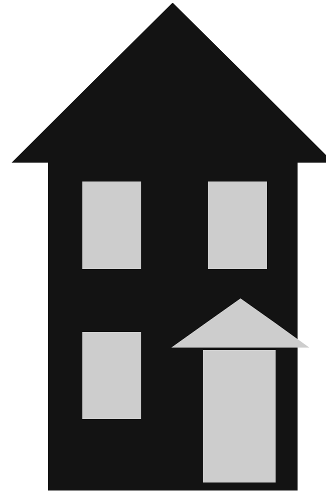
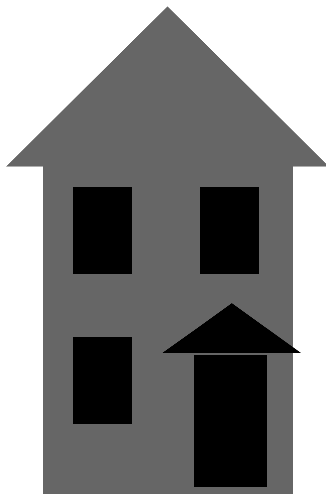
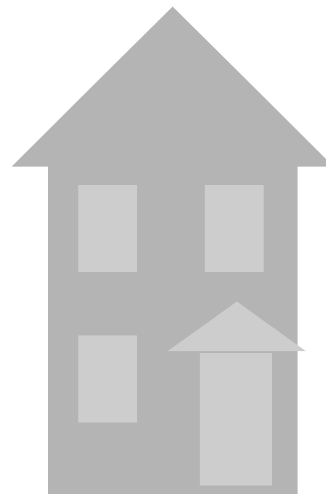
IOWA'S MINIMUM HOUSING REHABILITATION STANDARDS

Revised March 2011

Iowa's Minimum Housing Rehabilitation Standards

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I. Preface

This document is intended to provide the minimum acceptable standards for existing single household dwelling units rehabilitated in whole or in part with the Iowa Department of Economic Development's (IDED's) Community Development Block Grant Funds. These standards apply to all communities with populations of fewer than 15,000 that do not have locally adopted and enforced codes. Communities of 15,000 and over populations with locally adopted and enforced codes, standards, and ordinances will apply those to the rehabilitation activities.

The Iowa Minimum Housing Rehabilitation Standards were originally designed to include and to expand on the requirements of the HUD Section 8 Housing Quality Standards (CDBG funded activities) and the Minimum Property Standards (HOME funded activities). Many of the requirements and standards of this document exceed the requirements of the HUD Section 8 Housing Quality Standards and/or the Minimum Property Standards, but were determined necessary to further define the intent or outcome of these standards and to expand on the common definitions of "safe, decent, and sanitary" housing; "non-luxury, suitable amenities" housing; and "good quality, reasonably priced" housing, that is affordable to persons that are low or low and moderate income.

"Sustainable design" principles relating to energy conservation, energy efficiency, water conservation, and indoor air quality are included in the standards. Whenever possible and practical, specify materials or products that are made from recycled materials (such as fly ash concrete, carpeting or flooring made from recycled materials, etc.) or specify materials and products produced from rapidly renewable materials (such as cork or bamboo). To the extent possible and practical, avoid using products from non-renewable resources (such as vinyl siding, windows and flooring; asphalt roofing materials; etc.).

Consideration should be given to having energy audits conducted on all properties to be rehabilitated prior to generating the project specifications (encouraged, not required). To the extent possible and practical, and where benefiting household's income are within the eligibility range, local weatherization program offerings should be accessed and used in combination with Housing Fund rehabilitation assistance. Utility rebates offered by the utility company serving your programs should be accessed whenever available and the rebates should be used to further the cost of your single-family rehabilitation activities.

These standards assume that a knowledgeable inspector will thoroughly inspect each dwelling to verify the presence and condition of all components, systems and equipment of the dwelling. All components, systems and equipment of a dwelling referenced in this document shall be in good working order and condition and be capable of being used for the purpose in which they were intended and/or designed. Components, systems and/or equipment that are not in good working order and condition shall be repaired or replaced. When it is necessary to replace items (systems, components or equipment), the replacement items must conform to these standards. These standards also assume that the inspector will take into account any extraordinary circumstances of the occupants of the dwelling (e.g., physical disabilities) and reflect a means to address such circumstances in their inspection and in the preparation of a work write-up/project specifications for that dwelling.

All interior ceilings, walls and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing components or other serious damage. The roof must be structurally sound and weather-resistant. All exterior walls (including foundation walls) must not have any serious defects such as leaning, buckling, sagging, large holes, or defects that may result in the structure not being weather-resistant or that may result in air infiltration or vermin infestation. The condition of all interior and exterior stairs, halls, porches, walkways, etc. must not present a danger of tripping or falling.
Outbuildings must conform to these standards or be removed from the property.

If an inspector determines that specific individual standards of this document cannot be achieved on any single dwelling due to it being structurally impossible and/or cost prohibitive, the inspector shall document

the specific item(s) as non-conforming with these standards. The inspector shall prepare a list of any and all non-conforming items or non-conforming uses along with his/her recommendation to waive, or not-to-waive, the individual non-conforming items. The inspector's list of non-conforming items and subsequent recommended actions shall be explained to the property owner and the local official(s) representing the program, as well as provide for their signatures and dating of the inspector's list of non-conforming items and subsequent recommendations. If all parties (property owner, local officials and inspector) agree, non-conforming items to these standards may be waived. (NOTE: Items that are necessary to meet HUD Section 8 HQS may not be waived).

II. Definitions

A. Egress – A permanent and unobstructed means of exiting from the dwelling in an emergency escape or rescue situation.

B. Habitable Space (Room) – Space (rooms) within the dwelling for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas (rooms) are not considered habitable spaces (rooms).

C. Energy Star Rated – Includes all systems, components, equipment, fixtures and appliances that meet strict energy efficiency performance criteria established, as a joint effort, by the federal Environmental Protection Agency, the U.S. Department of Energy and the U.S. Department of Housing and Urban Development and that carry the Energy Star label as evidence of meeting this criteria.

III. Minimum Standards for Basic Equipment and Facilities

A. Kitchens – Every dwelling shall have a kitchen room or kitchenette equipped with the following:

1. Kitchen Sink. The dwelling shall have a kitchen sink, connected to both hot and cold potable water supply lines under pressure and to the sanitary sewer waste line. When replacing such components, water supply shut off valves shall be installed. If the existing faucet is to remain, a 2 gallon per minute (GPM) flow restricting aerator shall be installed.

2. Oven and Stove or Range. The dwelling shall contain an oven and a stove or range (or microwave oven), supplied by the owner, either gas or electric, connected to the source of fuel or power, in good working order and capable of supplying the service for which it is intended.

3. Refrigerator. The dwelling shall contain a refrigerator, supplied by the owner or home buyer, connected to the power supply, in good working order and capable of supplying the service for which it is intended.

4. Counter Space Area. Every kitchen or kitchenette shall have a minimum storage area of eight (8) square feet with a minimum vertical clearance of twelve inches (12") and a minimum width of twelve inches (12"). Every kitchen or kitchenette shall have a minimum of four (4) square feet of counter space.

C. Toilet Room: Every dwelling shall contain a room which is equipped with a flush toilet and a lavatory. The flush water closet shall be connected to the cold potable water supply, under pressure, and to the sanitary sewer. The lavatory shall be connected to

both a hot and cold potable water supply, under pressure, and connected to the sanitary sewer. When replacing such components, water supply shut off valves shall be installed. When replacing toilets, these will have a flush valve that use less than or equal to 1.6 gallons per flush. Toilet throat size will be no less than 2 inches and glazed smooth. If the lavatory faucet is not being replaced then a 2 GPM flow restricting faucet aerator will be installed.

D. Bath Required: Every dwelling shall contain a bathtub and/or shower.

1. The bathtub and/or shower unit(s) need not be located in the same room as the flush water closet and lavatory. The bathtub and/or shower unit may be located in a separate room.
2. The bathtub and/or shower unit shall be connected to both hot and cold potable water supply lines, under pressure, and shall be connected to the sanitary sewer. All shower heads must be equal to or less than 2.0 (GPM) water flow. Where feasible, shut off valves shall be installed on the water supply lines. All faucets, when replaced, shall be water balancing scald guard type faucets.

E. Privacy in Room(s) Containing Toilet and/or Bath: Every toilet room and/or every bathroom (the room or rooms containing the bathtub and/or shower unit) shall be contained in a room or rooms that afford privacy to a person with said room or rooms.

1. Every toilet room and/or bathroom shall have doors equipped with a privacy lock or latch in good working order.

F. Hot Water Supply: Every dwelling shall have supplied water-heating equipment (water heater and hot water supply lines) that is free of leaks, connected to the source of fuel or power, and is capable of heating water to be drawn for general usage.

1. No water heaters (except point-of-use water heaters) shall be allowed in the toilet rooms or bathrooms, bedrooms or sleeping rooms. No gas water heaters shall be allowed in a clothes closet(s).

2. All gas water heaters shall be vented in a safe manner to a chimney or flue leading to the exterior of the dwelling. Unlined brick chimneys must have a metal B-vent liner installed to meet manufacturer's venting requirements. If metal chimney venting cannot be added, a power vented water heater may be installed. Size of the B-vent is critical for proper venting. Install according to manufacturer's recommendations.

3. All water heaters shall be equipped with a pressure/temperature relief valve possessing a full-sized (non-reduced) rigid copper or steel discharge pipe to within six (6) inches of the floor. The steel discharge pipe shall not be threaded at the discharge end.

4. All water heaters must be installed to manufacturer's installation specifications.

5. All new water heaters shall have internal foam insulation that is a minimum of R-10. Gas water heaters shall have an EF rating of .62 or higher and a recovery efficiency of .75 or better and/or meet Energy Star requirements at the time of installation. Electric water heaters shall be Energy Star Rated.

6. Where feasible, tankless water heaters may be installed in accordance with manufacturer's guidelines and sized to provide adequate hot water supply to all fixtures. Gas supply lines and or electrical capacity must be evaluated before

installing tankless water heaters. Before installing, careful consideration should be made regarding supply and water temperature to owners.

G. Exits: Every exit from every dwelling shall comply with the following requirements:

1. Every habitable room shall have two (2) independent and unobstructed means of egress. This is normally achieved through an entrance door and an egress window.

2. All above grade egress windows from habitable rooms shall have a net clear opening of 5.7 square feet. The minimum net clear opening width dimension shall not be less than twenty inches (20") wide, and the minimum net clear opening height dimension shall not be less the twenty-four inches (24") wide. Note that the combination of minimum window width and minimum window height opening size does not meet the 5.7 square feet requirements. Therefore, the window size will need to be greater than the minimum opening sizes in either width or height. Where windows are provided as a means of escape or rescue, they shall have a finished sill height of not more than forty-four inches (44") above the floor. Egress windows with a finished sill height of more than forty-four inches (44") shall have a permanently installed step platform that is in compliance with stair construction standards.

   All at grade egress windows from habitable rooms may be reduced in size to 5.0 square feet of operable window area, but the area must meet the minimum width and/or and height requirement restrictions of all egress windows.

   When windows are being replaced within existing openings, the existing window size shall be determined to be of sufficient size even if current window sizes do not meet current egress standards. However, if the specification writer determines that changing the window size is beneficial; such egress widow size modification will be allowed but not required. If new construction windows are being installed, these windows must meet all egress window requirements.

3. Inhabitable basements (or habitable rooms within a basement) where one means of egress is a window; the window shall have a net clear opening of 5.0 square feet. The window shall open directly to the street or yard, or where such egress window has a finished sill height that is below the adjacent ground elevation shall have an egress window/area well. The egress window/area well shall provide a minimum accessible net clear opening of nine square feet that includes a minimum horizontal dimension of thirty-six inches (36") from the window. Egress window/area wells with a depth of more than forty-four (44") shall be equipped with an affixed ladder or stairs that are accessible with the window in the fully opened position. Such ladder will have rungs at 12 inches on-center and projecting out a minimum of three inches from the side of the window well.

H. Stairs: If replacing existing stairs, stairs will need to conform as close as possible to new construction standards, but replacement stairs do not need to be in compliance with new codes. All newly constructed stairs (interior and exterior stairways) shall comply with the following requirements:

1. All stairways and steps of four (4) or more risers shall have at least one (1) handrail. All stairways and steps which are five (5) feet or more in width shall have a handrail on each side.

2. All handrails shall be installed not less than thirty four inches (34") nor more than thirty-eight inches (38"), measured plumb, above the nosing of the stair treads.

Handrails adjacent to a wall shall have a space of not less than one and one-half inches (1 1/2") between the wall and the handrail. All handrails shall be turned back into the wall on railing ends. The size of a round railing must be a minimum of 1.25 inches, but not more than 2 inches. Railings must be continuous from the top riser to the bottom riser.

3. Porches, balconies or raised floor surfaces, including stairway riser and/or landing, located more than thirty (30) inches above the floor or the grade, shall have guardrails installed that are not less than thirty-six inches (36") in height. Open guardrails and stair railings shall have intermediate rails or ornamental pattern such that a sphere four inches (4") in diameter cannot pass through.

4. All stairs and steps shall have a riser height of not more than eight inches (8") and a tread depth of not less than nine inches (9'). All newly constructed stairs, not replacement stairs, shall have a riser height of not more than seven and three quarters (7 3/4") and a tread depth of not less than ten inches (10"). Risers and treads cannot be different in size by more than 3/8 of an inch from the top to the bottom of the stairs.

I. Smoke Detectors: All smoke detectors shall be dual sensor detectors. They shall be hard-wired with battery back-up and interconnected with all other alarms. Smoke detectors shall be located as follows:

a. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
b. In each room used for sleeping purposes, and
c. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

All smoke detectors shall be installed per manufacturer's installation instructions.

J. Carbon Monoxide Detectors: Where a heating system source, other than solid fuel burning appliances (e.g., wood stoves), and/or water heater that burns solid, liquid or gaseous fuels is located horizontally adjacent to any habitable room, a hard-wired with battery back-up carbon monoxide detector is required and is to be installed per the manufacturer's instructions. Any dwelling that has a fuel source heating system (not electric), other solid fuel burning appliances (e.g., wood stoves, pellet, or corn stoves), and/or fuel source water heater (not electric), a hard-wired with battery back-up combination smoke alarm/carbon monoxide detector is required to be installed per the manufacturer's instructions on the main living area floor.

IV. Minimum Standards for Ventilation

A. In general, sufficient ventilation shall be present to ensure adequate air circulation in the dwelling.

B. Every habitable room shall have at least one (1) exterior operable window. All operable windows shall be capable of being easily opened and held in an open position by window hardware. All operable exterior windows shall be provided with screens if none exist. Half screens on windows are allowable.

C. Bathrooms, including toilet rooms, shall be provided with a mechanical means of ventilation that is rated at 50 CFM or greater. Fans shall be ducted to the outside of the dwelling. All bathroom fans will be installed on a 20 minute timer for the fan and a regular switch for the light.

D. Attic Ventilation:

1. When using roof vents without soffit vents and without a ceiling vapor barrier, sufficient vents shall be used to provide one square foot of free vent area for each one hundred fifty (150) square feet of ceiling area.

2. When using roof vents without soffit vents with a ceiling vapor barrier, sufficient vents shall be used to provide one square foot of free vent area for each three hundred (300) square feet of ceiling area.

3. When using a combination of roof and soffit vents and no ceiling vapor barrier, sufficient vents shall be used to provide one square foot of free vent area for each three hundred (300) square feet of ceiling area. Vents shall be installed with no less than fifty percent (50%) nor more than eighty percent (80%) of the total vent area in the roof near the peak with the balance of vents in the soffit.

4. To conserve energy, power roof ventilation systems will be used only as a method of last resort. Roof ventilation should be accomplished through correctly sized gable vents, ridge vents, and/or roof pod ventilation systems, and soffit vents.

V. Minimum Standards for Electrical Service

Iowa Code 103 requires electricians and electrical contractors to have an electrical contractor, class A master electrician, or a class B master electrician license to (for another) plan, lay out, or supervise the installation of wiring, apparatus, or equipment for electrical light, heat, power, and other purpose. Persons licensed as Class A journeymen electricians or class B journeymen electricians must be employed by an electrical contractor or work under the supervision of a class A master electrician or a class B master electrician. A person who is not licensed pursuant to Chapter 103 may plan, lay out, or install electrical wiring, apparatus, and equipment for components of alarm systems that operate at seventy volt/amps (VA) or less, only if the person is certified to conduct such work pursuant to chapter 100c.

A. Minimum Electrical Service:

1. Every dwelling unit, at a minimum, shall have a 100 ampere breaker controlled electrical panel. All electrical work shall be in compliance with adopted State electrical code requirements. The panel, service mast, etc. shall also be installed to local utility company requirements.

B. Convenience Outlets:

1. Every habitable room within the dwelling shall contain at least two (2) separate duplex, wall-type electrical outlets. Placement of such outlets shall be on separate walls. All newly installed receptacles shall be grounded duplex receptacles or GFCI protected.

2. All electrical outlets used in bathrooms and toilet rooms, all outlets within six foot (6'-0") of a water source (excluding designated simplex equipment circuits for

clothes washing machines and sump pumps), outlets located on open porches or breezeways, exterior outlets, outlets located in garages and in non-habitable basements, except those electrical outlets that are dedicated appliance outlets. All kitchen receptacles serving the countertop area shall be ground fault circuit interrupter (GFCI) protected. All exterior receptacles shall be covered by a receptacle cover that when a cord is plugged in, the GFCI outlet will stay covered and protected.

3. All electrical outlets carrying heavy appliance loads (i.e., window air conditioning units, central air-conditioning units where they exist, refrigerators, freezers, electric stoves, microwaves, clothes washing machines, dish washing machines, electric clothes dryers, furnaces, etc.) shall be simplex receptacles on a separate circuit of the proper amperage and wire size.

4. Basements shall have a minimum of one (1) wall-type electrical outlet for every two hundred (200) square feet, or fraction thereof, of the floor area. Unfinished basements shall have a minimum of one (1) GFCI wall-type electrical receptacle. Such receptacle shall be within 20 feet of the furnace.

5. All accessible knob and tube wiring shall be removed and replaced with type NM cable (Romex) or as required by code.

6. All broken, damaged or nonfunctioning switches or outlets shall be replaced. All fixtures and wiring shall be adequately installed to ensure safety from fire so far as visible components are observed.

7. All missing or broken switch and outlet covers (including junction boxes) shall be replaced. Each receptacle or switch located on an exterior wall shall have a foam seal placed under the cover.

C. Lighting:

1. Every habitable room and every bathroom (including toilet room), laundry room, furnace or utility room, and hallway shall have at least one (1) ceiling or wall-type electric light fixture, controlled by a remote wall switch. Habitable rooms (except kitchens or kitchenettes) may have a wall-type electrical outlet controlled by a remote wall switch in lieu of a ceiling or wall-type light fixture. Energy efficient fixtures that meet energy star ratings and compact florescent bulbs shall be installed in all new fixture instillations.

2. Basements with no habitable rooms shall have a light illuminating the stairs with a switch controlling the light located at the top of the stairs. Basements with habitable rooms shall have at least one light fixture controlled by a remote wall switch at the top and bottom of the stairs. If new fixtures are being installed, Energy Star rated fixtures shall be installed with compact florescent bulbs.

3. Porcelain type fixtures with pull chains are acceptable for use in basements (except for the one controlled by a remote wall switch) cellars, and attics.

4. All pendant type lighting fixtures that are supported only by the electrical supply wire shall be removed or replaced. If replaced, replace with Energy Star rated fixtures.

5. All existing closet lights shall be covered.

VI. Minimum Standards for Heating Systems

A. Heating System: All heating systems (and central air-conditioning systems where they exist) shall be capable of safely and adequately heating (or cooling as applicable) for all living space.

B. Cooling System: Non-working or improperly functioning central air conditioning systems may be replaced as part of the rehabilitation work. The installation of a central air conditioning system, where it currently does not exist, is permissible where feasible and practical. New A/C installation will not be a priority unless project funds are available.

C. Requirements for Heating and or Cooling Systems:

1. All existing heating systems, including but not limited to, chimneys and flues, cut-off valves and switches, limit controls, heat exchangers, burners, combustion and ventilation air, relief valves, drip legs and air, hot water, or steam delivery components (ducts, piping, etc.) that are not being replaced, shall be inspected to be in a safe and proper functioning condition at the time of inspection, by means of written project file documentation.

2. Every heating system burning solid, liquid or gaseous fuels shall be vented in a safe manner to a chimney or flue leading to the exterior of the dwelling. The heating system chimney and/or flue shall be of such design to assure proper draft and shall be adequately supported.

3. No heating system source burning solid, liquid or gaseous fuels shall be located in any habitable room or bathroom, including any toilet room.

4. Every fuel burning appliance (solid, liquid or gaseous fuels) shall have adequate combustion air and ventilation air. All new furnaces will have sealed combustion with combustion air brought in from the exterior of the house and installed in accordance with manufacturer's guidelines.

5. Every heat duct, steam pipe and hot water pipe shall be free of leaks and shall function such that an adequate amount of heat is delivered where intended. All accessible duct joints must be sealed with mastic or any other acceptable product. Newly installed ductwork must also be sealed. All accessible steam piping and hot water piping must be installed with an approved material.

6. Every seal between any of the sections of the heating source(s) shall be air-tight so that noxious gases and fumes will not escape into the dwelling.

7. No space heater shall be of a portable type.

8. Minimum requirements for forced air furnaces, when installed, will be no less than a 92% AFUE, or the minimum AFUE, if greater than 92%, to obtain a local utility rebate (Energy Star rated for northern climates). Also install a digital programmable thermostat. Condensate lines will drain to a floor drain or have a condensate pump installed and piped to discharge. All furnace duct work shall be equipped with an air filter clean out location that has a tight fitting cover installed over it.

9. All boilers, when replaced, will have an "A" rating and be no less than 87% AFUE rating. All combustion air will be from the exterior of the house. The addition of zone valves may be useful to reduce energy cost. Heat lines shall be insulated with approved material. Programmable thermostats will be installed.

10. A/C units, if added or replaced, shall not be less than 14 SEER or the lowest SEER rating that is available at the time of installation but not less than 14 SEER. All units shall be installed, when possible, on either the north or east side of the dwelling or in an area that will provide shade for the unit. The correct coil will be installed that is compatible with both the furnace and A/C unit.

    Homeowners who use window air conditioners will be encouraged to purchase Energy Star rated air conditioners. No window A/C units may be purchased with Housing Funds.

11. All wood, pellet, corn, switch grass, hydrogen, or other biomass fuel stoves must be installed to manufacturer's guidelines. Where such guidelines are not available, the heating unit will be removed. Venting and combustion air must be installed in accordance with manufacturer's requirements.

12. The installation of Energy Star rated ceiling fans will be encouraged in general living areas. Fans must be installed to manufacturer's requirements.

D. Energy Conservation

1. All structures shall comply with certain energy conservation measures (U.S. Department of Energy recommendations). These measures include, but are not necessarily limited to, the following:

    a. The provision of insulation at various locations and at the following recommended resistance factors (r-values). Insulation shall be primarily made from recycled glass or newspaper when available.

        i. Ceilings – R-49 or as close as possible to these requirements where sloped ceilings exist.
        ii. Crawl Spaces (floors or walls) – R-19
        iii. Band Joists – R–19

    b. When siding is being replaced and/or interior wall finishes of exterior walls are being replaced on a dwelling, such exterior walls are to be provided with insulation and at the recommended resistance factor (r-value) of R-11, or that which is allowed by the stud cavity space. In addition, an air infiltration barrier, such as Tyvek or approved equal, shall be installed on all exterior walls. If new walls are being framed and insulated, the minimum R factor is R-19 or R-13 plus R-5 foam. The installation of fan-fold foam or foam sheathing may be added to increase household R-ratings.

    c. The installation of weather stripping at all exterior doors, windows, ground-entry basement doors, etc. is required. Doors, when replaced shall be a metal clad insulated door (energy star rated for northern climates). Storm doors are encouraged, but not required. Door jams will be sealed and thresholds will be caulked.

    d. The provision of caulking around exterior doors and windows, at the foundation/sill plate union, and at other air-infiltration areas.

    e. Windows must be current Energy Star rated for northern climate to obtain local window rebates. All storm windows will be removed from heated areas of the home when windows are replaced. All rope weight openings will be insulated and all new windows will have the window

jamb sealed. Where SHPO requirements will restrict the installation of vinyl windows, the specifications will be written to come as close as possible to achieving Energy Star requirements.

f. All heat ducts and hot water or steam heat distribution piping shall be insulated or otherwise protected from heat loss where such ducts or piping runs are located in unheated spaces. Similarly, distribution piping for general use hot water shall also be protected from heat loss where such piping is located in unheated spaces. All water distribution piping shall be protected from freezing.

g. Attic access passage ways (scuttle holes) shall be no less than 22" by 30" or the size of original construction. If it is impossible to conform to this standard, the largest attic access hole possible will be installed. Scuttle holes shall extend up a minimum 14 inches above the ceiling. Weather stripping shall be installed at the top of this 14 inch scuttle hole extension and shall be covered with ¾ inch plywood or OSB covered by 2 inch, R-10, foam. The gypsum opening on the ceiling will also be weather stripped and covered with 4 inches of foam. Both doors will be made to sit tight against the weather stripping.

VII. Minimum Standards for the Interiors of Structures

A. Interior Walls, Floors, Ceilings, Doors and Windows:

1. All interior walls, floors, ceilings, doors and windows shall be capable of being kept in a clean and sanitary condition by the owner.

2. Every bathroom and/or toilet room, kitchen or kitchenette, and utility room floor surface shall be constructed such that they are impervious to water and can easily be kept in a clean and sanitary condition by the owner.

3. All interior doors shall be capable of affording the privacy for which they are intended.

4. The dwelling must have at least one bedroom or living/sleeping room for each two persons. Children of the opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.

5. No dwelling containing two or more bedrooms shall have a room arrangement that access to a bathroom, toilet room, or a bedroom can be achieved only by going through another bathroom, toilet room, or another bedroom.

6. All paints, stains, varnishes, lacquers and other finishes used in the rehabilitated dwelling shall be low or no VOC paint finishes and installed as required by the manufacture.

VIII. Minimum Standards for the Exterior of Structures

A. Foundations, Exterior Walls, Roofs, Soffits and Fascia:

1. Every foundation, exterior wall, roof, soffit and fascia shall be made weather resistant. Products for exterior walls, roofs, soffits, and fascia shall be installed in accordance with the manufacturer's guidelines.

2. Roof replacement shall be installed in accordance with the manufacturer's requirements. When installing asphalt or fiberglass shingles, a minimum of a 30 year shingle shall be used. Other products such as metal roofing may be considered.

B. Drainage:

1. All rainwater shall be conveyed and drained away from every roof so as not to cause wetness or dampness in the structure. No roof drainage systems shall be connected to a sanitary sewer.

2. The ground around the dwelling shall be sloped away from foundation walls to divert water away from the structure.

3. If feasible, the collection of roof water is encouraged.

C. Windows, Exterior Doors and Basement Entries (Including Cellar Hatchways):

1. Every window, exterior door, basement entry and cellar hatchway shall be tight fitting within their frames, be rodent-proof, insect-proof and be weatherproof such that water and surface drainage is prevented from entering the dwelling. In addition, the following requirements shall also be met:

   a. All exterior doors and windows shall be equipped with security locks. Deadbolts are not required.

   b. Every window sash shall be fully equipped with glass window panes which are without cracks or holes. Every window sash to be replaced shall use Energy Star rated for northern climate windows unless the existing windows have insulated glass. Stained or leaded glass found to be historically significant may be protected by a fixed low-E glass storm window. Every window sash shall fit tightly within its frame, and be secured in a manner consistent with the window design. All window jambs will be sealed. All rope weight openings shall be insulated before installing the new window. Energy Star rated for Northern climate.

   c. Storm doors, when installed, shall also be equipped with a self-closing device.

   d. Every exterior door, when closed, shall fit properly within its frame and shall have door hinges and security locks or latches. All exterior doors

will be no less than metal clad insulated (foam filled) doors. All jambs and thresholds will be sealed.

e. Every exterior door shall be not less than two foot-four inches (2’-4”) in width and not less than six foot-six inches (6’6”) in height. Existing door sizes will be grandfathered, but an attempt shall be made to have at least one exterior door that is not less than 36 inches wide and no less than 6’-8” high.

IX. Minimum Space, Use and Location Requirements

A. No main floor habitable room in a dwelling shall have a ceiling height of less than seven feet, six inches (7’6”). At least one-half of the floor area of every habitable room located above the first floor shall have a minimum ceiling height of seven feet (7’-0”). The floor area of any room where the ceiling height is less than four feet in height shall not be considered floor area in computing the total floor area of the room.

B. A minimum ceiling height of seven feet (7’-0”) is acceptable in bathrooms, toilet rooms, habitable basement space, and hallways.

C. All habitable rooms, except kitchens and/or kitchenettes, shall have a minimum width of seven feet (7’).

D. No cellar space shall be converted to habitable space.

E. Habitable Basement Space:
No basement space shall be used as habitable space unless all habitable space requirements are met and all of the following requirements are met:

1. The floor and walls are waterproof or damp proof construction.

2. Such habitable space has a hard surfaced floor of concrete or masonry.

3. Such space shall have a minimum of two exits. In addition to the stairs, this would normally consist of one egress window.

X. Minimum Standards for Plumbing Systems

A. All dwelling plumbing systems shall be capable of safely and adequately providing a water supply and wastewater disposal for all plumbing fixtures. Every dwelling plumbing system shall comply with the following requirements.

1. All existing plumbing systems and plumbing system components shall be free of leaks. When repairing or adding to such systems, any type of pipe allowed by the State plumbing code shall be allowed.

2. All plumbing system piping shall be of adequate size to deliver water to plumbing fixtures and to convey wastewater from plumbing fixtures (including proper slope of wastewater piping) as designed by the fixture manufacturer).

3. All plumbing fixtures shall be in good condition, free of cracks and defects, and capable of being used for the purpose in which they were intended.

4. The plumbing system shall be vented in a manner that allows the wastewater system to function at atmospheric pressure and prevents the siphoning of water from fixtures. Venting by mechanical vents is accepted as an alternative to exterior atmospheric venting.

5. All fixtures that discharge wastewater shall contain, or be discharged through, a trap that prevents the entry of sewer gas into the dwelling.

6. All plumbing system piping and fixtures shall be installed in a manner that prevents the system, or any component of the system, from freezing.

7. All plumbing fixtures and water connections shall be installed in such a way as to prevent the backflow of water from the system into the plumbing system's water source.

8. All faucets shall have aerators that restrict water flow to about 2 GPM. Toilets, when installed, shall only use 1.6 gallons per flush, or less.

9. Valves shall be installed with the valve in the upright position. When replacing valves, the use of a full port ball-valve shall be encouraged.

XI. Minimum Standards for Potable Water Supply

A. Every dwelling shall be connected to an approved (by the jurisdiction having authority) potable water source.

B. All potable water fixtures and equipment shall be installed in such a manner as to make it impossible for used, unclean, polluted or contaminated water, mixtures or substances to enter any portion of the potable water system piping. All equipment and fixtures shall be installed with air gaps (traps) to prevent back siphon age. All outlets with hose threads (except those serving a clothes washing machine) shall have a vacuum breaker for use with the application. No water piping supplied by a private water supply system shall be connected to any other source of water supply without the approval of the jurisdiction having authority over the installation.

C. All unused wells on the property shall be abandoned and plugged in accordance with any local, county or State requirements having jurisdiction. All cisterns shall be drained and filled, and if applicable, in accordance with any local or county requirements having jurisdiction.

XII. Minimum Standards for Connection to Sanitary Sewer

A. Every dwelling shall be connected to an approved (by the jurisdiction having authority) sanitary sewer system.

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COMMUNITY DEVELOPMENT BLOCK GRANT

REQUEST FOR PAYMENT - Housing

Recipient:____________________

Contract Number:____________________

Report Number:____________________

Period Ending:____________________

ACTIVITY CODE/TITLE	Federal CDBG Budget	CURRENT EXPENDITURES			TOTAL
		Expended Since Last Report	Less Program Income Applied	CDBG Reimbursable	CDBG Requested to Date
0181 ADMIN					
TOTALS					
			Less: IDED Funds Received		
			Less: IDED Payments Pending		
				NET REQUEST	

LOCAL FINANCIAL INFORMATION				List of Addresses requesting funds:
ACTIVITY CODE	Current Budget	Expended Since Last Report	Expended to Date	
TOTAL				

Attach supporting documentation to the back of this form

STATE OF IOWA

GAX

BUDGET FY	General Accounting Expenditure	DOCUMENT NUMBER
	DATE / ACCTG PERIOD (mm/yy)	

VENDOR CODE	AGENCY NAME

VENDOR NAME AND ADDRESS	BILL TO ADDRESS (ORDERING AGENCY)	SHIP TO ADDRESS
	Iowa Department of Economic Development 200 E. Grand Ave. Des Moines, Iowa 50309	

TERMS	FOB	ORDER APPROVED BY	GOODS RECEIVED/SERVICES PERFORMED
			DATE INITITALS

QUANTITY		VENDOR'S INVOICE NUMBER
		Report Number: _____

ORDERED	RECEIVED	UNIT OF MEASURE	DESCRIPTION OF ITEM	UNIT PRICE	TOTAL PRICE
			Request for Payment under CDBG Housing Contract Number: ________________		
				DOCUMENT TOTAL	

CLAIMANT'S CERTIFICATION	AGENCY CERTIFICATION
I CERTIFY THAT THE ITEMS FOR WHICH PAYMENT IS CLAIMED WERE FURNISHED FOR STATE BUSINESS UNDER THE AUTHORITY OF THE LAW AND THAT THE CHARGES ARE REASONABLE, PROPER, AND CORRECT, AND NO PART OF THIS CLAIM HAS BEEN PAID.	I CERTIFY THAT THE ABOVE EXPENSE WERE INCURRED AND THE AMOUNTS ARE CORRECT AND SHOUD BE PAID FROM THE FUNDS APPROPRIATED BY:
DATE **TITLE**	**CODE OR CHAPTER SECTION(S)**
CLAIMANT'S SIGNATURE	AUTHORIZED SIGNATURE

THE FOLLOWING FIELDS ARE FOR STATE ACCOUNTING USE ONLY

DOC TYPE (GAX)	DOC NUMBER	DOC DATE	ACCTG PRD	BUDGET FY	ACTION NEW/MOD	PO SHIP INSTR	PV TYPE	INT IND	INT SELLER FUND	INT SELLER AGCY
GAX										

VENDOR CODE	ADDR OVERRIDE	F/A INDICATOR	EFT IND	TEXT -po's only (Y/N)	TEXT (po's only)
			Y		

REF DOC TYPE	REF DOC NUMBER	REF DOC LINE	COM LN	VEND INVOICE #	COMMODITY CODE	GS CONTRACT

LINE	FUND	AGCY	ORG	SUB ORG	ACTV	FUNC	OBJT	SUB OBJT	JOB NUMBER	REP CAT	QUANTIT Y / UNITS	I/D	DESCRIPTION	AMOUNT	I/D	P/F
01	0340	269	4610				4125									
02																
03																
04																
05																
06																
07																

DOCUMENT TOTAL

GAX **WARRANT #** **AUDITED BY** **PAID DATE**

FRONT SIDE OF FORM

Recipient name and contract number: Recipient name and contract number as they appear on the CDBG contract.
Report Number: Number each draw report in sequential order.
Period Ending: End date for which expenditure information is given. This date cannot extend past contract end date. Submit within 60 days. Final reports should be noted.

Table and Column Information

Activity Code/Title and Federal Budget: Enter code number, title and CDBG federal budget for each activity as they appear on Attachment A-1 of the contract. Any amendments to the budget should be reflected in the Federal Budget column.

Current Expenditures
Expenditures Since Last Report: Enter expenditures of federal shares by activity since last report. Rounded dollars for this current request. $500 minimum, unless final draw.
Less Program Income Applied: Enter any program income that was received and used to cover activity expenses. (See Management Guide for further information on Program Income.) Use rounded dollars.
CDBG Reimbursable: For each activity, subtract the Program Income amount from the Expend Since Last Report amount. This represents the amount of CDBG expenses that can be claimed from the contract.

Total-CDBG Requested to Date: Expenditures entered in this column are computed by adding the amount in the CDBG Reimbursable column to the amount shown in the TOTAL column of your preceding report. (Year-to-date total.)

Totals
Totals: Provide a final total for each column.

Net Request Lines
IDED Funds Received: Insert total of all CDBG payments received from IDED to date.
IDED Payments Pending: Insert total of previous CDBG requests from IDED for which payment has not been received.
Net Request: Total of this Current Request. Should match the total of column #9 (CDBG Reimbursable)

Local Financial Information
Activity Code and Current Budget: Enter items for each activity as they appear in Attachment A-1 of the contract.
Expended Since Last Report: Enter expenditures of local shares by activity since last report.
Expended to Date: Expenditures entered in this column are computed by adding the amount in the Expended Since Last Report column to the amount shown in the Expended to Date column of your preceding report.
Total line: Total of budget and expenditures columns.

List of Addresses Drawing Funds
List each address for which funds are being drawn.

BACK SIDE OF FORM
(GENERAL ACCOUNTING EXPENDITURE)

Date Form Completed

Accounting Period (Date from number 4 above)

Vendor: Name and address of recipient as they appear on the contract.

Vendor's Invoice Number: Current draw number.

Description of Item: Fill in contract number and amount of request in the spaces provided.

Claimant's Certification: Type in title, and have it signed and dated by contract signatory.

Submit a typed and signed original and
<u>3 copies to:</u>

Data Analyst
Iowa Department of Economic Development
Community Development Division
200 East Grand Avenue
Des Moines, Iowa 50309

HOUSING RECIPIENT QUARTERLY PERFORMANCE REPORT – ACTIVITY STATUS - Part 1 – Narrative

RECIPIENT: ______________________________ **CONTRACT #:** ______________________________
QUARTER END DATE: ______________________________ **CONTRACT END DATE:** ______________________________

NOTE: Information must be provided by address.

Activity #: _____ **Title:** ______________________________

 # Activity units : Total: _____ Section 504: _____ HIV/AIDS HSG: _____ Homeless Perm. Housing: _____ Converted Units: _____

		PROJECT STATUS
Unit#	**ADDRESS:**	
	YEAR BUILT:	
	START DATE:	
	COMPLETION DATE:	
Unit#	**PROJECT NUMBER / ADDRESS:**	
	YEAR BUILT:	
	START DATE:	
	COMPLETION DATE:	
Unit#	**PROJECT NUMBER / ADDRESS:**	
	YEAR BUILT:	
	START DATE:	
	COMPLETION DATE:	
Unit#	**PROJECT NUMBER / ADDRESS:**	
	YEAR BUILT:	
	START DATE:	
	COMPLETION DATE:	
Unit#	**PROJECT NUMBER / ADDRESS:**	
	YEAR BUILT:	
	START DATE:	
	COMPLETION DATE:	
Unit#	**PROJECT NUMBER / ADDRESS:**	
	YEAR BUILT:	
	START DATE:	
	COMPLETION DATE:	
Unit#	**PROJECT NUMBER / ADDRESS:**	
	YEAR BUILT:	
	START DATE:	
	COMPLETION DATE:	
Unit#	**PROJECT NUMBER / ADDRESS:**	
	YEAR BUILT:	
	START DATE:	
	COMPLETION DATE:	

Version date: March 2011

HOUSING RECIPIENT QUARTERLY PERFORMANCE REPORT – Activity Status - Part 2 – Household Characteristics

RECIPIENT: ______________________________ **CONTRACT #:** ______________________________

QUARTER END DATE: ______________________________ **CONTRACT END DATE:** ______________________________

Complete one line for each assisted unit. Enter one code only in each block (Codes are listed at the bottom of the form).

			INCOME DATA	**HOUSEHOLD DATA**					
Address	Unit # (See Part 1)	# of bedrooms	Monthly Gross (Whole dollars)	Code: % of Area Median	Hispanic? Y = Yes N = No	Race/Ethnicity of H/H	Household Size	Household Type	Special Information

CODES FOR ABOVE CATEGORIES. For non-coded categories, enter actual.

No. of Bedrooms Code
1 – 1 Bedroom
2 – 2 Bedrooms
3 – 3 Bedrooms
4 – 4 Bedrooms
5 – 5 or more Bedrooms

ALL CODES:
9 - Vacant

Occupancy
1 - Tenant
2 - Owner

% of Area Median Code
1 – 0 – 30%
2 – 30 – 50%
3 – 50 – 60%
4 – 60 – 80%

Race of Head of Household Code
11 – White
12 – Black/African American
13 – Asian
14 – American Indian/Alaska Native
15 – Native Hawaiian/Other Pacific Islander
16 – American Indian/Alaska Native & White
17 – Asian & White
18 – Black/African American & White
19 – American Indian/Alaska Native & Black/African American
20 – Other Multi Racial

Size of Household Code
1 – 1 Person
2 – 2 Person
3 – 3 Person
4 – 4 Person
5 – 5 Person
6 – 6 Person
7 – 7 Person
8 – 8 or more

Type of Household Code
1 – Single/Non-Elderly
2 – Elderly
3 – Related/Single Parent
4 – Related/Two Parent
5 - Other

Special Information
1 - Persons with Disabilities
2 - Female Head of Household

Version date: March 2007

HOUSING RECIPIENT QUARTERLY PERFORMANCE REPORT – ACTIVITY STATUS - Part 3 - Financial Status

RECIPIENT: ______________________________ **CONTRACT #:** ______________________________

QUARTER END DATE: ______________________________ **CONTRACT END DATE:** ______________________________

Only report on <u>FINAL</u> costs. During construction, $0 should be reported. When an end date is shown on Part 1, final costs must be reported.

		Uses of CDBG			**Uses of CDBG funds for Lead Hazard Reduction (LHR)**			**Totals**			
		Project Address	Unit #	Hard Costs - Construction/ Rehabilitation	Technical Services	Lead Hazard Reduction	LHR Carrying Costs	LHR Temp. Relocation	Total of ALL CDBG Funds (Sum C – G)	Total of Non CDBG Funds Used	**Total Dollars (H + I)**
		A	B	C	D	E	F	G	H	I	**L**
		Total									

Signed: ______________________________ **Date:** ____ / ____ / ____

(print or type) CEO Name ______________________________ Title ______________________________ ( ) - Telephone Number

Version date: March 2007

HOUSING RECIPIENT QUARTERLY PERFORMANCE REPORT INSTRUCTIONS

Submission Information: Quarterly reports are due 15 days following the end of the quarter (based on the start date of the contract). Submit only the ORIGINAL (NO COPIES) to:

Data Analyst (CDBG)
Community Development Division
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309

HEADER INFORMATION

Recipient: Self-explanatory.
Contract Number: This is to be completed or updated on each part/page of the report
Quarter End Date: End date of the quarter for which information is provided.
Contract End Date: CDBG--contract end date;

NOTE: Provide the following information only for projects under contract. Do not include general administrative funds (Activity code 181 for CDBG.) Please use consistent address and Unit Numbers, preferably retaining the order in each Part and from submission to submission.

PART 1 - NARRATIVE

Activity Number and Title: As specified in the Recipient's Attachment A (CDBG).
 # Activity Units: Provide total units in the activity.
Unit Number: Please assign a number to each unit being assisted. Use alpha or numeric characters, but maintain consistency from report to report. Do not report on a unit until beneficiaries are qualified, contract let and construction start date is known. All assisted units are to be reported on each quarterly report, i.e. cumulatively. For record keeping purposes, consistency in unit numbers is very important.
Address: CDBG: Address of the unit for which information is provided.
Year Built: Enter the year in which the unit was constructed.
Start Date: ***ACTUAL*** construction start date for new construction and rehab; commitment date for acquisition funds.
Completion Date: ***ACTUAL*** date of completion for the address, unit or project (for this report, completion is defined as construction completion for owner-occupied rehabilitation activities). DO **NOT** PROVIDE *ANTICIPATED* START OR END DATES.
Project Status: Provide narrative description of status of each house as of the end of the quarter in the space provided to the right.

PART 2 - HOUSEHOLD CHARACTERISTICS

For each address in Part 1, provide unit household information. For single-family projects (including all CDBG units), use the unit number provided in Part 1. Information need only be updated at the start and completion of each project. Please use the codes provided at the bottom of the page for completing each block. Use a "9" if the unit is vacant.

PART 3 – FINANCIAL INFORMATION

Activity Number and Title: As specified in the Recipient's Attachment A (CDBG).
Assign Unit numbers (A & B) consistent with the instructions on Part 1.
COLUMN INFORMATION – Note: only report on FINAL costs. During construction, $0 should be reported. When an end date is shown on Part 1, final costs must be reported.

USES OF CDBG FUNDS.
Hard Construction (C) The hard cost of construction are costs involved in the project that are not attributable to Lead Hazard Reduction activities.
Technical Services (D) For several activities, there are certain allowable soft costs (work write-ups, cost estimates, inspections, etc.). If you cannot determine costs directly attributable to each unit, you must develop a consistent and reasonable method to distribute costs among all of the various units.
USES OF CDBG FUNDS FOR LEAD HAZARD REDUCTION (LHR) – TARGET HOUSING ONLY
Lead Hazard Reduction (E) List construction costs associated with specific lead hazard reduction activities (those not included in column C).
LHR Carrying Costs (F) Allocate, either directly or through a reasonable and consistent method, the carrying costs of conducting the lead hazard reduction activities for this unit (e.g. clearance testing).
LHR Temp. Relocation (F) Report these costs if the occupants of the unit were required to temporarily relocate during any interior LHR activities,
TOTALS
Uses of CDBG Funds (H) Compute the total of columns C through G.
Uses of Non-CDBG Funds (J) Enter the total of all other funds injected into the project.
Total Dollars (K): Enter the total of Column H and I .
TOTAL LINE: Enter the total of each column (summarizing all units). The number of units is to be used in the units' column; other columns will have total dollar figures.
SIGNATURE
Provide the name, title, telephone number and signature of the Chief Elected Official for this Recipient. A pen color other than black is required. If reporting on more than 21 addresses, please use multiple Part 3's; signature is only required on the first page.

Sample

FORGIVABLE MORTGAGE

Notice: This Mortgage secures a loan ("*Loan*") in the amount of $________. This Loan is senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens, unless the Lender enters into a written subordination agreement.

Grant of Mortgage. For valuable consideration, name of borrowers *("Grantor")* hereby grants, mortgages and conveys to [name of lender] *("Lender")* a security interest in all of Grantor's right, title, and interest in and to the following described real property *("Mortgaged Property"*) located in the County of [county name]:

Insert legal description here

The Mortgaged Property or its address is commonly known as [insert street address].

The security interest in the Mortgaged Property includes all existing or subsequently erected or affixed buildings, improvements, and fixtures.

This Mortgage is given to secure the Grantor's performance of any and all obligations under the Forgivable Loan Promissory Note ("Note") executed by the Grantor on this date and payable to the Lender.

Performance. Except as otherwise provided in this Mortgage or the Note, the Grantor shall strictly perform all of Grantor's obligations under this Mortgage and the Note.

Terms and Conditions

1. Affordability Period. The Grantor shall comply with the terms of this Forgivable Loan Promissory Note for a term of [(*enter length of affordability period*)] *("Affordability Period")* beginning on the date of this Forgivable Loan Promissory Note. The Loan shall be forgiven 1/ [*length of affordability period*] on each anniversary of the date the Grantor executed this Forgivable Mortgage for each year during the Affordability Period.

2. Principal Residence Requirement: Notice of Sale and Recapture.

The Grantor shall own and occupy the Mortgaged Property as the Grantor's principal residence. The Grantor shall notify the Lender if the Grantor no longer occupies the Mortgaged Property as the Grantor's principal residence or if the Grantor sells or transfers for any reason, the Mortgage Property during the Affordability Period. If the Grantor sells or transfers the Mortgaged Property during the Affordability Period, the Grantor shall pay the Lender the un-forgiven balance of the Loan, unless the Net Proceeds (defined as the sale price minus the payoff on the first mortgage lien on the property and any usual and customary sellers' closing costs) of the sale are not sufficient to cover the un-forgiven balance of the Loan. If the Net Proceeds are not sufficient to cover the un-forgiven balance of the Loan, the amount of the Loan subject to recapture shall be determined in accordance with the provisions of paragraph 3, below.

3. Insufficient Proceeds. If Net Proceeds are insufficient to repay the un-forgiven balance of the Loan, any Net Proceeds available shall be distributed to the Grantor and the Lender based on a ratio of the Original Loan Amount ("OLA") to the sum of the OLA and the Grantor's Investment ("GI" – defined as any out-of-pocket down payment paid by the Grantor plus any verified capital improvements made by the Grantor), as follows:

$$\frac{OLA}{OLA + GI} \times \text{Net proceeds} = \text{Recapture Amount payable to Lender}$$

$$\frac{GI}{OLA + GI} \times \text{Net Proceeds} = \text{Proceeds payable to Grantor}$$

If there are no Net Proceeds to distribute, the recapture amount payable to the Lender shall be zero.

4. Refinance. If the Grantor refinances the first lien on the Mortgaged Property with a lender approved by the Iowa Department of Economic Development for participation in the Department's homeownership assistance program during the Affordability Period, the Lender may, in its sole discretion, agree to sign a subordination agreement subordinating the mortgage securing this debt to the new mortgage held by the IDED-approved lender. If the Grantor refinances both the first mortgage and this mortgage during the Affordability Period, the Grantor shall pay the Lender the entire un-forgiven balance of the Loan.

5. Duty to Maintain. Grantor shall maintain the Mortgaged Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value and shall not cause or suffer waste on or to the Mortgaged Property.

6. Taxes and Liens. Grantor shall pay all taxes and special assessments before the taxes or special assessments become delinquent. Grantor shall maintain the Mortgaged Property free of any liens having priority over the interest of the Lender, except as specifically agreed to in writing by the Lender.

7. Insurance. Grantor shall keep in force homeowners insurance with a standard mortgagee clause in favor of the Lender covering all improvements on the Mortgaged Property against loss by fire, tornado and other hazards in an amount not less than the total combined mortgages and liens on the Mortgaged Property. Grantor shall provide proof of insurance and appropriate riders to the Lender and shall pay all premiums on the insurance when due.

8. Lender's Expenses. If the Grantor fails to (a) pay all taxes, (b) maintain required insurance coverage on the Mortgaged Property, or (c) maintain the Mortgaged Property in good condition, the Lender may do so, at the Lender's sole discretion. The Grantor shall be obligated to repay all expenses incurred or paid by Lender for such purposes and any amounts owed to the Lender for such purposes will accrue interest at [describe the rate that will apply]. The rights provided in this paragraph shall be in addition to any other rights or any remedies to which the Lender may be entitled as a result of any default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

9. Acceleration of Maturity and Receivership. If the Grantor defaults on this Forgivable Mortgage and the Note, the Lender may declare the Grantor in default and the entire un-forgiven amount of the Loan plus any payments made by the Lender for taxes, assessments, insurance premiums, or repairs shall become due and owing and the entire amount shall be collectable by foreclosure or otherwise. At any

time after the commencement of any action in foreclosure, or during the period of redemption, and upon the request of the Lender, the court shall appoint a receiver to take immediate possession of the Mortgaged Property.

10.Default Events. At Lender's option, Grantor will be in default under this Mortgage if any of the following happens:

a. The Grantor fails to occupy the Mortgaged Property as Grantor's principal residence for a period of two consecutive months.
b. The Grantor sells, transfers, or conveys the Mortgaged Property.
c. The Grantor fails to pay all taxes, to pay the insurance, or to maintain the property in good condition.

11. Attorneys Fees. If Lender institutes any suit to enforce this Forgivable Mortgage and the Note and to foreclose on the Forgivable Mortgage, the Grantors shall pay all costs of the action, including reasonable attorneys' fees, court costs, and abstracting fees.

12. Governing Law. This Forgivable Mortgage and the Note shall be construed in accordance with the laws of the State of Iowa and the federal laws and regulations governing the HOME Investment Partnership Program.

13. Warranty of Title. The Grantor warrants that Grantor holds good and marketable title of record to the Mortgaged Property in fee simple, clear of all liens and encumbrances other than the first mortgage lien held by a lender approved by the Iowa Department of Economic Development for participation in the Department's homeownership assistance program and agreed to by the Lender.

14. Eminent Domain. If the Mortgaged Property is subject to eminent domain proceedings, the transfer shall constitute a sale of the Mortgaged Property and the proceeds shall be subject to the recapture provisions described above.

15. Non-judicial Foreclosure. Lender may exercise the right to non-judicial foreclosure pursuant to Iowa Code section 654.18 and Chapter 655A as currently enacted or hereafter modified, amended or replaced.

16. Shortened Redemption. Grantor hereby agrees that, in the event of foreclosure of this Forgivable Mortgage, Lender may, at Lender's sole option, elect to reduce the period of redemption pursuant to Iowa Code sections 628.26, 628.27, or 628.28, or any other Iowa Code section, to such time as may then be applicable and provided by law.

17. Notices. Any notice provided for under this Forgivable Mortgage shall be given in writing by registered or certified mail, by receipted hand delivery, or by courier and addressed to the Grantor at the Mortgaged Property's address. Notice shall be effective at the earliest of (a) the time it is actually received, (b) within one day if it is delivered using an overnight courier service, or (c) within five days after it is deposited in the U.S. mail if it is delivered using registered or certified mail.

18. Successors and Assigns. Subject to any limitations stated in this Forgivable Mortgage, this Forgivable Mortgage shall be binding on and inure to the benefit of the parties' successors and assigns.

19. Time is of the Essence. Time is of the essence in the performance of this Forgivable Mortgage and the Note.

20. Release of Rights of Dower, Homestead and Distributive Share. Each of the undersigned Grantors hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property. If a Grantor is not an owner of the Property, that Grantor executes this Mortgage for the sole purpose of relinquishing and waiving such rights.

