

COMMUNITY DEVELOPMENT BLOCK GRANT MANAGEMENT GUIDE 2015



May 21, 2015

Dear Recipient:

Congratulations on receiving a 2015 Community Development Block Grant award! We are looking forward to working with you on your project as we fulfill the Iowa Economic Development Authority's mission is to "strengthen economic and community vitality by building partnerships and leveraging resources to make Iowa the choice for people and business". The Community Development Division supports that mission by working with local governments, community organizations, businesses, and others to build the organizational, entrepreneurial and physical capacity needed for community and economic improvement. As a CDBG recipient, you are an integral part of that mission.

Whether you are new to the program or a CDBG veteran, this Management Guide will provide important information as you administer your project. Please review it carefully and refer to it often. An electronic version of this Management Guide is also available at www.iowaeconomicdevelopment.com

While this guide is meant to assist you and answer your questions, please do not hesitate to call your project manager or other staff members if you have further questions. We will do all we can to make your project a successful one.

Sincerely,

A handwritten signature in blue ink that reads "Tim Waddell". The signature is fluid and cursive, with the first name being particularly prominent.

Tim Waddell, Division Administrator
Community Development Division

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Introduction

Welcome to the Community Development Block Grant Program

How to Use the CDBG Management Guide

Planning, administering and operating a CDBG project is a rewarding – but challenging – venture. The regulations with which recipients must comply can be very complex. The Iowa Economic Development Authority (IEDA) Community Development Division provides you with this Guide as a tool to help you manage your CDBG award smoothly.

Management Guide Format

The CDBG Management Guide serves as the basic administrative reference manual for CDBG recipients. The Guide is divided into four chapters:

Introduction

- Getting Started
- The Next Steps
- Down the Road

Federal Requirements

- Primary CDBG Program Requirements
- Environmental Review
- Procurement
- Civil Rights and Fair Housing
- Labor Standards
- Required Contract Provisions
- Site and Easement Acquisition

Financial Management

- General Financial Management
- Requesting CDBG Funds and Reporting on Activity Status
- Program Income

Residential Sustainability

- Owner-Occupied Rehabilitation
- Administrative Costs
- Subrecipient Agreement – Parameters
- Income Calculation and Benefit Determination
- Lead Safe Housing

Forms and Supplements

The appendices at the end of the Guide contain all referenced forms and supplemental materials. There is an appendix associated with each chapter. For example, Appendix 2 and 3 contains the forms and documents related to federal requirements (Chapter 2 and 3). At the end of each chapter is a list of items contained in its appendix.

Additional Assistance

While this Guide is intended to provide you the information you need to manage a CDBG project, you may encounter problems or have questions you do not find addressed here. Do not hesitate at any time to call IEDA for additional assistance. IEDA staff members – particularly the project manager