21. Impact on Real Property. All of the terms and conditions herein shall run with and encumber the Mortgaged Property and the improvements thereon, and be binding upon the Grantor and the Grantor's successors and/or assigns during the Affordability Period.

EACH GRANTOR ACKNOWLEDGES HAVING READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS FORGIVABLE MORTGAGE, AND EACH AGREES ITS TERMS.

GRANTOR ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS FORGIVABLE MORTGAGE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

GRANTOR:

____
[Name of Grantor], Individually

____
[Name of Grantor], Individually

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF IOWA)
) SS
COUNTY OF)

On this ____ day of 2010, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared [*Grantors names*], to me known to be the persons named in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her voluntary act and deed.

Seal **Notary Public in and for the State of Iowa**

____

Commission Expires: _______________

SAMPLE HOMEOWNERSHIP ASSISTANCE ACTIVITY

FORGIVABLE LOAN PROMISSORY NOTE
PURCHASE MONEY MORTGAGE

Borrower: [*Name of Borrowers*] **Lender:** [*Name of IDED recipient*]

For the value received, I (We) ("*Borrower*") jointly and severally promise to pay to [*name of recipient*] ("Lender"), its successors or assigns, the sum of (A) [*amount of* ______] ("*Original Loan Amount*") or (B) the amount as determined under the Terms and Conditions provisions set forth below.

Terms and Conditions: The Borrower agrees that:

1. Affordability Period. The borrower shall comply with the terms of this Forgivable Loan Promissory Note for a term of [*enter length of affordability period*] ("Affordability Period") beginning on the date of this Forgivable Loan Promissory Note. The Loan shall be forgiven 1[*length of affordability period*]th on each anniversary of the date the Borrower executed this Forgivable Loan Promissory Note for each year during the Affordability Period.

2. Principal Residence Requirement: Notice of Sale and Recapture.
The Borrower shall own and occupy the real property that serves as security for this Loan located at [address] ("Mortgaged Property") as the Borrower's principal residence. The Borrower shall notify the Lender if the Borrower no longer occupies the Mortgaged Property as the Borrower's principal residence or if the Borrower sells or transfers for any reason, the Mortgaged Property during the Affordability Period. If the Borrower sells or transfers the Mortgaged Property during the Affordability Period, the Borrower shall pay the Lender the un-forgiven balance of the Loan, unless the Net Proceeds (defined as the sale price minus the payoff on the first mortgage lien on the property and any usual and customary sellers' closing costs) of the sale are not sufficient to cover the un-forgiven balance of the Loan. If the Net Proceeds are not sufficient to cover the un-forgiven balance of the Loan, the amount of the Loan subject to recapture shall be determined in accordance with the provisions of paragraph 3, below.

3. Insufficient Proceeds. If the Net Proceeds are insufficient to repay the un-forgiven balance of the Loan, any Net Proceeds that are available shall be distributed to the Borrower and the Lender based on a ratio of the Original Loan Amount ("OLA") to the sum of the OLA and the Borrower's Investment ("BI" – defined as any out-of-pocket down payment paid by the Borrower plus any verified capital improvements made by the Borrower), as follows:

$$\frac{\text{OLA}}{\text{OLA + BI}} \times \text{Net Proceeds = Recapture Amount payable to Lender}$$

$$\frac{\text{BI}}{\text{OLA + BI}} \times \text{Net proceeds = Proceeds payable to Borrower}$$

If there are no Net Proceeds to distribute, the recapture amount payable to the Lender shall be zero.

4. Refinancing. If the Borrower refinances the first lien on the Mortgaged Property with a lender approved by the Iowa Department of Economic Development (IDED) for participation in the Department's

homeownership assistance program during the Affordability Period, the Lender may, in its sole discretion, agree to sign a subordination agreement subordinating the mortgage securing this debt to the new mortgage held by the IDED-approved lender. If the Borrower refinances both the first mortgage and this mortgage during the Affordability Period, the Borrower shall pay the Lender the entire un-forgiven balance of the Loan.

5. Collateral and Forgivable Mortgage. Borrower acknowledges this Forgivable Loan Promissory Note is secured by a Forgivable Mortgage dated [date] on real estate located at [property address]. Borrower further agrees to be bound by the terms and conditions of the Forgivable Mortgage and agrees that the terms and conditions of the Forgivable Mortgage are incorporated into this Forgivable Loan Promissory Note as fully set forth herein.

BEFORE SIGNING THIS FORGIVABLE LOAN PROMISSORY NOTE, I (WE) READ AND UNDERSTOOD ALL THE PROVISIONS AND I (WE) AGREE TO THE TERMS OF THIS FORGIVABLE LOAN PROMISSORY NOTE.

I (WE) ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS FORGIVABLE LOAN PROMISSORY NOTE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER:

______________________________	______________________________
[NAME OF BORROWER]	[NAME OF BORROWER]
______________________________	______________________________
DATE	DATE

Possible language for insertion into notes and mortgages.

Should you choose to try to insert this language into your existing Notes and Mortgages rather than using the forms provided by IDED, you will probably need to modify this language so it fits with the rest of the language in your Notes and Mortgages. Additional modifications might be necessary to ensure this language conforms to the rest of the language in your standard form documents. To help guide your modifications, you may wish to refer to the forms provided by IDED to see how this language fits in with the rest of the language in those documents.

Language for Notes:

1. Principal Residence Requirement: Notice of Sale and Recapture.

The Borrower shall own and occupy the real property that serves a security for this Loan located at [address] ("Mortgaged Property") as the Borrower's principal residence. The Borrower shall notify the Lender if the Borrower no longer occupies the Mortgaged Property as the Borrower's principal residence or if the Borrower sells or transfer for any reason, the Mortgaged Property during the Affordability Period. If the Borrower sells or transfers the Mortgaged Property during the affordability period, the Borrower shall pay the Lender the un-forgiven balance of the Loan, unless the Net Proceeds (defined as the sale price minus the payoff on the first mortgage lien on the property and any usual and customary sellers' closing costs) of the sale are not sufficient to cover the un-forgiven balance of the Loan. If the Net Proceeds are not sufficient to cover the un-forgiven balance of the Loan, the amount of the Loan subject to recapture shall be determined in accordance with the provisions of paragraph 3, below.

2. Insufficient proceeds. If the Net Proceeds are insufficient to repay the un-forgiven balance of the Loan, any Net Proceeds that are available shall be distributed to the Borrower and the Lender based on a ratio of the Original Loan Amount ("OLA") to the sum of the OLA and the Borrowers' Investment ("BI"- defined as any out-of-pocket down payment paid by the Borrower plus any verified capital improvements made by the Borrower), as follows:

$$\frac{OLA}{OLA + BI} \times \text{Net Proceeds} = \text{Recapture Amount Payable to Lender}$$

$$\frac{BI}{OLA + BI} \times \text{Net proceeds} = \text{Proceeds Payable to Borrower}$$

If there are no Net Proceeds to distribute, the recapture amount payable to the Lender shall be zero.

3. Refinancing. If the Borrower refinances the first lien on the Mortgaged Property with a lender approved by the Iowa Department of Economic Development for participation in the Department's homeownership assistance program during the Affordable Period, the Lender may, in its sole discretion, agree to sign a subordination agreement subordinating the mortgage securing this debt to the new mortgage held by the IDED-approved lender. If the Borrower refinances both the first mortgage and this mortgage during the Affordability Period, the Borrower shall pay the Lender the entire un-forgiven balance of the Loan.

Language for Mortgages:

1. Principal Residence Requirement: Notice of Sale and Recapture.

The Grantor shall own and occupy the Mortgaged Property as the Grantor's principal residence. The Grantor shall notify the Lender if the Grantor no longer occupies the Mortgaged Property as the Grantor's principal residence or if the Grantor sells or transfers for any reason, the Mortgaged Property during the Affordability Period. If the Grantor sells or transfers the Mortgaged Property during the Affordability Period, the Grantor shall pay the Lender the un-forgiven balance of the Loan, unless the Net Proceeds (defined as the sale price minus the payoff on the first mortgage lien on the property and any usual and customary seller's closing costs) of the sale are not sufficient to cover the un-forgiven balance of the Loan. If the Net Proceeds are not sufficient to cover the un-forgiven balance of the Loan, the amount of the Loan subject to recapture shall be determined in accordance with the provisions of paragraph 3, below.

2. Insufficient Proceeds. If the Net Proceeds are insufficient to repay the un-forgiven balance of the Loan, any Net Proceeds available shall be distributed to the Grantor and the Lender based on a ratio of the Original Loan Amount ("OLA") to the sum of the OLA and the Grantor's Investment ("GI" – defined as any out-of-pocket down payment paid by the Grantor plus any verified capital improvements made by the Grantor), as follows:

$$\frac{OLA}{OLA + BI} \times \text{Net Proceeds} = \text{Recapture Amount Payable to Lender}$$

$$\frac{BI}{OLA + BI} \times \text{Net Proceeds} = \text{Proceeds Payable to Grantor}$$

If there are no Net Proceeds to distribute, the recapture amount payable to the Lender shall be zero.

3. Refinance. If the Grantor refinances the first lien on the Mortgaged Property with a lender approved by the Iowa Department of Economic Development for participation in the Department's homeownership assistance program during the Affordability Period, the Lender may, in its sole discretion, agree to sign a subordination agreement subordinating the mortgage securing this debt to the new mortgage held by the IDED-approved lender. If the Grantor refinances both the first mortgage and this mortgage during the Affordability Period, the Grantor shall pay the Lender the entire un-forgiven balance of the Loan.

CHAPTER 25
HOUSING FUND

261—25.1(15) Purpose. The primary purpose of the housing fund, made up of federal CDBG funds, is to retain the supply of decent and affordable housing for low- and moderate-income Iowans.

[**ARC 9326B**, IAB 1/12/11, effective 2/16/11]

261—25.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

"Activity" means one or more specific owner-occupied housing rehabilitation activities, projects or programs assisted through the housing fund.

"Administrative plan" means a document that a housing fund recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

"CDBG" means the community development block grant non-entitlement program, the grant program authorized by Title I of the Housing and Community Development Act of 1974, for counties and cities, except those designated by HUD as entitlement areas.

"Consolidated plan" means the state's housing and community development planning document and the annual action plan update approved by HUD.

"Housing fund" means the program implemented by this chapter and funded through the state's CDBG allocation from HUD.

"HUD" means the U.S. Department of Housing and Urban Development.

"IDED" means the Iowa department of economic development.

"Iowa green communities criteria" means a set of rating factors, some optional and some mandatory, prepared by IDED and intended to promote public health, energy efficiency, water conservation, smart locations, operational savings and sustainable building practices.

"Lead hazard reduction or abatement carrying costs" means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. "Lead hazard reduction or abatement carrying costs" includes, but is not limited to, required notifications and reports, lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.

"Local financial support" means financial investment by the recipient through the use of the recipient's own discretionary funds that are a permanent financial contribution or commitment applied to and related to the objectives of the housing activity or project assisted through the housing fund and that are used during the same time frame as the requested housing activity or project.

"Local support" means involvement, endorsement and investment by citizens, organizations and the governing body of the local government in which the housing project is located that promote the objectives of the housing activity or projects assisted through the housing fund.

"Program income" means funds generated by a recipient or subrecipient from the use of CDBG

funds.

"Recaptured funds" means housing fund moneys which are recouped by the recipient when the housing unit does not continue to be the principal residence of the assisted owner for the full affordability period required by the program.

"Recipient" means the entity under contract with IDED to receive housing funds and undertake the funded housing activity.

"Repayment" means housing fund moneys which the recipient must repay to IDED because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal requirements.

"Single-family unit" means one dwelling unit designated or constructed to serve only one household or family as the primary residence. Single-family units include a detached single unit, condominium unit, cooperative unit, or combined manufactured housing unit and lot.

"Single parent" means an individual who (1) is unmarried or is legally separated from a spouse and (2) is pregnant or has one or more minor children for whom the individual has custody or joint custody.

"Technical services" means all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination and verification, and (11) project-specific environmental clearance processes.

"Technical services provision" means the cost to provide other individual housing project-related services such as: (1) financing costs (security agreement preparation, recording and filing fees), (2) processing individual applications for assistance, (3) income eligibility determination and verification, and (4) project-specific environmental clearance.

[**ARC 9326B**, IAB 1/12/11, effective 2/16/11]

261—25.3(15) Eligible applicants. Eligible applicants shall comply with all requirements in 261—23.5(15). Eligible applicants for housing fund assistance include all non-entitlement incorporated cities and all counties within the state of Iowa.

1. Any eligible applicant may apply directly.

2. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

[**ARC 9326B**, IAB 1/12/11, effective 2/16/11]

261—25.4(15) Eligibility and forms of assistance.

25.4(1) The only eligible activity for the housing fund is owner-occupied housing rehabilitation for low- to moderate-income households. Assisted housing shall be single-family housing designed for occupancy by homeowners as their principal residence. For owner-occupied housing rehabilitation, assisted households shall meet income limits established by federal program requirements. All single-family housing receiving rehabilitation assistance shall be rehabilitated in accordance with any locally adopted building or housing codes, standards, and ordinances. If locally adopted and enforced building or housing codes do not exist, the Iowa Minimum Housing Rehabilitation Standards shall apply.

25.4(2) Eligible forms of IDED assistance to its recipients include grants or other forms of assistance as may be approved by IDED.

25.4(3) For all single-family housing renovation projects assisting homeowners, the only form of housing fund assistance to the end beneficiary is a forgivable loan.

[**ARC 9326B**, IAB 1/12/11, effective 2/16/11]

261—25.5(15) Application review. Housing fund applications shall be reviewed through an annual competition. IDED reserves the right to withhold funding from the annual housing fund competitive

cycle to compensate for insufficient numbers or quality of applications received and to reallocate de-obligated or recaptured funds. In the event that funds are withheld from the annual competitive cycle, IDED will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IDED.

[**ARC 9326B**, IAB 1/12/11, effective 2/16/11]

261—25.6(15) Minimum application requirements. To be considered for housing fund assistance, an application shall meet the following threshold criteria:

25.6(1) The application shall propose an owner-occupied housing rehabilitation program consistent with the housing fund purpose and eligibility requirements, sustainability and smart growth principles, and the state consolidated plan.

25.6(2) The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. IDED reserves the right to deny funding to an applicant that has failed to comply with federal and state requirements in the administration of a previous project funded by IDED. Documentation of the ability of the applicant to provide technical services and of the availability of certified lead professionals and contractors trained in safe work practices may also be required as applicable to the housing fund activity.

25.6(3) The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity, consistency with sustainability and smart growth principles, and the feasibility of the proposed activity.

25.6(4) The application shall demonstrate local support for the proposed activity.

25.6(5) The application shall include a certification that the applicant will comply with all applicable state and federal laws and regulations.

[**ARC 8418B**, IAB 12/30/09, effective 2/3/10; **ARC 9326B**, IAB 1/12/11, effective 2/16/11]

261—25.7(15) Application review criteria. IDED shall evaluate applications and make funding decisions based on general activity criteria, need, impact, sustainability and feasibility. A workshop will be held at least 60 days prior to the application deadline to provide information, materials, and technical assistance to potential applicants.

25.7(1) As applicable, the review criteria for owner-occupied housing rehabilitation applications shall include the following:

a. General criteria.

(1) Activity objectives.

(2) Target area of benefit and reason for selection.

(3) Condition of infrastructure in the activity area served.

(4) Form of assistance to homeowners.

(5) Selection criteria for participants.

(6) Method to determine that the property is the homeowner's principal residence.

(7) Assurance of compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards.

(8) Assurance of compliance with HUD lead-safe housing regulations, as applicable.

(9) Plans for properties infeasible to rehabilitate.

(10) Activity time line.

b. Need, impact and feasibility criteria.

(1) Evidence of need for the activity.

(2) Percentage of need to be met through the activity.

(3) Number and percentage of low- and moderate-income persons in the community.

(4) Housing costs, housing supply, vacancy rate of owner-occupied units in the activity area served.

(5) Other recent or current housing improvement activities in the community.

(6) Ongoing comprehensive community development efforts in the activity area served.

(7) New businesses or industries in the past five years in the community, including startup dates.

(8) Local involvement and financial support.

(9) Condition of housing in the target area in the following criteria:

1. Number of housing units with minor deficiencies.

2. Number of housing units requiring replacement of one or two of the major components.

3. Number of housing units requiring both replacement of several major components and structural work.

4. Number of dilapidated housing units.

c. Administrative criteria.

(1) Plan for activity administration.

(2) Previous activity management experience.

(3) Budget for general administration.

(4) Budget for technical services assistance.

(5) List of prior CDBG owner-occupied rehabilitation funding and performance targets completed.

25.7(2) IDED staff may conduct site evaluations of proposed activities.

[**ARC 9326B**, IAB 1/12/11, effective 2/16/11]

261—25.8(15) Allocation of funds.

25.8(1) IDED may retain a portion of the amount provided for at rule 261—23.4(15) of the state's annual CDBG allocation from HUD for administrative costs associated with program implementation and operation.

25.8(2) IDED reserves the right to limit the amount of funds that shall be awarded.

25.8(3) The maximum per unit subsidy for all single-family activities involving rehabilitation projects is $37,500. The $37,500 per unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation; technical services costs, including lead hazard reduction carrying costs; lead hazard reduction costs; and temporary relocation. All rehabilitation hard costs funded with housing funds are limited to $24,999. All applicable technical services costs, including any lead hazard reduction carrying costs, are limited to $4,500 per unit.

25.8(4) Recipients shall identify general administrative costs in the housing fund application. IDED reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total housing fund award.

25.8(5) IDED reserves the right to negotiate the amount and terms of a housing fund award.

[**ARC 8418B**, IAB 12/30/09, effective 2/3/10; **ARC 9326B**, IAB 1/12/11, effective 2/16/11]

261—25.9(15) Administration of awards. Applications selected to receive housing fund awards shall be notified by letter from the IDED director.

25.9(1) A contract shall be executed between the recipient and IDED. These rules, the approved housing fund application, the housing fund management guide and all applicable federal and state laws and regulations shall be part of the contract.

a. The recipient shall execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for IDED to terminate the award.

b. Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Contracts may be conditioned upon the timely completion of these requirements.

c. Awards shall be conditioned upon commitment of other sources of funds included in the application budget.

d. Release of funds shall be conditioned upon IDED's receipt of an administrative plan for the funded activity.

e. Release of funds shall be conditioned upon IDED's receipt and approval of documentation of environmental clearance.

25.9(2) Local administrative and technical services contracts.

a. Recipients awarded funds for general administration that employ the services of a third-party administrator to perform all or part of the general administrative functions for the recipient shall enter into a contractual agreement for the general administrative functions to be performed.

b. Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed.

c. Recipients that employ a third party to perform all or part of the general administration for the recipient and that also employ a third party to perform all or part of the technical services for the recipient shall conduct separate procurement transactions and shall enter into separate contractual agreements for each: one contract for general administration and one contract for technical services. Separate contracts are required even if both functions are performed by the same third-party entity.

25.9(3) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IDED. Individual requests for funds shall be made in whole dollar amounts equal to or greater than $500 per request, except for the final draw of funds.

25.9(4) Record keeping and retention.

a. CDBG-funded projects. For CDBG-funded projects, the recipient shall retain all financial records, supporting documents and all other records pertinent to the funded activity for five years after the state of Iowa has closed out the corresponding program year with HUD.

b. Representatives of IDED, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a housing fund award.

25.9(5) Performance reports and reviews. Recipients shall submit performance reports to IDED in the manner and on forms prescribed by IDED. Reports shall assess the use of funds and progress of activities. IDED may perform reviews or field inspections necessary to ensure recipient performance.

25.9(6) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the CEO of the recipient and are not considered valid until approved in writing by IDED following the procedure specified in the contract between the recipient and IDED.

25.9(7) Contract closeout. Upon the contract expiration date or work completion date, as applicable, IDED shall initiate closeout procedures. Recipients shall comply with applicable audit requirements described in the housing fund application and management guide.

25.9(8) Compliance with federal, state and local laws and regulations. Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

25.9(9) Remedies for noncompliance. At any time, IDED may, for cause, find that a recipient is not in compliance with the requirements of this program. At IDED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IDED. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable federal, state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

25.9(10) Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IDED staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IDED. Appeals should be addressed to the division administrator of the division of community development. Appeals shall be in writing and submitted to IDED within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The IDED director will make the final decision on all appeals.

[**ARC 9326B**, IAB 1/12/11, effective 2/16/11]

These rules are intended to implement Iowa Code section 15.108(1)*"a."*

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Title I of the Housing and Community Development Act of 1974 – Section 105 (a)

Eligible Activities
Sec. 105.
(a) Activities assisted under this title may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;

(3) Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title;

(7) disposition (through sale, lease, donation or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;

(8) provisions of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by the such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this title including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this title for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculation yields the higher amount, and except that of any amount of assistance under this title (including program income) in each of fiscal years 1993 through 2003 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph, and except that of any amount of assistance under this title (including program income) in each of the fiscal years 1999, 2000, and 2001, to the City of Miami, such city may use not more than 25 percent in each fiscal year for activities under this paragraph;

(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this title;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949;

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and payment of reasonable administrative costs and carrying charges related to (A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act; and (B) the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981;

(14) provisions of assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in nonentitlement areas, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of section 101(c), and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of energy use strategies related to recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district hearing and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities.

(17) provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

(A) creates or retains jobs for low- and moderate-income persons;

(B) prevents or eliminates slums and blight;

(C) meets urgent needs;

(D) creates or retains businesses owned by community residents;

(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

(F) provides technical assistance to promote any of the activities under subparagraphs (A) through (E);

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937;

(19) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

(20) housing services, such as housing counseling, in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act;

(21) provisions of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

(22) 1 provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and

(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

(23) activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low and moderate income neighborhoods;

(24) provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to—

(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees);

(D) provide up to 50 percent of any down-payment required from low- or moderate-income homebuyer; or

(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyers; and

(24) [Congress approved two subsections 24] the construction or improvement of tornado-safe shelters for residents of manufactured housing, and the provision of assistance (including loans and grants) to nonprofit and for-profit entities (including owners of manufactured housing parks) for such construction or improvement, except that—

(A) a shelter assisted with amounts provided pursuant to this paragraph may be located only in a neighborhood (including a manufactured housing park) that—

(i) contains not less than 20 manufactured housing units that are within such proximity to the shelter that the shelter is available to the residents of such units in the event of a tornado;

(ii) consists predominantly of persons of low and moderate income; and

(iii) is located within a State in which a tornado has occurred during the fiscal year for which the amounts to be used under this paragraph were made available or any of the 3 preceding fiscal years, as determined by the Secretary after consultation with the Director of the Federal Emergency Management Agency;

(B) such a shelter shall comply with standards for construction and safety as the Secretary, after consultation with the Director of the Federal Emergency Management Agency, shall provide to ensure protection from tornadoes;

(C) such a shelter shall be of a size sufficient to accommodate, at a single time, all occupants of manufactured housing units located within the neighborhood in which the shelter is located; and

(D) amounts may not be used for a shelter as provided under this paragraph unless there is located, within the neighborhood in which the shelter is located (or, in the case of a shelter located in a manufactured housing park, within 1,500 feet of such park), a warning siren that is operated in accordance with such local, regional, or national disaster warning programs or systems as the Secretary, after consultation with the Director of the Federal Emergency Management Agency, considers appropriate to ensure adequate notice of occupants of manufactured housing located in such neighborhood or park of a tornado; and

(25) lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

80% Median Family Income (MFI) by County

NOTE: Refer to the Community Development website for current MFI numbers and updates.

OMB CIRCULAR A-87 (REVISED 05/10/04)
COST PRINCIPLES FOR STATE, LOCAL AND INDIAN TRIBAL GOVERNMENTS
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ATTACHMENT A
Circular No. A-87

GENERAL PRINCIPLES FOR DETERMININGALLOWABLE COSTS

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A. Purpose and Scope

1. Objectives. This Attachment establishes principles for determining the allowable costs incurred by State, local, and federally-recognized Indian tribal governments (governmental units) under grants, cost reimbursement contracts, and other agreements with the Federal Government (collectively referred to in this Circular as "Federal awards"). The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal or governmental unit participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by law. Provision for profit or other increment above cost is outside the scope of this Circular.

2. Policy guides.
   a. The application of these principles is based on the fundamental premises that:
      (1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.
      (2) Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
      (3) Each governmental unit, in recognition of its own unique combination of staff, facilities, and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration of Federal awards.
   b. Federal agencies should work with States or localities which wish to test alternative mechanisms for paying costs for administering Federal programs. The Office of Management and Budget (OMB) encourages Federal agencies to test fee-for-service alternatives as a replacement for current cost-reimbursement payment methods in response to the National Performance Review's (NPR) recommendation. The NPR recommended the fee-for-service approach to reduce the burden associated with maintaining systems for charging administrative costs to Federal programs and preparing and approving cost allocation plans. This approach should also increase incentives for administrative efficiencies and improve outcomes.

3. Application.
   a. These principles will be applied by all Federal agencies in determining costs incurred by governmental units under Federal awards (including subawards) except those with (1) publicly-financed educational institutions subject to OMB Circular A-21, "Cost Principles for Educational Institutions," and (2) programs administered by publicly-owned hospitals and other providers of medical care that are subject to requirements promulgated by the sponsoring Federal agencies. However, this Circular does apply to all central service and department/agency costs that are allocated or billed to those educational institutions, hospitals, and other providers of medical care or services by other State and local government departments and agencies.

b. All subawards are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a governmental unit (other than a college, university or hospital), this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial organizations shall apply; if a subaward is to a college or university, Circular A-21 shall apply; if a subaward is to a hospital, the cost principles used by the Federal awarding agency for awards to hospitals shall apply, subject to the provisions of subsection A.3.a. of this Attachment; if a subaward is to some other non-profit organization, Circular A-122, "Cost Principles for Non-Profit Organizations," shall apply.

c. These principles shall be used as a guide in the pricing of fixed price arrangements where costs are used in determining the appropriate price.

d. Where a Federal contract awarded to a governmental unit incorporates a Cost Accounting Standards (CAS) clause, the requirements of that clause shall apply. In such cases, the governmental unit and the cognizant Federal agency shall establish an appropriate advance agreement on how the governmental unit will comply with applicable CAS requirements when estimating, accumulating and reporting costs under CAS-covered contracts. The agreement shall indicate that OMB Circular A-87 requirements will be applied to other Federal awards. In all cases, only one set of records needs to be maintained by the governmental unit.

e. Conditional exemptions.

(1) OMB authorizes conditional exemption from OMB administrative requirements and cost principles circulars for certain Federal programs with statutorily-authorized consolidated planning and consolidated administrative funding, that are identified by a Federal agency and approved by the head of the Executive department or establishment. A Federal agency shall consult with OMB during its consideration of whether to grant such an exemption.

(2) To promote efficiency in State and local program administration, when Federal non-entitlement programs with common purposes have specific statutorily-authorized consolidated planning and consolidated administrative funding and where most of the State agency's resources come from non-Federal sources, Federal agencies may exempt these covered State-administered, non-entitlement grant programs from certain OMB grants management requirements. The exemptions would be from all but the allocability of costs provisions of OMB Circulars A-87 (Attachment A, subsection C.3), "Cost Principles for State, Local, and Indian Tribal Governments," A-21 (Section C, subpart 4), "Cost Principles for Educational Institutions," and A-122 (Attachment A, subsection A.4), "Cost Principles for Non-Profit Organizations," and from all of the administrative requirements provisions of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and the agencies' grants management common rule.

(3) When a Federal agency provides this flexibility, as a prerequisite to a State's exercising this option, a State must adopt its own written fiscal and administrative requirements for expending and accounting for all funds, which are consistent with the provisions of OMB Circular A-87, and extend such policies to all subrecipients. These fiscal and administrative requirements must be sufficiently specific to ensure that: funds are used in compliance with all applicable Federal statutory and regulatory provisions, costs are reasonable and necessary for operating these programs, and funds are not be used for general expenses required to carry out other responsibilities of a State or its subrecipients.

B. Definitions

1. "Approval or authorization of the awarding or cognizant Federal agency" means documentation evidencing consent prior to incurring a specific cost. If such costs are specifically identified in a Federal award document, approval of the document constitutes approval of the costs. If the costs are covered by a State/local-wide cost allocation plan or an indirect cost proposal, approval of the plan constitutes the approval.
2. "Award" means grants, cost reimbursement contracts and other agreements between a State, local and Indian tribal government and the Federal Government.
3. "Awarding agency" means (a) with respect to a grant, cooperative agreement, or cost reimbursement contract, the Federal agency, and (b) with respect to a subaward, the party that awarded the subaward.
4. "Central service cost allocation plan" means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a governmental unit on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.
5. "Claim" means a written demand or written assertion by the governmental unit or grantor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of award terms, or other relief arising under or relating to the award. A voucher, invoice or other routine request for payment that is not a dispute when submitted is not a claim. Appeals, such as those filed by a governmental unit in response to questioned audit costs, are not considered claims until a final management decision is made by the Federal awarding agency.
6. "Cognizant agency" means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this Circular on behalf of all Federal agencies. OMB publishes a listing of cognizant agencies.
7. "Common Rule" means the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Final Rule" originally issued at 53 FR 8034-8103 (March 11, 1988). Other common rules will be referred to by their specific titles.
8. "Contract" means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to): awards and notices of awards; job orders or task orders issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and, bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301 et seq.
9. "Cost" means an amount as determined on a cash, accrual, or other basis acceptable to the Federal awarding or cognizant agency. It does not include transfers to a general or similar fund.
10. "Cost allocation plan" means central service cost allocation plan, public assistance cost allocation plan, and indirect cost rate proposal. Each of these terms are further defined in this section.
11. "Cost objective" means a function, organizational subdivision, contract, grant, or other activity for which cost data are needed and for which costs are incurred.
12. "Federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including

any native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

13. "Governmental unit" means the entire State, local, or federally-recognized Indian tribal government, including any component thereof. Components of governmental units may function independently of the governmental unit in accordance with the term of the award.
14. "Grantee department or agency" means the component of a State, local, or federally-recognized Indian tribal government which is responsible for the performance or administration of all or some part of a Federal award.
15. "Indirect cost rate proposal" means the documentation prepared by a governmental unit or component thereof to substantiate its request for the establishment of an indirect cost rate as described in Attachment E of this Circular.
16. "Local government" means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a non-profit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.
17. "Public assistance cost allocation plan" means a narrative description of the procedures that will be used in identifying, measuring and allocating all administrative costs to all of the programs administered or supervised by State public assistance agencies as described in Attachment D of this Circular.
18. "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments.

C. Basic Guidelines

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:
   a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
   b. Be allocable to Federal awards under the provisions of this Circular.
   c. Be authorized or not prohibited under State or local laws or regulations.
   d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.
   e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
   f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
   g. Except as otherwise provided for in this Circular, be determined in accordance with generally accepted accounting principles.
   h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.
   i. Be the net of all applicable credits.
   j. Be adequately documented.
2. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally- funded. In determining reasonableness of a given cost, consideration shall be given to:
   a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.
   b. The restraints or requirements imposed by such factors as: sound business practices; arms length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.
   c. Market prices for comparable goods or services.
   d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.
   e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.
3. Allocable costs.
   a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.
   b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.
   c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.
   d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Attachments C, D, and E.
4. Applicable credits.
   a. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate.
   b. In some instances, the amounts received from the Federal Government to finance activities or service operations of the governmental unit should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to Federal awards. (See Attachment B, item 11, "Depreciation and use allowances," for areas of potential application in the matter of Federal financing of activities.)

D. Composition of Cost

1. Total cost. The total cost of Federal awards is comprised of the allowable direct cost of the program, plus its allocable portion of allowable indirect costs, less applicable credits.
2. Classification of costs. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost. Guidelines for determining direct and indirect costs charged to Federal awards are provided in the sections that follow.

E. Direct Costs

1. General. Direct costs are those that can be identified specifically with a particular final cost objective.
2. Application. Typical direct costs chargeable to Federal awards are:
   a. Compensation of employees for the time devoted and identified specifically to the performance of those awards.
   b. Cost of materials acquired, consumed, or expended specifically for the purpose of those awards.
   c. Equipment and other approved capital expenditures.
   d. Travel expenses incurred specifically to carry out the award.
3. Minor items. Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives.

F. Indirect Costs

1. General. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. Indirect cost pools should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.
2. Cost allocation plans and indirect cost proposals. Requirements for development and submission of cost allocation plans and indirect cost rate proposals are contained in Attachments C, D, and E.
3. Limitation on indirect or administrative costs.
   a. In addition to restrictions contained in this Circular, there may be laws that further limit the amount of administrative or indirect cost allowed.
   b. Amounts not recoverable as indirect costs or administrative costs under one Federal award may not be shifted to another Federal award, unless specifically authorized by Federal legislation or regulation.

G. Interagency Services. The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro rate share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Attachment C.

H. Required Certifications. Each cost allocation plan or indirect cost rate proposal required by Attachments C and E must comply with the following:

1. No proposal to establish a cost allocation plan or an indirect cost rate, whether submitted to a Federal cognizant agency or maintained on file by the governmental unit, shall be acceptable unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Attachments C and E. The certificate must be signed on behalf of the governmental unit by an individual at a level no lower than chief financial officer of the governmental unit that submits the proposal or component covered by the proposal.
2. No cost allocation plan or indirect cost rate shall be approved by the Federal Government unless the plan or rate proposal has been certified. Where it is necessary to establish a cost allocation plan or an indirect cost rate and the governmental unit has not submitted a certified proposal for establishing such a plan or rate in accordance with the requirements, the Federal Government may either disallow all indirect costs or unilaterally establish such a plan or rate. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which it can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal Government because of failure of the governmental unit to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.

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Travel costs. Sections 1 through 43 provide principles to be applied in establishing the allowability or unallowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. A cost is allowable for Federal reimbursement only to the extent of benefits received by Federal awards and its conformance with the general policies and principles stated in Attachment A to this Circular. Failure to mention a particular item of cost in these sections is not intended to imply that it is either allowable or unallowable; rather, determination of allowability in each case should be based on the treatment or standards provided for similar or related items of cost.

1. Advertising and public relations costs.
   a. The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like.
   b. The term public relations includes community relations and means those activities dedicated to maintaining the image of the governmental unit or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
   c. The only allowable advertising costs are those which are solely for:
      (1) The recruitment of personnel required for the performance by the governmental unit of obligations arising under a Federal award ;
      (2) The procurement of goods and services for the performance of a Federal award;
      (3) The disposal of scrap or surplus materials acquired in the performance of a Federal award except when governmental units are reimbursed for disposal costs at a predetermined amount; or
      (4) Other specific purposes necessary to meet the requirements of the Federal award.
   d. The only allowable public relations costs are:
      (1) Costs specifically required by the Federal award;
      (2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of Federal awards (these costs are considered necessary as part of the outreach effort for the Federal award); or
      (3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc.
   e. Costs identified in subsections c and d if incurred for more than one Federal award or for both sponsored work and other work of the governmental unit, are allowable to the extent that the principles in Attachment A, sections E. (“Direct Costs”) and F. (“Indirect Costs”) are observed.
   f. Unallowable advertising and public relations costs include the following:
      (1) All advertising and public relations costs other than as specified in subsections c, d, and e;

(2) Costs of meetings, conventions, convocations, or other events related to other activities of the governmental unit, including:
(a) Costs of displays, demonstrations, and exhibits;
(b) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and
(c) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;
(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;
(4) Costs of advertising and public relations designed solely to promote the governmental unit.

2. Advisory councils. Costs incurred by advisory councils or committees are allowable as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards.

3. Alcoholic beverages. Costs of alcoholic beverages are unallowable.

4. Audit costs and related services.
a. The costs of audits required by , and performed in accordance with, the Single Audit Act, as implemented by Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" are allowable. Also see 31 USC 7505(b) and section 230 ("Audit Costs") of Circular A-133.
b. Other audit costs are allowable if included in a cost allocation plan or indirect cost proposal, or if specifically approved by the awarding agency as a direct cost to an award
c. The cost of agreed-upon procedures engagements to monitor subrecipients who are exempted from A-133 under section 200(d) are allowable, subject to the conditions listed in A-133, section 230 (b)(2).

5. Bad debts. Bad debts, including losses (whether actual or estimated) arising from uncollectable accounts and other claims, related collection costs, and related legal costs, are unallowable.

6. Bonding costs.
a. Bonding costs arise when the Federal Government requires assurance against financial loss to itself or others by reason of the act or default of the governmental unit. They arise also in instances where the governmental unit requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.
b. Costs of bonding required pursuant to the terms of the award are allowable.
c. Costs of bonding required by the governmental unit in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

7. Communication costs. Costs incurred for telephone services, local and long distance telephone calls, telegrams, postage, messenger, electronic or computer transmittal services and the like are allowable.

8. Compensation for personal services.
a. General. Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of this Circular, and that the total compensation for individual employees:
(1) Is reasonable for the services rendered and conforms to the established policy of the governmental unit consistently applied to both Federal and non-Federal activities;
(2) Follows an appointment made in accordance with a governmental unit's laws and rules and meets merit system or other requirements required by Federal law, where applicable; and
(3) Is determined and supported as provided in subsection h.
b. Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the governmental unit. In cases where the kinds of employees required for Federal awards are not found in the other activities of the governmental unit, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.
c. Unallowable costs. Costs which are unallowable under other sections of these principles shall not be allowable under this section solely on the basis that they constitute personnel compensation.
d. Fringe benefits.
(1) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, governmental unit-employee agreement, or an established policy of the governmental unit.
(2) The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if: (a) they are provided under established written leave policies; (b) the costs are equitably allocated to all related activities, including Federal awards; and, (c) the accounting basis (cash or accrual) selected for

costing each type of leave is consistently followed by the governmental unit.

(3) When a governmental unit uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment provided they are allocated as a general administrative expense to all activities of the governmental unit or component.

(4) The accrual basis may be only used for those types of leave for which a liability as defined by Generally Accepted Accounting Principles (GAAP) exists when the leave is earned. When a governmental unit uses the accrual basis of accounting, in accordance with GAAP, allowable leave costs are the lesser of the amount accrued or funded.

(5) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in section *22*, Insurance and indemnification); pension plan costs (see subsection e.); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, whether treated as indirect costs or as direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities.

e. Pension plan costs. Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.

(1) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the governmental unit's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the pension fund.

(3) Amounts funded by the governmental unit in excess of the actuarially determined amount for a fiscal year may be used as the governmental unit's contribution in future periods.

(4) When a governmental unit converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion shall be allowable if amortized over a period of years in accordance with GAAP.

(5) The Federal Government shall receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

f. Post-retirement health benefits. Post-retirement health benefits (PRHB) refers to costs of health insurance or health services not included in a pension plan covered by subsection e. for retirees and their spouses, dependents, and survivors. PRHB costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written polices of the governmental unit.

(1) For PRHB financed on a pay as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHB costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursements and the governmental unit's contributions to the PRHB fund. Adjustments may be made by cash refund, reduction in current year's PRHB costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHB fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the government's contribution in a future period.

(4) When a governmental unit converts to an acceptable actuarial cost method and funds PRHB costs in accordance with this method, the initial unfunded liability attributable to prior years shall be allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency.

(5) To be allowable in the current year, the PRHB costs must be paid either to:

(a) An insurer or other benefit provider as current year costs or premiums, or
(b) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.
(6) The Federal Government shall receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.
g. Severance pay.
(1) Payments in addition to regular salaries and wages made to workers whose employment is being terminated are allowable to the extent that, in each case, they are required by (a) law, (b) employer-employee agreement, or (c) established written policy.
(2) Severance payments (but not accruals) associated with normal turnover are allowable. Such payments shall be allocated to all activities of the governmental unit as an indirect cost.
(3) Abnormal or mass severance pay will be considered on a case-by-case basis and is allowable only if approved by the cognizant Federal agency.
h. Support of salaries and wages. These standards regarding time distribution are in addition to the standards for payroll documentation.
(1) Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.
(2) No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity.
(3) Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.
(4) Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5) unless a statistical sampling system (see subsection (6)) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:
(a) More than one Federal award,
(b) A Federal award and a non-Federal award,
(c) An indirect cost activity and a direct cost activity,
(d) Two or more indirect activities which are allocated using different allocation bases, or
(e) An unallowable activity and a direct or indirect cost activity.
(5) Personnel activity reports or equivalent documentation must meet the following standards:
(a) They must reflect an after-the-fact distribution of the actual activity of each employee,
(b) They must account for the total activity for which each employee is compensated,
(c) They must be prepared at least monthly and must coincide with one or more pay periods, and
(d) They must be signed by the employee.
(e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:
(i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;
(ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and
(iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.
(6) Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency. Such systems may include, but are not limited to, random moment sampling, case counts, or other quantifiable measures of employee effort.
(a) Substitute systems which use sampling methods (primarily for Temporary Assistance to Needy Families (TANF), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:
(i) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in subsection (c);
(ii) The entire time period involved must be covered by the sample; and
(iii) The results must be statistically valid and applied to the period being sampled.

(b) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(c) Less than full compliance with the statistical sampling standards noted in subsection (a) may be accepted by the cognizant agency if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the governmental unit will result in lower costs to Federal awards than a system which complies with the standards.

(7) Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.

i. Donated services.

(1) Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of the Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.

(3) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to support the allocability of regular personnel services.

9. Contingency provisions. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see Attachment B, section 22.c.), pension plan reserves (see Attachment B, section 8.e.), and post-retirement health and other benefit reserves (see Attachment B, section 8.f.) computed using acceptable actuarial cost methods.

10. Defense and prosecution of criminal and civil proceedings, and claims.

a. The following costs are unallowable for contracts covered by 10 U.S.C. 2324(k), "Allowable costs under defense contracts."

(1) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of false certification brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

(2) Costs incurred by a contractor in connection with any criminal, civil or administrative proceedings commenced by the United States or a State to the extent provided in 10 U.S.C. 2324(k).

b. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

11. Depreciation and use allowances.

a. Depreciation and use allowances are means of allocating the cost of fixed assets to periods benefiting from asset use. Compensation for the use of fixed assets on hand may be made through depreciation or use allowances. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.) except as provided for in subsection g. Except for enterprise funds and internal service funds that are included as part of a State/local cost allocation plan, classes of assets shall be determined on the same basis used for the government-wide financial statements.

b. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used. The value of an asset donated to the governmental unit by an unrelated third party shall be its fair market value at the time of donation. Governmental or quasi-governmental organizations located within the same State shall not be considered unrelated third parties for this purpose.

c. The computation of depreciation or use allowances will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the governmental unit, or a related donor organization, in satisfaction of a matching requirement.

d. Where the depreciation method is followed, the period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, historical usage patterns, technological developments, and the renewal and replacement policies of the governmental unit followed for the individual items or classes of assets involved. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight line method of depreciation shall be used.

Depreciation methods once used shall not be changed unless approved by the Federal cognizant

or awarding agency. When the depreciation method is introduced for application to an asset previously subject to a use allowance, the annual depreciation charge thereon may not exceed the amount that would have resulted had the depreciation method been in effect from the date of acquisition of the asset. The combination of use allowances and depreciation applicable to the asset shall not exceed the total acquisition cost of the asset or fair market value at time of donation.

e. When the depreciation method is used for buildings, a building's shell may be segregated from the major component of the building (e.g., plumbing system, heating, and air conditioning system, etc.) and each major component depreciated over its estimated useful life, or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.

f. Where the use allowance method is followed, the use allowance for buildings and improvements (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition costs. The use allowance for equipment will be computed at an annual rate not exceeding 6 2/3 percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g., plumbing system, heating and air condition, etc.) cannot be segregated from the building's shell.

The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, modular furniture, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the destruction of, or need for costly or extensive alterations or repairs, to the building or the equipment. Equipment that meets these criteria will be subject to the 6 2/3 percent equipment use allowance limitation.

g. A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

h. Charges for use allowances or depreciation must be supported by adequate property records. Physical inventories must be taken at least once every two years (a statistical sampling approach is acceptable) to ensure that assets exist, and are in use. Governmental units will manage equipment in accordance with State laws and procedures. When the depreciation method is followed, depreciation records indicating the amount of depreciation taken each period must also be maintained.

12. Donations and contributions.

a. Contributions or donations rendered. Contributions or donations, including cash, property, and services, made by the governmental unit, regardless of the recipient, are unallowable. b. Donated services received:

(1) Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the Federal Grants Management Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.

(3) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to support the allocability of regular personnel services.

13. Employee morale, health, and welfare costs.

a. The costs of employee information publications, health or first-aid clinics and/or infirmaries, recreational activities, employee counseling services, and any other expenses incurred in accordance with the governmental unit's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance are allowable.

b. Such costs will be equitably apportioned to all activities of the governmental unit. Income generated from any of these activities will be offset against expenses.

14. Entertainment. Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

15. Equipment and other capital expenditures.

a. For purposes of this subsection 15, the following definitions apply:

(1) "Capital Expenditures" means expenditures for the acquisition cost of capital assets (equipment, buildings, land), or expenditures to make improvements to capital assets that materially increase their value or useful life. Acquisition cost means the cost of the asset including the cost to put it in place. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective

in transit insurance, freight, and installation may be included in, or excluded from the acquisition cost in accordance with the governmental unit's regular accounting practices.

(2) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or $5000.

(3) "Special purpose equipment" means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

(4) "General purpose equipment" means equipment, which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

b. The following rules of allowability shall apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except where approved in advance by the awarding agency.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of $5000 or more have the prior approval of the awarding agency.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior approval of the awarding agency.

(4) When approved as a direct charge pursuant to Attachment B, section 15.b (1), (2), and (3) above, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the awarding agency. In addition, Federal awarding agencies are authorized at their option to waive or delegate the prior approval requirement.

(5) Equipment and other capital expenditures are unallowable as indirect costs. However, see section 11, Depreciation and use allowance, for rules on the allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see section 37, Rental costs, concerning the allowability of rental costs for land, buildings, and equipment.

(6) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

(7) When replacing equipment purchased in whole or in part with Federal funds, the governmental unit may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

16. Fines and penalties. Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.

17. Fund raising and investment management costs.

a. Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable, regardless of the purpose for which the funds will be used.

b. Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable. However, such costs associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this Circular are allowable.

c. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in subsection C.3.b. of Attachment A.

18. Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs.

a. (1) Gains and losses on the sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(a) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under sections 11 and 15.

(b) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in subsection 22.d.

(d) Compensation for the use of the property was provided through use allowances in lieu of depreciation.

b. Substantial relocation of Federal awards from a facility where the Federal Government participated in the financing to another facility prior to the expiration of the useful life of the financed facility requires Federal agency approval. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation charged to date may require negotiation of space charges for Federal awards.

c. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection a., e.g., land or included in the fair market value used in any adjustment resulting from a relocation of Federal awards covered in subsection b. shall be excluded in computing Federal award costs.

19. General government expenses.

a. The general costs of government are unallowable (except as provided in Attachment B, section 43, Travel costs). These include:

(1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executive of federally-recognized Indian tribal government;

(2) Salaries and other expenses of a State legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;

(3) Costs of the judiciary branch of a government;

(4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by program statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General); and

(5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

b. For federally-recognized Indian tribal governments and Councils Of Governments (COGs), the portion of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his staff is allowable

20. Goods or services for personal use. Costs of goods or services for personal use of the governmental unit's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

21. Idle facilities and idle capacity.

a. As used in this section the following terms have the meanings set forth below:

(1) "Facilities" means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the governmental unit.

(2) "Idle facilities" means completely unused facilities that are excess to the governmental unit's current needs.

(3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between: (a) that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays; and (b) the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) "Cost of idle facilities or idle capacity" means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, property taxes and depreciation or use allowances.

b. The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

c. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

22. Insurance and indemnification.

a. Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

b. Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage are in accordance with the governmental unit's policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the awarding agency has specifically required or approved such costs.

c. Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award or as described below. However, the Federal Government will participate in actual losses of a self insurance fund that are in excess of reserves. Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

d. Contributions to a reserve for certain self-insurance programs including workers compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the governmental unit's settlement rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims (a) submitted and adjudicated but not paid, (b) submitted but not adjudicated, and (c) incurred but not submitted. Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the governmental unit. If individual departments or agencies of the governmental unit experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund), refunds shall be made to the Federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer.

e. Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., subsection *8*.f. for post retirement health benefits), are allowable in the year of payment provided (1) the governmental unit follows a consistent costing policy and (2) they are allocated as a general administrative expense to all activities of the governmental unit.

f. Insurance refunds shall be credited against insurance costs in the year the refund is received.

g. Indemnification includes securing the governmental unit against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the governmental unit only to the extent expressly provided for in the Federal award, except as provided in subsection d.

h. Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship are unallowable.

23. Interest.

a. Costs incurred for interest on borrowed capital or the use of a governmental unit's own funds, however represented, are unallowable except as specifically provided in subsection b. or authorized by Federal legislation.

b. Financing costs (including interest) paid or incurred which are associated with the otherwise allowable costs of building acquisition, construction, or fabrication, reconstruction or remodeling completed on or after October 1, 1980 is allowable subject to the conditions in (1) through (4) of this section 23.b. Financing costs (including interest) paid or incurred on or after September 1, 1995 for land or associated with otherwise allowable costs of equipment is allowable, subject to the conditions in (1) through (4).

(1) The financing is provided (from other than tax or user fee sources) by a bona fide third party external to the governmental unit;

(2) Thee assets are used in support of Federal awards;

(3) Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(4) For debt arrangements over $1 million, unless the governmental unit makes an initial equity contribution to the asset purchase of 25 percent or more, the governmental unit shall reduce claims for interest cost by an amount equal to imputed interest earnings on excess cash flow, which is to be calculated as follows. Annually,

non-Federal entities shall prepare a cumulative (from the inception of the project) report of monthly cash flows that includes inflows and outflows, regardless of the funding source. Inflows consist of depreciation expense, amortization of capitalized construction interest, and annual interest cost. For cash flow calculations, the annual inflow figures shall be divided by the number of months in the year (i.e., usually 12) that the building is in service for monthly amounts. Outflows consist of initial equity contributions, debt principal payments (less the pro rata share attributable to the unallowable costs of land) and interest payments. Where cumulative inflows exceed cumulative outflows, interest shall be calculated on the excess inflows for that period and be treated as a reduction to allowable interest cost. The rate of interest to be used to compute earnings on excess cash flows shall be the three-month Treasury bill closing rate as of the last business day of that month.

(5) Interest attributable to fully depreciated assets is unallowable.

24. Lobbying.

a. General. The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans shall be governed by the common rule, "New Restrictions on Lobbying" published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Government-wide Guidance for New Restrictions on Lobbying" and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), and 57 FR 1772 (January 15, 1992), respectively.

b. Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the Executive Branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a federally-sponsored agreement or regulatory matter on any basis other than the merits of the matter.

25. Maintenance, operations, and repairs. Unless prohibited by law, the cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like are allowable to the extent that they: (1) keep property (including Federal property, unless otherwise provided for) in an efficient operating condition, (2) do not add to the permanent value of property or appreciably prolong its intended life, and (3) are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures (see sections *11 and 15*).

26. Materials and supplies costs.

a. Costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award are allowable.

b. Purchased materials and supplies shall be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms should be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

c. Only materials and supplies actually used for the performance of a Federal award may be charged as direct costs.

d. Where federally-donated or furnished materials are used in performing the Federal award, such materials will be used without charge.

27. Meetings and conferences. Costs of meetings and conferences, the primary purpose of which is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, speakers' fees, and other items incidental to such meetings or conferences. But see Attachment B, section 14, Entertainment costs.

28. Memberships, subscriptions, and professional activity costs.

a. Costs of the governmental unit's memberships in business, technical, and professional organizations are allowable.

b. Costs of the governmental unit's subscriptions to business, professional, and technical periodicals are allowable.

c. Costs of membership in civic and community, social organizations are allowable as a direct cost with the approval of the Federal awarding agency.

d. Costs of membership in organizations substantially engaged in lobbying are unallowable.

29. Patent costs.

a. The following costs relating to patent and copyright matters are allowable: (i) cost of preparing disclosures, reports, and other documents required by the Federal award and of searching the art to the extent necessary to make such disclosures; (ii) cost of preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by the Federal Government to be conveyed to the Federal Government; and (iii) general counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements (but see Attachment B, sections 32, Professional service costs, and 38, Royalties and other costs for use of patents and copyrights).

b. The following costs related to patent and copyright matter are unallowable:

(i) Cost of preparing disclosures, reports, and other documents and of searching the art to the extent necessary to make disclosures not required by the award

(ii) Costs in connection with filing and prosecuting any foreign patent application, or (ii) any United States patent application, where the Federal award does not require conveying title or a royalty-free license to the Federal Government (but see Attachment B, section 38., Royalties and other costs for use of patents and copyrights).

30. Plant and homeland security costs. Necessary and reasonable expenses incurred for routine and homeland security to protect facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; contractual security services; consultants; etc. Capital expenditures for homeland and plant security purposes are subject to section 15., Equipment and other capital expenditures, of this Circular.

31. Pre-award costs. Pre-award costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

32. Professional service costs.

a. Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the governmental unit, are allowable, subject to subparagraphs b and c when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government.

In addition, legal and related services are limited under Attachment B, section 10.

b. In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the governmental unit's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to Federal awards.

(4) The impact of Federal awards on the governmental unit's business (i.e., what new problems have arisen).

(5) Whether the proportion of Federal work to the governmental unit's total business is such as to influence the governmental unit in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Federal grants and contracts.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Federal awards.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

c. In addition to the factors in subparagraph b, retainer fees to be allowable must be supported by available or rendered evidence of bona fide services available or rendered.

33. Proposal costs. Costs of preparing proposals for potential Federal awards are allowable. Proposal costs should normally be treated as indirect costs and should be allocated to all activities of the governmental unit utilizing the cost allocation plan and indirect cost rate proposal. However, proposal costs may be charged directly to Federal awards with the prior approval of the Federal awarding agency.

34. Publication and printing costs.

a. Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling. Publication costs also include page charges in professional publications.

b. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the governmental unit.

c. Page charges for professional journal publications are allowable as a necessary part of research costs where:

(1) The research papers report work supported by the Federal Government: and

(2) The charges are levied impartially on all research papers published by the journal, whether or not by federally-sponsored authors

35. Rearrangement and alteration costs. Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior approval of the Federal awarding agency.

36. Reconversion costs. Costs incurred in the restoration or rehabilitation of the governmental unit's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

37. Rental costs of buildings and equipment.

a. Subject to the limitations described in subsections b. through d. of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and, the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

b. Rental costs under “sale and lease back” arrangements are allowable only up to the amount that would be allowed had the governmental unit continued to own the property. This amount would include expenses such as depreciation or use allowance, maintenance, taxes, and insurance.

c. Rental costs under "less-than-arms-length" leases are allowable only up to the amount (as explained in Attachment B, section 37.b) that would be allowed had title to the property vested in the governmental unit. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between (i) divisions of a governmental unit; (ii) governmental units under common control through common officers, directors, or members; and (iii) a governmental unit and a director, trustee, officer, or key employee of the governmental unit or his immediate family, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, a governmental unit may establish a separate corporation for the sole purpose of owning property and leasing it back to the governmental unit.

d. Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in subsection b) that would be allowed had the governmental unit purchased the property on the date the lease agreement was executed. The provisions of Financial Accounting Standards Board Statement 13, Accounting for Leases, shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in Attachment B, section 23. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the governmental unit purchased the facility.

38. Royalties and other costs for the use of patents.

a. Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the award are allowable unless:

(1) The Federal Government has a license or the right to free use of the patent or copyright.

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.

(3) The patent or copyright is considered to be unenforceable.

(4) The patent or copyright is expired.

b. Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less-than-arm's-length bargaining, e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the governmental unit.

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Federal award would be made.

(3) Royalties paid under an agreement entered into after an award is made to a governmental unit.

c. In any case involving a patent or copyright formerly owned by the governmental unit, the amount of royalty allowed should not exceed the cost which would have been allowed had the governmental unit retained title thereto.

39. Selling and marketing. Costs of selling and marketing any products or services of the governmental unit are unallowable (unless allowed under Attachment B, section 1. as allowable public relations costs or under Attachment B, section 33. as allowable proposal costs.

40. Taxes.

a. Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs. This provision becomes effective for taxes paid during the governmental unit's first fiscal year that begins on or after January 1, 1998, and applies thereafter.

b. Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.

c. This provision does not restrict the authority of Federal agencies to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency may accept a reasonable approximation thereof.

41. Termination costs applicable to sponsored agreements. Termination of awards generally gives rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the Federal award not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the other provisions of this Circular in termination situations.

a. The cost of items reasonably usable on the governmental unit's other work shall not be allowable unless the governmental unit submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the governmental unit, the awarding agency should consider the governmental unit's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the governmental unit shall be regarded as evidence that such items are reasonably usable on the governmental unit's other work. Any acceptance of common items as allocable to the terminated portion of the Federal award shall be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

b. If in a particular case, despite all reasonable efforts by the governmental unit, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Circular, except that any such costs continuing after termination due to the negligent or willful failure of the governmental unit to discontinue such costs shall be unallowable.

c. Loss of useful value of special tooling, machinery, and equipment is generally allowable if:

(1) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the governmental unit,

(2) The interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the awarding agency, and

(3) The loss of useful value for any one terminated Federal award is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the Federal award bears to the entire terminated Federal award and other Federal awards for which the special tooling, machinery, or equipment was acquired.

d. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated Federal award less the residual value of such leases, if:

(1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the Federal award and such further period as may be reasonable, and

(2) the governmental unit makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the Federal award, and of reasonable restoration required by the provisions of the lease.

e. Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for:

(a) The preparation and presentation to the awarding agency of settlement claims and supporting data with respect to the terminated portion of the Federal award, unless the termination is for default (see Subpart __.44 of the Grants Management Common Rule implementing OMB Circular A-102); and

(b) The termination and settlement of subawards.

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Federal Government or acquired or produced for the Federal award, except when grantees or contractors are reimbursed for disposals at a predetermined amount in accordance with Subparts__.31 and ___.32 of the Grants Management Common Rule implementing OMB Circular A-102.

f. Claims under subawards, including the allocable portion of claims which are common to the Federal award, and to other work of the governmental unit are generally allowable.

An appropriate share of the governmental unit's indirect expense may be allocated to the amount of settlements with subcontractors and/or subgrantees, provided that the amount allocated is otherwise consistent with the basic guidelines contained in Attachment A. The indirect expense so allocated shall exclude the same and similar costs claimed directly or indirectly as settlement expenses.

42. Training costs. The cost of training provided for employee development is allowable.

43. Travel costs.

a. General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the governmental unit. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the governmental unit's non-federally-sponsored activities. Notwithstanding the provisions of Attachment B, section 19, General government expenses, travel costs of officials covered by that section are allowable with the prior approval of an awarding agency when they are specifically related to Federal awards.

b. Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as the result of the governmental unit's written travel policy. In the absence of an acceptable, written governmental unit policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57, Title 5, United States Code ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter shall apply to travel under Federal awards (48 CFR 31.205-46(a)).

c. Commercial air travel.

(1) Airfare costs in excess of the customary standard commercial airfare (coach or equivalent), Federal Government contract airfare (where authorized and available), or the lowest commercial discount airfare are unallowable except when such accommodations would:

(a) require circuitous routing;

(b) require travel during unreasonable hours;

(c) excessively prolong travel;

(d) result in additional costs that would offset the transportation savings; or
(e) offer accommodations not reasonably adequate for the traveler's medical needs. The governmental unit must justify and document these conditions on a case-by-case basis in order for the use of first-class airfare to be allowable in such cases.

(2) Unless a pattern of avoidance is detected, the Federal Government will generally not question a governmental unit's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the governmental unit can demonstrate either of the following: (a) that such airfare was not available in the specific case; or (b) that it is the governmental unit's overall practice to make routine use of such airfare.

d. Air travel by other than commercial carrier. Costs of travel by governmental unit-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of allowable commercial air travel, as provided for in subsection c., is unallowable.

e. Foreign travel. Direct charges for foreign travel costs are allowable only when the travel has received prior approval of the awarding agency. Each separate foreign trip must receive such approval. For purposes of this provision, "foreign travel" includes any travel outside Canada, Mexico, the United States, and any United States territories and possessions. However, the term "foreign travel" for a governmental unit located in a foreign country means travel outside that country.

RECORD-KEEPING CHECKLIST

Housing Fund recipients must demonstrate compliance with applicable requirements. IDED will monitor recipients and activities for full compliance. The recipient should establish a filing system to provide a historic record of all activities. Files should be established for all contracts. Files must be maintained for five years after contract expiration. Files should be made for each major category shown below, as applicable, with sub-files as needed.

General Administration Files

I. Housing Fund Application

- ❑ Completed Housing Fund application
- ❑ Amendments and revisions to the application, if any
- ❑ Correspondence about the application

II. Agreement with IDED

- ❑ Award letter
- ❑ Signed contract (and all components), requests for amendments, approved amendments, and documentation supporting requests to amend activities or transfer funds and budget revision requests (including security instruments)
- ❑ Requests for funds
- ❑ Housing Fund Quarterly Performance Reports (including match reports as applicable)
- ❑ Other applicable reports and supporting documentation

III. Financial Management

- ❑ Chart of accounts
- ❑ Accounting procedures
- ❑ Accounting books of original and final entry
- ❑ Source documentation (e.g., purchase orders, invoices, contracts, budget transfer memoranda, time records)
- ❑ Lending institution records (e.g., canceled checks, deposit slips, bank statements)
- ❑ Procurement records (i.e., rationale for method of procurement, procurement policy, selection of contract type, advertisements, notification of bidding and basis of cost)
- ❑ Contractor payment control record
- ❑ Property inventory file listing any real or personal property acquired with Housing Fund assistance, as applicable and allowable
- ❑ Project set-up form(s) (including revisions to set-up forms), and completion report(s) (HOME only)

IV. Contract Transactions (may be included as part of project/activity files)

- ❑ Original recipient contracts with service providers
- ❑ Iowa tax identification numbers for each contractor (or social security numbers for individuals on contract)
- ❑ Contractor clearances

V. Monitoring/Inspection

- ❑ Monitoring follow-up letters
- ❑ IDED letters of findings and recommendations
- ❑ Response to letters of findings
- ❑ Evidence clearing any monitoring findings

VI. Audit (local governments and non-profits)

- ❑ Audit firm procurement documentation
- ❑ Hiring letter to audit firm
- ❑ Audit report
- ❑ Correspondence regarding findings

VII. Closeout

- ❑ Any final reports
- ❑ Closeout letter from IDED and response

VIII. General Correspondence

- ❑ All correspondence, received and sent, that does not fall into one of the above project file categories, including, for local governments, comments received by the recipient on the project from citizens and the recipient's response to these comments.

IX. General Complaints/Disputes

- ❑ Correspondence from local residents, government officials and/or media representatives, expressing dissatisfaction with the project; and the recipient's response to complaints. Document non-written complaints (e.g., telephone calls) with internal notes to the file.

General Compliance Files

I. Environmental Review Record

- ❑ Environmental assessment

- ❑ Copies of published notices
- ❑ Copy of Request for Release of Funds
- ❑ Letter from IDED releasing funds
- ❑ State Historical Society Clearance letter(s)/PMOU compliance
- ❑ Documentation of compliance with Environmental Clearance Worksheets
- ❑ Copies of citizen comments made on the environmental assessment

II. Equal Opportunity/Civil Rights

- ❑ Community profile
- ❑ Racial, ethnic and gender data showing the extent to which these categories of persons have participated in, or benefited from, Housing Fund activities
- ❑ Documentation of all affirmative actions taken to achieve fair housing, including a local fair housing ordinance, if available
- ❑ Evidence of attempts to identify and solicit minority contractors and vendors, including records of all contracts and subcontracts (by number and dollar amount) awarded to minority business and women's business enterprises
- ❑ Documentation of special efforts to train and/or hire low-income residents of the project area and to use local and neighborhood based businesses (Section 3)
- ❑ Copy of local equal opportunity policy and/or affirmative action plan (i.e., local governments with 15 or more FTEs) and data which records affirmative action in employment

Project Administration Files

Records should be maintained according to individual projects and should include the following:

I. General project administration documents, including policies, procedures, standards, and other information of general project interest.

II. Professional or technical services procurement and contracts

III. Management control records

- ❑ Where recipients are responsible for implementing a number of similar activities, such as owner-occupied rehabilitation, an ongoing composite record of current status/progress should be maintained for all similar projects. The management control record should identify major tasks accomplished, to date, for all individual projects. Ethnic/racial data should also be maintained.

Individual Project Files

Individual project files should contain a complete record of all project activities. Each project should have its own file. Within each file there should be documentation to record the chronological history of the project. Project files should include, where applicable, the following items.

I. Individual Project Files

- ❑ Completed formal application (and pre-application if used)
- ❑ Income and asset documentation of applicant(s)
- ❑ Verification of income and assets and all forms used for verification
- ❑ Eligibility determination documentation
- ❑ Demographic data (i.e., family size, minority, disability, female head-of-household, age, etc.)
- ❑ Determination of type(s) and amount(s) of assistance
- ❑ Initial inspection (signed or initialed, and dated)
- ❑ Work write-up and/or project specifications
- ❑ Staff cost estimate
- ❑ Lead hazards identification and all notices (as applicable)
- ❑ Seller's disclosure statement (homeownership assistance activities)
- ❑ Revision to specifications (as applicable for lead safe housing)
- ❑ Copies of all bids and/or bid tabulation sheet (should include all bid documents such as notification of hearing and letting.)
- ❑ Letter of award to low bidding contractor
- ❑ Letters of non-award to other contractors
- ❑ Executed copy of contract
- ❑ Permits, insurance
- ❑ All change orders
- ❑ Record of interim inspections
- ❑ Payment(s) record
- ❑ Clearance testing documentation (as applicable)
- ❑ Final inspection(s)

- ❑ Completion certificate(s) and owner acceptance of work
- ❑ Complete and recorded repayment agreement (mortgage and/or note as applicable)
- ❑ Lien waivers (including partial lien waivers)
- ❑ Warranties or guarantees
- ❑ HUD Form 1(Settlement statement) (homeownership assistance activities)
- ❑ Copies of principal loan documents and/or information about the principal loan (interest rate, term, etc.)

II. Professional or Technical Services Procurement

- ❑ List of firms/individuals solicited
- ❑ Written request for proposals or qualifications for professional services (if secured by competitive negotiation), specifying the work to be done
- ❑ Evaluation criteria/review process
- ❑ Publicized notice
- ❑ Denial/award letters
- ❑ Minutes of the meeting(s) at which the contract was awarded
- ❑ Copies of contracts

III. Construction Contract/Labor Standards (as applicable)

- ❑ Notice of appointment of Labor Standards Officer for the recipient (as applicable)
- ❑ Labor standards checklist
- ❑ Request for wage rate determination
- ❑ Copy of bid advertisement
- ❑ Copy of bid package
    - ❑ Project specifications
    - ❑ Copy of wage determination from IDED (as applicable)
    - ❑ Statement of terms and conditions
    - ❑ Contractor and subcontractor certification forms
    - ❑ Bid, performance and other bond requirements
- ❑ Construction contract procurement and award
    - ❑ Minutes of the bid opening meeting
    - ❑ Log of bid package recipients and bidders

    - ❑ Bid tabulation
    - ❑ Check for contractor debarment/Iowa registration
    - ❑ Copy of contract must include the same items as the bid package with completed forms
- ❑ Pre-construction conference report or minutes
- ❑ Copy of notice of contract award

- ❑ Notice to contractor to proceed with the work

- ❑ Notice to IDED of the start of construction

- ❑ Report of additional classifications and wage rates (if applicable)

    - ❑ Report of additional classification (HUD 4230a)
    - ❑ Additional classifications and wage rate approval

- ❑ Contractor performance records.

    - ❑ Reports on job site inspections
    - ❑ Weekly payroll reports for each contractor and subcontractor and evidence of review
    - ❑ Weekly statement of compliance for each contractor/subcontractor
    - ❑ Employee interview reports
    - ❑ Log of payments made to contractor

- ❑ Records of contractor violations (if applicable)

    - ❑ Notice of contractor violation
    - ❑ Record of resolution
    - ❑ Report of wage restitution accomplished
    - ❑ Calculation of employee restitution
    - ❑ Proof of employee restitution

IV. Acquisition File (if applicable)

Separate acquisition files must be maintained for each parcel of real property acquired. The following items must be included:

- ❑ Site acquisition summary

- ❑ Additional file information:

    - ❑ A copy of the preliminary acquisition notice (copy of standard brochure not required) and evidence, including date, of receipt by owner
    - ❑ Evidence that each owner was invited to accompany the appraiser on the appraisal of the real property
    - ❑ A copy of any appraisal report and review appraiser's report, upon which the determination of just compensation was based. However, such appraisal report(s) may be filed separately, with an appropriate reference in the acquisition file
    - ❑ A copy of the written purchase offer, a statement describing the basis for just compensation, and evidence of date received by owner
    - ❑ A copy of the purchase agreement
    - ❑ A copy of the recorded deed

- ❑ A copy of the statement of settlement costs
- ❑ Evidence that the owner received the net proceeds due from the sale (e.g., copies of canceled checks)
- ❑ A copy of any appeal concerning a payment, together with a copy of all pertinent determinations and other relevant documentation

V. Relocation File

A separate relocation file shall be maintained for each relocated party. The following items must be contained in the file:

- ❑ Relocation summary
- ❑ Log of advisory services and other contracts with the displaced party
- ❑ Site occupant record
- ❑ Relocation assistance request
- ❑ Proof of receipt and copy of general information notice
- ❑ Proof of receipt and copy of notice of relocation eligibility
- ❑ Proof of receipt and date notice to continue occupancy was delivered
- ❑ Proof of receipt and copy of 90-day notice to vacate (if applicable)
- ❑ Proof of receipt and copy of 30-day notice to vacate (if applicable)
- ❑ List of all replacement dwelling referrals and on-site inspections of referred dwellings
- ❑ Date acquired unit is vacated
- ❑ Copy of inspection of replacement unit
- ❑ Copies of the appropriate benefit claim forms
- ❑ Documentation verifying eligibility of all claims
- ❑ Documentation proving receipts for all relocation payments

CDBG

Owner Occupied Rehabilitation PROGRAM

ADMINISTRATIVE PLAN

PROGRAM YEAR 2011

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Owner-Occupied Rehabilitation Administrative Plan – Program Year 2011

PREFACE

The attached administrative plan format is meant to serve as a "model" document, one that can be used as a starting point for the development of an administrative plan for your own owner-occupied rehabilitation activity as required by your contract with the IDED. There are, however, numerous required elements contained within the model administrative plan. The required elements are displayed by being both **bold-faced** and *italicized*. The administrative plan that you develop for your owner-occupied rehabilitation program must contain all required elements and contain them verbatim as conveyed in the model administrative plan. All other sections of the model administrative plan are changeable. Any / all changes made to the model plan are, however, subject to the IDED's approval.

If you adopt the model administrative plan verbatim without changing even the changeable parts, all you must do to satisfy the administrative plan contract condition (requirement) is communicate that to your assigned project manager, give the dates (i.e., the time frame) in which applications will be taken and submit a copy of the temporary relocation policy.

If the model administrative plan is altered in any way, please submit a summary letter indicating all changes made and their locations by section number. In addition to the summary of changes, please submit a full copy of the administrative plan that you developed, complete with the changes you made to the changeable components of the model plan, and prior to adoption.

Your contract with the IDED requires the submission of an administrative plan with the temporary relocation policy prior to approval of a request of funds for your owner-occupied rehabilitation activity.

1.0 Goals and Objectives

The primary goals and objectives of the community's owner-occupied rehabilitation program are:

- To preserve and/or stabilize the community's housing stock that is affordable to low and moderate income persons;
- To provide safe, decent and sanitary housing to the community's residents who do not have the financial means to make repairs to their own dwellings;
- To improve the general aesthetics and attractiveness of the community's housing stock, to maintain or increase the community's residential structure tax base, and to assist in the promotion and attraction of economic and community development opportunities; and
- To make the community's housing stock, those constructed prior to January 1, 1978, at least temporarily "Lead Safe".

2.0 Definitions

Definitions Preface:

Several of the definitions pertaining to lead hazard reduction activity have been added and/or modified to conform with, and to be consistent with, the Iowa Department of Public Health's (IDPH's) administrative rules found at 641-Chapter 70 of the Iowa Administrative Code (IAC). For the purpose of owner-occupied rehabilitation activities performed under the Iowa Department of Economic Development's (IDED's) Housing Fund, such definitions are verbatim with the IDPH's administrative rules except for the following definitions: "certified lead professional"; "dust-lead hazards"; "interim controls"; "hazardous lead-based paint"; "soil-lead hazard"; "standard treatments"; and "target housing". Modifications made to these definitions were made to delete any and all reference to child occupied facilities, housing specifically designated for the elderly or persons with disabilities, single room occupancy units, and multi-family activities, none of which have relevance to an owner-occupied rehabilitation activity performed under a Housing Fund award.

2.1 Adjusted (Gross) Household Income: The definition of adjusted (gross) household income, as used for the community's owner-occupied rehabilitation program, is the same as the definition used in the U.S. Department of Housing and Urban Development's (HUD's) Section 8 Housing Assistance Payments programs (24 CFR, Part 813). Adjusted income is annual (gross) household income reduced by certain deductions for dependents, elderly households, medical expenses, childcare, and expenses related to assistance for persons with disabilities. Adjusted (gross) household income is used only to determine the level of benefit available to the community's applicants. (Refer to Section 7.4 and 7.11 for more detail

on how an applicant's adjusted (gross) household income is used in the community's owner-occupied rehabilitation program).

2.2 Annual (Gross) Household Income: The definition of annual (gross) household income, as used for the community's owner-occupied rehabilitation program, is the same as the definition used in HUD's Section 8 Housing Assistance Payments programs (24 CFR, Part 813). Annual (gross) household income is used in the determination of income eligibility. (Refer to Section 7.3 for more detail on how an applicant's annual (gross) household income is used in the community's owner-occupied rehabilitation program).

2.3 Certified Lead Professional: Certified Lead Professional means a person who has been certified by the Iowa Department of Public Health as a Lead Inspector / Risk Assessor, Elevated Blood Level (EBL) Inspector / Risk Assessor, Lead Abatement Contractor, Lead Abatement Worker, Project Designer, Sampling Technician, or Lead-Safe Renovator.

2.4 Chewable Surfaces: Means interior or exterior surfaces painted with lead-based paint or presumed to be painted with lead-based paint that a young child could mouth or chew (previously known as accessible surfaces).

2.5 Community: Community, as used in this document, means the recipient of the IDED's Housing Fund (i.e., funds awarded for the owner-occupied housing rehabilitation program).

2.6 De Minimis Levels: The application of safe work practices to rehabilitation projects by the participating contractors and subcontractors is not required when rehabilitation work and/or lead hazard reduction activities do not disturb painted surfaces that total more than:

- Twenty (20) square feet on exterior surfaces;
- Two (2) square feet in any one interior room or space, or
- Ten percent (10%) of the total surface area of an interior or exterior component with a small surface area (e.g., window sills, baseboards, trim, etc.).

2.7 Dust-Lead Hazard: Dust-lead hazard means surface dust in residential dwellings that contains a mass-per-area concentration of lead equal to or exceeding 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on dust wipe samples. A dust-lead hazard is present in a residential dwelling when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is equal to or greater than 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on dust wipe samples.

2.8 Friction Surfaces: Friction surfaces mean interior or exterior surfaces that are subject to abrasion or friction, including, but not limited to, certain window, floor and stair surfaces.

2.9 Hazardous Lead-Based Paint: Hazardous Lead-Based Paint means lead-based paint (known or presumed to be lead-based paint) that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) is equal to or greater than the dust-lead level; lead-based paint that is present on an impact surface that is damaged or otherwise deteriorated from impact; lead-based paint that is present on a chewable surface; or any other deteriorated lead-based paint in the residential dwelling or on the exterior of the residential dwelling.

2.10 Impact Surfaces: Impact surfaces mean interior or exterior surfaces that are subject to damage by repeated sudden force, such as certain parts of door frames.

2.11 Interim Controls: Interim controls means a set of measures designed to temporarily reduce human exposure to lead-based paint hazards, including repairing deteriorated lead-based paint, specialized cleaning, maintenance, painting, and temporary containment. For the purpose of this program, interim controls must address all lead-based paint hazards in the assisted housing. The lead-based paint hazards must be identified by an Iowa certified lead inspector / risk assessor or an Iowa certified elevated blood lead (EBL) inspector / risk assessor through paint testing and a risk assessment.

2.12 Iowa Department of Economic Development (IDED): The IDED is the primary funding source for the community's owner-occupied rehabilitation program through its federally (HUD) financed program known as the Housing Fund.

2.13 Iowa Department of Public Health (IDPH): In Iowa, the IDPH is the regulatory agency overseeing, in part, the Lead-Based Paint Activities Training and Certification program. The IDPH also establishes minimum work practice standards for lead professional activities.

2.14 Household: Household means one or more persons occupying a dwelling.

2.15 Lead-Based Paint: Lead-based paint means paint or other surface coatings that contain lead grater than or equal to 1.0 milligram per square centimeter or greater than 0.5 percent by weight. Lead-based paint is present on any surface that is tested and found to contain lead greater than or equal to 1.0 milligram per square centimeter or greater than 0.5 percent

by weight and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

2.16 Lead-Based Paint Hazard: Lead-based paint hazard means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard.

2.17 Lead Hazard Reduction: Lead hazard reduction means the reduction of lead-based paint hazards through interim controls or standard treatments. For purposes of this program, lead hazard reduction activities temporarily reduce lead-based paint hazards.

2.18 Lead Hazard Reduction Carrying Costs: Lead hazard reduction carrying costs are basically administrative in nature. Lead hazard reduction carrying costs are the additional costs incurred by the community's lead professional staff to ensure that target housing is lead safe at the completion of the rehabilitation project following required clearance testing and final visual risk assessment. Lead hazard reduction carrying costs include, but are not limited to, required notifications and reports (preparation and/or conveyance), required paint testing and risk assessment (including laboratory analysis costs) or presumption of lead-based paint and/or lead-based paint hazards, visual risk assessment following the presumption of lead-based paint and/or lead-based paint hazards, revising project work write-ups to include lead hazard reduction activities and methodologies, construction oversight to ensure that safe work practices are used by participating contractors and subcontractors, and clearance testing and final visual assessment (including laboratory analysis costs).

2.19 Lead Professional: Lead professional means a person who conducts lead abatement, lead inspections, elevated blood lead (EBL) inspections, lead hazard screens, risk assessments, visual risk assessments, clearance testing after lead abatement, or clearance testing after interim controls, paint stabilization, standard treatments, or rehabilitation pursuant to 24 CFR 35.1340.

2.20 Lead Safe: "Lead safe" is the temporary condition of assisted housing immediately following the application of interim controls, paint stabilization, or standard treatments to temporarily reduce lead-based paint hazards and upon passing clearance testing and final visual assessment that meets the Iowa Department of Public Health (IDPH) standards. Lead hazard reduction measures incorporated into the community's target housing rehabilitation projects (including paint stabilization, interim controls, and standard treatments) only <u>temporarily</u> reduces exposure by the occupants of the dwelling to lead-based paint hazards. Lead hazard reduction activity <u>does not</u> result in the assisted property being <u>permanently</u> free of lead-based paint and/or lead-based paint hazards. Additionally, rehabilitation projects

receiving $5,000 or less in Housing Fund assistance (for the hard costs of rehabilitation) are not considered lead safe, only those areas (components) of the dwelling specifically addressed with, or affected by, the rehabilitation work and/or lead hazard reduction activity and has passed clearance testing and final visual assessment are considered “lead safe”, not the entire dwelling.

2.21 Lead Safe Housing Regulations: The Lead Safe Housing Regulations are technically known as the “Requirements for Notification, Evaluation, and Reduction of Lead Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule” found at 24 CFR Part 35 et.al.

2.22 Median Household Income: Median household income means the area median household income established annually by HUD, by county, and based on household size.

2.23 Paint Stabilization: Paint Stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint from surfaces to be treated, and applying new paint or other protective coating pursuant to 24 CFR Part 35.

2.24 Paint Testing: Paint Testing means the process of determining, by a certified lead inspector / risk assessor or certified elevated blood lead (EBL) inspector / risk assessor, the presence or absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced pursuant to 24 CFR Part 35 et.al.

2.25 Prohibited Methods of Paint Removal: The following methods shall not be used to remove paint that is, or presumed to be, lead-based paint:

- Open flame burning or torching;
- Machine grinding or sanding without high efficiency particulate air (HEPA) local exhaust control;
- Abrasive blasting or sandblasting without HEPA local exhaust control;
- Heat guns operating above 1,100 degrees Fahrenheit;
- Dry sanding or dry scraping (except dry scraping in conjunction with heat guns or within one foot of electrical outlets, or in areas that fall within the de minimis levels); or
- Paint stripping in poorly ventilated space using volatile strippers.

2.26 Program Funds: Program funds, as used in this document, means HUD funds awarded to the community from the IDED’s Housing Fund, even though there may be other HUD funds or other federal funds used in the community’s owner-occupied rehabilitation program.

2.27 Rehabilitation Standards: Rehabilitation standards, for the purpose of the community's owner-occupied rehabilitation program, are Iowa's Minimum Housing Rehabilitation Standards, as revised August 2008 (applicable to all communities with a population of less than 15,000 where no other local codes, standards or ordinances exist).

2.28 Safe Work Practices: Safe Work Practices include: a) prohibited methods of paint removal; b) occupant protection; c) work site preparation; d) worker protection; e) specialized cleaning; and f) the de minimis levels.

2.29 Standard Treatments: Standard treatments means a series of hazard reduction measures designed to reduce all lead-based paint hazards in a residential dwelling without the benefit of a lead-based paint inspection and a risk assessment. Standard treatments consist of the stabilization of all deteriorated interior and exterior paint, the provision of smooth and cleanable horizontal interior hard surfaces, the correction of dust-generating conditions (i.e., conditions causing rubbing, binding, or crushing of surfaces presumed to be coated with lead-based paint), and the treatment of bare soil to control presumed soil-lead hazards.

2.30 Soil-Lead Hazard: Soil-Lead Hazard means bare soil on residential real property that contains total lead in excess of 400 parts per million for the dripline, mid-yard, and play areas. A soil-lead hazard is present in a dripline, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is equal to or greater than 400 parts per million.

2.31 Target Housing: Target housing generally means any housing constructed prior to January 1,1978. Refer to the Lead Safe Housing regulations found at 24 CFR Part 35 for exemptions.

2.32 U.S. Department of Housing and Urban Development (HUD): HUD is the funding source for the IDED's Housing Fund.

3.0 Program Scope

3.1 Eligible Expenditures

Program funds are intended to be used to cover the hard costs of rehabilitation (materials, labor, and the contractor's overhead and profit) and the administrative (program implementation) costs associated with the rehabilitation of residential dwellings within the community that meet the eligibility requirements detailed in Section 4.0.

Program funds are also intended to be used to make assisted target housing temporarily "lead safe" (or portions of the dwelling temporarily "lead

safe" if $5,000 or less in Housing Fund assistance is invested in the hard costs of rehabilitation) following clearance testing and final visual assessment that meets IDPH standards. Eligible expenditures of the community's program funds for this purpose include the cost of any lead hazard reduction activities (either through normal rehabilitation or separate from normal rehabilitation), lead hazard reduction carrying costs and temporary relocation costs.

Rehabilitation costs are considered eligible expenditures where the net result of such expenditures is the provision of safe, decent and sanitary housing that conforms to the rehabilitation standards referenced in Section 3.2, and, as applicable, results in housing (or portions of the housing if $5,000 or less in assistance) that is temporarily lead safe . All construction work is expected to be of good quality and be reasonably priced.

3.2 Rehabilitation Standards

Upon completion, all dwellings financed entirely, or partially, with the community's program funds must conform to Iowa's Minimum Housing Rehabilitation Standards (March 2011), as applicable (all communities with populations of less than 15,000 that do not have locally adopted and enforced codes or standards)***. Iowa's Minimum Housing Rehabilitation Standards apply to the dwelling and the property (as a whole) on which the dwelling is located.***

4.0 Eligibility Requirements

4.1 Applicant Requirements

4.1.a. Owner-Occupied

In order for an applicant to be eligible for program assistance, the applicant must occupy the property to be assisted as their principal place of residence and must own the property (i.e., be the owner of record). Ownership means:

- ***Holding fee simple title to the property; or***
- ***Maintaining a 99-year leasehold interest in the property.***

4.1.b. Tenure

In addition to the ownership and occupancy requirements detailed above in Section 4.1.a., an applicant must have owned (i.e., must have been the owner of record) and must have resided in the property to be assisted for at least six (6) months prior to the date

of their application for assistance to the community for program funds, in order to be eligible for program assistance.

4.1.c. Income Eligible

In order for an applicant to be eligible for program assistance, the applicant must also be income eligible. Specifically, the applicant must have an annual (gross) household income that does not exceed eighty percent (80%) of the current area (county) median household income (MHI), based on the applicant's household size, as established by the U.S. Department of Housing and Urban Development (HUD). The procedure for determining that an applicant meets the income eligibility requirement is detailed in Section 7.3.

4.2 Property Requirements

4.2.a. Location of Property

In order to be eligible for program assistance, the assisted property must be located within the area to be served as defined in the community's approved application and contract with the Iowa Department of Economic Development (IDED).

Properties located within a 100-year floodplain are not eligible for assistance.

4.2.b. Mortgage Payments

In order to be eligible for program assistance, the assisted property owner must be current with regard to their mortgage payments.

4.2.c. Property Taxes

In order to be eligible for program assistance, the assisted property owner must be current with regard to payment of their real estate property tax liability.

4.2.d. Utilities

In order to be eligible for program assistance, the assisted property owner must be current with regard to their utility payments associated with that property. Utilities covered under this requirement are limited to water, sanitary sewer, gas (natural gas,

liquid petroleum gas, or fuel oil) and electric, and solid waste disposal.

Utilities not included under this requirement are telephone, cable television (including satellite television), or internet service providers.

4.2.e. Property Insurance

In order to be eligible for program assistance, the assisted property must be covered by property insurance (homeowner's hazard and liability insurance) in an amount equal to, or greater than, the current assessed value of the property (land and buildings). The community should be named (included) on the assisted property owner's insurance policy as an additional party insured.

4.2.f. Use of the Property

Residential properties containing businesses may be rehabilitated <u>only</u> where it can be clearly shown that program funds are not used to assist the business contained in or on the property. Program funds can <u>only</u> be used to rehabilitate (and to make lead safe, as applicable) the residential portion of the dwelling or property, not the business portion. The costs for rehabilitation of common areas and HVAC or other systems that serve both the residential and business portions of the dwelling or property must be prorated.

Property owner funds must be used to rehabilitate the non-residential (business) portion of the dwelling or property.

The entire property must meet Iowa's Minimum Housing Rehabilitation Standards before the acceptance of work is signed and final payment to the contractor.

Program files must reflect the methodology used by the community for allocating the costs between the residential portion (program fund eligible costs) and the business portion (program fund ineligible costs) of the project.

4.2.g. Condition of the Property

In order to be eligible for program assistance, the property must be free of garbage; debris; refuse; building materials (those not used for the rehabilitation project); abandoned, non-operational or junk

vehicles; etc. Additionally, the property must not be in violation of any local nuisance ordinances.
The dwelling itself must be reasonably clean and sanitary; free of garbage, debris and refuse; uncluttered; and in such a state that permits reasonable access by the community's rehabilitation technician to conduct the initial inspection and, as applicable, conduct paint testing and a risk assessment of the property, and to the contractor(s) working on the property owner's project.

4.2.h. Manufactured Homes

Manufactured homes may be assisted with program funds only if all of the following criteria is met:

- ***The age of the manufactured home is 1976 or newer;***
- ***The manufactured home is permanently affixed to a site-built, permanent foundation and has had its towing hitch and running gear (including tongues, axles, brakes, wheels, lights and any other parts of the chassis that operate for the purpose of transportation) removed;***
- ***The manufactured home is installed on land also owned by the property owner to be assisted; and***
- ***The manufactured home (dwelling and site) is taxed as real estate (real property) by the community.***

4.2.i. Ability to Conform to Standards

In order to be eligible for program assistance, the dwelling (and the property as a whole) must be capable of withstanding rehabilitation. In other words, program funds may not be used unless the dwelling (and the property) can be brought into conformance with Iowa's Minimum Housing Rehabilitation Standards (August 2008), as applicable. (Refer to Section 7.10 for the details regarding structurally or financially infeasible dwellings).

5.0 Maximum Amount of Program Assistance

The maximum amount of assistance to an individual rehabilitation project from the community's program funds is $24,999. The maximum assistance level is on the hard costs of rehabilitation (materials, labor and the contractor's overhead and profit) only, not the administrative costs, lead hazard reduction costs, lead hazard reduction carrying costs, or temporary relocation costs necessary to complete the project.

Project costs (the hard costs of rehabilitation) in excess of the maximum amount of program assistance available must come from sources other than the community's program funds.

6.0 Form of Assistance

6.1 Five-Year Receding Forgivable Loan

The form of assistance for the hard cost of rehabilitation under the community's owner-occupied rehabilitation program is a five-year receding forgivable loan. The five-year receding forgivable loan is technically a conditional grant, whereby; the full amount of the five-year receding forgivable loan is completely waived (or released) over time. The conditional part of this form of assistance is that the property assisted with program funds must remain the assisted property owner's principal place of residence for a five-year period following the completion and acceptance date of the rehabilitation project in order to be fully forgiven.

In order for the assisted property owner to receive a five-year receding forgivable loan, he or she must sign a promissory note and mortgage lien to secure the full amount of the five-year receding forgivable loan. The mortgage lien will be recorded at the County Courthouse following the completion of the rehabilitation project. The five-year receding forgivable loan bears no interest.

The term of the promissory note and mortgage lien is five years, remaining at one-hundred percent of the loan amount for the first full year and decreasing twenty percent each year thereafter. The anniversary date of the promissory note and mortgage lien is the date of project completion and final acceptance. Collection of the note and mortgage lien (as may be necessary) will be accomplished according to the following schedule:

- If the rehabilitated property is sold, rented, transferred, vacated or abandoned prior to the first anniversary of the project completion and acceptance date, one-hundred percent (100%) of the note and mortgage lien becomes due.

- If the rehabilitated property is sold, rented, transferred, vacated or abandoned between the first and second anniversary dates of the project completion and acceptance date, eighty percent (80%) of the note and mortgage lien becomes due.

- If the rehabilitated property is sold, rented, transferred, vacated or abandoned between the second and third anniversary dates of the project completion and acceptance date, sixty percent (60%) of the note and mortgage lien becomes due.

- If the rehabilitated property is sold, rented, transferred, vacated or abandoned between the third and forth anniversary dates of the project completion and acceptance date, forty percent (40%) of the note and mortgage lien becomes due.

- If the rehabilitated property is sold, rented, transferred vacated or abandoned between the forth and fifth anniversary dates of the project completion and acceptance date, twenty percent (20%) of the note and mortgage lien becomes due.

- At the fifth anniversary date, one-hundred percent (100%) of the note and mortgage lien is forgiven. The community will release the assisted property owner's note and mortgage lien, upon written request, following completion of the five-year term.

If the assisted property becomes other than the assisted property owner's principal place of residence at any time during the five-year term (through sale, transfer, rental, or vacating or abandonment of the property), repayment of the principal amount, based on the above schedule, is immediately repayable to the community.

The community may, at its option, release the mortgage lien (and subsequent conditions of the assistance) against the assisted property when there are extenuating circumstances that would warrant or justify the community's decision to do so, regardless of the age of the forgivable loan.

The community's release of a mortgage lien would be handled on a case-by-case basis with consideration given to the individual circumstances of that assisted property owner, or their representative, seeking the release. The community will gather sufficient information necessary to support and to document the assisted property owner's inability to pay the amount owed to the community and the reason(s) for such a request. Consideration will be given to such issues as:

- The value of the property at the time of the request to release the mortgage lien and its impact on the settlement of any primary mortgage debt that may exist;
- Who will inherit the property (should the request to release the mortgage lien be related to the death of an assisted property owner), including other estate settlement issues; and
- Any insurance settlements.

Applicants must be given the opportunity to rescind the assistance offered due to the fact that a lien, mortgage or other security interest

will be filed against their property as a result of the assistance, if accepted and executed.

A five-year receding forgivable loan from the community to applicants will result in a lien, mortgage or other security interest filed against their properties. Where there are existing liens, mortgages or other security interests already on file against assisted properties (e.g., the applicant's primary mortgage), the community's program assistance security interest may be filed (recorded) in a junior position to existing liens, mortgages or security interests.

In the event of future liens, mortgages or security interests filed on an assisted property owner's property (e.g., a refinancing), the community may, at its discretion, subordinate its mortgage lien to any future liens, mortgages or other security interests.

6.2 Unsecured Program Funds Assistance

The community's five-year receding forgivable loan discussed in Section 6.1 above is a direct form of assistance financially secured through a mortgage lien filed on / against the assisted property.

The community may apply additional program funds toward individual rehabilitation projects undertaken that will not be secured against the assisted property owner's properties.

The community may incur costs for the administration of its owner-occupied rehabilitation program (general administrative costs and direct, project specific administrative costs). The community may also incur costs for lead hazard reduction activity on target housing projects (as applicable) as well as lead hazard reduction carrying costs involved in doing such activity on those projects. Program funds may also be used for costs incurred in the temporary relocation of the occupants of assisted target housing, including their belongings, if interior rehabilitation that disturbs painted surfaces, known or presumed to be lead-based paint, and/or interior lead hazard reduction takes place.

7.0 Program Mechanics

7.1 Marketing the Program

The community will market its owner-occupied rehabilitation program to potential applicants and to contractors.

7.1.a. Marketing to Applicants

Marketing to potential applicants can be accomplished in a variety of ways. The community will market its program in order to provide sufficient information about its owner-occupied rehabilitation program and to generate further interest from potential applicants. Marketing may be conducted using any and all of the following methods:

- Newspapers of general circulation and other local publications;
- Radio and/or television (such as local cable television channels);
- Public informational meetings held in the community;
- Mailings;
- Postings at strategic locations accessible to the general public (e.g., the Post Office, City Hall or County Courthouse, grocery stores, schools, churches, libraries, etc.); and by
- Personal contact to potential applicants by community leaders, civic groups, etc.

If marketing to potential applicants occurred prior to a funding commitment from the IDED and the community has on file the names and addresses of a number of potential applicants, re-contacting such persons is appropriate to regenerate their interest.

Marketing to potential applicants should convey basic requirements for participation in the community's program (i.e., eligibility criteria, the form of assistance available, information about how, where and when to apply for the assistance as well as what information will be needed, and restrictions they need to be aware of). Marketing efforts should also address the requirement of making any target housing temporarily lead safe as well as the potential for temporary relocation during such work.

The community's marketing efforts will not discriminate in any way and will provide for equal opportunity and fair housing to all potential applicants.

Additional marketing efforts may be necessary at some point during the administration of the community's program. One of the most effective means of marketing the program during the course of its operation is to cover a "success story" about a completed project that went well and produced a finished product with a satisfied beneficiary. Information about a successful project already completed can be disseminated using the same media sources identified above. A success story marketing strategy would be used

only when the affected property owner has given their permission to the community to do so.

7.1.b. Marketing to Contractors

Marketing to contractors is essential to the success of any owner-occupied rehabilitation program. The community must conduct a sufficient amount of marketing specifically to contractors to generate and to secure their interest in participating in the community's owner-occupied rehabilitation program.

Where there is an adequate number of contractors participating in the community's program, fair and open competition for projects is maximized and overall costs are generally more reasonable because of the competition inherent with a larger pool of participating contractors.

Marketing to contractors can be accomplished using the same media resources used for marketing to potential applicants. In addition to using those resources, the community might also:

- Contact local homebuilders associations, construction trades organizations, unions, etc.;
- Contact the Better Business Bureau;
- Contact the Iowa Department of Public Health to obtain information on contractors that have been trained in safe work practices;
- Scan local telephone books (business directories, yellow pages, etc.);
- Contact the IDED's recommended plan review rooms and clearinghouses;
- Obtain information on contractors based on the community's building permit issuance data;
- Contact local construction materials and equipment suppliers;
- Contact local lenders active in construction financing; and
- Contact other communities nearby that have, or have had, similar programs.

With the community's efforts to solicit and attract contractors for participation in the program, nondiscrimination, equal opportunity and fair housing issues can not be overlooked. ***The community will also make a good faith effort to solicit and attract the interest of minority and female owned businesses that might participate in the community's owner-occupied rehabilitation program.*** Invitations to bid on the community's projects need to be

sent to the IDED's recommended clearinghouses and plan review rooms.

When marketing to contractors, the community will be aware of certain issues specifically of interest or concern to contractors and tailor its marketing efforts to address these issues to the extent practical. This may include, but not be limited to:

- The contractor's ability to make a profit;
- The contractor's location and/or proximity to the community;
- Federal, state or local requirements and/or restrictions that will affect them (e.g., licensing; training, including safe work practices as applicable; insurance coverage; OSHA requirements; contract conditions; warranties; etc.); and
- Their ability to be paid in a timely fashion.

From the community's contractor marketing efforts, a list of potential contractors can be compiled and referenced as individual projects are undertaken. (Refer also to Sections 7.12 through Section 7.21 for other issues impacting participating contractors).

7.2 Applicant Selection Process

The community, through its marketing efforts to attract potential applicants, will indicate how to access the program (i.e., forms they need to fill out, where to get them, etc.), any time constraints for application submission, and where completed forms need to be submitted and who will be responsible for receiving them.

7.2.a. Ranking System

Applicants for program assistance will be selected according to a ranking system. The community's ranking system is based on applicant need. Need, in this instance, is defined in terms of the applicant's income and financial status (assets). Therefore, the neediest applicant's application (i.e., the highest ranked application) will be processed first, the second neediest applicant's application (i.e., second ranked application) will be processed second, and so on.

The community will hold an initial application intake period for the receipt of all applications to be ranked. This application intake period will begin on ____________________, and end on ____________________. Applications received during this time frame will be assigned a "priority status" for funding. These priority status applications will then be evaluated and rank ordered

according to the application selection criteria formula described in Section 7.2.b. below.

Processing of applications will begin with the highest ranked application and continue until all program funds are depleted or until all eligible priority status applicants have been funded, whichever comes first.

Should program funds remain after all eligible priority status applicants are served, the processing of applications will proceed based on the date and time of receipt of the application for those applications submitted after the initial application intake period cut-off date. The community will continue processing additional applications received according to this first-come, first-verified basis until program funds are depleted.

7.2.b. Application Selection Criteria Formula

The application selection criteria formula is a system of assigning numerical values to the individual criterion listed below to permit the rank ordering of the applications received during the initial application intake period. The application selection criteria formula is as follows:

- INCOME

For every $1,000 below HUD's income limits (for the appropriate household size), points will be assigned according to the following table:

Up to $1,000 below the income limit	2 Points
$1,001 - $2,000 below the income limit	3 Points
$2,001 - $3,000 below the income limit	4 Points
$3,001 - $4,000 below the income limit	5 Points
$4,001 - $5,000 below the income limit	6 Points
$5,001 - $6,000 below the income limit	7 Points
$6,001 - $7,000 below the income limit	8 Points
$7,001 - $8,000 below the income limit	9 Points
$8,001 - $9,000 below the income limit	10 Points
$9,001 - $10,000 below the income limit	11 Points
$10,001 - $11,000 below the income limit	12 Points
$11,001 - $12,000 below the income limit	13 Points
$12,001 - $13,000 below the income limit	14 Points
Over $13,001 below the income limit	15 Points

- LIQUID ASSETS

The following points will be deducted from the total household points assigned for income where the household's liquid assets exceeds the limits described below (liquid assets are defined as the total cash available to the applicant including, but not limited to, cash, checking accounts, savings accounts, stocks, bonds, certificates of deposit, mutual funds, etc., minus a $1,000 allowance for working capital). Liquid assets point deductions are as follows:

Over $20,000 & up to $25,000	Deduct 2 Points
Over $25,001 & up to $30,000	Deduct 4 Points
Over $30,001 & up to $40,000	Deduct 6 Points
Over $40,001 & up to $50,000	Deduct 8 Points
Over $50,001	Deduct 12 Points

Rank ordering of applications received during the initial application intake period (according to the above criteria) can follow the individual assignment and deduction of points to those individual applications received. The community will prepare a written summary of the rank order in which applications will be processed.

7.3 Applicant Eligibility Determination and Verification Process

As stated in Section 4.1, ***applicants must be owner-occupants, be able to show proof of ownership,*** they must have resided in their dwellings for six months prior to the date of their application for program assistance and, most importantly, ***they must be income eligible***.

Ownership, occupancy, and tenure will all be verified and documented by the community through County and/or other public records.

The income verification process is more detailed and entails a specific procedure to be followed. ***Basic income eligibility is based on the applicant's <u>annual gross household income</u> with no adjustments or deductions subtracted. An applicant's annual gross household income is "anticipated" for the future twelve month period based on current circumstances or known upcoming income changes, all of which must be verifiable and documented in the community's program files.***

For purposes of determining an applicant's annual gross household income, there are certain income inclusions (e.g., income from certain assets) and there are certain income exclusions (e.g., payments received for the care of foster children) that are taken into account. (Refer to HUD's "Technical Guide for Determining Income and Allowances for the HOME Program" for more detail).

The community will create and have available for use the necessary forms for verifying and documenting an applicant's annual gross household income (including verification forms for allowable income inclusions and exclusions), verification forms for documenting property eligibility requirements, and verification forms for documenting allowable deductions for determining adjusted gross household income.

The most current HUD income limitations, by county and by household size, must be used for determining and verifying income eligibility.

Additional documentation may also be obtained by the community to further substantiate an applicant's annual (gross) household income (e.g., obtain a copy of the applicant's federal and/or state income tax forms from the previous tax year).

Once an applicant's income has been verified, the verification is valid for six months only. The income verification must be updated if more than six months transpires from the initial verification and the actual commitment of the community's program funds.

In addition to documenting that an applicant meets the ownership, occupancy, tenure and income eligibility requirements, sufficient documentation must be obtained to clearly indicate that the applicant's property also meets all applicable property eligibility requirements as described in Section 4.2.

7.4 Initial Property Inspection

Following eligibility determination and verification, the community's housing rehabilitation technician will arrange with the property owner a date and time in which to conduct an initial inspection of the property to be assisted.

The purpose of the initial inspection is to determine the scope of work to be accomplished with the rehabilitation of that property (i.e., the hard costs of rehabilitation). The initial inspection will be conducted in order to verify the presence and condition of all components, systems and equipment of the property owner's dwelling and property, and to identify any and all items that do not conform to Iowa's Minimum Housing Rehabilitation Standards (as applicable) for inclusion in the work write-up for that dwelling.

Typically, the initial inspection is the first opportunity to meet face-to-face with the property owner(s). If the property to be assisted is target housing, meeting with the property owner(s) at their property for the purpose of conducting the initial inspection is an ideal time to discuss lead-based

paint issues likely to impact their own project. Prior to conducting the initial inspection, the community's program administrator or rehabilitation technician needs to convey the first of several required lead-based paint related notices (if this has not transpired prior to the initial inspection). ***The first notification requirement for target housing is to convey general information to the property owner about the dangers of lead-based paint. The community may use either the Environmental Protection Agency's (EPA's) standard pamphlet entitled "Protect Your Family From Lead in Your Home" or the Iowa Department of Public Health's (IDPH's) standard pamphlet entitled "Lead Poisoning - How to Protect Iowa's Families" for this purpose.***

Project files must be documented indicating that the property owner(s) has received this required notice. The community will use either the EPA Pamphlet - "Acknowledgement of Receipt" form or the IDPH Pamphlet - "Acknowledgement of Receipt" form for this purpose. Both acknowledgement of receipt forms require the property owner's signature and date of their receipt.

Project files must be documented with a copy of the initial inspection report, signed (or initialed) and dated by the community's staff who performed the initial inspection.

7.5 Work Write-Up (Project Specifications)

From the data and information gathered by the rehabilitation technician during the initial inspection, a work write-up (or project specifications as they are often referred to) will be generated. The work write-up is first used by the community in the formulation of a cost estimate. The work write-up eventually becomes a part of the bid documents needed for the procurement of a contractor(s).

All work write-ups will be written so that participating contractors that bid on the community's projects will submit itemized bids (i.e., an individual line-item cost for each individual line-item of the work write-up).

7.6 Cost Estimate

The community will prepare a written cost estimate of the hard costs of rehabilitation for each project following the initial inspection and formulation of a work write-up. The community's cost estimate will also be depicted in itemized form. The community's cost estimate will be identified as such, be signed (or initialed) by the rehabilitation technician that prepared it, and dated. The community's cost estimates must be included in individual project files.

The community's written cost estimate is formulated to initially determine if that project is financially feasible to undertake, and secondarily to ensure the cost reasonableness of contractor's bids that will be received for that project. ***The primary purpose for the community's written cost estimate is to establish the probable cost of rehabilitation (i.e., the hard costs of rehabilitation) as well as determine the basis for what needs to be accomplished to that dwelling (if target housing) from a lead hazard reduction standpoint. Lead hazard reduction requirements are based on the community's estimated cost of rehabilitation.*** (Refer to Section 7.12 for more detail on lead hazard reduction requirements).

7.7 Historical (Section 106) Clearance

Assisted properties may be of historical significance. Historic preservation requirements may have an impact on the community's work write-up (the original work write-up and/or the final, revised work write-up following any lead hazard reduction need determination if target housing). ***Individual projects assisted under the community's owner-occupied rehabilitation program that are not covered under the Programmatic Memorandum of Understanding between the IDED and SHPO must be submitted individually to SHPO for Section 106 review and compliance.***

7.8 Infeasible Structures

Depending on the extent of the rehabilitation work (the hard costs of rehabilitation) necessary to bring a dwelling and the property as a whole into conformance with Iowa's Minimum Housing Rehabilitation Standards (as applicable), the community may find a dwelling that is structurally and/or financially infeasible to rehabilitate. The community will apply the following formula to all projects in order to determine if that project is feasible for rehabilitation.

"If the community's estimated cost of rehabilitation (the hard cost of rehabilitation) is at, or greater than, fifty percent (50%) of the replacement value for that size of unit, the proposed project will be considered infeasible to rehabilitate".

NOTE 1: The estimated cost of rehabilitation would include all sources of funds, not just the community's program funds.

NOTE 2: Replacement value will be based on sixty-five dollars ($65) per square foot with no basement space figured in; not including porches, breezeways, or attached garages; and with no square footage cost

differential in treating second (or more) floors in the computation of total square footage.

Where a dwelling is determined infeasible for rehabilitation using the above formula, the community reserves the right to withdraw its offer of financial assistance toward that project and to its property owner.

7.9 Level of Benefit / Financial Commitment

The level of benefit available to eligible applicants can best be described as the community's preliminary projection of program funds to be applied toward a rehabilitation project (i.e., the hard costs of rehabilitation portion of the overall project only, and not including the direct administrative costs, lead hazard reduction costs, lead hazard reduction carrying costs, or temporary relocation costs that may be applied toward the total project).

Based on the community's cost estimate, the after-rehabilitation value of the property will be determined and the determination will be made as to whether the applicant's dwelling and property are feasible to rehabilitate. Using the community's cost estimate, the community will first subtract the amount of all other sources of funds to be applied toward the rehabilitation costs of that project to arrive at the total amount of funds needed from the community's program funds for the rehabilitation of that project.

In effect, the community can make a tentative financial commitment to the applicant for the rehabilitation work (the hard costs of rehabilitation) necessary to bring that dwelling into conformance with the applicable rehabilitation standards. The actual costs of rehabilitation, and from what sources of funds rehabilitation costs will be covered, may need to be reevaluated following the procurement of a contractor(s) when the actual rehabilitation cost of the project is known. The community's focus at this point is only on the rehabilitation costs (i.e., those that will be secured against the assisted property owner's property).

7.10 Lead Hazard Reduction

All target housing properties assisted with the community's program funds must comply with HUD's Lead Safe Housing Regulations. All lead based paint hazards must be identified and subsequently addressed (reduced) in target housing assisted with the community's program funds. Lead hazard reduction activity will be conducted in conjunction and/or in combination with the rehabilitation work determined from the community's initial inspection and included in a final, revised work write-up prior to the procurement of a contractor(s). ***All assisted target housing (i.e., the entire dwelling and the property as a whole) with an assistance investment greater than $5,000 must be***

made at least temporarily "lead safe" at the conclusion of clearance testing and final visual assessment.

The determination of lead hazard reduction need is based on (and directly tied to) the community's estimated cost of rehabilitation for that project (the hard costs of rehabilitation). This determination is first based on the amount of program funds (and/or other HUD funds) to be used for rehabilitation, and secondly, based on the actual approach the community takes to physically determine the lead hazard reduction need (i.e., paint testing and risk assessment or the presumption of lead-based paint).

For target housing projects where the estimated cost of rehabilitation is $5,000 or less in program funds (and/or other HUD funds), lead hazard reduction need is determined by testing all painted surfaces that will be disturbed by the rehabilitation activity. Painted surfaces found to contain lead-based paint (those that will be disturbed during rehabilitation) must be repaired if deteriorated paint or lead-based paint hazards are present. The work items specified in the community's final, revised work write-up (rehabilitation and lead hazard reduction activity combined) for the repair of such painted surfaces to be disturbed will include, or compensate for, the lead hazard reduction activity needed.

The community may presume that assisted target housing in this estimated rehabilitation cost range contains lead-based paint. Where lead-based paint is presumed to be present, testing of painted surfaces is not required. Where lead-based paint is presumed to be present, all painted surfaces disturbed during rehabilitation must be repaired and the lead hazard reduction need determined accordingly by the community's certified lead professional.

For target housing projects where the estimated cost of rehabilitation is between $5,001 and $24,999 in program funds (and/or other HUD funds), lead hazard reduction need is determined by testing of painted surfaces to be disturbed by the rehabilitation activity and conducting a risk assessment of the entire property. From the paint testing and risk assessment results, all painted surfaces containing lead-based paint that will be disturbed during rehabilitation will be identified and all lead-based paint hazards (including dust-lead hazards and soil-lead hazards) will be identified.

Work items specified to reduce the lead-based paint hazards identified from the required paint testing and the risk assessment will be considered as "interim controls". The interim controls specified in the community's final, revised work write-up, in addition

to the rehabilitation work items, will include, or compensate for, the lead hazard reduction activity (interim controls) needed.

Communities may also presume that assisted target housing in this estimated rehabilitation cost range contains lead-based paint. Where lead-based paint is presumed to be present, testing of painted surfaces and conducting a risk assessment is not required. Work items specified to reduce lead-based paint hazards presumed to contain lead-based paint will be considered as "standard treatments". The standard treatments specified in the final, revised work write-up, in addition to the rehabilitation work items, will include, or compensate for, the lead hazard reduction activity (standard treatments) needed.

The determination of all lead hazard reduction activity needed to make a project lead safe following clearance testing results and final visual assessment that meet IDPH standards is first based on the amount of program funds (and/or other HUD funds) to be applied toward the hard cost of rehabilitation, and secondly, based on the approach the community takes for making this determination (i.e., paint testing and risk assessment or the presumption of lead-based paint).

Once all lead hazard reduction activity to be accomplished has been determined by the Community's certified lead professional, the community will compare these work items to its original initial inspection and work write-up that defines the rehabilitation work items to be accomplished. It is possible that one or more of the rehabilitation work items specified will effectively reduce or eliminate an identified (known or presumed) lead-based paint hazard(s). Where lead-based paint hazards will not be addressed with the specifed rehabilitation work items, additional lead hazard reduction work items (i.e., interim controls or standard treatments) will need to be added to the rehabilitation work items. A final, revised work write-up is then generated that incorporates all rehabilitation work items and all lead hazard reduction work items. This final, revised work write-up will then be used for the procurement of a contractor(s) to do the work.

The community must retain all original work write-ups and cost estimates and include them in the respective project files. Individual project cost estimates of the rehabilitation work items specified in the original work write-ups are the basis for determining what needs to be accomplished from a lead hazard reduction standpoint for each project.

The determination of lead-based paint hazards, regardless of the estimated cost of rehabilitation, can only be accomplished by certain Iowa-certified lead professionals. Paint testing and risk assessments can only be accomplished by lead professionals certified in Iowa as Lead Inspectors / Risk Assessors or Elevated Blood Lead (EBL) Inspectors / Risk Assessors. The determination of presuming that lead-based paint is present in target housing may be made by lead professionals certified in Iowa as Sampling Technicians or Lead Inspectors / Risk Assessors or Elevated Blood Lead (EBL) Inspectors / Risk Assessors. The required clearance testing and final visual assessment that follows completion of projects where lead hazard reduction activity occurred (regardless of the estimated cost of rehabilitation) may be conducted by any of the certified lead professionals referenced above. The community will employ all necessary Iowa-certified lead professionals.

There are notification requirements associated with the identification of lead-based paint hazards in target housing assisted with program funds (and/or other HUD funds).

Where the community conducts paint testing and risk assessments to determine the lead hazard reduction need, the community must convey to the assisted property owner the "Notification of Lead-Based Paint Inspection and Risk Assessment" form. This notification must be conveyed to the assisted property owner no later than fifteen days after the testing results have been received by the community (if applicable) and the evaluation (risk assessment) has been completed. A Lead Based Paint and Risk Assessment report must be prepared in accordance with the requirements found in the IDPH's 641-Chapter 70 IAC.

Where the community presumes that lead-based paint and/or lead-based paint hazards exist in assisted target housing, the community must convey to the assisted property owner the "Notification That Lead-Based Paint or Lead-Based Paint Hazards are Presumed to be Present" form. This notification must be conveyed to the assisted property owner no later than fifteen days after the presumption determination was made. A Visual Risk Assessment report must be prepared in accordance with the requirements found in the IDPH's 641-Chapter 70 IAC.

Any rehabilitation work that disturbs painted surfaces (i.e., paint that is known or presumed to be lead-based paint) and any other lead hazard reduction activity not accomplished with the rehabilitation work items (excluding the allowable de minimis areas), can only be

accomplished by contractors who have been trained in safe work practices.

7.11 Contractor Requirements

In order to participate as a contractor in the community's owner-occupied rehabilitation program, the following minimum requirements must be met. All contractors must:

- ***Be registered with the State of Iowa, Department of Labor;***
- ***Meet any and all local or state licensing requirements;***
- ***Be able to provide evidence (i.e., certificate of successful completion and satisfactory test results) that all workers under his / her employ (i.e., employees and/or subcontractors and their employees) who will be involved in any rehabilitation that disturbs painted surfaces (known or presumed to be lead based paint) or any lead hazard reduction activity, have been trained in safe work practices as required by HUD's Lead Safe Housing regulations and the IDPH's 641-Chapter 70 IAC;***
- ***Provide current and active insurance certificates that document sufficient insurance coverage; and***
- ***Be approved by the IDED as not being on the U.S. Department of Housing and Urban Development (HUD's) or the U.S. Department of Labor's (DOL's) lists of debarred or suspended contractors.***

7.12 Contractor Procurement

The procurement of contractors for individual rehabilitation projects (including any lead hazard reduction activity), or various components of rehabilitation projects, where projects are broken down into components, will be undertaken by the community. Contractors will be procured through a competitive sealed bids procurement process.

Upon completion of the final work write-up and bid documents, the community will publicly advertise for bids in at least one local newspaper of general circulation. In addition to publicly advertising, all known area contractors (those contractors identified through the community's contractor marketing efforts and that meet the requirements of Section 7.13 above) will be notified, in writing, inviting them to bid on the community's projects as they are undertaken. Invitations to bid should also be sent to the IDED recommended plan review rooms and area clearinghouses as well.

The community's publicly advertised bidding process will allow sufficient time for contractors to compile and submit their bids. Bids will be opened publicly at a specified date, time and place. The lowest, responsible bidder

will be awarded the contract subject to bid verification and acceptability. A responsible bidder is a contractor that has met the requirements of Section 7.13 above and all other material terms and conditions of the bid documents. ***Contractor's bids need to be typewritten or completed in ink. Contractor's bids submitted in pencil will not be accepted.***

Following the opening of all bids, the community will perform a verification of the bids received (i.e., to ensure true itemized bids submittal, to verify and to recalculate the contractor's figures, to consider any alternate bids sought after and received, etc.). A bid tabulation (summary) sheet will then be prepared by the community reflecting all bids received. All contractors submitting bids must also include a non-collusion affidavit with their submissions.

The successful bidder(s) will be notified, in writing, of the community's intent to award them a contract. All unsuccessful bidders will also be notified, in writing, by the community.

7.13 Contract Execution

Following contractor(s) procurement, but prior to the award of a construction contract(s), the community will reevaluate the amount of assistance to be applied toward that project, secure all non-program funds and finalize its financial commitment of program funds to that property owner. The community's loan documents (the five-year receding forgivable loan) will be prepared for signing.

Following notification(s) of award to the successful contractor(s), arrangements will be made with all parties to formally execute the rehabilitation construction contract(s). Prior to contract(s) execution, the successful contractor(s) must submit a complete list of the materials and equipment suppliers and a complete list of subcontractors intended to be used. Concurrent with the signing of a contract(s), the property owner will execute the promissory note and mortgage lien and/or repayable loan documents discussed in Section 6.0.

Following contract(s) execution, the community will issue a notice(s) to proceed to the contractor(s), all contracts entered into. Where projects are accomplished with several individual contracts in lieu of one general contract, the timing and coordination of issuing notices to proceed will need to be considered and handled accordingly.

Frequently, contract execution and loan documents signing, as well as obtaining the contractor(s) lists of suppliers and subcontractors and the actual issuance of the notice(s) to proceed, will actually take place during the scheduled pre-construction conference required to be held.

7.14 Pre-Construction Conference

Prior to the start of construction, the community will hold a pre-construction conference with the property owner and the contractor(s) awarded the contract(s). At the pre-construction conference, the final work write-up(s) (project specifications) will be reviewed by all parties, line item by line item, to ensure a thorough understanding of the work to be accomplished. Additional topics to be discussed at the pre-construction contract include, but are not limited to:

- ***Timing and coordination of the sequence of the work (especially when and where lead hazard reduction activity or rehabilitation work that disturbs painted surfaces, known or presumed to be lead based paint, are to be accomplished, and/or if the project entails multiple contracts covering various components of the entire project);***
- ***Temporary relocation issues, as applicable (i.e., conveyance of the details of the community's temporary relocation offering, responsibilities, timing and coordination, packing and moving, storage, secured property owner non-access to work area(s) during interior lead hazard reduction work, specialized cleaning, clearance testing and final visual assessment, and the community's authorization of re-occupancy following completion and successful clearance testing); and***
- ***Safe work practices and OSHA requirements, as applicable.***

Additionally, the responsibilities of all parties to the contract(s) need to be thoroughly discussed. The various processes and procedures involved in completing the project also needs to be covered (e.g., change order procedures, contractor payment processes, various lead hazard reduction requirements, grievance / dispute resolution procedures, etc.).

The required pre-construction conference, where all parties to the contract(s) are together, provides the contractor(s) an opportunity to issue the required Iowa Department of Public Health's Pre-Renovation Notification (all target housing) if this has not transpired before this meeting. The community should ensure that this takes place and ***obtain a copy of the executed pre-renovation notification form for its project files.***

7.15 Temporary Relocation

The occupants (i.e., the property owners) and their personal belongings will be fully protected during any rehabilitation work that disturbs painted surfaces (known or presumed to contain lead-based paint) and during any lead hazard reduction activity. During the entire course of any <u>interior</u> rehabilitation that disturbs painted surfaces (known or presumed to be lead-based paint) and/or any <u>interior</u> lead hazard reduction activity, the occupants and some or all of their personal belongings will be temporarily relocated. Any personal belongings not temporarily relocated (e.g., large pieces of furniture, etc.) will be protected (e.g., covered and sealed) so that they will not become contaminated with lead-contaminated dust or construction debris during such interior work.

The community will first coordinate with its contractors and property owners, the timing and sequence of all non-lead-based paint related interior and exterior rehabilitation work (i.e., those items that do not disturb painted surfaces; those items disturbing painted surfaces that are documented as not being lead-based paint; or those items that fall within the allowable de minimis areas), and any exterior lead-based paint related rehabilitation work and/or exterior lead hazard reduction activity, so that all of this work combined is accomplished <u>prior to</u> the start of any interior lead-based paint related rehabilitation work (i.e., interior work that disturbs painted surfaces, known or presumed to be lead-based paint, and/or any interior lead hazard reduction activity).

Prior to the start of any interior lead-based paint related rehabilitation work and/or lead hazard reduction activity, the community will temporarily relocate the occupants of the assisted dwelling to a suitable, safe / decent / sanitary living arrangement that is free of any lead-based paint hazards. Temporary relocation will continue to be provided until the interior lead- based paint related work has been completed, the work area(s) thoroughly cleaned (using HUD recommended specialized cleaning methods) and clearance testing and final visual assessment (interior or exterior) has been conducted with results achieved that meet IDPH standards. The community will not authorize entry or re-occupancy of the assisted property by its owners until all such work has been completed and successful clearance testing and final visual assessment results meeting IDPH standards has been achieved.

As with the temporary relocation of the occupants of the assisted dwellings during any interior lead-based paint related rehabilitation work and/or lead hazard reduction activity, some, if not all, of the occupant's belongings must also be temporarily relocated (or adequately protected), and relocated prior to the start of such

interior work. The occupant's belongings will be relocated to a safe and secure location (e.g., a lockable storage facility) accessible only to their owners. Any personal belongings not temporarily relocated (such as large pieces of furniture) must be covered and sealed to prevent possible contamination from lead-contaminated dust or construction debris during interior lead-based paint related rehabilitation and/or lead hazard reduction activity.

The specific relocation benefits that will be provided to affected property owners are detailed in the community's adopted temporary relocation policy attached to this administrative plan as "Exhibit A".

7.16 Construction Supervision

Throughout the term of construction and/or lead hazard reduction activity, all individual rehabilitation projects, the community will oversee the work of the contractor(s) and any subcontractors doing the work.

Construction supervision will be accomplished primarily through periodic and frequent work-in-progress inspections by the community's rehabilitation technician. Inspections relating to contractor payment requests, any community required (e.g., building or housing code required) inspections, and any inspections relating to change order requests will all occur as necessary.

Periodic inspections / construction supervision may also be necessary during rehabilitation that disturbs painted surfaces, known or presumed to contain lead-based paint, and/or during lead hazard reduction activity as well as during cleaning done for the purpose of clearance testing and final visual assessment. The primary purposes of these inspections are to ensure that contractors are following required safe work practices and applicable OSHA requirements. The community's rehabilitation technician should wear appropriate protective clothing and equipment during such inspections.

All inspections must be documented in individual project files.

The main purpose of construction supervision is to ensure that all work specified in individual project work write-ups is completed, completed in a satisfactory workmanship-like manner, and completed in a timely manner.

7.17 Change Orders

During the course of construction, the community may find it necessary to change the work write-up on any given project. Changes occur with any addition to or with any deletion of items to be accomplished, or with any

other change that may occur to the original, as-bid, work write-up that alters the scope of work in any way. Change orders are needed for any and all substitutions that are made to the project as well, even if the dollar value of that work item remains unaffected. Change orders are also needed for time extensions to a rehabilitation construction contract.

Any and all changes to the contract work write-up require a fully executed change order signed by all parties to the contract. Change orders need to be contained in individual project files.

Change orders are an extension of the original project specifications (work write-up). Change orders need to detail all changes, be clear, concise and accurate, and be prepared individually listing all items if more than one item is included in the change order. The contractor's costs associated with all items listed within change orders must also be itemized.

7.18 Contractor Payment Procedures

All payments to contractors are to be based on work completed at the time of the payment request. With all payment requests received by the community, the community's rehabilitation technician will make an inspection to verify that work (work for which payment is sought) has been completed. No payment requests will be honored prior to the community conducting an inspection.

All materials, supplies and equipment purchased by the contractor(s) (including subcontractors) for a particular rehabilitation project must be satisfactorily installed prior to the community making payment for those items on that project. Payment requests for materials, supplies and equipment stockpiled on a job site and not yet installed will not be honored until the contractor (or subcontractor) has satisfactorily installed them.

Contractors may be paid lump sum at the completion of projects, or may seek partial payments throughout construction with a final payment request at the completion of the project. The community will withhold a minimum of twenty percent (20%) from all partial payment requests received from contractors. This twenty percent (20%) withholding may be reduced to a lesser amount if the community requires participating contractors to be bonded. All withholding from partial payment requests will be paid to the contractor with the final payment request.

In addition to a required inspection prior to making payment to contractors, the community must receive fully executed lien waivers from contractors for all materials and supplies, equipment, and labor

costs for which payment is being sought. Where partial payment requests are made by contractors, fully executed partial lien waivers are also necessary prior to the community honoring the contractor's partial payment request.

Specifically, all fully executed lien waivers applicable to the first partial payment request must be received by the community before payment will be made on the contractor's second partial payment request. Subsequent partial payment requests will follow this procedure, whereby lien waivers for the previous partial payment request are required prior to the community honoring subsequent partial payment requests. For final payment, fully executed lien waivers are required prior to the community honoring the final payment, including the payment of funds previously withheld (retainage) from partial payments.

All lien waivers received from contractors (partial and final lien waivers) need to be reviewed and checked against the "Project Subcontractors / Suppliers" list that submitted by the contractor prior to the start of construction.

Any target housing assisted with the community's program funds (and/or other HUD funds) that involves rehabilitation that disturbs painted surfaces, known or presumed to be lead based paint, and/or lead hazard reduction activity will require thorough, specialized cleaning and clearance testing and final visual assessment following the completion of such work. Final payment(s) to the contractor(s) will not occur prior to successful clearance testing and final visual risk assessment results meeting IDPH standards.

The property owner's concurrence and acceptance of all work for which payment is being sought must be obtained prior to the community making any partial or final payments to contractors. Refer to Section 7.21 below regarding property owner concurrence and acceptance of final payment.

7.19 Project Completion / Acceptance

Upon completion of the project (all work except the interior rehabilitation that will disturb painted surfaces, known or presumed to contain lead based paint, and/or interior lead hazard reduction activity accomplished in target housing), the community will conduct a final inspection of the rehabilitation work accomplished on that project (including exterior lead hazard reduction activity work if applicable). The final inspection will be conducted by the program administrator and/or rehabilitation technician in the presence of at least one representative of the community's Rehabilitation Committee and in

the presence of the property owner. It is desired that the contractor(s) attend the final inspection to make note of and to clarify any unfinished and/or questioned work.

The final inspection is made to ensure that all work was completed and was accomplished in accordance with the work write-up and any change orders that were issued, and to ensure that work was accomplished in a satisfactory manner.

Should any rehabilitation work items remain unfinished or in need of rework, a punch-list will be formulated by the community (or its representative) and presented to the contractor(s) for finalization prior to final acceptance and final payment authorization. If work or rework remains, a time frame for completion of such items will also be specified in the punch-list.

For assisted target housing projects involving any interior lead hazard reduction activity, the final inspection is conducted for all rehabilitation work items and/or exterior lead hazard reduction items except the interior rehabilitation work that will disturb painted surfaces (known or presumed to be lead based paint) and/or interior lead hazard reduction activity to be accomplished. In effect, this is an intermediate final inspection. Therefore, all other (non-interior lead-based paint related) work needs to be completed, inspected and accepted prior to the contractor(s) commencing with the interior rehabilitation that will disturb painted surfaces (known or presumed to be lead based paint) and/or interior lead hazard reduction activity.

Assisted target housing involving interior rehabilitation that disturbs painted surfaces (known or presumed to be lead based paint) and/or lead hazard reduction activity, will also entail temporary relocation of the occupants and their belongings. Temporary relocation will not occur until all other (non-interior lead-based paint related) work has been completed, inspected and accepted. Once the intermediate final inspection has occurred and the occupants and their belongings relocated the interior rehabilitation that disturbs known or presumed lead-based paint and/or lead hazard reduction activity can commence.

Upon completion of the interior lead-based paint related work, specialized cleaning procedures of the affected interior work areas must occur (in accordance with HUD guidelines) and prior to the community conducting the required clearance testing and final visual assessment.

Clearance testing and a final visual assessment must follow the completion of all lead-based paint related work. Clearance testing must be accomplished in accordance with the Iowa Department of Public Health's requirements found at 641-Chapter 70 of the Iowa Administrative Code. Clearance testing results must meet the applicable IDPH standards. If clearance testing fails to meet the applicable IDPH standards, the affected work areas must be re-cleaned by the contractor(s) responsible for this and clearance testing must be re-conducted. This process continues until the project meets IDPH clearance testing standards, including the final visual assessment.

Program funds are to be used <u>only</u> for the initial cost of cleaning for clearance testing. If clearance testing fails to meet the applicable IDPH standards, any and all costs associated with subsequent re-cleaning needs to be born by the contractor(s) responsible for this. It is extremely important for contractors to follow safe work practices and to thoroughly clean affected work surfaces with the initial cleaning so that successful clearance testing results and successful final visual assessment results are achieved with the initial clearance testing and final visual assessment.

The community will use the "Notification of Lead Based Paint Hazard Reduction Completion and Final Visual Risk Assessment and Clearance Testing Results" form to document its clearance testing results as well as to notify the property owner as required. This form serves as the required notification as well as the IDPH (641-Chapter 70 IAC) required report.

The clearance test and final visual assessment will serve as the "final" final inspection for assisted target housing that includes any interior lead-based paint related work. Assisted target housing involving any interior rehabilitation that disturbs painted surfaces (known or presumed to be lead-based paint) and/or any interior lead hazard reduction activity will effectively entail two final inspections.

When <u>all</u> work is determined to have been satisfactorily completed, the community will execute a Final Completion and Acceptance form. This form requires the actual date of completion and acceptance as well as the signatures of all parties to the contract(s). The date on the Final Completion and Acceptance form signifies the start of the required period (term) tied to the community's receding forgivable loan.

Following the execution of the Final Completion and Acceptance form, the community can issue the final payment and the payment of all withholding (retainage) from previous partial payment requests paid, once all lien

waivers have been executed by the contractor and are in the community's possession. Prior to making final payment and the payment of withheld funds to the contractor, all manufacturer's and supplier's warranties must have been conveyed to the property owner by the contractor. An "Anti-Kickback Statement" should also be executed prior to the community making final payment to the contractor.

8.0 Program Administration

8.1 Responsibilities of Parties

8.1.a. Community

The overall authority for the implementation and administration of the community's owner-occupied rehabilitation program is with the community itself. This responsibility rests with the chief elected officials of the community (i.e., the mayor and city council or the board chair and supervisors).

The primary responsibility of the community is to ensure that the program is carried out in accordance with its contract with the Iowa Department of Economic Development (IDED), and to ensure compliance with all applicable state and federal requirements governing the program funds associated with the community's owner-occupied rehabilitation program.

8.1.b. Rehabilitation Committee

The community will establish a local oversight committee. This Rehabilitation Committee will be appointed by the chief elected official and be charged with certain programmatic responsibilities. At least one community representative (a City Councilperson or County Board Supervisor) will serve on this committee. Responsibilities of the Rehabilitation Committee include, but are not limited to:

- ***Final approval authorization of all applications for assistance;***
- ***Individual rehabilitation construction contracts approval authorization;***
- ***Grievance and dispute resolution responsibilities;***
- ***Representation during final inspection;***
- ***Long-term monitoring responsibilities to ensure that assisted properties remain the principal places of residence to the assisted property owners for the***

prescribed period tied to the community's financial assistance (i.e., the five-year receding forgivable loan); and

- ***Oversight of any recaptured funds received from any five-year receding forgivable loans that go into default.***

8.1.c. Program Administrator and/or Rehabilitation Technician

The community will designate certain staff for the day-to-day programmatic administrative responsibilities. This may be community staff or designated staff of a third party entity under contract with the community. Those responsible for the day-to-day programmatic administration may be one or more persons.

The primary responsibilities of the program administrator and/or rehabilitation technician include, but are not limited to:

- Marketing of the program to applicants and contractors;
- Application intake and processing;
- Ranking of applications received;
- Property and applicant eligibility determination processes;
- Verification of applicant information received documenting their eligibility to participate;
- Initial inspections;
- Work write-ups;
- Cost estimates;
- Historical clearances;
- Feasibility determinations;
- Level of benefit and determination of amount of assistance;
- The determination of lead hazard reduction need for all assisted target housing (recall that this can only be accomplished by Iowa-certified Sampling Technicians, Lead Inspectors / Risk Assessors, or Elevated Blood Lead (EBL) Inspectors / Risk Assessors);
- Revisions and finalization of individual project work write-ups, as applicable;
- Contractor procurement;
- Contracting;
- Temporary relocation (as applicable);
- Construction supervision (inspections, change orders, contractor payments, lead hazard reduction oversight, etc.);
- Project completion, final inspection(s), clearance testing and final visual assessment (as applicable) and final acceptance;
- ***Grievance and dispute resolution responsibilities***; and
- Progress reporting to the Rehabilitation Committee, the community and the IDED.

9.0 Grievance and Dispute Resolution

Step 1: Any grievances or disputes arising between a property owner and the contractor(s) will initially be mediated by the community's program administrator and/or rehabilitation technician. It is the grieving (or disputing) party's obligation to contact the community's program administrator and/or rehabilitation technician with a detailed account of the issue(s) comprising the grievance or dispute. The program administrator and/or rehabilitation technician will make a determination of resolution on the issue(s) brought to their attention and convey to both the property owner and the contractor a course of action to be taken, in what time frame, and by whom.

Step 2: Should either party contest the community's program administrator's and/or rehabilitation technician's initial decision, a request for an appeal hearing by the community's Rehabilitation Committee may be made. This request must be made in writing. The Community's Rehabilitation Committee will set a date, time and place for this appeal hearing and notify the parties of same. The Rehabilitation Committee will make their determination at, or shortly after, their meeting and convey their determination of resolution to the issue(s) raised, in writing, to both parties. The Rehabilitation Committee's determination will convey to both parties a course of action to be taken, in what time frame, and by whom.

Step 3: Should either party contest the Rehabilitation Committee's decision, a request to appeal this decision may be made to the community's governing body (i.e., mayor and city council; chair and board of supervisors; etc.). The decision of the community's governing body will be conveyed, in writing, to both parties. The governing body's determination will convey a course of action to be taken, in what time frame, and by whom. The decision of the community's governing body will be final and binding on all parties.

Step 4: In the event that the grievance or dispute remains unresolved to the satisfaction of either party, the right to file legal action remains the last and only recourse available to the grieving or disputing party.

Should a grievance or dispute arise between either the property owner or the contractor and the community's program administrator and/or rehabilitation technician, the procedure to follow is the same as described above, except that Step 1 would be omitted.

Written grievances or disputes that are received by the IDED directly (or indirectly) from a property owner, the contractor or a representative of the property owner or contractor will be forwarded to the community for resolution. Resolution is to follow the above described process.

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- Interpretive Guidance - The HUD Regulation on Controlling Lead-Based Paint Hazards in Housing Receiving Federal Assistance and Federally Owned Housing Being Sold 133
- EPA Pamphlet - "Protect Your Family From Lead in Your Home"

  Available on the web at:

  http://www.epa.gov/lead/pubs/leadpdfe.pdf and
  http://www.epa.gov/lead/pubs/pyfcameraspan.pdf (Spanish)
- IDPH Pamphlet - "Lead Poisoning - How to Protect Iowa's Families"

  Available on the web at:

  http://www.idph.state.ia.us/eh/common/pdf/lead/protect_iowa_families.pdf and
  http://www.idph.state.ia.us/eh/common/pdf/lead_poisoning_prevention/como_proteger_a_las_familias.pdf (Spanish)
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  http://www.idph.state.ia.us/eh/common/pdf/lead_poisoning_prevention/prenotify_flyer_spanish.pdf
- EPA Fact Sheet

  Available on the web at

  http://www.epa.gov/lead/pubs/406fact.pdf
- EPA Sample Forms

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PART 35 - LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

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35.1355 Ongoing lead-based paint maintenance and reevaluation activities.

Authority:42 U.S.C. 3535(d), 4821, and 4851.
Source:64 FR 50201, Sept. 15, 1999; 65 FR 3387, Jan. 21, 2000.

Subpart A—. Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

§ 35.80. Purpose.

This subpart implements the provisions of 42 U.S.C. 4852d, which impose certain requirements on the sale or lease of target housing. Under this subpart, a seller or lessor of target housing shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards; provide available records and reports; provide the purchaser or lessee with a lead hazard information pamphlet; give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated under a contract to purchase or lease target housing.

§ 35.82. Scope and applicability.

This subpart applies to all transactions to sell or lease target housing, including subleases, with the exception of the following:

(a) Sales of target housing at foreclosure.

(b) Leases of target housing that have been found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program. Until a Federal certification program or federally accredited State certification program is in place within the State, inspectors shall be considered qualified to conduct an inspection for this purpose if they have received certification under any existing State or tribal inspector certification program. The lessor has the option of using the results of additional test(s) by a certified inspector to confirm or refute a prior finding.

(c) Short-term leases of 100 days or less, where no lease renewal or extension can occur.

(d) Renewals of existing leases in target housing in which the lessor has previously disclosed all information required under §35.88 and where no new information described in §35.88 has come into the possession of the lessor. For the purposes of this paragraph, renewal shall include both re-negotiation of existing lease terms and/or ratification of a new lease.

§ 35.84. Effective dates.

The requirements in this subpart take effect in the following manner:

(a) For owners of more than four residential dwellings, the requirements shall take effect on September 6, 1996.

(b) For owners of one to four residential dwellings, the requirements shall take effect on December 6, 1996.

§ 35.86. Definitions.

The following definitions apply to this subpart.

The Act means the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d.

Agent means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. This term does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser.

Available means in the possession of or reasonably obtainable by the seller or lessor at the time of the disclosure.

Common area means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

Contract for the purchase and sale of residential real property means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

EPA means the Environmental Protection Agency.

Evaluation means a risk assessment and/or inspection.

Foreclosure means any of the various methods, statutory or otherwise, known in different jurisdictions, of enforcing payment of a debt, by the taking and selling of real property.

Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

Inspection means:

(1) A surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning and Prevention Act [42 U.S.C. 4822], and

(2) The provision of a report explaining the results of the investigation.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-based paint free housing means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

Lessee means any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Lessor means any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Owner means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

Purchaser means an entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Residential dwelling means:

(1) A single-family dwelling, including attached structures such as porches and stoops; or

(2) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

Risk assessment means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

(1) Information gathering regarding the age and history of the housing and occupancy by children under age 6;

(2) Visual inspection;

(3) Limited wipe sampling or other environmental sampling techniques;

(4) Other activity as may be appropriate; and

(5) Provision of a report explaining the results of the investigation.

Seller means any entity that transfers legal title to target housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. The term "seller" also includes:

(1) An entity that transfers shares in a cooperatively owned project, in return for consideration; and

(2) An entity that transfers its interest in a lease hold, in jurisdictions or circumstances where it is legally permissible to separate the fee title from the title to the improvement, in return for consideration.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

TSCA means the Toxic Substances Control Act, 15 U.S.C. 2601.

0-bedroom dwelling means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

§ 35.88. Disclosure requirements for sellers and lessors.

(a) The following activities shall be completed before the purchaser or lessee is obligated under any contract to purchase or lease target housing that is not otherwise an exempt transaction pursuant to §35.82. Nothing in this section implies a positive obligation on the seller or lessor to conduct any evaluation or reduction activities.

(1) The seller or lessor shall provide the purchaser or lessee with an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home* (EPA #747-K-94-001) or an equivalent pamphlet that has been approved for use in that State by EPA.

(2) The seller or lessor shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold or leased. The seller or lessor shall also disclose any additional information available concerning the known lead based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) The seller or lessor shall disclose to each agent the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold or leased and the existence of any available records or reports pertaining to lead-based paint and/or lead-based paint hazards. The seller or lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(4) The seller or lessor shall provide the purchaser or lessee with any records or reports available to the seller or lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being sold or leased. This requirement includes records and reports regarding common areas. This requirement also includes records and reports regarding other residential dwellings in multifamily target housing, provided that such information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing as a whole.

(b) If any of the disclosure activities identified in paragraph (a) of this section occurs after the purchaser or lessee has provided an offer to purchase or lease the housing, the seller or lessor shall complete the required disclosure activities prior to accepting the purchaser's or lessee's offer and allow the purchaser or lessee an opportunity to review the information and possibly amend the offer.

§ 35.90. Opportunity to conduct an evaluation.

(a) Before a purchaser is obligated under any contract to purchase target housing, the seller shall permit the purchaser a 10-day period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

(b) Notwithstanding paragraph (a) of this section, a purchaser may waive the opportunity to conduct the risk assessment or inspection by so indicating in writing.

§ 35.92. Certification and acknowledgment of disclosure.

(a) *Seller requirements.* Each contract to sell target housing shall include an attachment containing the following elements, in the language of the contract (e.g., English, Spanish):

(1) A Lead Warning Statement consisting of the following language:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

(2) A statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The seller shall also provide any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) A list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the purchaser. If no such records or reports are available, the seller shall so indicate.

(4) A statement by the purchaser affirming receipt of the information set out in paragraphs (a)(2) and (a)(3) of this section and the lead hazard information pamphlet required under section 15 U.S.C. 2696.

(5) A statement by the purchaser that he/she has either:

(i) Received the opportunity to conduct the risk assessment or inspection required by §35.90(a); or

(ii) Waived the opportunity.

(6) When any agent is involved in the transaction to sell target housing on behalf of the seller, a statement that:

(i) The agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d; and

(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.

(7) The signatures of the sellers, agents, and purchasers, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

(b) *Lessor requirements.* Each contract to lease target housing shall include, as an attachment or within the contract, the following elements, in the language of the contract (e.g., English, Spanish):

(1) A Lead Warning Statement with the following language:

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

(2) A statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist in the housing, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(3) A list of any records or reports available to the lessor pertaining to lead based paint and/or lead-based paint hazards in the housing that have been provided to the lessee. If no such records or reports are available, the lessor shall so indicate.

(4) A statement by the lessee affirming receipt of the information set out in paragraphs (b)(2) and (b)(3) of this section and the lead hazard information pamphlet required under 15 U.S.C. 2696.

(5) When any agent is involved in the transaction to lease target housing on behalf of the lessor, a statement that:

(i) The agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d; and

(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.

(6) The signatures of the lessors, agents, and lessees certifying to the accuracy of their statements to the best of their knowledge, along with the dates of signature.(c) *Retention of certification and acknowledgment information.*

(1) The seller, and any agent, shall retain a copy of the completed attachment required under paragraph (a) of this section for no less than 3 years from the completion date of the sale. The lessor, and any agent, shall retain a copy of the completed attachment or lease contract containing the information required under paragraph (b) of this section for no less than 3 years from the commencement of the leasing period.

(2) This recordkeeping requirement is not intended to place any limitations on civil suits under the Act, or to otherwise affect a lessee's or purchaser's rights under the civil penalty provisions of 42 U.S.C. 4852d(b)(3).

(d) The seller, lessor, or agent shall not be responsible for the failure of a purchaser's or lessee's legal representative (where such representative receives all compensation from the purchaser or lessee) to transmit disclosure materials to the purchaser or lessee, provided that all required parties have completed and signed the necessary certification and acknowledgment language required under paragraphs (a) and (b) of this section.

§ 35.94. Agent responsibilities.

(a) Each agent shall ensure compliance with all requirements of this subpart. To ensure compliance, the agent shall:

(1) Inform the seller or lessor of his/her obligations under §§35.88, 35.90, and 35.92.

(2) Ensure that the seller or lessor has performed all activities required under §§35.88, 35.90, and 35.92, or personally ensure compliance

with the requirements of §§35.88, 35.90, and 35.92.

(b) If the agent has complied with paragraph (a)(1) of this section, the agent shall not be liable for the failure to disclose to a purchaser or lessee the presence of lead-based paint and/or lead-based paint hazards known by a seller or lessor but not disclosed to the agent.

§ 35.96. Enforcement.

(a) Any person who knowingly fails to comply with any provision of this subpart shall be subject to civil monetary penalties in accordance with the provisions of 42 U.S.C. 3545 and 24 CFR part 30.

(b) The Secretary is authorized to take such action as may be necessary to enjoin any violation of this subpart in the appropriate Federal district court.

(c) Any person who knowingly violates the provisions of this subpart shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(d) In any civil action brought for damages pursuant to 42 U.S.C. 4852d(b)(3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(e) Failure or refusal to comply with §§35.88 (disclosure requirements for sellers and lessors), §§35.90 (opportunity to conduct an evaluation), §35.92 (certification and acknowledgment of disclosure), or §35.94 (agent responsibilities) is a violation of 42 U.S.C. 4852d(b)(5) and of TSCA section 409 (15 U.S.C. 2689).

(f) Violators may be subject to civil and criminal sanctions pursuant to TSCA section 16 (15 U.S.C. 2615) for each violation. For purposes of enforcing this subpart, the penalty for each violation applicable under 15 U.S.C. 2615 shall be not more than $10,000.

§ 35.98. Impact on State and local requirements.

Nothing in this subpart shall relieve a seller, lessor, or agent from any responsibility for compliance with State or local laws, ordinances, codes, or regulations governing notice or disclosure of known lead-based paint and/or lead-based paint hazards. Neither HUD nor EPA assumes any responsibility for ensuring compliance with such State or local requirements.

Subpart B—. General Lead-Based Paint Requirements and Definitions for All Programs.

§ 35.100. Purpose and applicability.

(a) *Purpose.* The requirements of subparts B through R of this part are promulgated to implement the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.).

(b) *Applicability.*—

(1) *This subpart.* This subpart applies to all target housing that is federally owned and target housing receiving Federal assistance to which subparts C, D, F through M, and R of this part apply, except where indicated.(2) *Other subparts.*—

(i) *General.* Subparts C, D, and F through M of this part each set forth requirements for a specific type of Federal housing activity or assistance, such as multifamily mortgage insurance, project-based rental assistance, rehabilitation, or tenant-based rental assistance. Subpart R of this part provides standards and methods for activities required in subparts B, C, D, and F through M of this part.

(ii) *Application to programs.* Most HUD housing programs are covered by only one subpart of this part, but some programs can be used for more than one type of assistance and therefore are covered by more than one subpart of this part. A current list of programs covered by each subpart of this part is available on the internet at http://www.hud.gov, or by mail from the National Lead Information Center at 1-800-424-LEAD. Examples of flexible programs that can provide more than one type of assistance are the HOME Investment Partnerships program, the Community Development Block Grant program, and the Indian Housing Block Grant Program. Grantees, participating jurisdictions, Indian tribes and other entities administering such flexible programs must decide which subpart applies to the type of assistance being provided to a particular dwelling unit or residential property.

(iii) *Application to dwelling units.* In some cases, more than one type of assistance may be provided to the same dwelling unit. In such cases, the subpart or section with the most protective initial hazard reduction requirements applies. Paragraph (c) of this section provides a table that lists the subparts and sections of this part in order from the most protective to the least protective. (This list is based only on the requirements for initial hazard reduction. The summary of requirements on this list is not a complete list of requirements. It is necessary to refer to the applicable subparts and sections to determine all applicable requirements.)

(iv) *Example.* A multifamily building has 100 dwelling units and was built in 1965. The property is financed with HUD multifamily mortgage insurance. This building is covered by subpart G of this part (see §35.625—Multifamily mortgage insurance for properties constructed after 1959), which is at protectiveness level 5 in the table set forth in paragraph (c) of this section. In the same building, however, 50 of the 100 dwelling units are receiving project-based assistance, and the average annual assistance per assisted unit is $5,500. Those 50 units, and common areas servicing those units, are covered by the requirements of subpart H of this part (see §35.715—Project-based assistance for multifamily properties receiving more than $5,000 per unit), which are at protectiveness level 3. Therefore, because level 3 is a higher level of protectiveness than level 5, the units receiving project-based assistance, and common areas servicing those units, must comply at level 3, while the rest of the building can be operated at level 5. The owner may choose to operate the entire building at level 3 for simplicity.

(c) *Table One.* The following table lists the subparts and sections of this part applying to HUD programs in order from most protective to least protective hazard reduction requirements. The summary of hazard reduction requirements in this table is not complete. Readers must refer to the relevant subpart for complete requirements.

Level of protection	Subpart, section, and type of assistance	Hazard reduction requirements
1	Subpart L, Public housing. Subpart G, §35.630, Multifamily mortgage insurance for conversions and major rehabilitations.	Full abatement of lead-based paint.
2	Subpart J, §35.930(d), Properties receiving more than $25,000 per unit in rehabilitation assistance.	Abatement of lead-based paint hazards.
3	Subpart G, §35.620, Multifamily mortgage insurance for properties constructed before 1960, other than conversions and major rehabilitations. Subpart H, §35.715, Project-based assistance for multifamily properties receiving more than $5,000 per unit. Subpart I, HUD-owned multifamily property. Subpart J, §35.930(c), Properties receiving more than $5,000 and up to $25,000 per unit in rehabilitation assistance.	Interim controls.
4	Subpart F, HUD-owned single family properties. Subpart H, §35.720, Project-based rental assistance for multifamily properties receiving up to $5,000 per unit and single family properties. Subpart K, Acquisition, leasing, support services, or operation. Subpart M, Tenant-based rental assistance.	Paint stabilization.
5	Subpart G, §35.625, Multifamily mortgage insurance for properties constructed after 1959.	Ongoing lead-based paint maintenance.
6	Subpart J, §35.930(b), Properties receiving up to and including $5,000 in rehabilitation assistance.	Safe work practices during rehabilitation.

§ 35.105. Effective dates.

The effective date for subparts B through R of this part is September 15, 2000, except that the effective date for prohibited methods of paint removal, described in §35.140, is November 15, 1999. Subparts F through M of this part provide further information on the application of the effective date to specific programs. Before September 15, 2000, a designated party has the option of following the procedures in subparts B through R of this part, or complying with current HUD lead-based paint regulations.

§ 35.106. Information collection requirements.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 2501 to 3520), and have been assigned OMB control number 2539-0009. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

§ 35.110. Definitions.

Abatement means any set of measures designed to permanently eliminate

lead-based paint or lead-based paint hazards (see definition of "permanent"). Abatement includes:

(1) The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil lead hazards; and

(2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

Act means the Lead-Based Paint Poisoning Prevention Act, as amended, 42 U.S.C. 4822 et seq.

Bare soil means soil or sand not covered by grass, sod, other live ground covers, wood chips, gravel, artificial turf, or similar covering.

Certified means licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision, either by a State or Indian tribe with a lead-based paint certification program authorized by the Environmental Protection Agency (EPA), or by the EPA, in accordance with 40 CFR part 745, subparts L or Q.

Chewable surface means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2)). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

Clearance examination means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards, as defined in this part, exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples. Dust-lead standards for clearance are found at §35.1320.

Common area means a portion of a residential property that is available for use by occupants of more than one dwelling unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, garages and boundary fences.

Component means an architectural element of a dwelling unit or common area identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

Composite sample means a collection of more than one sample of the same medium (e.g., dust, soil or paint) from the same type of surface (e.g., floor, interior window sill, or window trough), such that multiple samples can be analyzed as a single sample.

Containment means the physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown or tracked from inside to outside of the worksite.

Designated party means a Federal agency, grantee, subrecipient, participating jurisdiction, housing agency, Indian Tribe, tribally designated housing entity (TDHE), sponsor, or property owner responsible for complying with applicable requirements.

Deteriorated paint means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

Dry sanding means sanding without moisture and includes both hand and machine sanding.

Dust-lead hazard means surface dust that contains a dust-lead loading (area concentration of lead) equal to or exceeding the levels promulgated by the EPA at 40 CFR 745.65 or, if such levels are not in effect, the standards for dust-lead hazards in §35.1320.

Dwelling unit means a:

(1) Single-family dwelling, including attached structures such as porches and stoops; or

(2) Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.

Encapsulation means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment and that relies for its durability on adhesion between the encapsulates and the painted surface, and on the integrity of the existing bonds between paint layers and between the paint and the substrate. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of "permanent").

Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of "permanent").

Environmental intervention blood lead level means a confirmed concentration of lead in whole blood equal to or greater than 20 µg/dL (micrograms of lead per deciliter) for a single test or 15–19 µg/dL in two tests taken at least 3 months apart.

Evaluation means a risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint.

Expected to reside means there is actual knowledge that a child will reside in a dwelling unit reserved for the elderly or designated exclusively for persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that a child will reside in the dwelling unit.

Federal agency means the United States or any executive department, independent establishment, administrative agency and instrumentality of the United States, including a corporation in which all or a substantial amount of the stock is beneficially owned by the United States or by any of these entities. The term "Federal agency" includes, but is not limited to, Rural Housing Service (formerly Rural Housing and Community Development Service that was formerly Farmer's Home Administration), Resolution Trust Corporation, General Services Administration, Department of Defense, Department of Veterans Affairs, Department of the Interior, and Department of Transportation.

Federally owned property means residential property owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator.

Firm commitment means a valid commitment issued by HUD or the Federal Housing Commissioner setting forth the terms and conditions upon which a mortgage will be insured or guaranteed.

Friction surface means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

g means gram, *mg* means milligram (thousandth of a gram), and µg means microgram (millionth of a gram).

Grantee means any state or local government, Indian Tribe, IHBG recipient, insular area or nonprofit organization that has been designated by HUD to administer Federal housing assistance under a program covered by subparts J and K of this part, except the HOME program.

Hard costs of rehabilitation means:

(1) Costs to correct substandard conditions or to meet applicable local rehabilitation standards;

(2) Costs to make essential improvements, including energy-related repairs, and those necessary to permit use by persons with disabilities; and costs to repair or replace major housing systems in danger of failure; and

(3) Costs of non-essential improvements, including additions and alterations to an existing structure; but

(4) Hard costs do not include administrative costs (e.g., overhead for administering a rehabilitation program, processing fees, etc.).

Hazard reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

HEPA vacuum means a vacuum cleaner device with an included high-efficiency particulate air (HEPA) filter through which the contaminated air flows, operated in accordance with the instructions of its manufacturer. A HEPA filter is one that captures at least 99.97 percent of airborne particles of at least 0.3 micrometers in diameter.

Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific Federal housing assistance program.

Housing receiving Federal assistance means housing which is covered by an application for HUD mortgage insurance, receives housing assistance payments under a program administered by HUD, or otherwise receives more than $5,000 in project-based assistance under a Federal housing program administered by an agency other than HUD.

HUD means the United States Department of Housing and Urban Development.

HUD-owned property means residential property owned or managed by HUD, or for which HUD is a trustee or conservator.

Impact surface means an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

Indian Housing Block Grant (IHBG) recipient means a tribe or a tribally designated housing entity (TDHE) receiving IHBG funds.

Indian tribe means a tribe as defined in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.)

Inspection (See Lead-based paint inspection).

Insular areas means Guam, the Northern Mariana Islands, the United States Virgin Islands and American Samoa.

Interim controls means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

Interior window sill means the portion of the horizontal window ledge that

protrudes into the interior of the room, adjacent to the window sash when the window is closed. The interior window sill is sometimes referred to as the window stool.
Lead-based paint means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.
Lead-based paint hazard means any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.
Lead-based paint inspection means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.
Lead hazard screen means a limited risk assessment activity that involves paint testing and dust sampling and analysis as described in 40 CFR 745.227(c) and soil sampling and analysis as described in 40 CFR 745.227(d).
Mortgagee means a lender of a mortgage loan.
Mortgagor means a borrower of a mortgage loan.
Multifamily property means a residential property containing five or more dwelling units.
Occupant means a person who inhabits a dwelling unit.
Owner means a person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer, or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it. The definition includes a vendee who possesses the title, but does not include a mortgagee or an owner of a reversionary interest under a ground rent lease.
Paint stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.
Paint testing means the process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.
Paint removal means a method of abatement that permanently eliminates lead-based paint from surfaces.
Painted surface to be disturbed means a paint surface that is to be scraped, sanded, cut, penetrated or otherwise affected by rehabilitation work in a manner that could potentially create a lead-based paint hazard by generating dust, fumes, or paint chips.
Participating jurisdiction means any State or local government that has been designated by HUD to administer a HOME program grant.
Permanent means an expected design life of at least 20 years.
Play area means an area of frequent soil contact by children of less than 6 years of age, as indicated by the presence of play equipment (e.g. sandboxes, swing sets, sliding boards, etc.) or toys or other children's possessions, observations of play patterns, or information provided by parents, residents or property owners.
Project-based rental assistance means Federal rental assistance that is tied to a residential property with a specific location and remains with that particular location throughout the term of the assistance.
Public health department means a State, tribal, county or municipal public health department or the Indian Health Service.
Public housing development means a residential property assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), but not including housing assisted under section 8 of the 1937 Act.
Reevaluation means a visual assessment of painted surfaces and limited dust and soil sampling conducted periodically following lead-based paint hazard reduction where lead-based paint is still present.
Rehabilitation means the improvement of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices.
Replacement means a strategy of abatement that entails the removal of building components that have surfaces coated with lead-based paint and the installation of new components free of lead-based paint.
Residential property means a dwelling unit, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.
Risk assessment means:

(1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and
(2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

Single family property means a residential property containing one through four dwelling units.
Single room occupancy (SRO) housing means housing consisting of zero-bedroom dwelling units that may contain food preparation or sanitary facilities or both (see Zero-bedroom dwelling).
Soil-lead hazard means bare soil on residential property that contains lead equal to or exceeding levels promulgated by the EPA at 40 CFR 745.65 or, if such levels are not in effect, the standards for soil-lead hazards in §35.1320.
Sponsor means mortgagor (borrower).
Sub-recipient means any nonprofit organization selected by the grantee or participating jurisdiction to administer all or a portion of the Federal rehabilitation assistance or other non-rehabilitation assistance, or any such organization selected by a sub-recipient of the grantee or participating jurisdiction. An owner or developer receiving Federal rehabilitation assistance or other assistance for a residential property is not considered a sub-recipient for the purposes of carrying out that project.
Standard treatments means a series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation.
Substrate means the material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, concrete, brick or metal.
Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child of less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date.
Tenant means the individual named as the lessee in a lease, rental agreement or occupancy agreement for a dwelling unit.
A *visual assessment* alone is not considered an evaluation for the purposes of this part. Visual assessment means looking for, as applicable:
Visual assessment means looking for, as applicable.

(1) Deteriorated paint;
(2) Visible surface dust, debris, and residue as part of a risk assessment or clearance examination; or
(3) The completion or failure of a hazard reduction measure.

Wet sanding or wet scraping means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.
Window trough means the area between the interior window sill (stool) and the storm window frame. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered.
Worksite means an interior or exterior area where lead-based paint hazard reduction activity takes place. There may be more than one worksite in a dwelling unit or at a residential property.
Zero-bedroom dwelling means any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings (see Single room occupancy (SRO)).

§ 35.115. Exemptions.

(a) Subparts B through R of this part do not apply to the following:

(1) A residential property for which construction was completed on or after January 1, 1978, or, in the case of jurisdictions which banned the sale or residential use of lead-containing paint prior to 1978, an earlier date as HUD may designate (see §35.160).
(2) A zero-bedroom dwelling unit, including a single room occupancy (SRO) dwelling unit.
(3) Housing for the elderly, or a residential property designated exclusively for persons with disabilities; except this exemption shall not apply if a child less than age 6 resides or is expected to reside in the dwelling unit (see definitions of “housing for the elderly” and “expected to reside” in §35.110).
(4) Residential property found not to have lead-based paint by a lead-based paint inspection conducted in accordance with §35.1320(a) (for more information regarding inspection procedures consult the 1997 edition of Chapter 7 of the HUD Guidelines). Results of additional test(s) by a certified lead-based paint inspector may be used to confirm or refute a prior finding.
(5) Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved in accordance with 40 CFR 745.227(b)(e) before September 15, 2000, or in accordance with §§35.1320, 35.1325 and 35.1340 on or after September 15, 2000. This exemption does not apply to residential property where enclosure or encapsulation has been used as a method of abatement.

(6) An unoccupied dwelling unit or residential property that is to be demolished, provided the dwelling unit or property will remain unoccupied until demolition.
(7) A property or part of a property that is not used and will not be used for human residential habitation, except that spaces such as entryways, hallways, corridors, passageways or stairways serving both residential and nonresidential uses in a mixed-use property shall not be exempt.
(8) Any rehabilitation that does not disturb a painted surface.
(9) For emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse), occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable, and the requirements of subparts B through R of this part shall not apply. This exemption applies only to repairs necessary to respond to the emergency. The requirements of subparts B through R of this part shall apply to any work undertaken subsequent to, or above and beyond, such emergency actions.
(10) If a Federal law enforcement agency has seized a residential property and owns the property for less than 270 days, §§35.210 and 35.215 shall not apply to the property.
(11) The requirements of subpart K of this part do not apply if the assistance being provided is emergency rental assistance or foreclosure prevention assistance, provided that this exemption shall expire for a dwelling unit no later than 100 days after the initial payment or assistance.
(12) Performance of an evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface as required under this part may be delayed for a reasonable time during a period when weather conditions are unsuitable for conventional construction activities.
(13) Where abatement of lead-based paint hazards or lead-based paint is required by this part and the property is listed or has been determined to be eligible for listing in the National Register of Historic Places or contributing to a National Register Historic District, the designated party may, if requested by the State Historic Preservation Office, conduct interim controls in accordance with §35.1330 instead of abatement. If interim controls are conducted, ongoing lead-based paint maintenance and reevaluation shall be conducted as required by the applicable subpart of this part in accordance with §35.1355.

(b) For the purposes of subpart C of this part, each Federal agency other than HUD will determine whether appropriations are sufficient to implement this rule. If appropriations are not sufficient, subpart C of this part shall not apply to that Federal agency. If appropriations are sufficient, subpart C of this part shall apply.

§ 35.120. Options.

(a) *Standard treatments.* Where interim controls are required by this part, the designated party has the option to presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required. Standard treatments shall then be conducted in accordance with §35.1335 on all applicable surfaces, including soil. Standard treatments are completed only when clearance is achieved in accordance with §35.1340.

(b) *Abatement.* Where abatement is required by this part, the designated party may presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required. Abatement shall then be conducted on all applicable surfaces, including soil, in accordance with §35.1325, and completed when clearance is achieved in accordance with §35.1340. This option is not available in public housing, where inspection is required.

(c) *Lead hazard screen.* Where a risk assessment is required, the designated party may choose first to conduct a lead hazard screen in accordance with §35.1320(b). If the results of the lead hazard screen indicate the need for a full risk assessment (e.g., if the environmental measurements exceed levels established for lead hazard screens in §35.1320(b)(2)), a complete risk assessment shall be conducted. Environmental samples collected for the lead hazard screen may be used in the risk assessment. If the results of the lead hazard screen do not indicate the need for a follow-up risk assessment, a risk assessment is not required.

(d) *Paint testing.* Where paint stabilization or interim controls of deteriorated paint surfaces are required by this rule, the designated party has the option to conduct paint testing of all surfaces with non-intact paint. If paint testing indicates the absence of lead-based paint on a specific surface, paint stabilization or interim controls are not required on that surface.

§ 35.125. Notice of evaluation and hazard reduction activities.

The following activities shall be conducted if notice is required by subparts D and F through M of this part.

(a) *Notice of evaluation or presumption.* When evaluation is undertaken and lead-based paint or lead-based paint hazards are found to be present, or if a presumption is made that lead-based paint or lead-based paint hazards are present in accordance with the options described in §35.120, the designated party shall provide a notice to occupants within 15 calendar days of the date when the designated party receives the report or makes the presumption. A visual assessment alone is not considered an evaluation for the purposes of this part. If only a visual assessment alone is required by this part, and no evaluation is performed, a notice of evaluation or presumption is not required.

(1) The notice of the evaluation shall include:
(i) A summary of the nature, dates, scope, and results of the evaluation;
(ii) A contact name, address and telephone number for more information, and to obtain access to the actual evaluation report; and
(iii) The date of the notice.
(2) The notice of presumption shall include:
(i) The nature and scope of the presumption;
(ii) A contact name, address and telephone number for more information; and
(iii) The date of the notice.

(b) *Notice of hazard reduction activity.* When hazard reduction activities are undertaken, each designated party shall:

(1) Provide a notice to occupants not more than 15 calendar days after the hazard reduction activities (including paint stabilization) have been completed. Notice of hazard reduction shall include, but not be limited to:
(i) A summary of the nature, dates, scope, and results (including clearance) of the hazard reduction activities;
(ii) A contact name, address, and telephone number for more information;
(iii) Available information on the location of any remaining lead-based paint in the rooms, spaces, or areas where hazard reduction activities were conducted, on a surface-by-surface basis; and
(iv) The date of the notice.
(2) Update the notice, based on reevaluation of the residential property and as any additional hazard reduction work is conducted.
(3) Provision of a notice of hazard reduction is not required if a clearance examination is not required.

(c) *Availability of notices of evaluation, presumption, and hazard reduction activities.*

(1) The notices of evaluation, presumption, and hazard reduction shall be of a size and type that is easily read by occupants.
(2) To the extent practicable, each notice shall be made available, upon request, in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).
(3) Each notice shall be provided in the occupants' primary language or in the language of the occupants' contract or lease.

(4) The designated party shall provide each notice to the occupants by:
(i) Posting and maintaining it in centrally located common areas and distributing it to any dwelling unit if necessary because the head of household is a person with a known disability; or
(ii) Distributing it to each occupied dwelling unit affected by the evaluation, presumption, or hazard reduction activity or serviced by common areas in which an evaluation, presumption or hazard reduction has taken place.

§ 35.130. Lead hazard information pamphlet.

If provision of a lead hazard information pamphlet is required in subparts D and F through M of this part, the designated party shall provide to each occupied dwelling unit to which subparts D and F through M of this part apply, the lead hazard information pamphlet developed by EPA, HUD and the Consumer Product Safety Commission pursuant to section 406 of the Toxic Substances Control Act (15 U.S.C. 2686), or an EPA-approved alternative; except that the designated party need not provide a lead hazard information pamphlet if the designated party can demonstrate that the pamphlet has already been provided in accordance with the lead-based paint notification and disclosure requirements at §35.88(a)(1), or 40 CFR 745.107(a)(1) or in accordance with the requirements for hazard education before renovation at 40 CFR part 745, subpart E.

§ 35.135. Use of paint containing lead.

(a) *New use prohibition.* The use of paint containing more than 0.06 percent dry weight of lead on any interior or exterior surface in federally owned housing or housing receiving Federal assistance is prohibited. As appropriate, each Federal agency shall include the prohibition in contracts, grants, cooperative agreements, insurance agreements, guaranty agreements,

trust agreements, or other similar documents.

(b) *Pre-1978 prohibition.* In the case of a jurisdiction which banned the sale or residential use of lead-containing paint before 1978, HUD may designate an earlier date for certain provisions of subparts D and F through M of this part.

§ 35.140. Prohibited methods of paint removal.

The following methods shall not be used to remove paint that is, or may be, lead-based paint:

(a) Open flame burning or torching.

(b) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.

(c) Abrasive blasting or sandblasting without HEPA local exhaust control.

(d) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.

(e) Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. (0.30 m.) of electrical outlets, or when treating defective paint spots totaling no more than 2 sq. ft. (0.2 sq. m.) in any one interior room or space, or totaling no more than 20 sq. ft. (2.0 sq. m.) on exterior surfaces.

(f) Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

§ 35.145. Compliance with Federal laws and authorities.

All lead-based paint activities, including waste disposal, performed under this part shall be performed in accordance with applicable Federal laws and authorities. For example, such activities are subject to the applicable environmental review requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Toxic Substances Control Act, Title IV (15 U.S.C. 2860 et seq.), and other environmental laws and authorities (see, e.g., laws and authorities listed in §50.4 of this title).

§ 35.150. Compliance with other State, tribal, and local laws.

(a) *HUD responsibility.* If HUD determines that a State, tribal or local law, ordinance, code or regulation provides for evaluation or hazard reduction in a manner that provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of subparts B, C, D, F through M and R of this part and that adherence to the requirements of subparts B, C, D, F through M, and R of this part, would be duplicative or otherwise cause inefficiencies, HUD may modify or waive some or all of the requirements of the subparts in a manner that will promote efficiency while ensuring a comparable level of protection.

(b) *Participant responsibility.* Nothing in this part is intended to relieve any participant in a program covered by this subpart of any responsibility for compliance with State, tribal or local laws, ordinances, codes or regulations governing evaluation and hazard reduction. If a State, tribal or local law, ordinance, code or regulation defines lead-based paint differently than the Federal definition, the more protective definition (i.e., the lower level) shall be followed in that State, tribal or local jurisdiction.

§ 35.155. Minimum requirements.

(a) Nothing in subparts B, C, D, F through M, and R of this part is intended to preclude a designated party or occupant from conducting additional evaluation or hazard reduction measures beyond the minimum requirements established for each program in this regulation. For example, if the applicable subpart requires visual assessment, the designated party may choose to perform a risk assessment in accordance with §35.1320. Similarly, if the applicable subpart requires interim controls, a designated party or occupant may choose to implement abatement in accordance with §35.1325.

(b) To the extent that assistance from any of the programs covered by subparts B, C, D, and F through M of this part is used in conjunction with other HUD program assistance, the most protective requirements prevail.

§ 35.160. Waivers.

In accordance with §5.110 of this title, on a case-by-case basis and upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of subparts B, C, D, F through M, and R of this part.

§ 35.165. Prior evaluation or hazard reduction.

If an evaluation or hazard reduction was conducted at a residential property or dwelling unit before the property or dwelling unit became subject to the requirements of subparts B, C, D, F through M, and R of this part, such an evaluation, hazard reduction or abatement meets the requirements of subparts B, C, D, F through M, and R of this part and need not be repeated under the following conditions:

(a) *Lead-based paint inspection.*

(1) A lead-based paint inspection conducted before March 1, 2000, meets the requirements of this part if:

(i) At the time of the inspection the lead-based paint inspector was approved by a State or Indian tribe to perform lead-based paint inspections. It is not necessary that the State or tribal approval program had EPA authorization at the time of the inspection.

(ii) Notwithstanding paragraph (a)(1)(i) of this section, the inspection was conducted and accepted as valid by a housing agency in fulfillment of the lead-based paint inspection requirement of the public and Indian housing program.

(2) A lead-based paint inspection conducted on or after March 1, 2000, must have been conducted by a certified lead-based paint inspector.

(b) *Risk assessment.*

(1) A risk assessment must be no more than 12 months old to be considered current.

(2) A risk assessment conducted before March 1, 2000, meets the requirements of this part if, at the time of the risk assessment, the risk assessor was approved by a state or Indian Tribe to perform risk assessments. It is not necessary that the state or tribal approval program had EPA authorization at the time of the risk assessment.

(3) A risk assessment conducted on or after March 1, 2000, must have been conducted by a certified risk assessor.

(4) Paragraph (b) of this section does not apply in a case where a risk assessment is required in response to the identification of a child with an environmental intervention blood lead level. In such a case, the requirements in the applicable subpart for responding to a child with an environmental intervention blood lead level shall apply.

(c) *Interim controls.* If a residential property is under a program of interim controls and ongoing lead-based paint maintenance and reevaluation activities established pursuant to a risk assessment conducted in accordance with paragraph (b) of this section, the interim controls that have been conducted meet the requirements of this part if clearance was achieved after such controls were implemented. In such a case, the program of interim controls and ongoing activities shall be continued in accordance with the requirements of this part.(d) *Abatement.*

(1) An abatement conducted before March 1, 2000, meets the requirements of this part if:

(i) At the time of the abatement the abatement supervisor was approved by a State or Indian tribe to perform lead-based paint abatement. It is not necessary that the State or tribal approval program had EPA authorization at the time of the abatement.

(ii) Notwithstanding paragraph (d)(1)(i) of this section, it was conducted and accepted by a housing agency in fulfillment of the lead-based paint abatement requirement of the public housing program or by an Indian housing authority (as formerly defined under the U.S. Housing Act of 1937) in fulfillment of the lead-based paint requirement of the Indian housing program formerly funded under the U.S. Housing Act of 1937.

(2) An abatement conducted on or after March 1, 2000, must have been conducted under the supervision of a certified lead-based paint abatement supervisor.

§ 35.170. Noncompliance with the requirements of subparts B through R of this part.

(a) *Monitoring and enforcement.* A designated party who fails to comply with any requirement of subparts B, C, D, F through M, and R of this part shall be subject to the sanctions available under the relevant Federal housing assistance or ownership program and may be subject to other penalties authorized by law.

(b) A property owner who informs a potential purchaser or occupant of lead-based paint or possible lead-based paint hazards in a residential property or dwelling unit, in accordance with subpart A of this part, is not relieved of the requirements to evaluate and reduce lead-based paint hazards in accordance with subparts B through R of this part as applicable.

§ 35.175. Records.

The designated party, as specified in subparts C, D, and F through M of this part, shall keep a copy of each notice, evaluation, and clearance or abatement report required by subparts C, D, and F through M of this part for at least three years. Those records applicable to a portion of a residential property for which ongoing lead-based paint maintenance and/or reevaluation activities are required shall be kept and made available for the Department's review, until at least three years after such activities are no longer required.

Subpart C—. Disposition of Residential Property Owned by a Federal Agency Other Than HUD

§ 35.200. Purpose and applicability.

The purpose of this subpart C is to establish procedures to eliminate as far as practicable lead-based paint hazards prior to the sale of a residential property that is owned by a Federal agency other than HUD. The requirements of this subpart apply to any residential property offered for sale on or after September 15, 2000.

§ 35.205. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.210. Disposition of residential property constructed before 1960.

(a) *Evaluation.* The Federal agency shall conduct a risk assessment and a lead-based paint inspection in accordance with 40 CFR 745.227 before the closing of the sale.

(b) *Abatement of lead-based paint hazards.* The risk assessment used for the identification of hazards to be abated shall have been performed no more than 12 months before the beginning of the abatement. The Federal agency shall abate all identified lead-based paint hazards in accordance with 40 CFR 745.227. Abatement is completed when clearance is achieved in accordance with 40 CFR 745.227. Where abatement of lead-based paint hazards is not completed before the closing of the sale, the Federal agency shall be responsible for assuring that abatement is carried out by the purchaser before occupancy of the property as target housing and in accordance with 40 CFR 745.227.

§ 35.215. Disposition of residential property constructed after 1959 and before 1978.

The Federal agency shall conduct a risk assessment and a lead-based paint inspection in accordance with 40 CFR 745.227. Evaluation shall be completed before closing of the sale according to a schedule determined by the Federal agency. The results of the risk assessment and lead-based paint inspection shall be made available to prospective purchasers as required in subpart A of this part.

Subpart D—. Project-Based Assistance Provided by a Federal Agency Other Than HUD

§ 35.300. Purpose and applicability.

The purpose of this subpart D is to establish procedures to eliminate as far as practicable lead-based paint hazards in a residential property that receives more than $5,000 annually per project in project-based assistance on or after September 15, 2000, under a program administered by a Federal agency other than HUD.

§ 35.305. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.310. Notices and pamphlet.

(a) *Notice.* A notice of evaluation or hazard reduction shall be provided to the occupants in accordance with §35.125.

(b) *Lead hazard information pamphlet.* The owner shall provide the lead hazard information pamphlet in accordance with §35.130.

§ 35.315. Risk assessment.

Each owner shall complete a risk assessment in accordance with 40 CFR 745.227(d). Each risk assessment shall be completed in accordance with the schedule established by the Federal agency.

§ 35.320. Hazard reduction.

Each owner shall conduct interim controls consistent with the findings of the risk assessment report. Hazard reduction shall be conducted in accordance with subpart R of this part.

§ 35.325. Child with an environmental intervention blood lead level.

If a child less than 6 years of age living in a federally assisted dwelling unit has an environmental intervention blood lead level, the owner shall immediately conduct a risk assessment in accordance with 40 CFR 745.227(d). Interim controls of identified lead-based paint hazards shall be conducted in accordance with §35.1330. Interim controls are complete when clearance is achieved in accordance with §35.1340. The Federal agency shall establish a timetable for completing risk assessments and hazard reduction when an environmental intervention blood lead level child is identified.

Subpart E. [Reserved]

Subpart F—. HUD-Owned Single Family Property

§ 35.500. Purpose and applicability.

The purpose of this subpart F is to establish procedures to eliminate as far as practicable lead-based paint hazards in HUD-owned single family properties that have been built before 1978 and are sold with mortgages insured under a program administered by HUD. The requirements of this subpart apply to any such residential properties offered for sale on or after September 15, 2000.

§ 35.505. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.510. Required procedures.

(a) The following activities shall be conducted for all properties to which this subpart is applicable:

(1) A visual assessment of all painted surfaces in order to identify deteriorated paint;

(2) Paint stabilization of all deteriorated paint in accordance with §35.1330(a) and (b); and

(3) Clearance in accordance with §35.1340.

(b) Occupancy shall not be permitted until all required paint stabilization is complete and clearance is achieved.

(c) If paint stabilization and clearance are not completed before the closing of the sale, the Department shall assure that paint stabilization and clearance are carried out pursuant to subpart R of this part by the purchaser before occupancy.

Subpart G—. Multifamily Mortgage Insurance

§ 35.600. Purpose and applicability.

The purpose of this subpart G is to establish procedures to eliminate as far as practicable lead-based paint hazards in a multifamily residential property for which HUD is the owner of the mortgage or the owner receives mortgage insurance, under a program administered by HUD.

§ 35.605. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.610. Exemption.

An application for insurance in connection with a refinancing transaction where an appraisal is not required under the applicable procedures established by HUD is excluded from the coverage of this subpart.

§ 35.615. Notices and pamphlet.

(a) *Notice.* If evaluation or hazard reduction is undertaken, the sponsor shall provide a notice to occupants in accordance with §35.125. A visual assessment alone is not considered an evaluation for the purposes of this part.

(b) *Lead hazard information pamphlet.* The sponsor shall provide the lead hazard information pamphlet in accordance with §35.130.

§ 35.620. Multifamily insured property constructed before 1960.

Except as provided in §35.630, the following requirements apply to multifamily insured property constructed before 1960:

(a) *Risk assessment.* Before the issuance of a firm commitment the sponsor shall conduct a risk assessment in accordance with §35.1320(b).(b) *Interim controls.*

(1) The sponsor shall conduct interim controls in accordance with §35.1330 to treat the lead-based paint hazards identified in the risk assessment. Interim controls are considered completed when clearance is achieved in accordance with §35.1340.

(2) The sponsor shall complete interim controls before the issuance of the firm commitment or interim controls may be made a condition of the Federal Housing Administration (FHA) firm commitment, with sufficient repair or rehabilitation funds escrowed at initial endorsement of the FHA insured loan.

(c) *Ongoing lead-based paint maintenance activities.* Before the issuance of the firm commitment, the sponsor shall agree to incorporate ongoing lead-based paint maintenance into regular building operations and maintenance activities in accordance with §35.1355(a).

§ 35.625. Multifamily insured property constructed after 1959 and before 1978.

Except as provided in §35.630, before the issuance of the firm commitment, the sponsor shall agree to incorporate ongoing lead-based paint maintenance practices into regular building operations, in accordance with §35.1355(a).

§ 35.630. Conversions and major rehabilitations.

The procedures and requirements of this section apply when a nonresidential property constructed before 1978 is to be converted to residential use, or a residential property constructed before 1978 is to undergo rehabilitation that is estimated to cost more than 50 percent of the estimated replacement cost after rehabilitation.

(a) *Lead-based paint inspection.* Before issuance of a firm FHA commitment, the sponsor shall conduct a lead-based paint inspection in accordance with §35.1320(a).

(b) *Abatement.* Prior to occupancy, the sponsor shall conduct abatement of all lead-based paint on the property in accordance with §35.1325. Whenever practicable, abatement shall be achieved through the methods of paint removal or component replacement. If paint removal or component replacement are not practicable, that is if such methods would damage substrate material considered architecturally significant, permanent encapsulation or enclosure may be used as methods of abatement. Abatement is considered complete when clearance is achieved in accordance with §35.1340. If encapsulation or enclosure is used, the sponsor shall incorporate ongoing lead-based paint maintenance into regular building operations maintenance activities in accordance with §35.1355.

(c) *Historic properties.* Section 35.115(a)(13) applies to this section.

Subpart H—. Project-Based Assistance

§ 35.700. Purpose and applicability.

(a) This subpart H establishes procedures to eliminate as far as practicable lead-based paint hazards in residential properties receiving project-based assistance under a HUD program. The requirements of this subpart apply

only to the assisted dwelling units in a covered property and any common areas servicing those dwelling units. This subpart does not apply to housing receiving rehabilitation assistance or to public housing, which are covered by subparts J and M of this part, respectively.

(b) For the purposes of competitively awarded grants under the Housing Opportunities for Persons with AIDS Program (HOPWA), the Supportive Housing Program (42 U.S.C. 11381 to 11389) and the Shelter Plus Care Program project-based rental assistance and sponsor-based rental assistance components (42 U.S.C. 11402 to 11407), the requirements of this subpart shall apply to grants awarded pursuant to Notices of Funding Availability published on or after October 1, 1999. For the purposes of formula grants awarded under the Housing Opportunities for Persons with AIDS Program (HOPWA) (42 U.S.C. 12901 et seq.), the requirements of this subpart shall apply to activities for which program funds are first obligated on or after September 15, 2000.

§ 35.705. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.710. Notices and pamphlet.

(a) *Notice.* If evaluation or hazard reduction is undertaken, each owner shall provide a notice to occupants in accordance with §35.125. A visual assessment alone is not considered an evaluation for the purposes of this part.

(b) *Lead hazard information pamphlet.* The owner shall provide the lead hazard information pamphlet in accordance with §35.130.

§ 35.715. Multifamily properties receiving more than $5,000 per unit.

The requirements of this section shall apply to a multifamily residential property that is receiving an average of more than $5,000 per assisted dwelling unit annually in project-based assistance.

(a) *Risk assessment.* Each owner shall complete a risk assessment in accordance with §35.1320(b). A risk assessment is considered complete when the owner receives the risk assessment report. Until the owner conducts a risk assessment as required by this section, the requirements of paragraph (d) of this section shall apply. After the risk assessment has been conducted the requirements of paragraphs (b) and (c) of this section shall apply. Each risk assessment shall be completed no later than the following schedule or a schedule otherwise determined by HUD:

(1) Risk assessments shall be completed on or before September 17, 2001, in a multifamily residential property constructed before 1960.

(2) Risk assessments shall be completed on or before September 15, 2003, in a multifamily residential property constructed after 1959 and before 1978.

(b) *Interim controls.* Each owner shall conduct interim controls in accordance with §35.1330 to treat the lead-based paint hazards identified in the risk assessment. Interim controls are considered completed when clearance is achieved in accordance with §35.1340. Interim controls shall be completed no later than the following schedule:

(1) In units occupied by families with children of less than 6 years of age and in common areas servicing those units, interim controls shall be completed no later than 90 days after the completion of the risk assessment. In units in which a child of less than 6 years of age moves in after the completion of the risk assessment, interim controls shall be completed no later than 90 days after the move-in.

(2) In all other dwelling units, common areas, and the remaining portions of the residential property, interim controls shall be completed no later than 12 months after completion of the risk assessment for those units.

(c) *Ongoing lead-based paint maintenance and reevaluation activities.* Effective immediately after completion of the risk assessment required in §35.715(a), the owner shall incorporate ongoing lead-based paint maintenance and reevaluation into the regular building operations in accordance with §35.1355, unless all lead-based paint has been removed. If the reevaluation identifies new lead-based paint hazards, the owner shall conduct interim controls in accordance with §35.1330.(d) *Transitional requirements.—*

(1) *Effective date.* The requirements of this paragraph shall apply effective September 15, 2000, and continuing until the applicable date specified in §35.715(a) (1) or (2) or until the owner conducts a risk assessment, whichever is first.

(2) Definitions and other general requirements that apply to this paragraph are found in subpart B of this part.

(3) *Ongoing lead-based paint maintenance.* The owner shall incorporate ongoing lead-based paint maintenance activities into regular building operations, in accordance with §35.1355(a), except that clearance is not required.

(4) *Child with an environmental intervention blood lead level.* If a child of less than 6 years of age living in a dwelling unit covered by this paragraph has an environmental intervention blood lead level, the owner shall comply with the requirements of §35.730.

§ 35.720. Multifamily properties receiving up to $5,000 per unit, and single family properties.

Effective September 15, 2000, the requirements of this section shall apply to a multifamily residential property that is receiving an average of up to and including $5,000 per assisted dwelling unit annually in project-based assistance and to a single family residential property that is receiving project-based assistance through the Section 8 Moderate Rehabilitation program, the Project-Based Certificate program, or any other HUD program providing project-based assistance.(a) *Activities at initial and periodic inspection.—*

(1) *Visual assessment.* During the initial and periodic inspections, an inspector trained in visual assessment for deteriorated paint surfaces in accordance with procedures established by HUD shall conduct a visual assessment of all painted surfaces in order to identify any deteriorated paint.

(2) *Paint stabilization.* The owner shall stabilize each deteriorated paint surface in accordance with §35.1330(a) and §35.1330(b) before occupancy of a vacant dwelling unit or, where a unit is occupied, within 30 days of notification of the results of the visual assessment. Paint stabilization is considered complete when clearance is achieved in accordance with §35.1340.

(3) *Notice.* The owner shall provide a notice to occupants in accordance with §35.125(b) (1) and (c) describing the results of the clearance examination.

(b) *Ongoing lead-based paint maintenance activities.* The owner shall incorporate ongoing lead-based paint maintenance activities into regular building operations in accordance with §35.1355(a), unless all lead-based paint has been removed.

(c) *Child with an environmental intervention blood lead level.* If a child of less than 6 years of age living in a dwelling unit covered by this section has an environmental intervention blood lead level, the owner shall comply with the requirements of §35.730.

§ 35.725. Section 8 Rent adjustments.

HUD may, subject to the availability of appropriations for Section 8 contract amendments, on a project by project basis for projects receiving Section 8 project based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluation for and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

§ 35.730. Child with an environmental intervention blood lead level.

(a) *Risk assessment.* Within 15 days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit to which this subpart applies has been identified as having an environmental intervention blood lead level, the owner shall complete a risk assessment of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. The risk assessment shall be conducted in accordance with 35.1320(b) and is considered complete when the owner receives the risk assessment report. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when the owner receives the notification of the environmental intervention blood lead level. The requirements of this paragraph (a) shall not apply if the owner conducted a risk assessment of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the owner received the notification of the environmental intervention blood lead level. If a public health department has already conducted an evaluation of the dwelling unit, the requirements of this paragraph shall not apply.

(b) *Verification.* After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit covered by this subpart may have an environmental intervention blood lead level, the owner shall immediately verify the information with the public health department or other medical health care provider. If that department or provider verifies that the child has an environmental intervention blood lead level, such verification shall constitute notification, and the owner shall take the action required in paragraphs (a) and (c) of this section.

(c) *Hazard reduction.* Within 30 days after receiving the report of the risk assessment conducted pursuant to paragraph (a) of this section or the evaluation from the public health department, the owner shall complete the reduction of identified lead-based paint hazards in accordance with §35.1325 or §35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with §35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement or the public health department certifies that the lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if the owner, between the

date the child's blood was last sampled and the date the owner received the notification of the environmental intervention blood lead level, already conducted a risk assessment of the unit and common areas servicing the unit and completed reduction of identified lead-based paint hazards.

(d) *Notice.* If evaluation or hazard reduction is undertaken, each owner shall provide a notice to occupants in accordance with §35.125.

(e) *Reporting requirement.* The owner shall report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 working days of being so notified by any other medical health care professional.

Subpart I—. HUD-Owned and Mortgagee-in-Possession Multifamily Property

§ 35.800. Purpose and applicability.

The purpose of this subpart I is to establish procedures to eliminate as far as practicable lead-based paint hazards in a HUD-owned multifamily residential property or a multifamily residential property for which HUD is identified as 5350mortgagee-in-possession. The requirements of this subpart apply to any such property that is offered for sale or held or managed on or after September 15, 2000.

§ 35.805. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.810. Notices and pamphlet.

(a) *Notices.* When evaluation or hazard reduction is undertaken, the Department shall provide a notice to occupants in accordance with §35.125. A visual assessment alone is not considered an evaluation for the purposes of this part.

(b) *Lead hazard information pamphlet.* HUD shall provide the lead hazard information pamphlet in accordance with §35.130.

§ 35.815. Evaluation.

HUD shall conduct a risk assessment and a lead-based paint inspection in accordance with §35.1320(a) and (b). For properties to which this subpart applies on September 15, 2000, the lead-based paint inspection and risk assessment shall be conducted no later than December 15, 2000, or before publicly advertising the property for sale, whichever is sooner. For properties to which this subpart becomes applicable after September 15, 2000, the lead-based paint inspection and risk assessment shall be conducted no later than 90 days after this subpart becomes applicable or before publicly advertising the property for sale, whichever is sooner.

§ 35.820. Interim controls.

HUD shall conduct interim controls in accordance with §35.1330 to treat the lead-based paint hazards identified in the evaluation conducted in accordance with §35.815. Interim controls are considered completed when clearance is achieved in accordance with §35.1340. Interim controls of all lead-based paint hazards shall be completed no later than the following schedule:

(a) In units occupied by families with children of less than 6 years of age and in common areas servicing those units, interim controls shall be completed no later than 90 days after the completion of the risk assessment. In units in which a child of less than 6 years of age moves in after the completion of the risk assessment, interim controls shall be completed no later than 90 days after the move-in.

(b) In all other dwelling units, common areas, and the remaining portions of the residential property, interim controls shall be completed no later than 12 months after completion of the risk assessment for those units.

(c) If conveyance of the title by HUD at a sale of a HUD-owned property or a foreclosure sale caused by HUD when HUD is mortgagee-in-possession occurs before the schedule in paragraphs (a) and (b) of this section, HUD shall complete interim controls before conveyance or foreclosure, or HUD shall be responsible for assuring that interim controls are carried out by the purchaser. If interim controls are made a condition of sale, such controls shall be completed according to the following schedule:

(1) In units occupied by families with children of less than 6 years of age and in common areas servicing those units, interim controls shall be completed no later than 90 days after the date of the closing of the sale. In units in which a child of less than 6 years of age moves in after the closing of the sale, interim controls shall be completed no later than 90 days after the move-in.

(2) In all other dwelling units, in common areas servicing those units, and in the remaining portions of the residential property, interim controls shall be completed no later than 180 days after the closing of the sale.

§ 35.825. Ongoing lead-based paint maintenance and reevaluation.

HUD shall incorporate ongoing lead-based paint maintenance and reevaluation, in accordance with §35.1355, into regular building operations if HUD retains ownership of the residential property for more than 12 months.

§ 35.830. Child with an environmental intervention blood lead level.

(a) *Risk assessment.* Within 15 days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a multifamily dwelling unit owned by HUD (or where HUD is mortgagee-in-possession) has been identified as having an environmental intervention blood lead level, HUD shall complete a risk assessment of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. The risk assessment shall be conducted in accordance with §35.1320(b) and is considered complete when HUD receives the risk assessment report. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when HUD receives the notification of the environmental intervention blood lead level. The requirements of this paragraph do not apply if HUD conducted a risk assessment of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when HUD received the notification of the environmental intervention blood lead level. If a public health department has already conducted an evaluation of the dwelling unit, the requirements of this paragraph shall not apply.

(b) *Verification.* After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a multifamily dwelling unit owned by HUD (or where HUD is mortgagee-in-possession) may have an environmental intervention blood lead level, HUD shall immediately verify the information with the public health department or other medical health care provider. If that department or provider verifies that the child has an environmental intervention blood lead level, such verification shall constitute notification, and HUD shall take the action required in paragraphs (a) and (c) of this section.

(c) *Hazard reduction.* Within 30 days after receiving the report of the risk assessment conducted pursuant to paragraph (a) of this section or the evaluation from the public health department, HUD shall complete the reduction of lead-based paint hazards identified in the risk assessment in accordance with §35.1325 or §35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with §35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement or the public health department certifies that the lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if HUD, between the date the child's blood was last sampled and the date HUD received the notification of the environmental intervention blood lead level, conducted a risk assessment of the unit and common areas servicing the unit and completed reduction of identified lead-based paint hazards.

(d) *Reporting requirement.* HUD shall report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 working days of being so notified by any other health professional.

(e) *Closing.* If the closing of a sale is scheduled during the period when HUD is responding to a case of a child with an environmental intervention blood lead level, HUD may arrange for the completion of the procedures required by §35.830(a) to (d) by the purchaser within a reasonable period of time.

(f) *Extensions.* The Assistant Secretary for Housing-Federal Housing Commissioner or designee may consider and approve a request for an extension of deadlines established by this section for a lead-based paint inspection, risk assessment, hazard reduction, and reporting. Such a request may be considered, however, only during the first six months during which HUD is owner or mortgagee-in-possession of a multifamily property.

Subpart J—. Rehabilitation

§ 35.900. Purpose and applicability.(a) *Purpose and applicability.*

(1) The purpose of this subpart J is to establish procedures to eliminate as far as practicable lead-based paint hazards in a residential property that receives Federal rehabilitation assistance under a program administered by HUD. Rehabilitation assistance does not include project-based rental assistance, rehabilitation mortgage insurance or assistance to public housing.

(2) The requirements of this subpart shall not apply to HOME funds which are committed to a specific project in accordance with §92.2 of this title before September 15, 2000. Such projects shall be subject to the requirements of §92.355 of this title that were in effect at the time of project commitment or the requirements of this subpart.

(3) For the purposes of the Indian Housing Block Grant program and the CDBG Entitlement program, the requirements of this subpart shall apply to all residential rehabilitation activities (except those otherwise exempted) for which funds are first obligated on or after September 15, 2000. For the purposes of the State, HUD-Administered Small Cities, and Insular Areas CDBG programs, the requirements of this subpart shall apply to all covered activities (except those otherwise exempted) for which grant funding is awarded to the unit of local government by the State or HUD, as applicable, on or after September 15, 2000. For the purposes of the Emergency Shelter Grant Program (42 U.S.C. 11371 to 11378) and the formula grants awarded under the

Housing Opportunities for Persons with AIDS Program (HOPWA) (42 U.S.C. 12901 et. seq.), the requirements of this subpart shall apply to activities for which program funds are first obligated on or after September 15, 2000.

(4) For the purposes of competitively awarded grants under the HOPWA Program and the Supportive Housing Program (42 U.S.C. 11481 to 11389), the requirements of this subpart shall apply to grants awarded under Notices of Funding Availability published on or after September 15, 2000.

(5) For the purposes of the Indian CDBG program (§1003.607 of this title), the requirements of this subpart shall not apply to funds whose notice of funding availability is announced or funding letter is sent before September 15, 2000. Such project grantees shall be subject to the regulations in effect at the time of announcement or funding letter.

(b) The grantee or participating jurisdiction may assign to a sub-recipient or other entity the responsibilities set forth in this subpart.

§ 35.905. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.910. Notices and pamphlet.

(a) *Notices.* In cases where evaluation or hazard reduction or both are undertaken as part of federally funded rehabilitation, the grantee or participating jurisdiction shall provide a notice to occupants in accordance with §35.125. A visual assessment alone is not considered an evaluation for the purposes of this part.

(b) *Lead hazard information pamphlet.* The grantee or participating jurisdiction shall provide the lead hazard information pamphlet in accordance with §35.130.

§ 35.915. Calculating Federal rehabilitation assistance.

(a) *Applicability.* This section applies to recipients of Federal rehabilitation assistance.(b) *Rehabilitation assistance.*

(1) Lead-based paint requirements for rehabilitation fall into three categories that depend on the amount of Federal rehabilitation assistance provided. The three categories are:

(i) Assistance of up to and including $5,000 per unit;

(ii) Assistance of more than $5,000 per unit up to and including $25,000 per unit; and

(iii) Assistance of more than $25,000 per unit.

(2) For purposes of implementing §§35.930 and 35.935, the amount of rehabilitation assistance is the lesser of two amounts: the average Federal assistance per assisted dwelling unit and the average per unit hard costs of rehabilitation. Federal assistance includes all Federal funds assisting the project, regardless of the use of the funds. Federal funds being used for acquisition of the property are to be included as well as funds for construction, permits, fees, and other project costs. The hard costs of rehabilitation include all hard costs, regardless of source, except that the costs of lead-based paint hazard evaluation and hazard reduction activities are not to be included. Costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to compliance with the requirements of this part are not to be included in the hard costs of rehabilitation. All other hard costs are to be included, regardless of whether the source of funds is Federal or non-Federal, public or private.

(c) *Calculating rehabilitation assistance in properties with both assisted and unassisted dwelling units.* For a residential property that includes both federally assisted and non-assisted units, the rehabilitation costs and Federal assistance associated with non-assisted units are not included in the calculations of the average per unit hard costs of rehabilitation and the average Federal assistance per unit.

(1) The average per unit hard costs of rehabilitation for the assisted units is calculated using the following formula:Per Unit Hard Costs of Rehabilitation $ = (a/c) + (b/d)Where:a =Rehabilitation hard costs for all assisted units (not including common areas and exterior surfaces)b =Rehabilitation hard costs for common areas and exterior painted surfacesc =Number of federally assisted unitsd =Total number of units

(2) The average Federal assistance per assisted dwelling unit is calculated using the following formula:Per unit Federal assistance = e/cWhere:e =Total Federal assistance for the projectc =Number of federally assisted units

§ 35.920.

§ 35.925. Examples of determining applicable requirements.

The following examples illustrate how to determine whether the requirements of §35.930(b), (c), or (d) apply to a dwelling unit receiving Federal rehabilitation assistance (dollar amounts are on a per unit basis):

(a) If the total amount of Federal assistance for a dwelling is $2,000, and the hard costs of rehabilitation are $10,000, the lead-based paint requirements would be those described in §35.930(b), because Federal rehabilitation assistance is up to and including $5,000.

(b) If the total amount of Federal assistance for a dwelling unit is $6,000, and the hard costs of rehabilitation are $2,000, the lead-based paint requirements would be those described in §35.930(b). Although the total amount of Federal dollars is more than $5,000, only the $2,000 of that total can be applied to rehabilitation. Therefore, the Federal rehabilitation assistance is $2,000 which is not more than $5,000.

(c) If the total amount of Federal assistance for a unit is $6,000, and the hard costs of rehabilitation are $6,000, the lead-based paint requirements are those described in §35.930(c), because the amount of Federal rehabilitation assistance is more than $5,000 but not more than $25,000.

(d) If eight dwelling units in a residential property receive Federal rehabilitation assistance [symbol c in §35.915(c)(2)] out of a total of 10 dwelling units [d], the total Federal assistance for the rehabilitation project is $300,000 [e], the total hard costs of rehabilitation for the dwelling units are $160,000 [a], and the total hard costs of rehabilitation for the common areas and exterior surfaces are $20,000 [b], then the lead-based paint requirements would be those described in §35.930(c), because the level of Federal rehabilitation assistance is $22,000, which is not greater than $25,000. This is calculated as follows: The total Federal assistance per assisted unit is $37,500 (e/c = $300,000/8), the per unit hard costs of rehabilitation is $22,000 (a/ c + b/d = $160,000/8 + $20,000/10), and the level of Federal rehabilitation assistance is the lesser of $37,500 and $22,000.

§ 35.930. Evaluation and hazard reduction requirements.

(a) *Paint testing.* The grantee or participating jurisdiction shall either perform paint testing on the painted surfaces to be disturbed or replaced during rehabilitation activities, or presume that all these painted surfaces are coated with lead-based paint.

(b) *Residential property receiving an average of up to and including $5,000 per unit in Federal rehabilitation assistance.* Each grantee or participating jurisdiction shall:

(1) Conduct paint testing or presume the presence of lead-based paint, in accordance with paragraph (a) of this section. If paint testing indicates that the painted surfaces are not coated with lead-based paint, safe work practices and clearance are not required.

(2) Implement safe work practices during rehabilitation work in accordance with §35.1350 and repair any paint that is disturbed.

(3) After completion of any rehabilitation disturbing painted surfaces, perform a clearance examination of the worksite(s) in accordance with §35.1340. Clearance is not required if rehabilitation did not disturb painted surfaces of a total area more than that set forth in §35.1350(d).

(c) *Residential property receiving an average of more than $5,000 and up to and including $25,000 per unit in Federal rehabilitation assistance.* Each grantee or participating jurisdiction shall:

(1) Conduct paint testing or presume the presence of lead-based paint, in accordance with paragraph (a) of this section.

(2) Perform a risk assessment in the dwelling units receiving Federal assistance, in common areas servicing those units, and exterior painted surfaces, in accordance with §35.1320(b), before rehabilitation begins.

(3) Perform interim controls in accordance with §35.1330 of all lead-based paint hazards identified pursuant to paragraphs (c)(1) and (c)(2) of this section.

(4) Implement safe work practices during rehabilitation work in accordance with §35.1350 and repair any paint that is disturbed and is known or presumed to be lead-based paint.

(d) *Residential property receiving an average of more than $25,000 per unit in Federal rehabilitation assistance.* Each grantee or participating jurisdiction shall:

(1) Conduct paint testing or presume the presence of lead-based paint in accordance with paragraph (a) of this section.

(2) Perform a risk assessment in the dwelling units receiving Federal assistance and in associated common areas and exterior painted surfaces in accordance with §35.1320(b) before rehabilitation begins.

(3) Abate all lead-based paint hazards identified by the paint testing or risk assessment conducted pursuant to paragraphs (d)(1) and (d)(2) of this section, in accordance with §35.1325, except that interim controls are acceptable on exterior surfaces that are not disturbed by rehabilitation and on paint-lead hazards that have an area smaller than the *de minimis* limits of §35.1350(d). If abatement of a paint lead hazard is required, it is necessary to abate only the surface area with hazardous conditions.

(4) Implement safe work practices during rehabilitation work in accordance with §35.1350 and repair any paint that is disturbed and is known or presumed to be lead-based paint.

§ 35.935. Ongoing lead-based paint maintenance activities.

In the case of a rental property receiving Federal rehabilitation assistance under the HOME program, the grantee or participating jurisdiction shall require the property owner to incorporate ongoing lead-based paint maintenance activities in regular building operations, in accordance with §35.1355(a).

§ 35.940. Special requirements for insular areas.

If a dwelling unit receiving Federal assistance under a program covered by this subpart is located in an insular area, the requirements of this section shall apply and the requirements of §35.930 shall not apply. All other sections of this subpart J shall apply. The insular area shall conduct the following activities for the dwelling unit, common areas servicing the dwelling unit, and the exterior surfaces of the building in which the dwelling unit is located:(a) *Residential property receiving an average of up to and including $5,000 per unit in Federal rehabilitation assistance.*

(1) Implement safe work practices during rehabilitation work in accordance with §35.1350 and repair any paint that is disturbed by rehabilitation.

(2) After completion of any rehabilitation disturbing painted surfaces, perform a clearance examination of the worksite(s) in accordance with §35.1340. Clearance shall be achieved before residents are allowed to occupy the worksite(s). Clearance is not required if rehabilitation did not disturb painted surfaces of a total area more than that set forth in §35.1350(b).(b) *Residential property receiving an average of more than $5,000 per unit in Federal rehabilitation assistance.*

(1) Before beginning rehabilitation, perform a visual assessment of all painted surfaces in order to identify deteriorated paint.

(2) Perform paint stabilization of each deteriorated paint surface and each painted surface being disturbed by rehabilitation, in accordance with §35.1330(a) and (b).

(3) After completion of all paint stabilization, perform a clearance examination of the affected dwelling units and common areas in accordance with §35.1340. Clearance shall be achieved before residents are allowed to occupy rooms or spaces in which paint stabilization has been performed.

Subpart K—. Acquisition, Leasing, Support Services, or Operation.

§ 35.1000. Purpose and applicability.

(a) The purpose of this subpart K is to establish procedures to eliminate as far as practicable lead-based paint hazards in a residential property that receives Federal assistance under certain HUD programs for acquisition, leasing, support services, or operation. Acquisition, leasing, support services, and operation do not include mortgage insurance, sale of federally owned housing, project-based or tenant based rental assistance, rehabilitation assistance, or assistance to public housing. For requirements pertaining to those activities or types of assistance, see the applicable subpart of this part.

(b) The grantee or participating jurisdiction may assign to a sub-recipient or other entity the responsibilities set forth in this subpart.(c)

(1) The requirements of this subpart shall not apply to HOME funds which are committed to a specific project in accordance with §92.2 of this title before September 15, 2000. Such projects shall be subject to the requirements of §92.355 of this title that were in effect at the time of project commitment, or the requirements of this subpart.

(2) For the purposes of the CDBG Entitlement program and the Indian Housing Block Grant program, the requirements of this subpart shall apply to activities (except those otherwise exempted) for which funds are first obligated on or after September 15, 2000. For the purposes of the State, HUD-Administered Small Cities, and Insular Areas CDBG programs, the requirements of this subpart shall apply to all covered activities (except those otherwise exempted) for which grant funding is awarded to the unit of local government by the State or HUD, as applicable, on or after September 15, 2000. For the purposes of the Emergency Shelter Grant Program (42 U.S.C. 11371 to 11378) and the formula grants awarded under the Housing Opportunities for Persons with AIDS Program (HOPWA) (42 U.S.C. 12901 et. seq.), the requirements of this subpart shall apply to activities for which program funds are first obligated on or after September 15, 2000.

(3) For the purposes of competitively awarded grants under the HOPWA Program and the Supportive Housing Program (42 U.S.C. 11481 to 11389), the requirements of this subpart shall apply to grants awarded under Notices of Funding Availability published on or after September 15, 2000.

(4) For the purposes of the Indian CDBG program (§1003.607 of this title), the requirements of this subpart shall not apply to funds whose notice of funding availability is announced or funding letter is sent before September 15, 2000. Such project grantees shall be subject to the regulations in effect at the time of announcement or funding letter.

§ 35.1005. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.1010. Notices and pamphlet

(a) *Notice.* In cases where evaluation or hazard reduction, including paint stabilization, is undertaken, each grantee or participating jurisdiction shall provide a notice to residents in accordance with §35.125. A visual assessment is not considered an evaluation for purposes of this part.

(b) *Lead hazard information pamphlet.* The grantee or participating jurisdiction shall provide the lead hazard information pamphlet in accordance with §35.130.

§ 35.1015. Visual assessment, paint stabilization, and maintenance.

If a dwelling unit receives Federal assistance under a program covered by this subpart, each grantee or participating jurisdiction shall conduct the following activities for the dwelling unit, common areas servicing the dwelling unit, and the exterior surfaces of the building in which the dwelling unit is located:

(a) A visual assessment of all painted surfaces in order to identify deteriorated paint;

(b) Paint stabilization of each deteriorated paint surface, and clearance, in accordance with §35.1330(a) and (b), before occupancy of a vacant dwelling unit or, where a unit is occupied, immediately after receipt of Federal assistance; and

(c) The grantee or participating jurisdiction shall require the incorporation of ongoing lead-based paint maintenance activities into regular building operations, in accordance with §35.1355(a), if the dwelling unit has a continuing, active financial relationship with a Federal housing assistance program, except that mortgage insurance or loan guarantees are not considered to constitute an active programmatic relationship for the purposes of this part.

(d) The grantee or participating jurisdiction shall provide a notice to occupants in accordance with §35.125(b)(1) and (c), describing the results of the clearance examination.

§ 35.1020. Funding for evaluation and hazard reduction.

The grantee or participating jurisdiction shall determine whether the cost of evaluation and hazard reduction is to be borne by the owner/developer, the grantee or a combination of the owner/developer and the grantee, based on program requirements and local program design.

Subpart L—. Public Housing Programs

§ 35.1100. Purpose and applicability.

The purpose of this subpart L is to establish procedures to eliminate as far as practicable lead-based paint hazards in residential property assisted under the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.) but not including housing assisted under section 8 of the 1937 Act.

§ 35.1105. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.1110. Notices and pamphlet.

(a) *Notice.* In cases where evaluation or hazard reduction is undertaken, each public housing agency (PHA) shall provide a notice to residents in accordance with §35.125. A visual assessment alone is not considered an evaluation for purposes of this part.

(b) *Lead hazard information pamphlet.* The PHA shall provide the lead hazard information pamphlet in accordance with §35.130.

§ 35.1115. Evaluation.

(a) A lead-based paint inspection shall be conducted in all public housing unless a lead-based paint inspection that meets the conditions of §35.165(a) has already been completed. If a lead-based paint inspection was conducted by a lead-based paint inspector who was not certified, the PHA shall review the quality of the inspection, in accordance with quality control procedures established by HUD, to determine whether the lead-based paint inspection has been properly performed and the results are reliable. Lead-based paint inspections of all housing to which this subpart applies shall be completed no later than September 15, 2000. Revisions or augmentations of prior inspections found to be of insufficient quality shall be completed no later than September 17, 2001.

(b) If a lead-based paint inspection has found the presence of lead-based paint, or if no lead-based paint inspection has been conducted, the PHA shall conduct a risk assessment according to the following schedule, unless a risk assessment that meets the conditions of §35.165(b) has already been completed:

(1) Risk assessments shall be completed on or before March 15, 2001, in a multifamily residential property constructed before 1960.

(2) Risk assessments shall be completed on or before March 15, 2002, in a multifamily residential property constructed after 1959 and before 1978.

(c) A PHA that advertises a construction contract (including architecture/engineering contracts) for bid or award or plans to start force account work shall not execute such contract until a lead-based paint inspection and, if required, a risk assessment, has taken place and any necessary abatement is included in the modernization budget, except for contracts solely for emergency work in accordance with §35.115(a)(9).

(d) The five-year funding request plan for CIAP and CGP shall be amended to include the schedule and funding for lead-based paint activities.

§ 35.1120. Hazard reduction.

(a) Each PHA shall, in accordance with §35.1325, abate all lead-based paint and lead-based paint hazards identified in the evaluations conducted pursuant to §35.1115. The PHA shall abate lead-based paint and lead-based paint hazards in accordance with §35.1325 during the course of physical

improvements conducted under the modernization.

(b) In all housing where abatement of all lead-based paint and lead-based paint hazards required in paragraph (a) of this section has not yet occurred, each PHA shall conduct interim controls, in accordance with §35.1330, of the lead-based paint hazards identified in the most recent risk assessment.

(1) Interim controls of dwelling units in which any child who is less than 6 years of age resides and common areas servicing those dwelling units shall be completed within 90 days of the evaluation under §35.1330. If a unit becomes newly occupied by a family with a child of less than 6 years of age or such child moves into a unit, interim controls shall be completed within 90 days after the new occupancy or move-in if they have not already been completed.

(2) Interim controls in dwelling units not occupied by families with one or more children of less than 6 years of age, common areas servicing those units, and the remaining portions of the residential property shall be completed no later than 12 months after completion of the evaluation conducted under §35.1115.

(c) The PHA shall incorporate ongoing lead-based paint maintenance and reevaluation activities into regular building operations in accordance with §35.1355. In accordance with §35.115(a) (6) and (7), this requirement does not apply to a development or part thereof if it is to be demolished or disposed of in accordance with disposition requirements in part 970 of this title, provided the dwelling unit will remain unoccupied until demolition, or if it is not used and will not be used for human habitation.

§ 35.1125. Evaluation and hazard reduction before acquisition and development.

(a) For each residential property constructed before 1978 and proposed to be acquired for a family project (whether or not it will need rehabilitation) a lead-based paint inspection and risk assessment for lead-based paint hazards shall be conducted in accordance with §35.1320.

(b) If lead-based paint is found in a residential property to be acquired, the cost of evaluation and abatement shall be considered when making the cost comparison to justify new construction, as well as when meeting maximum total development cost limitations.

(c) If lead-based paint is found, compliance with this subpart is required, and abatement of lead-based paint and lead-based paint hazards shall be completed in accordance with §35.1325 before occupancy.

§ 35.1130. Child with an environmental intervention blood lead level.

(a) *Risk assessment.* Within 15 days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a public housing development has been identified as having an environmental intervention blood lead level, the PHA shall complete a risk assessment of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit, the provisions of §35.1115(b) notwithstanding. The risk assessment shall be conducted in accordance with §35.1320(b) and is considered complete when the PHA receives the risk assessment report. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when the PHA receives the notification of the environmental intervention blood lead level. The requirements of this paragraph shall not apply if the PHA conducted a risk assessment of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the PHA received the notification of the environmental intervention blood lead level. If the public health department has already conducted an evaluation of the dwelling unit, the requirements of this paragraph shall not apply.

(b) *Verification.* After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a public housing development may have an environmental intervention blood lead level, the PHA shall immediately verify the information with the public health department or other medical health care provider. If that department or provider verifies that the child has an environmental intervention blood lead level, such verification shall constitute notification, and the housing agency shall take the action required in paragraphs (a) and (c) of this section.

(c) *Hazard reduction.* Within 30 days after receiving the report of the risk assessment conducted pursuant to paragraph (a) of this section or the evaluation from the public health department, the PHA shall complete the reduction of lead-based paint hazards identified in the risk assessment in accordance with §35.1325 or §35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with §35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement or the local or State health department certifies that lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if the PHA, between the date the child's blood was last sampled and the date the owner received the notification of the environmental intervention blood lead level, already conducted a risk assessment of the unit and common areas servicing the unit and completed reduction of identified lead-based paint hazards.

(d) *Notice of evaluation and hazard reduction.* The PHA shall notify building residents of any evaluation or hazard reduction activities in accordance with §35.125.

(e) *Reporting requirement.* The PHA shall report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 working days of being so notified by any other medical health care professional. The PHA shall also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

(f) *Other units in building.* If the risk assessment conducted pursuant to paragraph (a) of this section identifies lead-based paint hazards and previous evaluations of the building conducted pursuant to §35.1320 did not identify lead-based paint or lead-based paint hazards, the PHA shall conduct a risk assessment of other units of the building in accordance with §35.1320(b) and shall conduct interim controls of identified hazards in accordance with the schedule provided in §35.1120(c).

§ 35.1135. Eligible costs.

A PHA may use financial assistance received under the modernization program (CIAP or CGP) for the notice, evaluation and reduction of lead-based paint hazards in accordance with §968.112 of this title. Eligible costs include:

(a) *Evaluation and insurance costs.* Evaluation and hazard reduction activities, and costs for insurance coverage associated with these activities.

(b) *Planning costs.* Planning costs are costs that are incurred before HUD approval of the CGP or CIAP application and that are related to developing the CIAP application or carrying out eligible modernization planning, such as planning for abatement, detailed design work, preparation of solicitations, and evaluation. Planning costs may be funded as a single work item. Planning costs shall not exceed 5 percent of the CIAP funds available to a HUD Field Office in a particular fiscal year.

(c) *Architectural/engineering and consultant fees.* Eligible costs include fees for planning, identification of needs, detailed design work, preparation of construction and bid documents and other required documents, evaluation, planning and design for abatement, and inspection of work in progress.

(d) *Environmental intervention blood lead level response costs.* The PHA may use its operating reserves and, when necessary, may request reimbursement from the current fiscal year CIAP funds, or request the reprogramming of previously approved CIAP funds to cover the costs of evaluation and hazard reduction.

§ 35.1140. Insurance coverage.

For the requirements concerning the obligation of a PHA to obtain reasonable insurance coverage with respect to the hazards associated with evaluation and hazard reduction activities, see §965.215 of this title.

Subpart M—. Tenant-Based Rental Assistance

§ 35.1200. Purpose and applicability.

(a) *Purpose.* The purpose of this subpart M is to establish procedures to eliminate as far as practicable lead-based paint hazards in housing occupied by families receiving tenant-based rental assistance. Such assistance includes tenant-based rental assistance under the Section 8 certificate program, the Section 8 voucher program, the HOME program, the Shelter Plus Care program, the Housing Opportunities for Persons With AIDS (HOPWA) program, and the Indian Housing Block Grant program. Tenant-based rental assistance means rental assistance that is not attached to the structure.(b) *Applicability.*

(1) This subpart applies only to dwelling units occupied or to be occupied by families or households that have one or more children of less than 6 years of age, common areas servicing such dwelling units, and exterior painted surfaces associated with such dwelling units or common areas. Common areas servicing a dwelling unit include those areas through which residents pass to gain access to the unit and other areas frequented by resident children of less than 6 years of age, including on-site play areas and child care facilities.

(2) For the purposes of the Section 8 tenant-based certificate program and the Section 8 voucher program:

(i) The requirements of this subpart are applicable where an initial or periodic inspection occurs on or after September 15, 2000; and

(ii) The PHA shall be the designated party.

(3) For the purposes of formula grants awarded under the Housing Opportunities for Persons with AIDS Program (HOPWA) (42 U.S.C. 12901 et seq.):

(i) The requirements of this subpart shall apply to activities for which program funds are first obligated on or after September 15, 2000; and

(ii) The grantee shall be the designated party.

(4) For the purposes of competitively awarded grants under the HOPWA Program and the Shelter Plus Care program (42 U.S.C. 11402 to 11407) tenant-based rental assistance component:

(i) The requirements of this subpart shall apply to grants

awarded pursuant to Notices of Funding Availability published on or after September 15, 2000; and
(ii) The grantee shall be the designated party.
(5) For the purposes of the HOME program:
(i) The requirements of this subpart shall not apply to funds which are committed in accordance with §92.2 of this title before September 15, 2000; and
(ii) The participating jurisdiction shall be the designated party.
(6) For the purposes of the Indian Housing Block Grant program:
(i) The requirements of this subpart shall apply to activities for which funds are first obligated on or after September 15, 2000; and
(ii) The IHBG recipient shall be the designated party.
(7) The housing agency, grantee, participating jurisdiction, or IHBG recipient may assign to a sub-recipient or other entity the responsibilities of the designated party in this subpart.

§ 35.1205. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.1210. Notices and pamphlet.

(a) *Notice.* In cases where evaluation or paint stabilization is undertaken, the owner shall provide a notice to residents in accordance with §35.125. A visual assessment alone is not considered an evaluation for purposes of this part.
(b) *Lead hazard information pamphlet.* The owner shall provide the lead hazard information pamphlet in accordance with §35.130.

§ 35.1215. Activities at initial and periodic inspection.(a)

(1) During the initial and periodic inspections, an inspector acting on behalf of the designated party and trained in visual assessment for deteriorated paint surfaces in accordance with procedures established by HUD shall conduct a visual assessment of all painted surfaces in order to identify any deteriorated paint.
(2) For tenant-based rental assistance provided under the HOME program, visual assessment shall be conducted as part of the initial and periodic inspections required under §92.209(i) of this title.
(b) The owner shall stabilize each deteriorated paint surface in accordance with §35.1330(a) and (b) before commencement of assisted occupancy. If assisted occupancy has commenced prior to a periodic inspection, such paint stabilization must be completed within 30 days of notification of the owner of the results of the visual assessment. Paint stabilization is considered complete when clearance is achieved in accordance with §35.1340. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of Housing Quality Standards (HQS) until the hazard reduction is completed or the unit is no longer covered by this subpart because the unit is no longer under a housing assistance payment (HAP) contract with the housing agency.
(c) The owner shall provide a notice to occupants in accordance with §35.125(b)(1) and (c) describing the results of the clearance examination.
(d) The designated party may grant the owner an extension of time to complete paint stabilization and clearance for reasonable cause, but such an extension shall not extend beyond 90 days after the date of notification to the owner of the results of the visual assessment.

§ 35.1220. Ongoing lead-based paint maintenance activities.

Notwithstanding the designation of the PHA, grantee, participating jurisdiction, or Indian Housing Block Grant (IHBG) recipient as the designated party for this subpart, the owner shall incorporate ongoing lead-based paint maintenance activities into regular building operations in accordance with §35.1355(a).

§ 35.1225. Child with an environmental intervention blood lead level.

(a) Within 15 days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in an assisted dwelling unit has been identified as having an environmental intervention blood lead level, the designated party shall complete a risk assessment of the dwelling unit in which the child lived at the time the blood was last sampled and of the common areas servicing the dwelling unit. The risk assessment shall be conducted in accordance with §35.1320(b). When the risk assessment is complete, the designated party shall immediately provide the report of the risk assessment to the owner of the dwelling unit. If the child identified as having an environmental intervention blood lead level is no longer living in the unit when the designated party receives notification from the public health department or other medical health care provider, but another household receiving tenantbased rental assistance is living in the unit or is planning to live there, the requirements of this section apply just as they do if the child still lives in the unit. If a public health department has already conducted an evaluation of the dwelling unit, or the designated party conducted a risk assessment of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the designated party received the notification of the environmental intervention blood lead level, the requirements of this paragraph shall not apply.
(b) *Verification.* After receiving information from a source other than a public health department or other medical health care provider that a child of less than 6 years of age living in an assisted dwelling unit may have an environmental intervention blood lead level, the designated party shall immediately verify the information with a public health department or other medical health care provider. If that department or provider verifies that the child has an environmental intervention blood lead level, such verification shall constitute notification to the designated party as provided in paragraph (a) of this section, and the designated party shall take the action required in paragraphs (a) and (c) of this section.
(c) *Hazard reduction.* Within 30 days after receiving the risk assessment report from the designated party or the evaluation from the public health department, the owner shall complete the reduction of identified lead-based paint hazards in accordance with §35.1325 or §35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with §35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement or when the public health department certifies that the lead-based paint hazard reduction is complete. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of Housing Quality Standards (HQS).
(d) *Notice of evaluation and hazard reduction.* The owner shall notify building residents of any evaluation or hazard reduction activities in accordance with §35.125.
(e) *Reporting requirement.* The designated party shall report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 working days of being so notified by any other medical health care professional.
(f) *Data collection and record keeping responsibilities.* At least quarterly, the designated party shall attempt to obtain from the public health department(s) with area(s) of jurisdiction similar to that of the designated party the names and/or addresses of children of less than 6 years of age with an identified environmental intervention blood lead level. At least quarterly, the designated party shall also report an updated list of the addresses of units receiving assistance under a tenant-based rental assistance program to the same public health department(s), except that the report(s) to the public health department(s) is not required if the health department states that it does not wish to receive such report. If it obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the designated party shall match information on cases of environmental intervention blood lead levels with the names and addresses of families receiving tenant-based rental assistance, unless the public health department performs such a matching procedure. If a match occurs, the designated party shall carry out the requirements of this section.

Subparts N-Q—. [Reserved]

Subpart R—. Methods and Standards for Lead-Paint Hazard Evaluation and Hazard Reduction Activities

§ 35.1300. Purpose and applicability.

The purpose of this subpart R is to provide standards and methods for evaluation and hazard reduction activities required in subparts B, C, D, and F through M of this part.

§ 35.1305. Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

§ 35.1310. References.

Further guidance information regarding evaluation and hazard reduction activities described in this subpart is found in the following:
(a) The HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Guidelines);
(b) The EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead Contaminated Soil;
(c) Guidance, methods or protocols issued by States and Indian tribes that have been authorized by EPA under 40 CFR 745.324 to administer and enforce lead-based paint programs.

§ 35.1315. Collection and laboratory analysis of samples.

All paint chip, dust, or soil samples shall be collected and analyzed in accordance with standards established either by a State or Indian tribe under a program authorized by EPA in accordance with 40 CFR part 745, subpart Q, or by the EPA in accordance with 40 CFR 745.227, and as further provided in this subpart.

§ 35.1320. Lead-based paint inspections, paint testing, risk assessments, lead-hazard screens, and reevaluations.

(a) *Lead-based paint inspections and paint testing.* Lead-based paint inspections shall be performed in accordance with methods and standards established either by a State or Tribal program authorized by the EPA under 40 CFR 745.324, or by the EPA at 40 CFR 745.227(b) and (h). Paint testing to determine the presence or absence of lead-based paint on deteriorated paint surfaces or surfaces to be disturbed or replaced shall be performed by a certified lead-based paint inspector or risk assessor.(b) *Risk assessments, lead-hazard screens and reevaluations.*

(1) Risk assessments and lead-hazard screens shall be performed in accordance with methods and standards established either by a state or tribal program authorized by the EPA, or by the EPA at 40 CFR 745.227(c), (d), and (h) and paragraph (b)(2) of this section. Reevaluations shall be performed by a certified risk assessor in accordance with §35.1355(b) and paragraph (b)(2) of this section.

(2) Risk assessors shall use standards for determining dust-lead hazards and soil lead hazards that are at least as protective as those promulgated by the EPA at 40 CFR 745.227(h) or, if such standards are not in effect, the following levels for dust or soil:

(i) *Dust.* A dust-lead hazard is surface dust that contains a mass-per-area concentration (loading) of lead, based on wipe samples, equal to or exceeding the applicable level in the following table:

Dust Lead Standards

	Surface		
Evaluation method	**Floors, g/ft2 (mg/m2)**	**Interior window sills, g/ft2 (mg/m2)**	**Window troughs, g/ft2 (mg/m2)**
Risk Assessment	40 (0.43)	250 (2.7)	Not Applicable.
Lead Hazard Screen	25 (0.27)	125 (1.4)	Not Applicable.
Reevaluation	40 (0.43)	250 (2.7)	Not Applicable.
Clearance	40 (0.43)	250 (2.7)	400 (4.3).

Note 1: "Floors" includes carpeted and uncarpeted interior floors.

Note 2: A dust-lead hazard is present or clearance fails when the weighted arithmetic mean lead loading for all single-surface or composite samples is equal to or greater than the applicable standard. For composite samples of two to four sub-samples, the standard is determined by dividing the standard in the table by one half the number of sub-samples. See EPA regulations at 40 C.F.R. 745.63 and 745.227(h)(3)(i).

(ii) *Soil.*

(A) A soil-lead hazard for play areas frequented by children under six years of age is bare soil with lead equal to or exceeding 400 parts per million (micrograms per gram).

(B) For the rest of the yard, a soil-lead hazard is bare soil that totals more than 9 square feet (0.8 square meters) per property with lead equal to or exceeding an average of 1,200 parts per million (micrograms per gram).

(3) Lead-hazard screens shall be performed in accordance with the methods and standards established either by a state or Tribal program authorized by the EPA, or by the EPA at 40 CFR 745.227(c), and paragraphs (b)(1) and (b)(2) of this section. If the lead-hazard screen indicates the need for a follow-up risk assessment (*e.g.,* if dust-lead measurements exceed the levels established for lead-hazard screens in paragraph (b)(2)(i) of this section), a risk assessment shall be conducted in accordance with paragraphs (b)(1) and (b)(2) of this section. Dust, soil, and paint samples collected for the lead-hazard screen may be used in the risk assessment. If the lead hazard screen does not indicate the need for a follow-up risk assessment, no further risk assessment is required.

(c) It is strongly recommended, but not required, that lead-based paint inspectors, risk assessors, and sampling technicians provide a plain-language summary of the results suitable for posting or distribution to occupants in compliance with §35.125.

§ 35.1325. Abatement.

Abatement shall be performed in accordance with methods and standards established either by a State or Indian tribe under a program authorized by EPA, or by EPA at 40 CFR 745.227(e), and shall be completed by achieving clearance in accordance with §35.1340. If encapsulation or enclosure is used as a method of abatement, ongoing lead-based paint maintenance activities shall be performed as required by the applicable subpart of this part in accordance with §35.1355. Abatement of an intact, factory-applied prime coating on metal surfaces is not required unless the surface is a friction surface.

§ 35.1330. Interim controls.

Interim controls of lead-based paint hazards identified in a risk assessment shall be conducted in accordance with the provisions of this section. Interim control measures include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above the levels specified in §35.1320, dust control, and lead-contaminated soil control. As provided by §35.155, interim controls may be performed in combination with, or be replaced by, abatement methods.(a) *General requirements.*

(1) Only those interim control methods identified as acceptable methods in a current risk assessment report shall be used to control identified hazards, except that, if only paint stabilization is required in accordance with subparts F, H, K or M of this part, it shall not be necessary to have conducted a risk assessment.

(2) Occupants of dwelling units where interim controls are being performed shall be protected during the course of the work in accordance with §35.1345.

(3) Clearance testing shall be performed at the conclusion of interim control activities in accordance with §35.1340.

(4) A person performing interim controls must be trained in accordance with the hazard communication standard for the construction industry issued by the Occupational Safety and Health Administration of the U.S. Department of Labor at 29 CFR 1926.59, and either be supervised by an individual certified as a lead-based paint abatement supervisor or have completed successfully one of the following lead-safe work practices courses, except that this supervision or lead-safe work practices training requirement does not apply to work that disturbs painted surfaces less than the *de minimis* limits of §35.1350(d):

(i) A lead-based paint abatement supervisor course accredited in accordance with 40 CFR 745.225;

(ii) A lead-based paint abatement worker course accredited in accordance with 40 CFR 745.225; or

(iii) Another course approved by HUD for this purpose after consultation with the EPA. A current list of approved courses is available on the Internet at http://www.hud.gov/offices/lead, or by mail or fax from the HUD Office of Healthy Homes and Lead Hazard Control at (202) 755-1785, extension 104 (this is not a toll-free number). Persons with hearing or speech impediments may access the above telephone number via phone or TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

(iv) "The Remodeler's and Renovator's Lead-Based Paint Training Program," prepared by HUD and the National Association of the Remodeling Industry; or

(v) Another course approved by HUD for this purpose after consultation with EPA.(b) *Paint stabilization.*

(1) Interim control treatments used to stabilize deteriorated lead-based paint shall be performed in accordance with the requirements of this section. Interim control treatments of intact, factory applied prime coatings on metal surfaces are not required. Finish coatings on such surfaces shall be treated by interim controls if those coatings contain lead-based paint.

(2) Any physical defect in the substrate of a painted surface or component that is causing deterioration of the surface or component shall be repaired before treating the surface or component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, and missing siding or other components that are not securely fastened.

(3) Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for preparing the surface to be treated include wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to the manufacturer's instructions.

(4) Dry sanding or dry scraping is permitted only in accordance with §35.140(e) (i.e., for electrical safety reasons or for specified minor amounts of work).

(5) Paint stabilization shall include the application of a new protective coating or paint. The surface substrate shall be dry and protected from future moisture damage before applying a new protective coating or paint. All protective coatings and paints shall be applied in accordance with the manufacturer's

recommendations.
(6) Paint stabilization shall incorporate the use of safe work practices in accordance with §35.1350.

(c) Friction and impact surfaces.

(1) Friction surfaces are required to be treated only if:

(i) Lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, window trough, or floor) are equal to or greater than the standards specified in §35.1320(b);
(ii) There is evidence that the paint surface is subject to abrasion; and
(iii) Lead-based paint is known or presumed to be present on the friction surface.

(2) Impact surfaces are required to be treated only if:

(i) Paint on an impact surface is damaged or otherwise deteriorated;
(ii) The damaged paint is caused by impact from a related building component (such as a door knob that knocks into a wall, or a door that knocks against its door frame); and
(iii) Lead-based paint is known or presumed to be present on the impact surface.

(3) Examples of building components that may contain friction or impact surfaces include the following:

(i) Window systems;
(ii) Doors;
(iii) Stair treads and risers;
(iv) Baseboards;
(v) Drawers and cabinets; and
(vi) Porches, decks, interior floors, and any other painted surfaces that are abraded, rubbed, or impacted.

(4) Interim control treatments for friction surfaces shall eliminate friction points or treat the friction surface so that paint is not subject to abrasion. Examples of acceptable treatments include re-hanging and/or planing doors so that the door does not rub against the door frame, and installing window channel guides that reduce or eliminate abrasion of painted surfaces. Paint on stair treads and floors shall be protected with a durable cover or coating that will prevent abrasion of the painted surfaces. Examples of acceptable materials include carpeting, tile, and sheet flooring.
(5) Interim control treatments for impact surfaces shall protect the paint from impact. Examples of acceptable treatments include treatments that eliminate impact with the paint surface, such as a door stop to prevent a door from striking a wall or baseboard.
(6) Interim control for impact or friction surfaces does not include covering such a surface with a coating or other treatment, such as painting over the surface, that does not protect lead-based paint from impact or abrasion.(d) *Chewable surfaces.*
(1) Chewable surfaces are required to be treated only if there is evidence of teeth marks, indicating that a child of less than six years of age has chewed on the painted surface, and lead-based paint is known or presumed to be present on the surface.
(2) Interim control treatments for chewable surfaces shall make the lead-based paint inaccessible for chewing by children of less than 6 years of age. Examples include enclosures or coatings that cannot be penetrated by the teeth of such children.(e) *Dust-lead hazard control.*
(1) Interim control treatments used to control dust-lead hazards shall be performed in accordance with the requirements of this section. Additional information on dust removal is found in the HUD Guidelines, particularly Chapter 11 (see §35.1310).
(2) Dust control shall involve a thorough cleaning of all horizontal surfaces, such as interior window sills, window troughs, floors, and stairs, but excluding ceilings. All horizontal surfaces, such as floors, stairs, window sills and window troughs, that are rough, pitted, or porous shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.
(3) Surfaces covered by a rug or carpeting shall be cleaned as follows:

(i) The floor surface under a rug or carpeting shall be cleaned where feasible, including upon removal of the rug or carpeting, with a HEPA vacuum or other method of equivalent efficacy.
(ii) An unattached rug or an attached carpet that is to be removed, and padding associated with such rug or carpet, located in an area of the dwelling unit with dust-lead hazards on the floor, shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy. Protective measures shall be used to prevent the spread of dust during removal of a rug, carpet or padding from the dwelling. For example, it shall be misted to reduce dust generation during removal. The item(s) being removed shall be wrapped or otherwise sealed before removal from the worksite.
(iii) An attached carpet located in an area of the dwelling unit with dust-lead hazards on the floor shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy if it is not to be removed.(f) *Soil-lead hazards.*

(1) Interim control treatments used to control soil-lead hazards shall be performed in accordance with this section.
(2) Soil with a lead concentration equal to or greater than 5,000 µg/g of lead shall be abated in accordance with 40 CFR 745.227(e).
(3) Acceptable interim control methods for soil lead are impermanent surface coverings and land use controls.

(i) Impermanent surface coverings may be used to treat lead-contaminated soil if applied in accordance with the following requirements. Examples of acceptable impermanent coverings include gravel, bark, sod, and artificial turf.

(A) Impermanent surface coverings selected shall be designed to withstand the reasonably-expected traffic. For example, if the area to be treated is heavily traveled, neither grass or sod shall be used.
(B) When loose impermanent surface coverings such as bark or gravel are used, they shall be applied in a thickness not less than six inches deep.
(C) The impermanent surface covering material shall not contain more than 400 µg/g of lead.
(D) Adequate controls to prevent erosion shall be used in conjunction with impermanent surface coverings.

(ii) Land use controls may be used to reduce exposure to soil-lead hazards only if they effectively control access to areas with soil-lead hazards. Examples of land use controls include: fencing, warning signs, and landscaping.

(A) Land use controls shall be implemented only if residents have reasonable alternatives to using the area to be controlled.
(B) If land use controls are used for a soil area that is subject to erosion, measures shall be taken to contain the soil and control dispersion of lead.

§ 35.1335. Standard treatments.

Standard treatments shall be conducted in accordance with this section.

(a) *Paint stabilization.* All deteriorated paint on exterior and interior surfaces located on the residential property shall be stabilized in accordance with §35.1330(a)(b), or abated in accordance with §35.1325.
(b) *Smooth and cleanable horizontal surfaces.* All horizontal surfaces, such as uncarpeted floors, stairs, interior window sills and window troughs, that are rough, pitted, or porous, shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.
(c) *Correcting dust-generating conditions.* Conditions causing friction or impact of painted surfaces shall be corrected in accordance with §35.1330(c)(4) to (6).
(d) *Bare residential soil.* Bare soil shall be treated in accordance with the requirements of §35.1330, unless it is found not to be a soil-lead hazard in accordance with §35.1320(b).
(e) *Safe work practices.* All standard treatments described in paragraphs (a) through (d) of this section shall incorporate the use of safe work practices in accordance with §35.1350.
(f) *Clearance.* A clearance examination shall be performed in accordance with §35.1340 at the conclusion of any lead hazard reduction activities.
(g) *Qualifications.* An individual performing standard treatments must meet the training and/or supervision requirements of §35.1330(a)(4).

§ 35.1340. Clearance.

Clearance examinations required under subparts B, C, D, F through M, and R, of this part shall be performed in accordance with the provisions of this section.

(a) *Clearance following abatement.* Clearance examinations performed following abatement of lead-based paint or lead-based paint hazards shall be performed in accordance with 40 CFR 745.227(e) and paragraphs (c) to (f) of this section. Such

clearances shall be performed by a person certified to perform risk assessments or lead-based paint inspections.

(b) *Clearance following activities other than abatement.* Clearance examinations performed following interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation shall be performed in accordance with the requirements of this paragraph (b) and paragraphs (c) through (g) of this section. Clearance is not required if the work being cleared does not disturb painted surfaces of a total area more than that set forth in §35.1350(d).

(1) *Qualified personnel.* Clearance examinations shall be performed by:

(i) A certified risk assessor;

(ii) A certified lead-based paint inspector;

(iii) A person who has successfully completed a training course for sampling technicians (or a discipline of similar all be performed only for a single-family property or dwelling units and associated common areas in a multi-unit property, and provided further that a clearance examination by such a licensed or certified sampling technician shall not be performed using random sampling of dwelling units or common areas in multifamily properties, except that a clearance examination performed by such a licensed or certified sampling technician is acceptable for any residential property if the clearance examination is approved and the report signed by a certified risk assessor or a certified lead-based paint inspector.(2) *Required activities.*

(i) Clearance examinations shall include a visual assessment, dust sampling, submission of samples for analysis for lead in dust, interpretation of sampling results, and preparation of a report. Soil sampling is not required. Clearance examinations shall be performed in dwelling units, common areas, and exterior areas in accordance with this section and the steps set forth at 40 CFR 745.227(e)(8). If clearance is being performed after lead-based paint hazard reduction, paint stabilization, maintenance, or rehabilitation that affected exterior surfaces but did not disturb interior painted surfaces or involve elimination of an interior dust-lead hazard, interior clearance is not required if window, door, ventilation, and other openings are sealed during the exterior work. If clearance is being performed for more than 10 dwelling units of similar construction and maintenance, as in a multifamily property, random sampling for the purpose of clearance may be conducted in accordance with 40 CFR 745.227(e)(9).

(ii) The visual assessment shall be performed to determine if deteriorated paint surfaces and/or visible amounts of dust, debris, paint chips or other residue are still present. Both exterior and interior painted surfaces shall be examined for the presence of deteriorated paint. If deteriorated paint or visible dust, debris or residue are present in areas subject to dust sampling, they must be eliminated prior to the continuation of the clearance examination, except elimination of deteriorated paint is not required if it has been determined, through paint testing or a lead-based paint inspection, that the deteriorated paint is not lead-based paint. If exterior painted surfaces have been disturbed by the hazard reduction, maintenance or rehabilitation activity, the visual assessment shall include an assessment of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible dust or debris in living areas shall be cleaned up and visible paint chips on the ground shall be removed.

(iii) Dust samples shall be wipe samples and shall be taken on floors and, where practicable, interior window sills and window troughs. Dust samples shall be collected and analyzed in accordance with §35.1315 of this part.

(iv) Clearance reports shall be prepared in accordance with paragraph (c) of this section.

(c) *Clearance report.* When clearance is required, the designated party shall ensure that a clearance report is prepared that provides documentation of the hazard reduction or maintenance activity as well as the clearance examination. When abatement is performed, the report shall be an abatement report in accordance with 40 CFR 745.227(e)(10). When another hazard reduction or maintenance activity requiring a clearance report is performed, the report shall include the following information:

(1) The address of the residential property and, if only part of a multifamily property is affected, the specific dwelling units and

purpose and title) that is developed or accepted by EPA or a State or tribal program authorized by EPA pursuant to 40 CFR part 745, subpart Q, and that is given by a training provider accredited by EPA or a State or Indian Tribe for training in lead-based paint inspection or risk assessment, provided a certified risk assessor or a certified lead-based paint inspector approves the work of the sampling technician and signs the report of the clearance examination; or

(iv) A technician licensed or certified by EPA or a State or Indian Tribe to perform clearance examinations without the approval of a certified risk assessor or certified lead-based paint inspector, provided that a clearance examination by such a licensed or certified technician sh

individual

common areas affected.

(2) The following information on the clearance examination:

(i) The date(s) of the clearance examination;

(ii) The name, address, and signature of each person performing the clearance examination, including certification number;

(iii) The results of the visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips;

(iv) The results of the analysis of dust samples, in □g/sq. ft., by location of sample; and

(v) The name and address of each laboratory that conducted the analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(3) The following information on the hazard reduction or maintenance activity for which clearance was performed:

(i) The start and completion dates of the hazard reduction or maintenance activity;

(ii) The name and address of each firm or organization conducting the hazard reduction or maintenance activity and the name of each supervisor assigned;

(iii) A detailed written description of the hazard reduction or maintenance activity, including the methods used, locations of exterior surfaces, interior rooms, common areas, and/or components where the hazard reduction activity occurred, and any suggested monitoring of encapsulates or enclosures; and

(iv) If soil hazards were reduced, a detailed description of the location(s) of the hazard reduction activity and the method(s) used.

(d) *Standards.* The clearance standards in §35.1320(b)(2) shall apply. If test results equal or exceed the standards, the dwelling unit, worksite, or common area represented by the sample fails the clearance examination.

(e) *Clearance failure.* All surfaces represented by a failed clearance sample shall be re-cleaned or treated by hazard reduction, and retested, until the applicable clearance level in §35.1320(b)(2) is met.

(f) *Independence.* Clearance examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities, unless the designated party uses qualified in-house employees to conduct clearance. An in-house employee shall not conduct both a hazard reduction or maintenance activity and its clearance examination.

(g) *Worksite clearance.* Clearance of only the worksite is permitted after work covered by §§35.930, 35.1330, 35.1335, or 35.1355, when containment is used to ensure that dust and debris generated by the work is kept within the worksite. Otherwise, clearance must be of the entire dwelling unit, common area, or outbuilding, as applicable. When clearance is of an interior worksite that is not an entire dwelling unit, common area, or outbuilding, dust samples shall be taken for paragraph (b) of this section as follows:

(1) Sample, from each of at least four rooms, hallways, stairwells, or common areas within the dust containment area:

(i) The floor (one sample); and

(ii) Windows (one interior sill sample and one trough sample, if present); and

(2) Sample the floor in a room, hallway, stairwell, or common area connected to the dust containment area, within five feet outside the area (one sample).

§ 35.1345. Occupant protection and worksite preparation.

This section establishes procedures for protecting dwelling unit occupants and the environment from contamination from lead-contaminated or lead-containing materials during hazard reduction activities.(a) *Occupant protection.*

(1) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of these activities at the worksite), until after hazard reduction work has been completed and clearance, if required, has been achieved.

(2) Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

(i) Treatment will not disturb lead-based paint, dust-lead hazards or soil-lead hazards;

(ii) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;

(iii) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or onsite disposal of hazardous waste); or

(iv) Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the worksite and the area within at least 10 feet (3 meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

(3) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.(b) *Worksite preparation.*

(1) The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.

(2) A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated; or, for an exterior hazard reduction activity, where it is easily read 20 feet (6 meters) from the edge of the hazard reduction activity worksite. Each warning sign shall be as described in 29 CFR 1926.62(m), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language.

§ 35.1350. Safe work practices.

(a) *Prohibited methods.* Methods of paint removal listed in §35.140 shall not be used.

(b) *Occupant protection and worksite preparation.* Occupants and their belongings shall be protected, and the worksite prepared, in accordance with §35.1345. A person performing this work shall be trained on hazards and either be supervised or have completed successfully one of the specified courses, in accordance with §35.1330(a)(4).

(c) *Specialized cleaning.* After hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products, and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead specific detergents or equivalent.

(d) *De minimis levels.* Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:

(1) 20 square feet (2 square meters) on exterior surfaces;

(2) 2 square feet (0.2 square meters) in any one interior room or space; or

(3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

§ 35.1355. Ongoing lead-based paint maintenance and reevaluation activities.

(a) *Maintenance.* Maintenance activities shall be conducted in accordance with paragraphs (a)(2) to (6) of this section, except as provided in paragraph (a)(1) of this section.

(1) Maintenance activities need not be conducted in accordance with this section if a lead-based paint inspection indicates that no lead-based paint is present in the dwelling units, common areas, and on exterior surfaces, or a clearance report prepared in accordance with §35.1340(a) indicates that all lead-based paint has been removed.

(2) A visual assessment for deteriorated paint, bare soil, and the failure of any hazard reduction measures shall be performed at unit turnover and every twelve months.(3)

(i) *Deteriorated paint.* All deteriorated paint on interior and exterior surfaces located on the residential property shall be stabilized in accordance with §35.1330(a)(b), except for any paint that an evaluation has found is not lead-based paint.

(ii) *Bare soil.* All bare soil shall be treated with standard treatments in accordance with §35.1335(d) through (g), or interim controls in accordance with §35.1330(a) and (f); except for any bare soil that a current evaluation has found is not a soil-lead hazard.

(4) Safe work practices, in accordance with §35.1350, shall be used when performing any maintenance or renovation work that disturbs paint that may be lead-based paint.

(5) Any encapsulation or enclosure of lead-based paint or lead-based paint hazards which has failed to maintain its effectiveness shall be repaired, or abatement or interim controls shall be performed in accordance with §35.1325 or §35.1330, respectively.

(6) Clearance testing of the worksite shall be performed at the conclusion of repair, abatement or interim controls in accordance with §35.1340.

(7) Each dwelling unit shall be provided with written notice asking occupants to report deteriorated paint and, if applicable, failure of encapsulation or enclosure, along with the name, address and telephone number of the person whom occupants should contact. The language of the notice shall be in accordance with §35.125(c)(3). The designated party shall respond to such report and stabilize the deteriorated paint or repair the encapsulation or enclosure within 30 days.

(b) *Reevaluation.* Reevaluation shall be conducted in accordance with this paragraph (b), and the designated party shall conduct interim controls of lead-based paint hazards found in the reevaluation.

(1) Reevaluation shall be conducted if hazard reduction has been conducted to reduce lead-based paint hazards found in a risk assessment or if standard treatments have been conducted, except that reevaluation is not required if any of the following cases are met:

(i) An initial risk assessment found no lead-based paint hazards;

(ii) A lead-based paint inspection found no lead-based paint; or

(iii) All lead-based paint was abated in accordance with §35.1325, provided that no failures of encapsulations or enclosures have been found during visual assessments conducted in accordance with §35.1355(a)(2) or during other observations by maintenance and repair workers in accordance with §35.1355(a)(5) since the encapsulations or enclosures were performed.

(2) Reevaluation shall be conducted to identify:

(i) Deteriorated paint surfaces with known or suspected lead-based paint;

(ii) Deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments;

(iii) Dust-lead hazards; and

(iv) Soil that is newly bare with lead levels equal to or above the standards in §35.1320(b)(2).

(3) Each reevaluation shall be performed by a certified risk assessor.

(4) Each reevaluation shall be conducted in accordance with the following schedule if a risk assessment or other evaluation has found deteriorated lead-based paint in the residential property, a soil-lead hazard, or a dust-lead hazard on a floor or interior window sill. (Window troughs are not sampled during reevaluation). The first reevaluation shall be conducted no later than two years from completion of hazard reduction. Subsequent reevaluation shall be conducted at intervals of two years, plus or

minus 60 days. To be exempt from additional reevaluation, at least two consecutive reevaluations conducted at such two-year intervals must be conducted without finding lead-based paint hazards or a failure of an encapsulation or enclosure. If, however, a reevaluation finds lead-based paint hazards or a failure, at least two more consecutive reevaluations conducted at such two year intervals must be conducted without finding lead-based paint hazards or a failure.

(5) Each reevaluation shall be performed as follows:

(i) Dwelling units and common areas shall be selected and reevaluated in accordance with §35.1320(b).

(ii) The worksites of previous hazard reduction activities that are similar on the basis of their original lead-based paint hazard and type of treatment shall be grouped. Worksites within such groups shall be selected and reevaluated in accordance with §35.1320(b).

(6) Each reevaluation shall include reviewing available information, conducting selected visual assessment, recommending responses to hazard reduction omissions or failures, performing selected evaluation of paint, soil and dust, and recommending response to newly-found lead-based paint hazards.

(i) *Review of available information.* The risk assessor shall review any available past evaluation, hazard reduction and clearance reports, and any other available information describing hazard reduction measures, ongoing maintenance activities, and relevant building operations.

(ii) *Visual assessment.* The risk assessor shall:

(A) Visually evaluate all lead-based paint hazard reduction treatments, any known or suspected lead-based paint, any deteriorated paint, and each exterior site, and shall identify any new areas of bare soil;

(B) Determine acceptable options for controlling the hazard; and

(C) Await the correction of any hazard reduction omission or failure and the reduction of any lead-based paint hazard before sampling any dust or soil the risk assessor determines may reasonably be associated with such hazard.

(iii) *Reaction to hazard reduction omission or failure.* If any hazard reduction control has not been implemented or is failing (e.g., an encapsulates is peeling away from the wall, a paint-stabilized surface is no longer intact, or gravel covering an area of bare soil has worn away), or deteriorated lead-based paint is present, the risk assessor shall:

(A) Determine acceptable options for controlling the hazard; and

(B) Await the correction of any hazard reduction omission or failure and the reduction of any lead-based paint hazard before sampling any dust or soil the risk assessor determines may reasonably be associated with such hazard.(iv) *Selected paint, soil and dust evaluation.*

(A) The risk assessor shall sample deteriorated paint surfaces identified during the visual assessment and have the samples analyzed, in accordance with 40 CFR 745.227(b)(3)(4), but only if reliable information about lead content is unavailable.

(B) The risk assessor shall evaluate new areas of bare soil identified during the visual assessment. Soil samples shall be collected and analyzed in accordance with 40 CFR 745.227(d)(8) to (11), but only if the soil lead levels have not been previously measured.

(C) The risk assessor shall take selected dust samples and have them analyzed. Dust samples shall be collected and analyzed in accordance with §35.1320(b). At least two composite samples, one from floors and the other from interior window sills, shall be taken in each dwelling unit and common area selected. Each composite sample shall consist of four individual samples, each collected from a different room or area. If the dwelling unit contains both carpeted and uncarpeted living areas, separate floor samples are required from the carpeted and uncarpeted areas. Equivalent single-surface sampling may be used instead of composite sampling.

(7) The risk assessor shall provide the designated party with a written report documenting the presence or absence of lead-based paint hazards, the current status of any hazard reduction and standard treatment measures used previously and any newly-conducted evaluation and hazard reduction activities. The report shall include the information in 40 CFR 745.227(d)(11), and shall:

(i) Identify any lead-based paint hazards previously detected and discuss the effectiveness of any hazard reduction or standard treatment measures used, and list those for which no measures have been used.

(ii) Describe any new hazards found and present the owner with acceptable control options and their accompanying reevaluation schedules.

(iii) Identify when the next reevaluation, if any, must occur, in accordance with the requirements of paragraph (b)(4) of this section.(c) *Response to the reevaluation.*

(1) *Hazard reduction omission or failure found by a reevaluation.* The designated party shall respond in accordance with paragraph (b)(6)(iii)(A) of this section to a report by the risk assessor of a hazard reduction control that has not been implemented or is failing, or that deteriorated lead-based paint is present.

(2) *Newly-identified lead-based paint hazard found by a reevaluation.* The designated party shall treat each:

(i) Dust-lead hazard or paint lead hazard by cleaning or hazard reduction measures, which are considered completed when clearance is achieved in accordance with §35.1340.

(ii) Soil-lead hazard by hazard reduction measures, which are considered completed when clearance is achieved in accordance with §35.1340.

INTERPRETIVE GUIDANCE

ON HUD'S

LEAD SAFE HOUSING RULE:

THE HUD REGULATION ON CONTROLLING LEAD-BASED PAINT HAZARDS

IN HOUSING RECEIVING FEDERAL ASSISTANCE AND

FEDERALLY OWNED HOUSING BEING SOLD

(24 CFR Part 35)

U.S. Department of Housing and Urban Development
Office of Healthy Homes and Lead Hazard Control
Washington, DC 20410

www.hud.gov/offices/lead

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INTRODUCTION

On September 15, 1999, The U.S. Department of Housing and Urban Development (HUD) published a final regulation, "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance," known as the Lead Safe Housing Rule. The purpose of the regulation is to protect young children from lead-based paint hazards in housing that is either receiving assistance from the Federal government or is being sold by the government. The regulation establishes procedures for evaluating whether a hazard may be present, controlling or eliminating the hazard, and notifying occupants of what was found and what was done in such housing. The Lead Safe Housing Rule took effect on September 15, 2000. The regulation does not have any substantive effect on the lead-based paint disclosure rule, which was issued jointly by HUD and the U.S. Environmental Protection Agency in 1996.

As required by Title X of the Housing and Community Development Act of 1992, the EPA published lead hazard standards in its final rule, Identification of Dangerous Levels of Lead (66 FR 1206; January 5, 2001). These EPA standards, which became effective March 6, 2001, are available from the Internet at www.epa.gov/lead/leadhaz.htm. Therefore, in accordance with Title X, HUD amended the Lead Safe Housing Rule on June 21, 2004, to incorporate the new EPA dust-lead and soil-lead standards as HUD's final standards. In addition, other minor technical corrections were made at that time.

The purpose of this document is to provide answers to many of the questions that HUD has received since the publication of the regulation. The questions and answers begin with general information and then are organized according to the subpart of the regulation to which they most closely apply.

The regulation is at part 35 of title 24 of the Code of Federal Regulations (24 CFR part 35). It implements sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992. Sections 1012 and 1013 amend the Lead-Based Paint Poisoning Prevention Act of 1971.

A. GENERAL INFORMATION

A1. ***PURPOSE OF THE REGULATION****: What is the purpose of this regulation?*
HUD issued this regulation to protect young children from lead-based paint hazards in housing that is financially assisted by the Federal government or sold by the government. The regulation establishes requirements that control lead-based paint hazards in such housing. It applies only to housing that was built before 1978; in that year, lead-based paint was banned nationwide for consumer use.

A2. ***NEW & EXISTING REGULATIONS****: I thought HUD already had lead paint regulations. What's new about this?*
HUD did have existing lead paint regulations. This new regulation consolidated all of the Department's existing regulations in one part of the Code of Federal Regulations (CFR). Now you can easily find HUD's lead paint policies in one place, instead of having to look through each program-specific part of the CFR.

More importantly, this regulation implemented the new requirements, concepts and terminology established by the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X ("ten") of the Housing and Community Development Act of 1992. The new regulation retained the existing fundamental requirement of repairing deteriorated paint, but it also required control of lead-contaminated dust associated with the presence of lead-based paint. Research has found lead in dust to be the most common pathway of childhood exposure to lead. The "clearance" requirement in the regulation is the best example of the emphasis on dust resulting from these research findings. Clearance involves testing settled dust for lead contamination after hazard control work. It ensures that fine particles of lead in dust have been cleaned up and the unit is safe for re-occupancy. The old regulations did not require cleanup or clearance. (See Question B8, below, for further information on clearance.) Also, this regulation uses the framework of trained and certified lead paint professionals to assure that lead hazard control work is done safely. The Department believes that these changes resulted in a much more effective national program that has reduced childhood lead poisoning.

A3. ***EFFECTIVE DATE:*** *When does the regulation take effect?*
Prohibitions against using dangerous methods of removing paint took effect on November 15, 1999, but most of the regulation was scheduled to take effect on September 15, 2000, one year after publication. The purpose of the one-year phase-in period was to provide time for owners and managers of housing, and local program administrators to learn about the requirements and plan and budget for compliance. HUD provided training and technical assistance on the new requirements.

A4. ***EFFECT ON DISCLOSURE REGULATION:*** *How does this regulation affect the lead paint disclosure requirements that were issued jointly by HUD and EPA in 1996?*
It had no effect whatsoever on the disclosure requirements. However, it restructured the subpart of 24 CFR Part 35 where the HUD-published disclosure requirements are found from subpart H to subpart A. The section numbers and the text of the disclosure requirements stayed the same.

A5. ***EXEMPTIONS:*** *What kinds of properties and activities are exempted from the regulation?*
The following properties are not covered by this regulation, either because lead paint is unlikely to be present, or because children will not occupy the house in the future:

- Housing built on or after January 1, 1978 (when lead paint was banned for residential use)
- Housing exclusively for the elderly or persons with disabilities, unless a child under age 6 is expected to reside there for prolonged periods of time
- **Z**ero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks
- Property that has been found to be free of lead-based paint by a certified inspector
- Property from which all lead-based paint has been removed, and clearance has been achieved
- Unoccupied housing that will remain vacant until it is demolished
- Non-residential property
- Any rehabilitation or housing improvement that does not disturb a painted surface.

Also, emergency repair actions, which are those needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage, are exempted.

Finally, the requirements do not apply to emergency housing assistance (such as for the homeless), unless the assistance lasts more than 100 days, in which case the rule does apply.

A6. ***SUMMARY OF REQUIREMENTS****: What are the requirements of the regulation?*
In accordance with the Statute (Title X of the 1992 Housing and Community Development Act), the requirements vary, depending on the nature of the Federal involvement (e.g., whether the housing is being disposed of or assisted by the Federal government); the type, amount and duration of financial assistance; the age of the structure (which is associated with the amount of lead in the paint); and whether the dwelling is rental or owner-occupied.

A summary of requirements for each type of housing assistance is at the end of the answer to this question. Details are in the regulation itself. If you are responsible for compliance with the regulation, you should become familiar with the specific requirements for your particular program or programs by reading the regulation itself.

To illustrate the nature of the requirements, below is a brief description of two of the more common sets of hazard evaluation and control requirements.

One set of hazard control requirements that applies to several HUD programs is:

- Stabilization of any deteriorated paint, including correction of any moisture leaks or other obvious causes of paint deterioration, as well as repainting (paint stabilization is not required if the paint is tested and found not to be lead-based paint);
- "Clearance" following paint stabilization to ensure that the work has been completed, that dust, paint chips and other debris have been satisfactorily cleaned up, and that settled dust has low levels of lead; and
- Ongoing maintenance of the paint and periodic reevaluation to ensure that the housing remains lead safe.

Another set of requirements found in the regulation is:

- a risk assessment to identify lead-based paint hazards;
- interim control measures to eliminate any hazards that are identified;
- clearance; and
- on-going maintenance and periodic reevaluation to ensure that lead-based paint hazards do not reappear.

The terms, “risk assessment,” “lead-based paint hazards,” and “interim controls” are explained below in questions C1-C3.

SUMMARY OF HUD LEAD-BASED PAINT (LBP) REQUIREMENTS

Sub-part	Type of Program	Construction Period	Requirements[1, 2, 3]
A	Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards	Pre-1978	• See www.hud.gov/offices/lead for Lead Disclosure Rule requirements for sale or lease of residential property.
B	General Lead-Based Paint Requirements and Definitions	Pre-1978	• All properties covered by the Lead Safe Housing Rule.[4]
C	Disposition by Federal Agency Other Than HUD	Pre-1960	• LBP inspection and risk assessment. • Abatement of LBP hazards. • Notice to occupants.
		1960-1977	• LBP inspection and risk assessment. • Notice to occupants of results.
D	Project-Based Assistance by Federal Agency Other Than HUD	Pre-1978	• Provision of pamphlet. • Risk assessment. • Interim controls. • Notice to occupants. • Response to child with EIBLL.[5]
F	HUD-Owned Single Family Sold With a HUD-Insured Mortgage	Pre-1978	• Visual assessment. • Paint stabilization. • Notice to occupants of clearance.
G	Multifamily Mortgage Insurance:		
	1. For properties that are currently residential	Pre-1960	• Provision of pamphlet. • Risk assessment. • Interim controls. • Notice to occupants. • Ongoing LBP maintenance.
		1960-1977	• Provision of pamphlet. • Ongoing LBP maintenance.
	2. For conversions and major renovations.	Pre-1978	• Provision of pamphlet. • LBP inspection. • Abatement of LBP. • Notice to occupants.
H	Project-Based Assistance by HUD		
	For all properties	Pre-1978	• Provision of pamphlet. • Notice to occupants. • Ongoing LBP maintenance and re-evaluation. • Response to child with EIBLL.[5]
	1. Multifamily property receiving more than $5,000 per unit per year	Pre-1978	• Risk assessment. • Interim controls.
	2. Multifamily property receiving less than or equal to $5,000 per unit per year, **and** single family properties	Pre-1978	• Visual assessment. • Paint stabilization.
I	HUD-Owned Multifamily Property	Pre-1978	• Provision of pamphlet. • LBP inspection and risk assessment. • Interim controls. • Notice to occupants. • Ongoing LBP maintenance and re-evaluation. • Response to child with EIBLL.[5]
J	Rehabilitation Assistance:		
	For all Properties	Pre-1978	• Provision of pamphlet. • Paint testing of surfaces to be disturbed, or presume LBP. • Notice to occupants. • Ongoing LBP maintenance if HOME rental.
	1. Property receiving less than or equal to $5,000 per unit	Pre-1978	• Safe work practices in rehab. • Repair disturbed paint. • Clearance of the worksite.
	2. Property receiving more than $5,000 and up to $25,000	Pre-1978	• Risk assessment. • Interim controls.
	3. Property receiving more than $25,000 per unit	Pre-1978	• Risk assessment. • Abatement of LBP hazards. • Interim controls allowed for exterior.

Sub part	Type of Program	Construction Period	Requirements[1, 2, 3]
K	Acquisition, Leasing, Support Services, or Operation	Pre-1978	• Provision of pamphlet. • Visual assessment. • Paint stabilization. • Notice to occupants. • Ongoing LBP maintenance for on-going assistance.

SUMMARY OF HUD LEAD-BASED PAINT (LBP) REQUIREMENTS (continued)

Sub part	Type of Program	Construction Period	Requirements[1, 2, 3]
L	Public Housing	Pre-1978	• Provision of pamphlet. • LBP inspection. • Risk assessment if LBP not yet abated. • Interim controls if LBP not yet abated. • Abatement of LBP during modernization. • Notice to occupants. • Ongoing LBP maintenance and re-evaluation. • Response to child with EIBLL.[5]
M	Tenant-Based Rental Assistance for units to be occupied by children under 6 years of age	Pre-1978	• Provision of pamphlet. • Visual assessment. • Paint stabilization. • Notice to occupants. • Ongoing LBP maintenance. • Response to child with EIBLL.[5]

1. Safe work practices and occupant protection are always required. Clearance is required after abatement, interim controls, paint stabilization, or standard treatments, except when the amount of deteriorated paint is below the de minimis levels specified in Subpart R of the rule.
2. Notice to occupants must include results of evaluations (paint testing, inspection, and risk assessment) and clearance, where applicable.
3. Training requirements (see **www.hud.gov/offices/lead** for information; see **www.epa.gov/lead** about certification):
   - Evaluation: Visual assessment: Web-based HUD visual assessment course, or risk assessment certification.
   - Inspection: LBP inspection certification.
   - Risk assessment, or re-evaluation: Risk assessment certification.
   - Clearance: LBP inspection or risk assessment certification, or sampling technician course.
   - Hazard Control (except for small ("de minimis") amounts of paint disturbance; see 24 CFR 35.1350(d)):
   - Repair of paint, paint stabilization, or interim control: Lead-safe work practices course.
   - Abatement: Abatement certification.
4. See 24 CFR 35.115 for exemptions.
5. Environmental intervention blood lead level: At least 20 micrograms of lead per deciliter (µg/dL) for a single test, or 15-19 µg/dL in two tests taken at least 3 months apart.

A7. ***ORGANIZATION OF THE REGULATION****: How is the regulation organized?*
The regulation is divided into "subparts" of 24 CFR Part 35. Three subparts apply to all programs. Subpart A is the existing disclosure regulation that requires sellers and lessors of most pre-1978 housing to disclose known information on lead-based paint and/or lead-based paint hazards to prospective buyers and renters. Subpart B describes the scope of coverage of the new regulation and provides definitions and general requirements for all programs. Subpart R describes methods and standards for lead-based paint hazard evaluation and reduction activities. (Subparts E, and N through Q, are reserved for future use.)

Each of the other subparts (C through M) contains the requirements for a particular type of housing program or housing assistance, such as multifamily mortgage insurance, project-based assistance, rehabilitation, public housing, tenant-based assistance, or acquisition, leasing, support services or operation. The lead-hazard control requirements depend on the type of assistance provided. As programs are modified and new programs come into existence, the list will be amended, as appropriate.

A8. ***LOW-INCOME HOUSING TAX CREDITS****: Does the Lead Safe Housing Rule apply to the Internal Revenue Service's Low-Income Housing Credit program?*
Yes, when the HUD Uniform Physical Conditions Standards (UPCS) are used by the state housing credit agency to monitor for compliance in the low-income housing credit program. (The Lead Safe Housing Rule is part of the UPCS [24 CFR 5.703(f)]. The IRS' monitoring regulation became effective January 1, 2001 [26 CFR 1.42-5(d)(2)(ii)].)

A9. ***OTHER FEDERAL AGENCIES****: Where can I find the requirements under this regulation for housing programs of a Federal agency other than HUD?*
Subpart C of the regulation covers disposition (which means sale) to a non-Federal entity by Federal agencies other than HUD of housing built before 1978. Subpart D of the regulation covers project-based assistance provided by those agencies for housing built before 1978.

Each other Federal agency may establish its own regulations, policies and procedures for implementing the Act, in addition to the requirements of this regulation. You should directly contact the Federal agency you are interested in for information on its programs and practices.

A10. ***PROGRAMS RECEIVING MORE THAN ONE TYPE OF FEDERAL ASSISTANCE:*** *What subpart do I use if the program I administer at the local level provides more than one type of assistance?*
Some HUD programs can be used for several different types of housing assistance. Such programs include the Community Development Block Grant (CDBG) program, the HOME Investment Partnerships program, and the Indian Housing Block Grant program. If you are administering such a program for a city, county, State or Indian tribe, you will have to determine which subpart of the regulation applies to the type of assistance being provided to a particular unit or property. For example, if rehabilitation assistance is being provided, use subpart J, which applies to rehabilitation. If tenant-based rental assistance is being provided, use subpart M, which applies to all tenant-based rental assistance.

A11. ***HOUSING UNITS RECEIVING MORE THAN ONE TYPE OF FEDERAL ASSISTANCE:*** *What if a dwelling unit receives more than one type of assistance? Which subpart applies?*
The types of assistance provided to a dwelling unit determine what subparts of the regulation apply to that dwelling unit. If more than one type of assistance is being provided to the same dwelling unit, and two or more sets of lead paint requirements apply, the most protective

requirements apply. Section 35.100 of the regulation includes a table listing HUD programs from the most protective to the least protective hazard reduction requirements. Section 35.100 also provides additional guidance on how to use the table.

A12. ***NUMBER OF DWELLINGS AFFECTED****: How many dwelling units will be affected by this regulation?*
HUD estimates that about 2.8 million HUD-associated dwelling units containing lead-based paint will be covered by 2005. The Economic Analysis accompanying the rule explains how these numbers were developed.

A13. ***COSTS AND BENEFITS****: What are the benefits and costs of the regulation?*
The Economic Analysis accompanying the rule, as published in the Federal Register, contains a full description of costs and benefits. The benefits of the rule are primarily the increased lifetime earnings of children whose exposure to lead is reduced by living in housing made lead-safe as a result of the regulation. The estimate of increased lifetime earnings is from scientific studies of links between lead exposure and lost IQ, and between IQ and lifetime earnings. Other benefits include avoided costs of medical treatment and special education. In addition, benefits that have not been estimated in monetary terms include improving children's stature, hearing, and vitamin D metabolism; reducing juvenile delinquency and the burden on the educational system; avoiding the parental and family time, expenses and emotional costs involved in caring for lead poisoned children; and reducing personal injury claims and associated court costs.

HUD estimates that the present value of total benefits associated with the first five years of the regulation is $2.65 billion for HUD-associated dwellings, using a three percent discount rate. The present value of the costs associated with the first five years of the regulation is estimated to be $564 million. Therefore, estimated net benefits are $2.08 billion.

The average cost of compliance per HUD-associated dwelling unit is estimated at approximately $200 ($564 million/2.8 million units). The costs will range from the many units that will have no costs at all (because they have been well maintained and have no deteriorated lead paint) to other units that may have significant costs.

A14. ***OBTAINING COPIES OF THE REGULATION****: How can I get a copy of the regulation?*
You can obtain the regulation, including its "preamble" (an explanation of the issues and policies), by downloading from the Internet at www.hud.gov/offices/lead, or by mail from the National Lead Information Center at 1-800-424-LEAD.

HUD published the regulation in the Federal Register, on September 15, 1999, starting on page 50410. Also, HUD published three corrections to the regulation: one on January 21, 2000, starting on page 3386, one on March 30, 2000, starting on page 16818, and one on June 21, 2004, starting on page 34262. You can obtain copies of these issues by downloading from the HUD web site, shown above, from the Federal Register web site, www.gpoaccess.gov/fr/, or by mail, for a fee, from the Government Printing Office toll-free at (888) 293-6498 or at 1-202-512-1530 (this is a toll call). There is no difference between the copies available from the HUD web site, the National Lead Information Center, the Federal Register web site, or the Government Printing Office. If you are a hearing- or speech-impaired person, you may reach the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

Subpart B. GENERAL REQUIREMENTS

B1. ***EFFECTIVE DATE FOR EPA-CERTIFIED INDIVIDUALS****: The regulation published on September 15, 1999 states, in section 35.165, that: (1) lead-based paint inspections, risk assessments and abatements conducted after August 29, 1999 must be performed by individuals certified to perform such activities by EPA or an EPA-authorized State or tribal program, and (2) such activities conducted prior to August 30, 1999 are acceptable under the regulation if the performing individuals were approved by a State or tribal program, regardless of whether the program was authorized by EPA. The "preamble" to the regulation indicates that HUD chose the date, August 30, 1999, because that was the effective date of the certification requirements promulgated by the U.S. Environmental Protection Agency (EPA) at 40 CFR 745.226 and 745.239. However, EPA has since changed that date to March 1, 2000. Which date now applies to the HUD regulation: August 30, 1999 or March 1, 2000?*
March 1, 2000. HUD amended its regulation on January 21, 2000 and MMM DD, 2004 to make the dates in 24 CFR 35.165 conform to the effective date of the EPA certification requirements in 40 CFR 745.226 and 745.239.

B2. ***ADEQUATE VENTILATION****: Section 35.140(f) states that "paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission . . . and/or . . . the Occupational Safety and Health Administration . . ." is prohibited. What is an adequately ventilated space?*
Adequately ventilated means conditions that prevent occupational exposures from exceeding the Permissible Exposure Limit of the Occupational Safety and Health Administration for the hazardous substance. (For more information, see OSHA's rules at 29 CFR parts 1910 and 1926). These rules can be found at OSHA's web site at www.osha.gov, which also contains OSHA's published guidance; or from OSHA's regional and area offices (phone numbers can be obtained from OSHA toll-free at 1-800-321-OSHA (6742); or, for a fee, from the Government Printing Office at (888) 293-6948 (toll-free) or 1-202-512-1530 (this is a toll call).) Paint strippers should not be used in spaces that have no fresh air supply. If you are a hearing- or speech-impaired person, you may reach the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

B3. ***PAMPHLET****: Is the pamphlet that must be provided under the new HUD regulation the same pamphlet that must be provided under the 1996 HUD-EPA regulation on disclosure of lead-based paint hazards? If so, why do I need to provide it again, and if I do how do I get copies of the pamphlet?*
The two pamphlets are the same. It is not necessary to provide the pamphlet again if you can show that it has already been provided (see section 35.130). Also, the first edition, dated 1995, is still valid; you do not need to provide a more recent edition if you have provided a copy of the first edition. There is a third regulation that requires provision of the same pamphlet: the EPA pre-renovation hazard education rule at 40 CFR part 745, subpart E. All three pamphlet-provision requirements are called for in the basic statute, the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992. If you can show that the pamphlet has already been provided in compliance with the disclosure rule or the pre-renovation education rule, you need not provide it again.

A black and white version of the pamphlet can be downloaded from the web site of the HUD Office of Lead Hazard Control at www.hud.gov/lead. Click on "Lead Info Pamphlet." A printed, color version of the pamphlet, "Protect Your Family From Lead In Your Home," can be purchased from the U.S. Government Printing Office ($24.00 for packages of 50) by calling (888) 293-6948 (toll-free) or 1-202-512-1530 (this is a toll call). The GPO stock number is 055-000-00507-9. [Check for the Spanish version stock number.] Individual copies of the printed, color version, in either English or Spanish ("Proteja a Su Familia del Plomo en Su Casa"), can be obtained at no cost from the National Lead Information Center at 1-800-424-LEAD or electronically at www.epa.gov/opptintr/lead/nlicdocs.htm. The Center also has a black and white version that can be photocopied. If you are a hearing- or speech-impaired person, you may reach the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

B4. ***POSTED NOTICE***: *Section 35.125(c)(4) says that one method of notifying occupants of evaluation and hazard reduction activities is to post a notice in centrally located common areas. How long should such a notice remain posted?*
HUD did not specify a minimal duration for the posting of a notice, but four weeks should be adequate to allow for the possibility that some occupants may temporarily not be in residence.

B5. ***NOTICE OF VISUAL ASSESSMENT AND HAZARD CONTROL BELOW THE DE MINIMIS***: *As stated in section 35.1010, a visual assessment alone is not considered an evaluation for the purposes of this regulation. Therefore no notice of evaluation is required after a visual assessment to identify deteriorated paint, even though it may result in a hazard reduction activity. Is this correct? Also, if hazard reduction is necessary, are any notice requirements triggered?*
Yes, this is correct. It is not necessary to provide a notice to occupants after a visual assessment alone is completed. However, if the visual assessment results in paint stabilization and clearance, the owner must provide occupants with a Notice of Lead Hazard Reduction Activity describing the work that was done and the results of clearance. The clearance examination involves the testing of samples for the presence of lead in dust and another visual assessment, this time to see if any deteriorated surfaces remain, and whether there are any visible amounts of dust, debris, paint chips, or residue. This is new information that must be provided to the occupants, regardless of the level of Federal assistance. If paint stabilization was completed on surfaces with areas below the de minimis threshold, no clearance, safe work practices, safe work practices training, or notification is required.

B6. ***COMPLETION OF HAZARD REDUCTION NOTICE:*** *The regulation, at section 35.125(b), requires that the notice of hazard reduction activity must be provided to occupants no more than 15 calendar days after the hazard reduction activities have been completed. What constitutes "completion?"*
The completion date is the date on which clearance is achieved, that is, when the subject property has passed the visual assessment and the dust samples are all below the levels indicated in section 35.1320(b)(2)(i).

B7. ***CLEARANCE FAILURE***: *What happens if clearance is not achieved at first?*
If clearance is not achieved at first, you should re-clean the spaces represented by the dust samples that failed and take new samples. Sometimes, multiple small work areas will be isolated within a structure to protect building occupants and their belongings. In these circumstances, a single set of samples may be collected from the floor and other horizontal surfaces, such as windows and troughs, to represent up to four isolated areas. If that set of samples fails, all unsampled areas represented by those samples must be re-cleaned and re-cleared. (Areas represented by samples that passed clearance do not have to be recleaned.) Usually that is sufficient, unless the surfaces are so cracked or pitted that they cannot be effectively cleaned. If clearance is not achieved after two attempts, it is recommended that you make sure that failing horizontal surfaces (floors, interior window sills, or window troughs) are smooth and cleanable before the third sampling. It is not necessary to issue a notice of hazard reduction activity until after clearance has been achieved. The notice must include information regarding any failed clearance sampling, however, because that is important information indicating that there has been lead-contaminated dust in the property. It is also important to note that this information must be disclosed in compliance with the HUD-EPA lead-based paint disclosure rule.

B8. ***CLEARANCE AND COMPLIANCE***: *What happens if clearance is never achieved?*
Clearance can always be achieved. If the property owner decides not to achieve clearance, the property or unit is not in compliance with the regulation. Where possible, local program administrators may find it expedient to provide program funds to assist owners in making horizontal surfaces smooth and cleanable if clearance proves difficult.

B9. ***CHILD OCCUPIED FACILITIES***: *Are child-occupied facilities covered by this regulation?*
Child-occupied facilities, such as child care centers, serving children under 6 years old, are covered by this regulation only if they located in a common area or a dwelling unit in a residential property that is covered by this regulation. The EPA regulates the use of certified personnel to conduct lead-related work in child occupied facilities, but does not require that any work be done. The EPA's lead training and certification rule may be found at 40 CFR 745.

B10. ***ZERO-BEDROOM UNITS***: *Why are zero-bedroom dwelling units exempt from the regulation?*
Zero-bedroom dwelling units are exempt because the statute states clearly that they are not to be covered by the implementing regulations. The definition of target housing in the statute excludes "any 0-bedroom dwelling" (42 U.S.C. §4851b).

B11. ***CHILDREN LIVING IN ELDERLY HOUSING***: *A property that is designated exclusively for occupancy by the elderly or persons with disabilities is exempt from the regulation, but it is not exempt if a child of less than 6 years of age resides or is expected to reside there. If the management of a property designated for occupancy by the elderly or persons with disabilities makes an exception that allows a young child to live there, what parts of the property are covered by the regulation?*
If the dwelling unit is assisted by a Federal housing program, the regulation applies to the dwelling unit in which the child resides, any common areas servicing such dwelling unit, and exterior painted surfaces associated with such dwelling unit or common areas. HUD expects that, if numerous exceptions are made to allow young children to reside in a property designated for occupancy by the elderly or persons with disabilities, (such as the Living Equitably: Grandparents Aiding Children and Youth Act of 2003, P.L. 108-186) the exemption from the regulation would no longer be available and the regulation would apply to the entire property. If the exception is for temporary residence for emergency rental assistance or foreclosure prevention assistance, the regulation does not apply, but this exemption expires for a dwelling unit no later than 100 days after the initial occupancy.

B12. ***DETERMINATION OF ELDERLY PROPERTIES***: *How does one determine whether a property is designated exclusively for occupancy by the elderly or persons with disabilities?*
The lease or other residency agreement should so state. The term "housing for the elderly" is defined in the regulation as "retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific Federal housing assistance program." A person with a disability is defined in the Americans With Disabilities Act (ADA) and the Rehabilitation Act of 1973 as any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of an impairment, or is regarded by others as having such an impairment. It is not necessary that the lease or residency agreement include these precise definitions.

B13. ***CHILD VISITS TO ELDERLY HOUSING***: *If a child visits an elderly housing facility or a facility for persons with disabilities for more than 10 hours a week, would this trigger lead paint requirements for a single unit in the facility?*
No. It is triggered only if the child resides there. HUD recognizes that the meaning of the term "reside" may be subject to different interpretations, especially for young children, and may vary in different communities. As general guidance it may be useful to think of residence as the place where one sleeps most of the time and keeps most of one's clothing. Also, residence is a relatively permanent (as opposed to temporary) concept, and therefore it may be appropriate to consider that residence is a condition that lasts longer than 100 days.

B14. ***HOSPICE:*** *Does the regulation apply to a hospice?*
No, so long as the occupants are terminally ill or if occupancy is limited to adults at least 18-years of age.

B15. ***DEMOLITION:*** *Section 35.115(a)(6) says that an unoccupied property that is to be demolished is exempt from the regulation, provided the property remains unoccupied until demolition. Can't demolition generate lead hazards? Shouldn't the soil be tested after demolition and, if lead-contaminated, be remediated?*
The regulation does not apply to demolition, but parties planning demolition should determine first whether other Federal, State or local environmental requirements apply. Federal Occupational Safety and Health Administration (OSHA) standards (or, where applicable, State or local occupational safety and health standards) must be observed, and, in the case of Base Realignment and Conversion (BRAC) properties of the Department of Defense, EPA regulations pertaining to soil may apply. (If you are involved with a BRAC property, you should contact the Department of Defense office for the property.) It is possible that lead hazards may be generated in the act of demolition of residential properties with lead-based paint. Soil remediation following demolition depends on the level of lead in the soil and the planned reuse of the site (e.g., whether residential or another use, and whether the soil will be covered). Remediation of lead-contaminated soil may be required by other environmental laws and regulations. You may contact the EPA's Regional Lead Coordinator for more information on EPA's regulations and policies. (The phone number of your region's Coordinator is available from an EPA hotline, 1-202-554-1404 (this is not a toll-free number), or on the Internet at www.epa.gov/lead.) If you are a hearing- or speech-impaired person, you may reach the above telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

B16. ***ENFORCEMENT:*** *How will the regulation be enforced?*
Monitoring and enforcement of compliance with this regulation will be integrated into the administrative procedures for each affected HUD program.

B17. ***BLOOD TESTING REQUIREMENT****: Can a program require that children have a blood test for lead as a prerequisite for program participation?*
No. Children cannot be required to have their blood tested as a prerequisite for program participation. However, parents should be encouraged to have their children tested.

B18. ***HISTORIC PRESERVATION****: How is HUD reconciling lead hazard reduction requirements with the requirements for preservation of historic resources, such as windows and exterior paint?*
The regulation includes an exception at section 35.115(a)(13) that allows designated parties to use interim controls instead of abatement methods, if requested by the State Historic Preservation Office, on properties listed or determined to be eligible for listing in the National Register of Historic Places or contributing to a National Register Historic District. This policy is explained in the preamble to the regulation at III.A.5.j at page 50150 of the Federal Register version.

B19. ***COMMERCIAL PORTIONS OF RESIDENTIAL PROPERTIES****: In a mixed-use building receiving assistance, is the commercial portion exempt from the lead paint regulation?*
Yes, the commercial part is exempt from the lead paint regulation. However, common areas servicing the residential units are covered by the lead regulation. Therefore, entryways and hallways serving the residential units are subject to the requirements even if they are also located in the commercial space. Exterior areas are also covered by the lead regulation.

B20. ***FANNIE MAE AND FREDDIE MAC:*** *Are there any lead paint requirements that apply to a property if the mortgage is purchased by Fannie Mae or Freddie Mac?*
The new HUD regulation regarding lead hazard control in federally assisted housing has no separate requirements that pertain strictly to Fannie Mae or Freddie Mac. However, the lead-based paint disclosure rule applies to almost all of the pre-1978 residential properties with which those organizations are involved. Also, Fannie Mae and Freddie Mac have certain additional lead paint requirements of their own for multifamily properties.

B21. ***FHA SINGLE FAMILY MORTGAGE INSURANCE****: What lead paint requirements apply to a property covered by an application for FHA single-family mortgage insurance in general and especially for Rehabilitation Home Mortgage Insurance Under Section 203(k)?*
Until further notice, the new HUD lead paint regulation does not change existing requirements for pre-1978 housing covered by an application for any FHA single family mortgage insurance programs, such as Rehabilitation Home Mortgage Insurance under Section 203(k), unless it is for a HUD-owned property that is being sold. HUD-owned single-family properties that are being sold with FHA mortgage insurance are covered by subpart F of the new regulation, which became effective September 15, 2000. For buildings that HUD does not own, the existing requirements, which are at 24 CFR 200.800-810, state that any defective paint must be treated by covering or removal. "Covering may be accomplished by such means as adding a layer of wallboard to the wall surface. Depending on the wall condition, wall coverings which are permanently attached may be used. Covering or replacing trim surfaces is also permitted. Paint removal may be accomplished by such methods as scraping, heat treatment (infra-red or coil type heat guns) or chemicals. Machine sanding and use of propane or gasoline torches (open flame methods) are not permitted. Washing and repainting without thorough removal or covering does not constitute adequate treatment." Defective paint spots can be treated by "scraping and repainting." Treatment is not required if the paint is found not to be lead-based paint by a certified lead paint inspector or risk assessor. Until a new subpart E is promulgated, these existing requirements will continue to apply to properties insured under section 203(b), 203(k), and other single-family mortgage insurance programs, except for HUD-owned properties.

Subpart C. DISPOSITION OF RESIDENTIAL PROPERTY BY FEDERAL AGENCIES OTHER THAN HUD

C1. ***BUYER'S RESPONSIBILITY:*** *Under subpart C of the regulation, can the responsibility for the initial lead paint inspection and risk assessment be passed on to the buyer?*
No. For properties built after 1959 and before 1978, the statute explicitly states that "the results of such inspections shall be made available to prospective purchasers" (42 U.S.C. 4822(a)(3)(B)). HUD interprets that provision to mean that it is the intent of the legislation that the inspection and risk assessment be conducted by the Government before the sale. For properties built before 1960, the statute requires "the inspection and abatement of lead-based paint hazards" (emphasis added). The regulation permits the Federal agency to pass the responsibility for abatement on to the buyer, if the agency takes the responsibility for assuring that abatement is carried out by the purchaser before occupancy; but it does not permit the agency to pass on the responsibility for the inspection and risk assessment. If abatement work must be conducted on the outside of a building where weather conditions are unsuitable for conventional construction activities, the owner may occupy the living space once all required interior abatement and final clearance has been completed. Prospective buyers who are expected to conduct abatement need to estimate the cost of abatement based on the results of the inspection/risk assessment before preparing their offers. See the answer to the next question for further discussion of this issue.

C2. ***UPDATING RISK ASSESSMENTS IN SUBPART C:*** *The regulation states, at section 35.165(b)(1) and at section 35.210(b), that a risk assessment must be no more than 12 months old to be considered current. For pre-1960 properties covered by subpart C, who is responsible for updating the risk assessment if the Federal agency conducts a risk assessment but assigns responsibility for abatement to the buyer, and then more than 12 months expire after the risk assessment before the buyer starts abatement?*
The Federal agency may require the buyer to conduct an update of the risk assessment if it has expired. The agency has complied with subpart C if it has done an inspection and risk assessment, given a copy of the report(s) to the buyer, and has written an agreement with the buyer that ensures that the buyer will abate lead-based paint hazards prior to occupancy. Such an agreement should also include a condition that the risk assessment will be made current by the buyer if more than 12 months have elapsed from the date of the Government's risk assessment to the time when abatement work will begin. HUD recommends that the date that is considered to be the beginning of abatement is when on-site preparation activities start, rather than when the abatement contract is issued.

C3. ***NO LEAD PAINT HAZARDS:*** *What if Government's risk assessment finds no lead-based paint hazards?*
If the risk assessment conducted by the Federal agency finds no lead-based paint hazards, the regulation does not require the agency to conduct any abatement of hazards. Therefore the Federal agency has no responsibility under the regulation to require the buyer to conduct such abatement. If the buyer is not required to conduct abatement of lead-based paint hazards, there is no need under the regulation for an updated risk assessment. Of course, if there is a significant amount of lead-based paint on the property, the agency may choose to recommend to the buyer that if more than 12 months pass after the Government's risk assessment before the property is put into residential use, it would be advisable prior to occupancy to conduct a reevaluation and control any lead-based paint hazards found.

C4. ***CONVERSION OF NON-RESIDENTIAL PROPERTY TO RESIDENTIAL PROPERTY:*** *If a federally-owned, pre-1978 property is nonresidential at the time of sale but the Federal agency knows or suspects the structure is going to be used as housing by the buyer, does subpart C apply?*
No. In HUD's opinion, subpart C of the regulation does not apply to property that is not housing at the time of sale. However, if the agency knows the property is going to be used as housing, HUD recommends that at the very least the agency inform the buyer that lead-based paint hazards may be present and remind the buyer that subpart A of the regulation (disclosure) will apply when the property becomes housing.

C5. ***CONVERSION OF RESIDENTIAL PROPERTY TO NON-RESIDENTIAL PROPERTY****: If a federally-owned, pre-1978 property is residential at the time of sale but the Federal agency knows the structure is going to be used for nonresidential purposes, does subpart C apply?*
Subpart C applies in this case, except when the building or buildings are to be demolished, are unoccupied at time of sale, and will remain unoccupied until demolition. If these conditions are met, subpart C does not apply, except that the Federal agency is responsible for assuring that the conditions are followed.

C6. ***FRICTION, IMPACT AND CHEWABLE SURFACES:*** *Do the limitations on when friction, impact and chewable surfaces are considered lead-based paint hazards (found in Sec. 35.1330(c) and (d)) apply to risk assessments conducted in compliance with subpart C?*
Risk assessments performed to comply with subpart C are not subject to the limitations in section 35.1330, paragraphs (c)(1), (c)(2) and (d)(1). However, HUD recommends that risk assessors follow such limitations.

C7. ***CLEARANCE FOR ABATEMENT PROJECTS****: Do the clearance requirements at §35.1340 apply to abatements conducted in compliance with subpart C?*
No. Abatements conducted in compliance with subpart C must comply with EPA requirements at 40 CFR 745.227.

Subpart H. PROJECT-BASED ASSISTANCE

H1. ***SECTION 236 MORTGAGE INTEREST SUBSIDIES****: Does subpart H apply to housing with a mortgage interest subsidy under section 236 of the National Housing Act if such housing has no rental assistance?*
Yes. Title X defines "federally assisted housing" as "residential dwellings receiving project-based assistance under programs including – (A) section 221(d)(3) or 236 of the National Housing Act; . . .." Therefore HUD has determined that section 236 housing is covered by subpart H of the regulation.

Subpart J. REHABILITATION ASSISTANCE PROGRAMS

J1. ***EFFECTIVE DATE AND GRANT PAYMENT DATABASE:*** *What are the lead-based paint rule effective dates for the HOME, CDBG, and State & Small Cities CDBG programs?*

HOME Program
The regulation states that the new requirements apply to funds committed to a specific local project on or after September 15, 2000. The date of commitment to a specific project would coincide with the execution of a written agreement to acquire, rehabilitate or construct a project or to provide TBRA. (Commitment to a specific local project is a defined term under 24 CFR 92.2(2)). At this point, no CHDO reservations or commitments to State or sub-recipients from before that date should be carried over. Therefore all projects should be subject to these new requirements.

CDBG Entitlement
As with the HOME Program, the effective date of the lead-based paint rule is September 15, 2000. At this point, no CDBG reservations or commitments from before that date should be carried over. Therefore all projects should be subject to these new requirements.

CDBG State Program
The effective date is the date the State or HUD (as applicable) awards funds to a local government. In the State program, the new regulatory provisions should apply to grants which the State awards to units of local government on or after September 15, 2000. At this point, no State award from before that date should be carried over. Therefore all projects should be subject to these new requirements.

CDBG Insular Areas Program and HUD-Administered Small Cities Program in Hawaii
In the Insular Areas program and the HUD Administered Small Cities Program in Hawaii, the new regulatory provisions apply to grants which HUD awards on or after September 15, 2000. HUD-Administered Small Cities grants awarded by HUD in FY1999 and earlier are not subject to the requirements of the new rule, unless a community is jointly funding activities using a combination of HUD Small Cities grant funds and funds from other programs which would be subject to the new provisions.

J1a. ***STATE CDBG AND REHABILITATION FUNDED WITH CDBG PROGRAM INCOME:*** *If a granteeuses program income from a State CDBG grant awarded before September 15, 2000, does the new Lead Safe Housing Rule apply?*

It depends. For State CDBG grantees who operate CDBG rehabilitation programs:

- Program income generated from and used to continue rehabilitation activities for which funds were awarded by the state prior to September 15, 2000 is not subject to the new rule, as long as the state grant recipient does not receive additional funding for the same activities from the state after September 15, 2000.
- Program income generated from activities for which funds were awarded by the state prior to September 15, 2000, but which are subsequently attributed to or used in conjunction with/to continue activities for which funding was awarded by the state on or after September 15, 2000 is covered by the new rule as of the date of award of the subsequent state funding.
- Program income generated from activities which are not subject to the Lead Safe Housing Rule requirements, but for which the state grants approval on or after September 15, 2000 to use for activities which are subject to LBP requirements is subject to the new rule as of the date of state approval to use them for covered activities.

Source of Funding for Activity:	Subject to LSH Rule?
a. State CDBG grant for rehab awarded before September 15, 2000:	No
b. State CDBG grant for rehab awarded after September 15, 2000:	Yes
c. Program income from a pre-September 15 award used to continue an activity that was originally funded before September 15, 2000:	No
d. Program income from a pre-September 15, 2000, award that is subsequently rolled into a post-Sept. 15, 2000 award activity:(This includes revolving loan fund program income that is transferred to the newly-funded activity)	Yes
e. Program income from a post-September 15, 2000, award:	Yes
f. Program income generated from an activity which was not subject to the LSH Rule, for which a state approves an amendment to use it for an LBP -subject activity. (If state approval occurs on/after 9/15/2000).	Yes

J2. ***If I am conducting rehabilitation with Federal assistance covered by Subpart J of the regulation, is it necessary that the rehabilitation work be done by a certified lead paint abatement contractor?***
Those parts of the rehabilitation that are conducted with the express intent to permanently eliminate lead-based paint hazards, particularly those documented in HUD regulations, job specifications, cost allocation document, or local agency or court order requiring abatement, must be done by a certified lead-based paint abatement contractor. HUD also requires abatement when the hard costs of Federal rehabilitation assistance exceed $25,000 per unit, and interim controls when costs are between $5,000 and $25,000. Costs are calculated as described in question J3 below. Abatement is an option when costs are less, but is not required by HUD. Regardless of whether or not abatement or interim controls is conducted, occupant protection, lead-safe work practices, and clearance are required whenever lead-based paint hazards are above de minimis levels (see the joint HUD/EPA letter of April 19, 2001 at www.hud.gov/offices/lead).

J3. ***Calculation of Average Federal Assistance and Average Rehabilitation Costs:*** *In the instructions in section 35.915 for calculating the Federal rehabilitation assistance per unit for a given project, what is "rehabilitation assistance?" Does it include Federal funds to acquire a property that is to be rehabilitated? If so, please explain how the calculation is made for a multifamily property.*
Section 1012(a)(3) of Title X amended the Lead Based Paint Poisoning Prevention Act to require, among other things, that procedures established by HUD require "reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than $25,000 per unit in Federal funds" and "abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than $25,000 per unit in Federal funds" (emphasis added). This statutory language allows for the fact that Federal funds are used to assist various costs associated with rehabilitation projects. For example, Federal assistance is often used for acquisition or soft costs associated with rehabilitation. Such projects are considered rehabilitation projects for program purposes, regardless of the specific costs paid with Federal funds. To ensure that both the level of average Federal assistance per unit and the extent of rehabilitation are accurately measured for purposes of triggering lead-based paint requirements, the regulation calls for a dual-threshold method of the applicable set of lead-based paint requirements for a rehabilitation project.

Under the dual-threshold approach to calculating the level of rehabilitation assistance, the designated party makes two calculations and uses the lesser of the two to determine the applicable requirements. One calculation is of average Federal assistance per unit; the other is of average rehabilitation hard costs per unit, regardless of whether the source of funds is Federal or non-Federal.

For the purpose of calculating average Federal assistance per dwelling unit, Federal assistance per unit includes all Federal funds, including program income generated by Federal funds are counted. (Note: Proceeds of the sale of Low-Income Housing Tax Credits and proceeds from rehabilitation mortgage insurance, such as a 203(k) loan are not considered Federal assistance for this purpose. Funds provided under the Department of Energy's Weatherization Program are not counted as Federal assistance or covered by this regulation because it is not considered a housing assistance program. However, Weatherization performed with CDBG and HOME funds is covered by the regulation and therefore should be included when calculating average Federal assistance). All Federal funds must be included in this calculation regardless of how the Federal funds are used in the project. For example, in a project involving acquisition and rehabilitation, all Federal funds received by the project are included in the calculation even if the Federal funds were used to pay for the acquisition or other non-rehabilitation costs.

The average Federal assistance per unit is the total Federal assistance divided by the total number of federally assisted dwelling units in the project.

The average rehabilitation hard costs per dwelling unit are the actual costs, regardless of the source of funds, associated with the physical development of a unit (i.e., total per unit project costs minus "soft" costs, administrative costs, relocation costs, environmental review costs, acquisition costs, etc.), not including lead hazard evaluation and reduction costs. Soft costs include financing fees, credit reports, title binders and insurance, recordation fees, transaction taxes, impact fees, legal and accounting fees, appraisals, architectural and engineering fees.

Lead hazard evaluation and reduction costs include costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to lead-based paint hazard reduction.

If all the units in a multi-unit project are Federally-assisted, the average rehabilitation hard cost per unit is calculated as follows:

Average Per Unit Rehab Hard Cost = Total rehab hard costs for project / Total number of units

For multi-unit projects with both Federally-assisted and non-assisted units, calculate the total rehabilitation hard costs per unit using the following formula:

a/c + b/d, where:

a = Rehabilitation hard costs, as defined above, for all assisted dwelling units (not including common areas and exterior surfaces),

b = Rehabilitation hard costs, as defined above, for common areas and exterior surfaces,

c = Number of federally assisted dwelling units in the project, and

d = Total number of dwelling units in the project.

Example: A 20-unit property is undergoing rehabilitation. Total rehabilitation hard costs for the project are $650,000, including $150,000 for repairs to the exterior and common areas of the building, $250,000 to rehabilitate 10 HOME-assisted dwelling units, and $250,000 for repairs to the unassisted units. The average rehabilitation hard costs per unit are:

$250,000/10 units + $150,000/20 units = $25,000 + $7,500 = $32,500 per unit.

(Remember that the above formula applies to the calculation of the average rehabilitation hard costs per unit, not to the Federal funds per unit.)

The category into which a rehabilitation job falls is determined by the lesser of the two threshold numbers (i.e., average Federal assistance per unit or average the rehabilitation hard costs per unit.)

If, in the example above, total Federal assistance to the project is $200,000, then the applicable requirements would be those for the $5,000 - $25,000 category (average Federal assistance per unit ($20,000) would be the lesser number and would determine the applicable requirements).

If in the example, total Federal assistance to the project is $300,000, then the applicable requirements would be those for the over $25,000 category (average Federal assistance per unit ($30,000) is again the lesser number and would determine the applicable requirement).

J3a. ***CALCULATING AVERAGE REHABILITATION HARD COSTS FOR SINGLE-FAMILY PROPERTIES****: Can you clarify the average Federal assistance and average rehabilitation cost for single-family properties. How do I use the dual threshold approach if I'm only rehabilitating one unit?*

Average Federal assistance per unit

For the purpose of calculating Federal assistance per dwelling unit, Federal assistance includes all Federal funds, including program income generated by Federal funds.

The per-unit Federal assistance is the total Federal assistance divided by the total number of federally assisted dwelling units in the project.

Example 1: The city spends $40,000 of CDBG funds to rehabilitate a single-family home. The city is rehabilitating one home. The per-unit federal assistance for this project will be $40,000 divided by 1, or $40,000.

Total Federal Assistance/Number of dwelling units = Average Federal Assistance/Unit

$40,000/1 = $40,000

Average rehabilitation cost per unit

Example 1a: Using the same example of the city rehabilitating a single family home, the hard costs of rehabilitation for the home is $35,000. The average rehabilitation cost per unit will be $35,000 divided by 1, or $35,000.

Total Rehab Hard costs for project/Total number of units = Average rehab. cost per unit

$35,000/1= $35,000

Applying the Dual Threshold Calculation

The category into which a rehabilitation job falls is determined by the lesser of the two threshold numbers (i.e., Federal assistance per unit or the rehabilitation hard costs per unit.)

In the single family home example, the total federal assistance to the project was $40,000; the average per unit rehabilitation hard cost was $35,000. The average per unit rehabilitation hard cost ($35,000) is the lesser of the two numbers and therefore the lead-based paint rehabilitation requirements for projects with greater than $25,000 of rehabilitation assistance apply.

J4. ***CHANGE ORDERS****: How does a change order affect the level of assistance in a rehabilitation project for the purposes of the regulation?*
HUD recognizes that unanticipated change orders are common in rehabilitation projects. Therefore, the Department will not require a recalculation of the level of assistance for the purposes of the lead-based paint regulation, and thus will not require a change in the category of lead-based paint requirements, as a result of a change order; except that if a pattern is found that indicates an obvious abuse of this policy to avoid the more protective requirements, the Department will find the designated party in noncompliance.

J5. ***SUBTRACTION OF LEAD HAZARD REDUCTION COSTS:*** *To what extent can designated parties subtract the cost of lead-based paint hazard reduction activities in calculating the "hard costs of rehabilitation," which are used to determine which category of Federal rehabilitation assistance a particular project belongs to (i.e., up to and including $5,000, more than $5,000 and up to and including $25,000, or more than $25,000 per unit)?*

Designated parties can subtract costs of lead-based paint hazard reduction from the total cost of a project to determine the category of rehabilitation assistance in which the project belongs, but they should not subtract costs of rehabilitation they would have done anyway, in the absence of the regulation. To be subtracted, costs should be clearly and reasonably attributable to lead-based paint hazard reduction.

Section 35.915(b)(2) states that, "the amount of rehabilitation assistance is the average per unit amount of Federal funds for the hard costs of rehabilitation, excluding lead-based paint hazard evaluation and hazard reduction activities. Costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance and waste handling attributable to lead-based paint hazard reduction are not to be included in the hard costs of rehabilitation." The intent of this provision is explained in the "preamble" to the regulation, where it states that "determination of the category of assistance . . . will be based on the hard costs of ordinary rehabilitation, <u>not including the additional costs of complying with this rule</u>" (64 FR 50174, emphasis added). The term "lead-based paint hazard reduction" does not include rehabilitation activities that would have been conducted in the absence of the regulatory requirements.

For each lead-based paint hazard reduction activity for which costs are subtracted, designated parties should:

(1) document what the activity is, its scale or extent, and where in the building it is conducted,
(2) document that the surface affected is a known or presumed lead-based paint hazard prior to the rehabilitation,
(3) document that the activity is a reasonable and acceptable method of eliminating or controlling the hazard, and
(4) determine that the cost of the activity is reasonable.

The most authoritative way to provide documentation of items 1 through 3 above is to conduct a risk assessment of the subject property before the rehabilitation. The risk assessment report should document the nature and location of the hazard and should indicate acceptable methods for controlling the hazard. Paint testing results may also be helpful.

If the standard treatments option is taken, the designated party should record the results of a visual assessment that documents the conditions being treated, e.g., deteriorated paint; rough, pitted or porous horizontal surfaces; and bare soil. These conditions become presumed lead-based paint hazards. Remember that standard treatments must be conducted throughout the assisted part of the property, including common areas, because the option is in lieu of a risk assessment and interim controls, which is a property-wide requirement.

The most questionable way to establish the existence of lead-based paint hazards is to presume their existence without any risk assessment, paint testing or lead-based paint inspection, and without taking the standard treatments option. Much old paint is not lead-based paint. However, a presumption may be acceptable if a designated party has a sound factual basis for it, such as positive paint testing data from similar surfaces on the same property or on structures of a similar construction period in the same neighborhood, combined with a documented visual assessment finding deteriorated paint on the subject surfaces. Guidance on this approach is given in the HUD *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (www.hud.gov/offices/lead).

In deciding whether activities qualify as lead-based paint hazard reduction activities, remember that intact lead-based paint is generally not considered a hazard. Therefore, if you are, for example, removing an interior partition on which the paint is intact, you should not classify that activity as lead-based paint hazard reduction even if the partition has lead-based paint on it. It is also important to apply the reasonableness test to activities in which paint disturbance is only ancillary to the task. For example, do not allocate the cost of a furnace replacement to lead hazard reduction because it happens to include repair and repainting a partition with deteriorated lead-based paint. Do not allocate the cost of roof repair to lead hazard reduction because the job includes replacement of fascia or soffits with deteriorated lead-based paint.

Window replacement or repair is a rehabilitation activity that can sometimes be attributable to lead-based paint hazard reduction, but only if the windows would not be replaced as part of the rehabilitation project. If the windows are deteriorated and would have been replaced regardless of the presence or absence of lead-based paint, they are rehabilitation costs, not lead hazard reduction costs, and cannot be subtracted in calculating the level of assistance for the purposes of the regulation.

J6. ***ROOF REPAIR AND LEAD HAZARD CONTROL COSTS:*** *A leaky roof is causing damage to lead-based paint. Since controlling the lead hazard involves fixing the roof, does the roof repair count as a lead hazard control cost? Can that be subtracted from the rehabilitation hard costs?*

A leaky roof has many other code implications beyond lead safety. Fixing the roof, while it contributes to controlling the lead hazards, does not constitute hazard reduction in and of itself.

J7. ***DE MINIMIS AREAS AND PAINT TESTING/CLEARANCE/NOTIFICATION REQUIREMENTS:*** *The regulation states, at section 35.1350(d), that if the area of painted surfaces being disturbed totals no more than a specified de minimis level, safe work practices are not required. Does this mean that paint testing, clearance, and <u>notice of hazard reduction activity</u> are also not required?*

There is no need to perform paint testing if the job is exempt from safe work practices. Clearance is not required in this situation (see either section 35.930(b)(3) or 35.1340(g)). Similarly, provision of a notice of hazard reduction is not required if a clearance examination is not required (see § 35.125(b)(3)).

J8. ***DE MINIMIS AREA OF PAINT DISTURBANCES:*** *If the average Federal rehabilitation assistance for a project is $10,000, but the amount of paint being disturbed is minor, affecting an area of less than the de minimis threshold for safe work practices stated at section 35.1350(d), is it still necessary to conduct a risk assessment and interim controls?*

Yes. If paint is being disturbed, the project is covered by the regulation, and then the requirements for lead-based paint hazard evaluation and reduction are based on the level of assistance, not the amount of paint being disturbed. Work on surfaces where the amount of paint disturbed is below the de minimis threshold need not follow safe work practices, although HUD recommends that caution be used to minimize the dispersal of lead in dust, paint chips, or debris.

J9. ***PAINT TESTING FOR REHABILITATION OVER $5,000****: Why does the regulation require a risk assessment <u>and</u> paint testing for rehabilitation projects over $5,000? Isn't paint testing included as part of a risk assessment?*

The statute requires an inspection to determine the presence of lead-based paint. A risk assessment is required to identify lead-based paint <u>hazards</u> which the law requires to be abated. A risk assessment usually includes paint testing of a sampling of deteriorated painted surfaces, plus dust and soil testing. The paint testing requirement is for all deteriorated painted surfaces plus all painted surfaces to be disturbed or replaced during rehabilitation. However, there is no need to retest painted surfaces that have already been tested to comply with the risk assessment or paint testing requirements of the rehabilitation subpart.

J10. ***EXEMPTIONS AND PROJECT REHABILITATION COSTS:*** *Does the exemption for rehabilitation that does not disturb a painted surface (at section 35.115(a)(8)) apply regardless of the project cost?*
Yes.

J11. ***FUNDS FROM FEDERAL AGENCIES OTHER THAN HUD****: When calculating average Federal assistance per unit, should I include funds from all Federal agencies?*
Yes, but only if the Federal program is considered a housing assistance program. For example the Department of Energy Weatherization program is not considered a housing assistance program since the intent is to conserve energy, not change the housing conditions. As with other construction activities, HUD and DOE recommends that weatherization activities disturbing more than the de minimis threshold use lead-safe work practices and clearance examinations, unless the paint is known to be non-lead-based paint.

J12. ***VOLUNTEER PAINT PROGRAM APPLICABILITY****: Does subpart J apply to "paint programs," in which paint is distributed, or funds are provided to purchase the paint, so homeowners or volunteers can paint their homes? What if the program provides only $250 worth of paint in-kind?*
Paint programs are rehabilitation programs as specified in the CPD memo on "Classification of Paint Programs," dated July 13, 1992. Therefore, they are subject to the requirements of subpart J if the paint is being purchased with funds provided under a program covered by subpart J, such as the Community Development Block Grant program, and if painted surfaces are being disturbed by scraping, sanding or other abrasive methods during preparation of the surfaces for repainting. (HUD does not consider washing of painted surfaces, by itself, to constitute disturbance of painted surfaces, unless the treatment is water *blasting*.)

Because $250 in funds is less than $5,000, the threshold for interim controls, the lead-based paint requirements for this work include safe work practices and clearance of the worksite. It makes no difference if the program provides the paint in-kind or the funds to purchase the paint.

Surface preparation before repainting is an activity that can generate a significant amount of lead dust if the paint is lead-based paint. Occupants as well as workers can be exposed to significant levels of dust, and interior and exterior environments can be contaminated. It is important, therefore, that safe work practices, as set forth in §35.1350, be used and that worksite clearance be achieved to assure that the site is not left contaminated with lead dust or contaminated debris. See HUD's Fact Sheet of March 2000 on Federal Requirements for Volunteer Paint and Rehabilitation programs, which can be found at HUD's web site at www.hud.gov/offices/lead, or obtained from HUD at 1-202-755-1785 ext. 104 (this is a toll call). If you are a hearing- or speech-impaired person, you may reach the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

J13. ***VOLUNTEER PAINT PROGRAM REQUIREMENTS****: What are the requirements that apply to paint programs and how does HUD recommend that homeowners and volunteers carry out these requirements?*
Most, if not all, of the repainting assisted by paint programs will have a Federal assistance cost of no more than $5,000 per dwelling unit, so the requirements of section 35.930(b) will apply. Those requirements are basically that safe work practices must be followed in the course of the surface preparation and repainting and that clearance of the worksite must be achieved. However, safe work practices and clearance are not required if the area of paint being disturbed is no more than 20 square feet on exterior surfaces, 2 square feet in any one interior room, or 10 percent of the total surface area on an interior or exterior component with a small surface area (such as window sills, baseboards or trim). If the area of paint disturbance is expected to be greater than those areas, there is a requirement that either surfaces to be disturbed must be tested for the presence of lead or the presence of lead-based paint must be presumed.

If the paint to be disturbed is tested and found not to be lead-based paint, safe work practices and clearance are not required, although safe work practices are always good practice because there may be some lead in the paint even if it is not above the defined level of "lead-based paint." If the paint is tested and found to be lead-based paint or if it is presumed to be lead-based paint, safe work practices must be implemented during the surface preparation and repainting, and a clearance examination must be conducted of the area where the surface preparation and repainting occurred and clearance must be achieved.

Safe work practices are as follows (as listed at section 35.1350): (1) prohibited methods of paint removal (listed in section 35.140) shall not be used, (2) occupants and their belongings shall be protected in accordance with section 35.1345, and (3) specialized cleaning shall be conducted after completion of the work to assure that clearance will be achieved.

The regulation requires that persons performing repainting or other rehabilitation activities that are covered by section 35.930(b) (which is the up-to-$5,000 category) be supervised or formally trained in accordance with the requirements for interim controls workers at section 35.1330(a)(4), only when the activities are intended to control lead hazards. Nevertheless, safe work practices must be followed and clearance of the worksite must be achieved, regardless of the intent of the work, if the area of disturbed paint exceeds the small areas described above, and designated parties are responsible for assuring compliance with these requirements. (For rehab in the up-to-$5,000 category that is not intended to control lead hazards, HUD recommends that contractors and employees take a short course on safe work practices for the type of work they will do, take the HUD-approved interim controls training, or be supervised by a certified abatement supervisor.)

However, HUD recommends that designated parties (i.e., grantees, participating jurisdictions, sub-recipients) arrange for homeowners and volunteers to take a short course on safe work practices for the type of work they will do. Adaptations can be made from the approved courses listed in section 35.1330(a)(4) (see Question S5 for information on availability of course materials), or a course can be adapted from the booklet, "Lead Paint Safety: A Field Guide for Painting, Home Maintenance, and Renovation Work," which can be obtained by calling 1-800-424-LEAD, or downloaded from the HUD web site, www.hud.gov/offices/lead. The objectives of such brief training should be to acquaint people with the following topics: (1) why one should be concerned about lead-based paint hazards; (2) how to prepare surfaces for repainting without using the prohibited practices of paint removal; (3) how to protect occupants, their belongings, the worksite, and the rest of the home from lead contamination by using polyethylene ("poly") or other floor coverings; (4) how to clean up after the work in order to achieve clearance; and (5) the importance of achieving clearance.

Persons performing rehabilitation activities intended to control lead hazards must be trained in safe work practices or, if the work is abatement, as abatement workers (see question R5).

With regard to clearance, HUD suggests that designated parties arrange for persons who are certified to perform clearance examinations to be available for clearance of participating homes, with the cost being paid by the program. There are several ways this could work. The local housing or public health agency could have certified personnel on staff who could perform the clearance for free. Alternatively, owners or volunteers might be provided with a list of clearance examiners; they could arrange for the clearance examination directly and then present the clearance examiner's bill to the designated party, along with a copy of the clearance report showing that the worksite passed clearance.

J14. ***FUNDING OF PAINT PROGRAM COORDINATORS:*** *If a grantee is using CDBG funds to support a project coordinator to oversee volunteers who are doing rehabilitation work, is the project subject to the regulation? If so, how are the costs covered, since no funds flow to the rehabilitation project?*
If the project coordinator has hands on, day-to-day control over the actual work being performed by volunteers at a project site, then Federal funds would be deemed to used for rehabilitation activities and 24 CFR 35, Subpart J would apply. However, if the project coordinator only performs rehabilitation services (24 CFR 570.202(b)(9)), such as the general administration of a volunteer program or the preparation of work specifications, then 24 CFR Part 35, Subpart J would not apply because these are considered soft costs.

J15. ***SWEAT EQUITY PROGRAMS:*** *Are sweat equity programs covered by the regulation?*
Yes, if Federal funds are being used to pay for labor and materials (hard costs). In such a case, sweat equity workers must meet the same requirements as other workers and must use safe work practices.

J16. ***GRAFFITI REMOVAL:*** *Is a graffiti removal program considered rehabilitation? Is it residential? What if the homeowner does it him/herself?*
Graffiti removal is rehabilitation, although some removal may be exempted from the rule, as discussed below. The exterior of a home, fences, and out buildings are all considered part of the residential property and therefore, they are covered by the lead-based paint rule. Even if the homeowner does the work personally, the work is still subject to the lead-based paint requirements if it is supported by Federal assistance. See the question above on sweat equity.

However, most graffiti removal may be exempted because it disturbs no painted surfaces (such as when simply painting over graffiti), or the surface can be tested to show that the graffiti (and paint underneath the graffiti) is not lead-based paint. If the work is not exempt for those reasons, the area of paint being disturbed in graffiti removal will often be no more than 2 square feet or 20 square feet, on large interior or exterior surfaces, respectively, which are the de minimis levels for safe work practices, so safe work practices and clearance would not be required for such work.

J17. ***FACADE RENOVATIONS****: If CDBG or HOME funds are used to renovate the façade and the sign of a mixed-use building, is this covered by the regulation?*
Yes. If the façade is the exterior of the residential units, then this would be considered residential rehabilitation and would be subject to the requirements of Subpart J. If the sign is in an area accessible to residents of the building, it too would be covered.

J18. ***USE OF CDBG AND HOME FUNDS FOR TRAINING AND OTHER LEAD-RELATED EXPENSES:*** *Can grantees use CDBG and HOME funds to train contractors or landlords to perform lead hazard evaluation or reduction? Can CDBG and HOME funds be used to purchase and XRF analyzer?*
Training contractors or landlords is eligible as a rehabilitation service under the CDBG regulations at 24 CFR 570.202(b)(9) or as an administrative expenses under 24 CFR 570.206. Under the HOME program, landlord or contractor training is eligible as an administrative expense under 24 CFR 92.207 or as a project delivery cost under 92.206(d).

CDBG and HOME funds can also be used to pay for an XRF analyzer (a device used to measure the lead content in paint) under the eligibility category of 24 CFR 570.202(b)(9), Rehabilitation Services for CDBG, and 24 CFR 92.206(d) for the HOME program.

J19. ***HOME MATCH ELIGIBLE HOUSING:*** *If a project is not receiving Federal assistance, but contributions toward the project are being counted as match for HOME Program purposes, do the lead-based paint rules apply?*
No. While HOME-match eligible projects are subject to the HOME property standards, Part 35 does not apply. HOME match contributions are required by statute to be non-federal and are, therefore, not counted as Federal assistance for the purpose of determining the applicable requirements for rehabilitation projects.

J20. ***PARTIALLY HOME-ASSISTED PROJECTS:*** *In a project that includes both HOME-assisted and non-assisted units, do the lead-based paint rules apply to the non-assisted units?*
Yes. If a project receives HOME funds, the lead-based paint requirements apply to the entire project, irrespective of the designation of individual units. In addition, if a project receives CDBG assistance, the entire project is considered assisted and the lead-based paint requirements apply to all units.

J21. ***PROJECT ACQUISITION AND REHABILITATION COSTS:*** *If a developer acquires a property with HOME or CDBG funds and uses non-Federal funds for rehabilitation, would the project be subject to the acquisition (Subpart K) requirements of the rule, rather than the rehabilitation requirements?*
No. In both the HOME and CDBG programs, this project would be considered a rehabilitation project because rehabilitation is the ultimate activity. Consequently, the rehabilitation (subpart J) requirements would apply.

J22. ***ADMINISTRATIVE COSTS AND HARD COSTS:*** *If an Entitlement Community provides administrative funds to a nonprofit to operate a rehabilitation program but no money for construction, does it have to comply with the lead-based paint regulation?*
No, administrative costs are not included in "hard costs of rehabilitation," as defined in section 35.110.

J23. ***ANNUAL INSPECTIONS AND LEAD PAINT MAINTENANCE:*** *The HOME regulations require annual physical inspections only for rental projects with more than 25 HOME-assisted units. However, the lead-based paint rule calls for annual lead-based paint maintenance. Please clarify.*
The HOME program requires periodic monitoring (i.e., every 1, 2 or 3 years, depending on project size) of the physical condition of an assisted rental property. This is distinct from the ongoing maintenance requirement for HOME rental projects under the lead-based paint rule. Under the latter requirement, the Participating Jurisdiction must require a project owner who received HOME rehabilitation assistance to perform lead-based paint maintenance as a part of regular building maintenance. This means that the owner must perform a visual assessment for deteriorated paint surfaces, stabilization of deteriorated paint surfaces and clearance, annually and at unit turnover. During periodic physical inspections of the property required by the HOME regulations, the Participating Jurisdiction is required to determine whether the owner has been following the required protocol, as well as perform a physical inspection for compliance with property standards it has adopted for its HOME program.

J24. ***RELOCATION AND REHABILITATION PROGRAMS****: Is relocation required when performing lead-based paint hazard reduction or rehabilitation covered by subpart J of the regulation?*
As stated in section 35.1345, temporary relocation is required unless: (1) the work will not disturb lead-based paint or lead-based paint hazards; (2) only exterior work is being conducted and openings to the interior are closed during the work and lead-hazard-free entry to the dwelling is provided; (3) the interior work will be completed in 8 hours, the work sites are contained to prevent dust release into other areas, and no other health or safety hazards are created; or (4) interior work will be completed in 5 consecutive days, work sites are contained, no

other health or safety hazards are created, work sites and areas 10 feet from the containment are cleaned at the end of each work day, and occupants have safe access to sleeping, kitchen and bathroom facilities. Safe access to sleeping areas, and bathroom and kitchen facilities does not require that such facilities be provided in the same unit. Such facilities can be provided in another convenient location in many instances, thereby avoiding an unnecessary relocation of residents. The term “interior work” refers to work in a single room. At no time can occupants be permitted into the work sites, unless they are employed in the work, until after work is complete and clearance, if required, has been achieved.

Relocation of elderly occupants is not typically required, so long as complete disclosure of the nature of the work is provided and informed consent of the elderly occupant(s) is obtained before commencement of the work.

J25. ***PROGRAM ADMINISTRATION****: If CDBG funds are used for program administration costs only and not for any project costs, does the regulation apply?*
No, because these are considered to be soft costs. Program administration costs, in the CDBG program, are those costs which involve the overall program management, coordination, monitoring, and evaluation of the program. Project delivery costs include staff and overhead costs directly involved in carrying out an eligible activity. In neither case are such costs included in the “hard costs” of rehabilitation.

J26. ***LONG-TERM EMERGENCY REHABILITATION****: If an emergency rehabilitation program does $7,000-$10,000 worth of work on a property over a two-to-five year period, how is it classified?*
First, if it takes two-to-five years to complete “emergency” work, such work does not qualify for the emergency exemption at 35.115(a)(9), which only applies to “actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse).” Second, a program of rehabilitation that is expected to extend over several years for a single property must be considered as one project for the purposes of determining the category of requirements in subpart J. Therefore the category would be $5,000-$25,000 per unit in this case.

J27. ***FUNDING BEFORE THE EFFECTIVE DATE****: Does Subpart J apply to a project receiving rehabilitation assistance from a HOME, IHBG or CDBG Entitlement, HOPWA, Supportive Housing Program, or Indian CDBG program before the effective date of the rule, September 15, 2000, to which funds are added on or after the effective date, and if so, to what part of the project?*
Yes, Subpart J does apply to funds from those programs, whether to a new project or a modification of an existing project. You must also determine whether a project is receiving over $5,000 or over $25,000 per unit.

J28. ***APPLICABILITY TO SECTION 203(k) PROGRAM:*** *Does subpart J apply to rehabilitation being conducted on a single family home being purchased with a loan insured under the Section 203(k) Rehabilitation Mortgage Insurance program?*
The 203(k) program, commonly known as single-family rehabilitation mortgage insurance, involves rehabilitation loans and the provision of mortgage insurance by HUD. The mortgage insurance covers, at a minimum, the indebtedness resulting from the loan. HUD provides the mortgage insurance, but not the original rehabilitation loan. As such, the 203(k) program is treated as any other single-family mortgage insurance program.

At the current time, 24 CFR Part 35, Subpart E has been reserved for the coverage of all HUD single-family mortgage or guarantee programs. Until further notice, these programs are covered at 24 CFR 200.800-810 as revised at 64 FR 50226, published on September 15, 1999, with no change in applicable requirements.

Subpart K. ACQUISITION, LEASING, SUPPORT SERVICES, OR OPERATION

K1. ***EMERGENCY SHELTERS****: If HUD funds are being used to operate an emergency shelter, is the shelter subject to the lead-based paint regulation?*
The answer to this question depends on the configuration of the shelter. Most emergency shelters are exempt, because they fall under the definition of zero-bedroom dwellings, which are exempt under the Title X statute. If the shelter does not qualify for the zero-bedroom exemption, it is covered by the regulation.

A zero-bedroom dwelling is defined in section 35.110 as "any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings.” The term “single room occupancy housing” is defined as “housing consisting of zero-bedroom dwelling units that may contain food preparation or sanitary facilities or both.” Group homes are exempt if they consist of “rentals of individual rooms in residential dwellings.”

If you provide funds for a shelter with units having one or more bedrooms, and that receive assistance for more than 100 days, it is required that you adopt and implement a policy that assures that the child-occupied spaces will be lead safe. If you provide funds for a shelter with zero-bedroom units, or a shelter receiving assistance for up to, but not more than, 100 days, the units are exempt from the regulation, but HUD recommends that you adopt and implement a policy that assures that the child-occupied spaces will be lead safe, when the units are occupied by children of less than 6 years of age.

K2. ***SUPPORT SERVICES (E.G. “MEALS ON WHEELS”)****: Does Subpart K apply to homes in which support services, such as meals on wheels, are provided to residents?*
The regulation applies to support services that can be considered to be housing assistance. Programs that provide services such as medical care, education, or food service are not considered housing assistance programs and are not covered by the regulation. However, similar to the guidance provided in K1 above, HUD recommends that efforts be made to assure that facilities providing these types of support services are lead-safe, if they are frequented by children less than 6 years of age. Programs that assist in buying, renting, improving, operating or maintaining housing are covered. Therefore meals on wheels is not covered, but housing operation assistance is covered, except when the facility is otherwise exempt (e.g., because of the zero-bedroom exemption). The lead-based paint regulation applies only to residential properties.

K3. ***COUNSELING AND DEFAULT FUNDING:*** *Does default and delinquency funding trigger lead-based paint requirements? What about counseling?*
If, as is usually the case, the default and delinquency funding is emergency rental assistance or foreclosure prevention assistance, it qualifies for the 100-day exemption provided at section 35.115(a)(11). Counseling does not trigger requirements under the regulation.

K4. ***SECURITY DEPOSIT ASSISTANCE****: If McKinney Homeless funds are used to provide security deposits to homeless persons to assist them in obtaining housing, what lead-based paint requirements apply to the unit?*
The requirements of subpart K apply to this unit. (If the activity involves the placement of a person in a unit that will be used for housing purposes for more than 100 days, the exemption for emergency rental assistance does not apply.)

In the HOME Program, security deposit assistance is categorized as a form of tenant-based rental assistance (see M.5). In the CDBG program, grantees can provide security deposit assistance as a public service activity eligible under 24 CFR 570.201(c).

K5. ***HOMELESS SHELTERS:*** *At section 35.115(a)(11), a 100-day exemption from the requirements of subpart K is provided for emergency rental assistance or foreclosure prevention assistance. Does this apply to homeless shelters?*
Usually not. First, most shelters are exempt from the regulation, because they fall under the definition of zero-bedroom dwellings (see question K1). Second, as stated in section 35.115(a)(11), the 100-day exemption applies to the dwelling unit, not the family. Therefore, if a shelter is covered by the rule, it is likely to be assisted for more than 100 days. The purpose of the 100-day exemption is to allow local agencies to conduct short-term assistance to help prevent homelessness. As stated in the preamble to the regulation in the Federal Register, "HUD does not intend that multiple households receiving emergency assistance can be recycled through a unit without subjecting the unit to the requirements of subpart K."

K6. ***EMERGENCY RENTAL ASSISTANCE AND THE 100 DAY EXEMPTION****: In the case of the exemption for emergency rental assistance (section 35.115(a)(11)), do the 100 days accumulate with a family over a period of time, or do you count from day one each time you help the same family? If they do accumulate, over what period of time?*
The 100-day time period applies to the dwelling unit, not the family. The clock begins at the time the emergency assistance is first provided in a given unit and runs for 100 cumulative days. After that, if the designated party wishes to assist a family (any family) in that unit on an emergency basis using HUD funds, the exemption has expired and the requirements of subpart K apply, unless another exemption applies. As stated in K5 above, HUD does not intend that multiple households receiving emergency rental assistance can be recycled through a unit without subjecting the unit to the requirements of subpart K.

K7. ***EMERGENCY RENTAL ASSISTANCE AND TENANT-BASED ASSISTANCE****: If the 100-day exemption applies to emergency rental assistance, why doesn't it apply to subpart M, which is the subpart that pertains to tenant-based rental assistance?*
Emergency rental assistance for homelessness prevention falls under the category of leasing assistance that is covered by subpart K. Subpart M applies to programs that provide assistance that is expected to continue for much longer than 100 days.

Under the Community Development Block Grant program, funds may be used to provide emergency payments to providers of housing (landlords) for up to three consecutive months on behalf of a family facing homelessness. Such emergency assistance should not exceed 100 days, so the assistance would be exempt from subpart K unless the affected dwelling unit was being used for more than one 100-day period, as explained in the answer to the previous question.

K8. ***MOBILE HOME PADS:*** *If HUD program funds are used to help a family rent a pad for a mobile home, what lead-based paint requirements apply?*
The requirements of Subpart K apply if the home was manufactured before 1978. If rehabilitation of the unit is also being undertaken, then the lead-based paint requirements is the stricter of the subpart K requirements or the applicable subpart J (rehabilitation) requirements.

K9. ***ONGOING MAINTENANCE AND DURATION OF ASSISTANCE****: Section 35.1015(c) states that ongoing lead-based paint maintenance is required of properties covered by subpart K. Does this requirement apply to all such properties, regardless of the duration of assistance?*
Ongoing lead-based paint maintenance is required only when there is a continuing, active programmatic relationship for more than one year between the property and the federally funded program, such as continuing financial assistance, ownership, or periodic inspections or certifications. Generally, the ongoing maintenance requirement in subpart K applies to transitional housing, shelters and group homes that are not exempt from the regulation and which have a continuing programmatic relationship. The ongoing lead-based paint maintenance requirement normally does not apply to one-time assistance, such as mortgage insurance or loan guarantees, to owner-occupants or to renters. If a homebuyer receives a loan to purchase a home, this is considered one-time assistance, even though the homebuyer is making monthly payments on the loan. One-time down payment assistance and security-deposit assistance are other types of assistance to which the ongoing maintenance requirement does not apply. The existence of a federally assisted land trust that is designed to keep home prices affordable does not create a continuing relationship with buyers of homes on the land for the purposes of this regulation, so the ongoing maintenance requirement does not apply.

K10. ***DELEGATING RESPONSIBILITY FOR ONGOING MAINTENANCE:*** *If the grantee or participating jurisdiction is not the owner or operator of the property, can the grantee or participating jurisdiction assign the responsibilities of ongoing lead-based maintenance to the owner or operator of the property?*
Yes. For properties subject to subpart K, "The grantee or participating jurisdiction may assign to a sub-recipient or other entity the responsibilities set forth in this subpart." (section 35.1000(b))

Subpart L. PUBLIC HOUSING PROGRAMS

L1. ***REVIE OF PREVIOUS LEAD PAINT INSPECTIONS****: Section 35.1115(a) of the regulation requires public housing agencies to review the quality of prior lead-based paint inspections that were not performed by persons certified in accordance with EPA regulations. The review is to be done in accordance with quality control procedures established by HUD. What are those procedures, and how does one obtain them?*
In 1995 HUD issued Notice PIH 95-8 (HA) on "Quality Control Procedures for On-Site Lead-Based Paint (LBP) Testing Activities." That document is current until revised and can be obtained from www.hud.gov/offices/lead or from lead_regulations@hud.gov, by calling 1-202-755-1785, ext. 104, or by writing Lead Regulations, HUD Office of Healthy Homes and Lead Hazard Control, 451 Seventh Street, SW, Room P-3206, Washington, DC 20410. If you are a hearing- or speech-impaired person, you may reach the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

L2. ***NUMBER OF UNITS TO INSPECT****: In performing the quality control review of prior lead-based paint inspections, will I have to do more testing?*
It depends on the results of the review. If the inspection was done in accordance with HUD's 1991 *Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing,* or its *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*, for

which the lead-based paint inspection chapter was revised 1997, it is unlikely that further testing will be needed. The chapter can be obtained from the sources listed in question L1.

L3. ***RISK ASSESSMENTS AND PREVIOUSLY COMPLETED ABATEMENT**: Section 35.1115(b)states that, "if a lead-based paint inspection has found the presence of lead-based paint, or if no lead-based paint inspection has been conducted, the PHA shall conduct a risk assessment . . ."What if a lead-based paint inspection has been conducted and has identified lead-based paint, but all lead-based paint has been abated? Is it still necessary to conduct a risk assessment? What if the abatement was done with methods that did not remove all the lead-based paint (i.e., with encapsulation or enclosure)? In this case, should there be a risk assessment, or should there be a reevaluation?*
Section 35.115(a)(5) provides an exemption from the regulation if all lead-based paint has been identified and *removed* in accordance with EPA regulations at 40 CFR 745.227(b) and (e) if the work was done before September 15, 2000, or in accordance with sections 35.1320, 35.1325, and 35.1340 of the new HUD regulation if the work was done on or after September 15, 2000. If these conditions are met, the property is exempt from the regulation, and a risk assessment is not required.

If, however, the abatement used encapsulation or enclosure methods for some or all of the abatement, the lead-based paint has not been entirely removed; so further evaluation is required. The correct evaluation in this situation is a reevaluation, not a new risk assessment, because the reevaluation includes a survey of prior lead hazard reductions to determine whether such treatments are intact and functioning as intended.

Subpart M. TENANT-BASED RENTAL ASSISTANCE

M1. ***PREGNANT WOMEN**: Section 35.1200(b) states that subpart M "applies only to dwelling units occupied or to be occupied by families or households that have one or more children of less that 6 years of age. ." Does this mean that the subpart applies to a unit with a family that includes a pregnant woman but no other children?*
Yes. If the designated party knows that the family includes a pregnant woman, the regulation applies, because it is known that the unit is "to be occupied" by a family with a child of less than 6 years of age. This interpretation is consistent with the definition of the term "expected to reside" (in section 35.110), where the regulation states that, "if a resident woman is known to be pregnant, there is actual knowledge that a child will reside in the dwelling unit."

M2. ***RESPONSIBILITIES OF OWNERS AND DESIGNATED PARTIES**: Under the new HUD lead-based paint regulation, what are the responsibilities of the designated party administering tenant-based rental assistance versus the owner of the property?*
Below is a list of: (1) activities that may be required in housing occupied or to be occupied by families with children of less than 6 years of age under subpart M of the regulation and (2) the corresponding responsible party. According to 35.1200(b)(2)(ii), for purposes of the Section 8 tenant-based certificate and voucher programs the PHA shall be the designated party. For purposes of the HOPWA and Shelter Plus Care programs, the grantee shall be the designated party. For the purposes of the HOME program, the participating jurisdiction shall be the designated party. For the Indian Housing Block Grant program, the IHBG recipient shall be the designated party.

Activity.	Responsible Party.
Visual assessment at initial and periodic inspections.	Designated party.
Paint stabilization.	Owner.
Clearance.	Designated party.
Notice of clearance.	Owner.
Incorporation of ongoing lead-based paint maintenance into regular building operations.	Owner must perform the ongoing lead-based paint maintenance. Designated party must ensure that an owner incorporates ongoing maintenance into regulator building operations.
Attempt to obtain from health department names and/or addresses of children with environmental intervention blood lead level.	Designated party.
Report to health department addresses of assisted units, unless health department states it does not want such a report.	Designated party.
Match information from health department on names and/or addresses of children with names or addresses of assisted families.	Designated party, unless health department does it.

The following is a list of activities that are required in a dwelling unit occupied by a child of less than 6 years of age with an environmental intervention blood lead level:

Activity	Responsible Party
Risk assessment within 15 days after notification.	Designated party, unless public health department has already done it.
Verification of blood lead level, if initial source of information is not a medical health care provider.	Designated party must obtain written documentation of the child's blood lead level from the health department or other medical health care provider.
Hazard reduction of lead-based paint hazards identified in the risk assessment.	Owner.
Clearance.	Designated party.
Notice of evaluation and hazard reduction.	Owner.
Reporting to health department the presence of child with environmental intervention blood lead level if health department is not source of information.	Designated party.

Note: For purposes of the Section 8 tenant-based certificate and voucher programs initial clearance testing and risk assessments will be reimbursed by HUD in the form of an administrative fee.

M3. ***FAMILIES WITH CHILDREN:** The regulation states that the requirements of subpart M apply only to units that are occupied by families with a child of less than 6 years of age. It further states, in section 35.1225, that if a child living in a unit subject to subpart M is found to have an environmental intervention blood lead level and then that child moves out before any lead hazard evaluation or reduction work is done, the*

requirements of section 35.1225 still apply if another family with tenant-based rental assistance moves into the unit. Does this mean any assisted family, or only one with a child under 6?
The requirements apply to the unit regardless of whether or not the new assisted family has a child under 6. If HUD funds continue to assist the unit, a risk assessment must be conducted and if lead hazards are found they must be corrected.

M4. ***LONG-TERM AND SHORT-TERM RENTAL ASSISTANCE:*** *Section 33.115(a)(11) provides an exemption for emergency assistance lasting less than 100 days. It specifically mentions rental assistance but exempts it only from the requirements of Subpart K. However, rental assistance is discussed in Subpart M. This seems inconsistent.*
Short-term, emergency rental assistance is covered by subpart K. The rental assistance to which subpart M applies is longer term assistance, usually involving a one-year lease. The same is true with project-based rental assistance, which is covered by subpart H (see K7).

M5. ***HOME SECURITY DEPOSIT ASSISTANCE:*** *If a Participating Jurisdiction uses HOME funds for a security deposit assistance program, what lead-based paint requirements apply?*
In the HOME Program, security deposit assistance is a form of tenant-based rental assistance. Consequently, it might be expected that subpart M of the lead-based paint regulation would apply to these programs. However, Subpart M is intended to apply to housing that receives ongoing tenant-based rental assistance rather than limited, one-time assistance such as security deposit assistance. Because security deposit assistance does not constitute an ongoing relationship with a Federal housing program, the requirements of subpart K apply. The applicable requirements are visual assessment for deteriorated paint and stabilization of any deteriorated paint, followed by clearance and notice of clearance results.

M6. ***CONFIDENTIAL MEDICAL INFORMATION****: In some States the public health department is not able to provide the public housing agency or other designated party with the addresses of children with environmental intervention blood lead levels because of privacy concerns. In such cases, how will the housing agency be able to comply with the requirement to search for a match of such addresses with the addresses of housing receiving tenant-based rental assistance?*
If the health department is unable to provide addresses to the housing agency, the housing agency should send the addresses of housing with tenant-based assistance to the health department and request that the health department perform the match and notify the housing agency or other designated party of the presence of any children with such blood lead levels. (A list of pre-1978 units occupied by children of less than 6 years old is acceptable.) That will meet the information exchange requirements at section 35.1225(f) of the regulation.

HUD and the Centers for Disease Control and Prevention (CDC) strongly urge public health departments and housing agencies to work together to assure that children who have environmental intervention blood lead levels and are living in housing with tenant-based rental assistance receive the assistance from the public agencies and housing owners that is called for in the regulation. The requirement for information exchange between health and housing agencies stems from a finding in 1994 by the United States General Accounting Office that many children living in housing with Section 8 certificates or vouchers were not being adequately protected from lead-based paint hazards because health agencies often did not know that the home of a child with an elevated blood lead level was federally assisted and therefore did not ask the housing agency to require a response from the owner pursuant to HUD's regulations (see report number GAO/RCED-94-137, May 1994).

M7. ***EXTENSIONS FOR STABILIZING DETERIORATED PAINT:*** *May a Public Housing Agency extend the period for stabilizing deteriorated paint, normally before assisted occupancy commences, or within 30 days of notification of the presence of deteriorated paint after assisted occupancy has commenced?*
For consistency with provisions that give PHAs the authority to grant reasonable time extensions to owners for correcting other housing quality standards violations, the PHA may grant the owner an extension of time, for reasonable cause, of up to 90 days of the period to complete paint stabilization and clearance (See section 35.1215(d).)

M8. ***PAINT STABILIZATION AFTER THE FAMILY RECEIVING ASSISTANCE LEAVES:*** *Is paint stabilization of deteriorated painted surfaces required for housing receiving tenant-based rental assistance to meet housing quality standards?*
Owners of housing receiving tenant-based rental assistance must complete paint stabilization of deteriorated paint found by visual assessment. The completion of the paint stabilization is required for the unit to meet Housing Quality Standards (HQS) (see 24 CFR 982.401(a)(3) and (j)). The unit remains in non-compliance with the HQS until the paint stabilization is completed or the unit is no longer covered by this subpart because the unit is no longer under a housing assistance payment (HAP) contract with the housing agency. Once the unit leaves the program, such as by the assisted family leaving, the process starts anew if and when another family is requesting the unit. (See section 35.1215(b).)

Subpart R. METHODS AND STANDARDS

R1. ***EXTERIOR SURFACES:*** *Are there dust-lead clearance standards for exterior surfaces, like there are in the HUD Guidelines?*
Neither the Guidelines nor the regulation has dust-lead clearance standards for porches or balconies or other horizontal exterior surfaces, such as railings.

R2. ***PAINT TESTING AND CERTIFIED PERSONS:*** *Can paint testing of deteriorated paint or paint to be disturbed by rehabilitation or maintenance be conducted by someone who is not a certified lead-based paint inspector or risk assessor?*
No. Paint testing must be performed by a certified lead-based paint inspector or risk assessor.

R3. *If paint testing is achieved through laboratory analysis of a paint chip, instead of with an X-ray fluorescence (XRF) analyzer, is a certified person required?*
Yes. For the paint testing results to be considered valid under the regulation, the sample must be taken and the laboratory results interpreted and reported by a certified lead-based paint inspector or certified risk assessor.

R4. ***DEFINITION OF LEAD-BASED PAINT****: Is the definition of lead-based paint the same for HUD and EPA regulations as it is for the Consumer Product Safety Commission (CPSC)?*
No. The terms and definitions are different, because they have different purposes and have different meanings. The HUD/EPA term "lead-based paint" addresses the layers of paint on an applicable surface having lead equal to or greater than 1.0 mg/cm^2 or 0.5% by weight. The CPSC term is "lead-containing paint," which may not be sold for consumer purposes. The maximum amount of lead in paint that may be sold for consumer use is 0.06% of the dry weight of the paint. (The CPSC rule is published at 16 CFR 1303.) The CPSC rule does not use the term "lead-based paint."

R5. ***TRAINING:*** *The regulation has several training requirements and options. How does one get the training required for performance of a visual assessment for deteriorated paint and/or for the performance of interim controls?*
HUD has made visual assessment training available in the form of an Internet-based module. It is accessible via the HUD Office of Lead Hazard Control web site (www.hud.gov/offices/lead) and from the National Lead Information Clearinghouse toll-free at 1-800-424-LEAD. Designated parties are responsible for assuring that persons performing visual assessment have completed the training.

With regard to training for interim controls, including paint stabilization, there are several options, all of which are designed to ensure that workers performing interim controls do so with safe work practices. Designated parties are responsible for assuring that workers complete the training. Training of contractors or landlords is eligible as a rehabilitation service under the CDBG regulations at 24 CFR 570.202(b)(9) or as an administrative expense under 24 CFR 570.206. Under the HOME program, landlord or contractor training is eligible as an administrative expense under 24 CFR 92.207 or as a project delivery cost under 24 CFR 92.206(d).

Training for lead-based paint abatement supervisors and lead-based paint abatement workers that is accredited in accordance with EPA regulations at 40 CFR part 745 is one acceptable option for training in interim controls. A list of accredited trainers can be obtained from the National Lead Information Center at 1-800-424-LEAD. Certified abatement supervisors and workers have been appropriately trained.

If an otherwise untrained interim controls worker is to be supervised by a certified lead-based paint abatement supervisor, it is the responsibility of the abatement supervisor to ensure that safe work practices are followed, and the worker must be trained in accordance with the OSHA hazard communication standard at 29 CFR 1926.59. It is the responsibility of the employer to provide the worker with training in the OSHA standard.

If an untrained interim controls worker is not to be supervised by a certified abatement supervisor, he or she must still be trained in the OSHA standard and, in addition, must also successfully complete a lead safe work practices course approved by HUD for this purpose. A current list of approved courses is available on the Internet at www.hud.gov/offices/lead, or by mail or fax from the HUD Office of Healthy Homes and Lead Hazard Control at (202) 755-1785, extension 104 (this is not a toll-free number). Persons with hearing or speech impediments may access the above telephone number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

For rehabilitation in the up-to-$5,000 category, see question J13 for HUD's training requirements for work that is intended to control lead hazards, and HUD's recommendations for work that is not intended to control lead hazards,

If the amount of paint being disturbed by work other than abatement (that is, by rehabilitation, interim controls, standard treatments, or ongoing maintenance) is at or below the de minimis threshold, no training in safe work practices is required, although HUD recommends such training.

R6. ***EXTENT OF SUPERVISION****: What is the extent of supervision required when an interim controls worker is being supervised by a certified abatement supervisor and has not taken one of the optional training courses listed in section 35.1330?*
HUD has no requirements concerning the amount or extent of supervision. It is the responsibility of the certified lead-based paint abatement supervisor to ensure that the work is being performed safely and effectively.

R7. ***SOIL TESTING:*** *Must a lead hazard screen include soil testing?*
Lead hazard screens must be done in accordance with EPA standards at 40 CFR 745.227(c) and the HUD interim standards at 24 CFR 35.1330(b)(2). At the time of this writing (June 21, 2004), the EPA standards do not require soil testing, so HUD does not require it. However, HUD recommends soil testing as a part of lead hazard screens in neighborhoods known to have soil-lead hazards.

R8. ***WORKSITE AND UNIT-WIDE CLEARANCE:*** *Must the clearance examination be of the entire dwelling unit or only of the worksite?*
Clearance must be of the entire dwelling unit, common area or residential property (as applicable) unless the regulation specifically permits clearance of only the worksite. Clearance of only the worksite is permitted after rehabilitation, interim controls, standard treatments, and ongoing maintenance work, when containment is used to ensure that dust and debris generated by the work is kept within the worksite. (See section 35.1340(g).) Otherwise, clearance must be of the entire dwelling unit, common area or outbuilding, as applicable.

R9. ***CLEARANCE AND DE MINIMIS:*** *Is clearance required when the area of painted surfaces being disturbed is no more than the* de minimis *levels for safe work practices?*
No. (See section 35.1340(b).)

R10. ***SOIL TESTING AND CLEARANCE****: The definition of "clearance examination" in section 35.110 states that clearance is "to determine that the hazard reduction activities are complete and that no soil-lead hazard or settled dust-lead hazards . . . exist." Section 35.1340 does not explicitly require the clearance examiner to determine whether all the hazard reduction activities are complete and does not require soil testing. Which part of the regulation should I follow?*
The two sections are not contradictory. The visual assessment by the clearance examiner, together with the dust sampling, will enable a determination to be made that no interior lead-based paint hazards exist, which is essentially the same thing as ensuring that all hazard reduction activities have been completed. Soil testing is not required, but section 35.1340(b)(2)(ii) calls for a visual assessment of the ground and any outdoor living areas close to any exterior painted surfaces that have been disturbed by the hazard reduction, and it requires that visible dust or debris in living areas be cleaned up and visible paint chips on the ground removed.

R11. ***CLEARANCE AFTER EXTERIOR-ONLY PAINT STABILIZATION****: If only exterior work is done, such as exterior paint stabilization or reduction of soil-lead hazards, is clearance required? If so, is it necessary to do a visual assessment of the interior and take dust samples?*
Under section 35.1340(a), when the exterior work is abatement, a clearance examination is done by a certified risk assessor or lead-based paint inspector using EPA's procedures. After exterior lead-based paint abatement, the EPA requires (in its regulation at 40 CFR 745.227(e)(8)(v)(C)) a visual assessment of the outdoor living area closest to the abated surface, and of the dripline or next to the foundation below the abated surface.

If the exterior work is other than abatement, a clearance examination by a certified risk assessor, lead-based paint inspector or clearance technician is required by HUD, in accordance with section 35.1340(b). The clearance examination includes a visual assessment for visible dust and debris at the work site and on the outdoor living area closest to the treated surface, and for paint chips on the drip line or next to the foundation below any exterior surface where work was performed. Soil sampling is not required. Interior clearance is not required if affected window, door, ventilation and other openings are sealed during the exterior work. When the exterior work is distant from the building, unit-wide clearance is not required.

R12. ***NOTIFICATION OF CLEARANCE FAILURE****: If a unit fails initial clearance, is it necessary to notify occupants of those results and to disclose them to future tenants/purchasers?*
Yes. You must notify occupants of the initial as well as final clearance results, within 15 calendar days after the hazard reduction activity has been completed, in accordance with section 35.125 and related requirements of the new HUD regulation. You must also disclose the results

of the initial as well as final clearance to comply with the EPA-HUD lead-based paint disclosure rule, which calls for disclosure of all reports pertaining to lead-based paint or lead-based paint hazards. Note that if the final clearance test shows that the unit passed clearance, you must include those results as part of the notification and disclosure processes to show that the problem was corrected.

R13. ***CLEARANCE BEFORE COMPLETION OF WORK:*** *Can clearance be performed before all the work in a unit is complete?*
No. Clearance must be performed after all the rehabilitation and/or hazard reduction work is complete. You should wait at least one hour after the cleaning to allow dust to settle. It is permissible to perform interim clearance. However, a final clearance would still be required when all work was complete.

R14. ***LONGEVITY OF INTERIM CONTROL TRAINING****: Section 35.1330(a)(4) specifies the supervision and training requirements for workers performing interim controls. Is there a limit on how long ago a worker may have taken one of these courses?*
There are no HUD requirements regarding the age or date of the course taken. However, the abatement supervisor and abatement worker courses must be accredited in accordance with EPA requirements (40 CFR part 745, subparts L and/or Q) and there may be refresher-course requirements to maintain certification. Consult the EPA-authorized program in your state, or, if it does not have an EPA-authorized program, call the EPA regional lead coordinator in your EPA regional office. (The phone number of your region's Coordinator's is available from an EPA hotline, 1-202-554-1404 (this is not a toll-free number) or on the Internet at www.epa.gov/lead.) If you are a hearing- or speech-impaired person, you may reach the above telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

R15. ***CERTIFICATION OF SPEC WRITERS****: Does the person who writes specifications for lead-based paint hazard control work have to be certified?*
No, but training in lead hazard reduction methods and safe work practices is recommended. The most useful course for spec writers is the abatement supervisor course. State and local regulations may apply as well.

R16. ***INSPECTIONS AND LEAD HAZARD REDUCTION:*** *Does a lead-based paint inspection (using an XRF) provide all of the information and documentation necessary to implement lead hazard evaluation and reduction?*
A lead-based paint inspection will identify all the lead based paint in the unit but it will not tell you whether lead-based paint hazards (such as dust-lead and soil-lead hazards) are present and, if so, where they are. A combination risk assessment/inspection will provide complete information on lead-based paint and lead-based paint hazards.

R17. ***DE MINIMIS LEVELS:*** *How does the de minimis level, defined at section 35.1350(d)(3) as "10 percent of the total surface area on an interior or exterior type of component with a small surface area" interact with the other de minimis definitions of "20 square feet on exterior surfaces" and "2 square feet in any one interior room or space?"*
To be exempt from safe work practices, the area of deteriorated paint in an interior room cannot exceed a total of 2 square feet **or** 10% of a component with a small surface area, such as interior window sills, baseboards and trim. In other words, both thresholds apply at all times. For example, living room baseboards with 3 square feet of deteriorated paint cannot be exempted on the grounds that the 3 square feet constitutes less than 10% of the component. Similarly, deteriorated paint of an area of less than 2 square feet is not considered below the de minimis level if the area exceeds 10% of a small component, such as a window sill.

R18. ***RELOCATION:*** *Is temporary relocation required in all cases where there is a pregnant woman or a young child present?*
No. Relocation depends on the size of the work area and the duration of the work. See section 35.1345(a) for details. All occupants (except those who are employed in the work) must be kept out of the work area while work is under way.

R19. ***RELOCATION AND CLEARANCE****: Section 35.1345(a)(2) provides an exception to the general requirement for temporary relocation if "treatment of the interior will be completed within one period of 8 daytime hours and the worksite is contained" or if "treatment will be completed within 5 calendar days, the worksite is contained . . . and, at the end of work on each day, the worksite and the area within at least 10 feet of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas and bathroom and kitchen facilities." If it is necessary to achieve clearance in order to "complete" treatment, how can treatment be completed in 8 hours?*
If clearance results can not be obtained and clearance achieved within the 8-hour time period, consider the job to be similar to a 5-day project, maintain the containment, clean the area outside the containment, and allow residents to occupy all parts of the dwelling outside the containment.

R20. ***MONITORING:*** *Is monitoring required when ongoing lead-based paint maintenance is not?*
No.

R21. ***STANDARD TREATMENTS AND REEVALUATION****: Section. 35.1355(b)(4) says reevaluation is required, when required by the applicable subpart, if a risk assessment or other evaluation found lead-based paint hazards. What if standard treatments were used and there was no evaluation?*
If standard treatments were used, reevaluation is required if it is required by the applicable subpart. Use of standard treatments presumes the existence of hazards.

R22. ***CHEWABLE SURFACES****: Section 35.1330(d) says that a chewable surface is to be treated if there is evidence that a child has chewed on a painted surface. If the child has moved away or is not 6 years old or more, do I still have to treat the surface?*
No.

R23. ***HAIRLINE CRACKS****: Are hairline cracks and nail holes considered deteriorated paint?*
No.

R24. ***INTERIM CONTROLS AND ABATEMENT:*** *Is removal of chipping, peeling, or flaking paint on a deteriorated lead-based paint surface considered "abatement" of the hazard?*
No. Removal of deteriorated paint to prepare the surface for repainting is part of paint stabilization, which is an interim control.

R25. ***When is the use of certified abatement personnel required?***
Those activities that are conducted with the express intent to permanently eliminate lead-based paint hazards must be done by certified abatement personnel. Intent would in virtually all circumstances be established when HUD regulations require abatement, when abatement is specified in job specifications, job write-ups, cost allocation or similar documents, or when abatement is expressly ordered by a responsible state or local agency or court order. HUD requires abatement when Federal rehabilitation assistance covered by subpart J exceeds $25,000 per unit, and interim controls when costs are between $5,000 and $25,000. Costs are calculated as described in question J3 above. Abatement is an option when costs are less, but is not required by HUD. Abatement is also required in conventional public housing during modernization covered by subpart L and for conversions covered by subpart G. Regardless of whether or not abatement or interim controls is

conducted, occupant protection, lead-safe work practices, and clearance are required whenever lead-based paint hazards are above de minimis levels (see the joint HUD/EPA letter of April 19, 2001 at www.hud.gov/offices/lead).

R26. ***What is the difference between composite samples and representative samples?***
A composite sample is one where two to four samples of dust, paint, or soil are put together by the clearance examiner to be analyzed as a whole. When comparing the analytical result with the dust standards in section 35.1320(b)(2)(i), you divide the appropriate standard in the table by one-half the number of sub samples that are composited. For example, for a floor clearance composite sample of four sub samples put together into a single sample, the standard is 40 µg/ft^2 / (4 / 2) = 40 µg/ft^2 / 2 = 20 µg/ft^2. (This calculation is the same as the alternative of multiplying the clearance standard by 2 and dividing the product by the number of sub samples that the clearance examiner. In the example above, 2 x 40 µg/ft^2 / 4 = 80 µg/ft^2 / 4 = 20 µg/ft^2.)

A representative set of samples is collected for clearance purposes when the work site is a collection of up to four work areas that are contained in a room or series of rooms. (If there are more than four contained areas, an additional representative set of samples must be collected for every four additional areas.) The representative set of samples is comprised of at least one floor sample, plus at least one window sill and one window trough, if present in the contained work area (and from different windows if possible), plus at least one floor sample near the contained area (within five feet outside of an entrance). If the representative set of samples includes a sample that fails clearance (the dust-lead level is at or above the clearance dust standard in section 35.1320(b)(2)(i)), every part of the contained area represented by the clearance failure (that is, floors, or sills, or troughs that were not sampled) must be re-cleaned and re-cleared.

S. QUESTIONS PERTAINING TO MORE THAN ONE SUBPART

S1. ***VISUAL ASSESSMENT AND CLEARANCE****: In housing for which the requirement is a visual assessment for deteriorated paint followed by stabilization of any deteriorated paint and clearance, if the visual assessment finds no deteriorated paint, is clearance still required?*
No, because no paint stabilization work will be done.

S2. ***MOVE-IN BY A LEAD-POISONED CHILD:*** *If the designated party knows that a family moving into an assisted unit has a child with an environmental intervention blood lead level, is it necessary to take any special action before the child moves in?*
Yes. For the purposes of subparts H, I, L, and M, a designated party (i.e., owner, HUD, public housing agency or participating jurisdiction) must conduct a risk assessment and control any lead-based paint hazards before a child with an environmental intervention blood lead level moves into the unit. This will ensure that the child will be protected from further exposure. Also, normally it is easier to conduct the risk assessment and, if required, hazard reduction before rather than after the family is in residence.

S3. ***VERIFICATION OF BLOOD LEAD LEVEL:*** *What exactly is a designated party expected to do to verify a report that a child has an environmental intervention blood lead level?*
If a designated party (e.g., property owner or housing agency) receives a report from a source that is not a public health department or another medical health care provider that a resident child has an environmental intervention blood lead level, the designated party must verify the report. This verification is typically obtained by asking the person who provided the report to obtain written documentation of the child's blood lead level from the health department or another medical health care provider (an physician, licensed medical clinic, certified doctor's assistant, registered nurse, or similarly qualified person). Such documentation should include the date when the blood lead analysis was performed and/or reported by the laboratory.

S4. ***LEAD-SAFETY DURING TEMPORARY RELOCATION****: If tenant-based rental assistance is being provided to a family to assist them to relocate temporarily while work is being done on their home, does the temporary dwelling have to meet the lead-based paint requirements for TBRA?*
The requirements that apply are actually those of Section 35.1345(a)(2), which states that temporary relocation must be to a "unit that does not have lead-based paint hazards." This requirement can be met by ensuring that the unit does not have deteriorated paint (or deteriorated lead-based paint if paint testing is conducted) and by conducting dust sampling to determine that the unit does not have dust-lead hazards. A unit built after January 1, 1978 can be presumed to meet the requirement.

S5. ***TRAINING:*** *Where may I obtain information about training for lead hazard management and control activities related to the rule?*
Information on types of training related to the rule, and contact information for training providers, can be obtained from the Lead Listing, www.leadlisting.org. Additional information is also available from the National Lead Information Center at 1-800-424-LEAD, HUD's web site at www.hud.gov/offices/lead, or HUD at 1-202-755-1785 ext. 104 (this is a toll call). If you are a hearing- or speech-impaired person, you may reach the above telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

S6. *Does a State law defining "child" as a person under 16 years old generate any obligations under the HUD rule for children 6 to 15 years old?*
No obligation is created under the HUD rule. Compliance with the State law, which is outside the scope of the HUD rule, is unaffected by the rule, as discussed in section 35.150(b).

T. TRANSITION ASSISTANCE

The transition assistance period in certain jurisdictions that HUD provided after the effective date of the Lead Safe Housing Rule to address the lack of capacity of trained or licensed professionals to meet the requirements of the regulation in those jurisdictions has closed. Full compliance should be achievable for all parties.

EPA PAMPHLET – ACKNOWLEDGEMENT OF RECEIPT

I hereby acknowledge receiving a copy of the Environmental Protection Agency (EPA) pamphlet entitled **Protect Your Family from Lead in Your Home**. I understand this pamphlet is being conveyed to me in conjunction with the:

____

____

project/program and/or in connection with any rehabilitation work performed on my dwelling unit that will disturb painted surfaces or in connection with any lead hazard reduction activity that may be performed on my dwelling unit as a part of a rehabilitation project or as required by applicable U.S. Department of Housing and Urban Development (HUD) regulations.

Owner's/Tenant's Name: ____
(Please print clearly or type)

Property Address: ____

City, State, Zip: ____

Phone Number: _________________________
(Area Code)

Owner/Tenant's Signature: ____

Date Pamphlet Received: ______________________________________
Month Day Year

Name of Person
Conveying EPA Pamphlet to the Property Owner/Tenant:

____

Signature of Person
Conveying EPA Pamphlet to the Property Owner/Tenant:

____

IDPH PAMPHLET – ACKNOWLEDGEMENT OF RECEIPT

I hereby acknowledge receiving a copy of the Iowa Department of Public health (IDPH) pamphlet entitled **Lead Poisoning-How to Protect Iowa's Families**. I understand this pamphlet is being conveyed to me in conjunction with the (*Your Community's Name*) owner-occupied rehabilitation program and in connection with any rehabilitation work that will disturb painted surfaces or in connection with any lead hazard reduction activity that may be performed on my dwelling unit as a part of a rehabilitation project.

Owner's Name: ____

Property Address: ____

City, State, Zip: ____

Phone Number: ___________________________
Area Code

Owner's Signature: ___________________________

Date Pamphlet Received: ______________________

Name of Person Conveying
IDPH Pamphlet to Property Owner: ____

Signature of Person Conveying
IDPH Pamphlet to Property Owner: ____

NOTIFICATION OF LEAD BASED PAINT INSPECTION AND RISK ASSESSMENT

Date of Inspection/Risk Assessment: ____

Address/Location of Property Inspected/Evaluated:
(Include apartment# if applicable)

____

____

Summary results of Lead-Based Paint Inspection and Risk Assessment:
(Check One)

_______ No lead-based paint or lead-based paint hazards were found.

_______ Lead-based paint was found, but no lead-based paint hazards were found.

_______ Lead-based paint and lead-based paint hazards were found.

See page(s) _________ of the attached report for a summary of the results of this lead-based Paint inspection and risk assessment.

To receive more information about this lead-based paint inspection and risk assessment, please contact:

Name: ____
(Please print)

Agency: ____

Address: ____

Phone Number: ____
(Area Code)

This Notice was Prepared by:

Name: ____
(Please print)

Signature: ____

Certification#: _________________________

NOTIFICATION THAT LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS ARE PRESUMED TO BE PRESENT AND NOTIFICATION OF A VISUAL RISK ASSESSMENT

Date of Presumption/Visual Risk Assessment: ___________________________

Address/Location of Property Evaluated: _______________________________________
Street Address
____
City, State, Zip

Summary Results of Presumption/Visual Risk Assessment:
(Check One)

_______ Lead-based paint is presumed to be present, but no lead-based hazards were identified.

_______ Lead-based paint and paint hazards are presumed to be present.

See page(s) _________ of the attached report for a summary of the results of this visual risk assessment/presumption of lead-based paint or lead-based paint hazards.

For additional information about this visual risk assessment/presumption of lead-based paint or lead-based paint hazards, please contact:

Name: ____
Print Clearly

Agency Name: ____

Address: ____

____
City State Zip

Phone Number: ______________________________________
(Area Code)

This Notice was Prepared by:

Name: ____

Signature: ____

Certification#: ________________________________

NOTIFICATION OF ON-GOING MAINTENANCE INSPECTION

Date of On-Going Maintenance Inspection:_______________________________

Address/Location of Property Inspected: _______________________________

____
City State Zip

This On-Going maintenance Inspection was conducted for the following purpose:
(Check One)

_______ Required Annual Inspection

_______ Turnover in Occupancy

Summary Results of On-Going Maintenance Inspection:
(Check One)

_______ No Lead-Based Paint Hazards were identified as a result of this inspection

_______ Lead-Based paint Hazards were identified as a result of this inspection

For additional information regarding this on-going maintenance inspection, please contact:

Name: _______________________________
(Print Clearly)

Agency: _______________________________

Address: _______________________________

____
City State Zip

Phone Number: _______________________________
(Area Code)

This Notice was Prepared by:

Name: _______________________________

Signature: _______________________________

Certification#: _______________________________

NOTIFICATION OF LEAD BASED PAINT HAZARD REDUCTION COMPLETION AND FINAL VISUAL RISK ASSESSMENT AN CLEARANCE TESTING RESULTS

Date of Final Visual Risk Assessment/Clearance: ____________________________

Address/Location of Property: ____
(Include apartment# if applicable)

____
City State Zip

Property Owner Name(s): ____

____

Property Owner Address: ____

____

Property Owner Phone#: ____
(Area Code)

Start Date of Rehabilitation and/or Lead Hazard Reduction Activities: _________________

Completion Date of Rehabilitation and/or Lead Hazard Reduction Activities: ___________

Firm or Organization Conducting Rehabilitation and/or Lead Hazard Reduction Activities:

Name: ____

Address: ____

____
City State Zip

Phone#: ____
(Area Code)

Home Purchase -- Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) ______ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

____

(ii) _____ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the seller (check (i) or (ii) below):

(i) ______ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

Name of Document(s) Inspector/Author Date of Document

____

(ii) _____ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

(c) ________ Purchaser has received copies of all information listed above.

(d) ________ Purchaser has received the pamphlet *Protect Your Family from Lead in Your Home.*

(e) Purchaser has (check (i) or (ii) below):

(i) _____ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

(ii) _____ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

(f) ________ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Signature of Seller	Date	Signature of Seller	Date
Printed Name of Seller		Printed Name of Seller	
Signature of Purchaser	Date	Signature of Purchaser	Date
Printed Name of Purchaser		Printed Name of Purchaser	
Signature of Agent	Date	Signature of Agent	Date
Printed Name of Agent		Printed Name of Agent	

SUMMARY DESCRIPTION OF THE WORK COMPLETED AND FINAL VISUAL RISK ASSESSMENT

Component where lead hazard reduction activity occurred (Includes Soil)	Location of Component	Method used to reduce hazard	Results of visual inspection (Pass or Fail)	Recommended Monitoring

Mark “pass” if work has been done as specified and there are no paint chips, deteriorated paint, debris, or residue present. Mark fail if work has mot been done as specified or if there are paint chips, deteriorated paint, debris or residue present.

Visual Results: **(Check one)**

☐ This property has failed the visual portion of the clearance test. Further lead hazard control work and/or cleaning is necessary.

☐ This property has passed the visual portion of the clearance test and is ready for environmental sampling.

Dust Sampling Results

Room Tested	Location of Sample	Sample results in Pg/ft2	Clearance Standards in Pg/ft2	Results (Pass or Fail)

<u>Environmental Sampling Results:</u> (Check one)

☐ This property has failed the environmental sampling portion of the clearance test. Further cleaning and environmental sampling is necessary.

☐ This property has passed all aspects of clearance testing. No further testing is required.

Please complete the following information:

Name: ____
Last First

Address: ____
Street City State Zip

Telephone: ____________________ **Email Address**:____________________
Area Code Number

Name of Laboratory
Conducting Analysis: ______________________________ Phone: ________________

NLLAP ID Number: ________________________

Laws to be Aware of:

Federal law requires that you disclose information about lead-based paint or lead-based paint hazards when you sell or rent properties built before 1978. For this property, you will need to distribute copies of any notices, inspection reports (including this clearance report), and the Iowa pamphlet, *Lead Poisoning: How to Protect Iowa Families.*

Iowa law requires any contractor or landlord working on a residential property built before 1978 to notify residents that lead-based paint may be disturbed by remodeling, renovation, or repainting.

Name of LMP Inspector/Risk Assessor or Visual Risk Assessor/Sampling Technician that prepared this report:
____ Date: ____________

Signature of LMP Inspector/Risk Assessor or Visual Risk Assessor/Sampling Technician that prepared this report:
____ Date: ____________

Certification Number: ______________________________

Agency: ____

Address: ____

____

Telephone Number: ________________________

Home Rental -- Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) ______ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the lessor (check (i) or (ii) below):

(i) ______ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

Name of Document(s)	Inspector/Author	Date of Document

(ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

(c) ________ Lessee has received copies of all information listed above.

(d) ________ Lessee has received the pamphlet *Protect Your Family from Lead in Your Home.*

Agent's Acknowledgment (initial)

(e) ________ Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Signature of Lessor	Date	Signature of Lessor	Date
Printed Name of Lessor		Printed Name of Lessor	
Signature of Lessee	Date	Signature of Lessee	Date
Printed name of Lessee		Printed Name of Lessee	
Signature of Agent	Date	Signature of Agent	Date
Printed name of Agent		Printed Name of Agent	

Instructions for Property Management Company: If authorized to sign for Landlord, sign and print name, followed by "For [Landlord's name or Name of Company], and then also sign as the Agent.

ATTENTION

Are you giving INFORMATION about LEAD-BASED PAINT before beginning RENOVATION?

Iowa law requires you to give information to the owner and occupant in homes built before 1978. You must do this before you renovate, remodel, or repair.

WHERE CAN YOU GET MORE INFORMATION?

To find out more about rules or to obtain copies of pamphlets and/or notification forms:

Iowa Department of Public Health
Lucas State Office Building
Des Moines, IA 50319-0075
Call **1-800-972-2026** or (515) 281-3479
FAX: (515) 281-4529
www.idph.state.ia.us

For an EPA Fact Sheet from the
U. S. ENVIRONMENTAL PROTECTION AGENCY (EPA)
Call **1-800-424-5323**
www.epa.gov/lead

STATE OF IOWA NOTIFICATION PRIOR TO\RENOVATION, REMODELING, OR REPAINTING
FORM #1

WORK DONE IN A DWELLING UNIT

Address: ____

General nature of work: ____

____

____

Location of work: ____

____

Expected starting date: ____________________ Expected ending date: ____________________

I have received the pamphlet entitled Lead Poisoning: How to Protect Iowa Families and am aware of the potential health risk associated with remodeling, renovation, or repainting housing containing lead-based paint or lead-based paint hazards.

____
Printed Name of Owner　　Signature of Owner　　Date

____
Printed Name of Occupant　　Signature of Occupant　　Date

____
Printed Name of Contractor　　Signature of Contractor　　Date

____
Contractor Address　　City　　State　　Phone

Note Regarding Certificate of Mailing Option

As an alternative to delivery in person, you may mail the pamphlet to the owner and/or tenant via certified mail with return receipt or its equivalent at least 7 days before the work begins.
On __________________, I sent the pamphlet to the owner and/or tenant by ________________________.
(Attach receipt for certified mail or its equivalent.)

____
Printed Name of Contractor　　Signature of Contractor　　Date

____
Contractor Address　　City　　State　　Phone

If the pamphlet was delivered, but adult occupant signature could not be obtained, check the appropriate box below:

- ❑ I certify I have made a good-faith effort to deliver the pamphlet, *Lead Poisoning: How to Protect Iowa Families*, to the unit listed below at the dates and times indicated, and an adult occupant was unavailable to sign the acknowledgment. I further certify I left a copy of the pamphlet at the unit with the occupant.
- ❑ I certify I have made a good-faith effort to deliver the pamphlet, *Lead Poisoning: How to Protect Iowa Families*, to the unit listed below at the dates and times indicated, and the occupant refused to sign the acknowledgement. I further certify I left a copy of the pamphlet at the unit.

____　　______________________________
Printed Name of Person Certifying Lead Pamphlet Delivery　　Attempted Delivery Date and Time

____
Signature of Person Certifying Lead Pamphlet Delivery

____
Where Pamphlet was Left at Unit (example: taped to the door, slipped under the door, etc.)

____
Printed Name of Contractor　　Signature of Contractor　　Date

____
Contractor Address　　City　　State　　Phone

STATE OF IOWA NOTIFICATION PRIOR TO RENOVATION, REMODELING, OR REPAINTING
FORM #2

NOTICE TO OWNER FOR WORK DONE IN COMMON AREAS OF MULTI-FAMILY HOUSING

Address: ____

General nature of work: ____

____

____

Location of work: ____

____

____

Expected starting date: ____________________ Expected ending date: ____________________

I have received the pamphlet entitled *Lead Poisoning: How to Protect Iowa Families* and am aware of the potential health risk associated with remodeling, renovation, or repainting housing containing lead-based paint or lead-based paint hazards.

______________________	______________________	__________
Printed Name of Owner	Signature of Owner	Date

______________________	______________________	__________
Printed Name of Contractor	Signature of Contractor	Date

____

Contractor Address City State Phone

Note Regarding Certificate of Mailing Option

As an alternative to delivery in person, you may mail the pamphlet to the owner and/or tenant via certified mail with return receipt or its equivalent at least 7 days before the work begins.

On ________________, I sent the pamphlet to the owner and/or tenant by ________________________.
(Attach receipt for certified mail or its equivalent.)

____

Printed Name of Contractor Signature of Contractor Date

____

Contractor Address City State Phone

STATE OF IOWA NOTIFICATION PRIOR TO RENOVATION, REMODELING, OR REPAINTING
FORM #3

NOTICE TO RESIDENTS FOR WORK DONE IN COMMON AREAS OF MULTI-FAMILY HOUSING

Address: ____

General nature of work: ____

____

____

Location of work: ____

____

Expected starting date: ____________________ Expected ending date: ____________________

Some of the paint disturbed during this renovation, remodeling, and repainting may contain lead. You can get a copy of the pamphlet, *Lead Poisoning: How to Protect Iowa Families*, at no cost, by calling me at phone number ______________ ____________. Please leave a message and be sure to include your name, address, and phone number. Thank you. I will either mail you a pamphlet or leave one at your unit.

____
Printed Name of Contractor Signature of Contractor Date

____
Contractor Address City State Phone

STATE OF IOWA NOTIFICATION PRIOR TO RENOVATION, REMODELING, OR REPAINTING
FORM #4

RECORD OF TENANT NOTIFICATION PROCEDURES FOR WORK DONE IN COMMON AREAS OF MULTI-FAMILY HOUSING

Project Address: ____
Street City State Zip Code

Owner of Multi-Family Housing: ______________________________________

Number of Units in Multi-Family Housing: ____________

Method of Delivering Notices to Each Unit: ____________________________
(example: slipping under door, taping to door, putting in each mailbox, etc.)

____
Printed Name of Contractor Signature of Contractor Date

____
Contractor Address City State Phone

____
Printed Name of Person Delivering Date

Notices (if other than contractor)

____
Signature of Person Delivering Notices
(If other than contractor)

STATE OF IOWA NOTIFICATION PRIOR TO RENOVATION, REMODELING, OR REPAINTING
FORM #5

EMERGENCY RENOVATION, REMODELING, AND REPAINTING WORK DONE IN A DWELLING UNIT

Address: ____

General nature of work: ____

____

____

Location of work: ____

____

Expected starting date: ____________________ Expected ending date: ____________________

Some of the paint disturbed during this emergency renovation, remodeling, and repainting may contain lead. I have included a copy of the pamphlet, *Lead Poisoning: How to Protect Iowa Families*, with this notice.

____
Printed Name of Contractor Signature of Contractor Date

____
Contractor Address City State Phone

<u>Note Regarding Certificate of Mailing Option</u>
As an alternative to delivery in person, you may mail the pamphlet to the owner and/or tenant via certified mail with return receipt or its equivalent as soon as possible after the work begins.

On ________________, I sent the pamphlet to the owner and/or tenant by ________________________
(Attach receipt for certified mail or its equivalent.)

____
Printed Name of Contractor Signature of Contractor Date

____
Contractor Address City State Phone

STATE OF IOWA NOTIFICATION PRIOR TO RENOVATION, REMODELING, OR REPAINTING
FORM #6

EMERGENCY RENOVATION, REMODELING, AND REPAINTING
NOTICE TO OWNER FOR WORK DONE IN COMMON AREAS OF MULTI-FAMILY HOUSING

Address: ____

General Nature Work: ____

____

____

Location of work: ____

____

Expected starting date: ____________________ Expected ending date: ____________________

Some of the paint disturbed during this emergency renovation, remodeling, and repainting may contain lead. I have included a copy of the pamphlet, *Lead Poisoning: How to Protect Iowa Families*, with this notice.

____
Printed Name of Contractor Signature of Contractor Date

____
Contractor Address City State Phone

Note Regarding Certificate of Mailing Option

As an alternative to delivery in person, you may mail the pamphlet to the owner and/or tenant via certified mail with return receipt or its equivalent as soon as possible after the work begins.

On ________________, I sent the pamphlet to the owner and/or tenant by ________________________ .
(Attach receipt for certified mail or its equivalent.)

____
Printed Name of Contractor Signature of Contractor Date

____
Contractor Address City State Phone

STATE OF IOWA NOTIFICATION PRIOR TO RENOVATION, REMODELING, OR REPAINTING FORM #7

EMERGENCY RENOVATION, REMODELING, AND REPAINTING NOTICE TO RESIDENTS FOR WORK DONE IN COMMON AREAS OF MULTI-FAMILY HOUSING

Address: ____

General nature of work: ____

____

____

____.

Location of work: ____

____

Expected starting date: ____________________ Expected ending date: __________________________

Some of the paint disturbed during this emergency renovation, remodeling, and repainting may contain lead. You can get a copy of the pamphlet, *Lead Poisoning: How to Protect Iowa Families*, at no cost, by calling me at phone number ___________________________.

Please leave a message and be sure to include your name, address, and phone number. I will either mail you a pamphlet or leave one at your unit.

____

Printed Name of Contractor   Signature of Contractor   Date

____

Contractor Address   City   State   Phone

STATE OF IOWA NOTIFICATION PRIOR TO RENOVATION, REMODELING, OR REPAINTING FORM #8

EMERGENCY RENOVATION, REMODELING, AND REPAINTING RECORD OF TENANT NOTIFICATION PROCEDURES FOR WORK DONE IN COMMON AREAS OF MULTI-FAMILY HOUSING

Project Address: ____

Street ______________________________ City:____________________

State: ______________ Zip Code:___________

Owner of Multi-Family Housing: ____________________________________

Number of Units in Multi-Family Housing: _________________

Method of Delivering Notices to Each Unit: __________________________

____

(example: slipping under door, taping to door, putting in each mailbox, etc.)

____

Printed Name of Contractor Signature of Contractor Date

____

Contractor Address City State Phone

____

Printed Name of Person Delivering Notices (if other than contractor) Date

____

Signature of Person Delivering Notices
(If other than contractor)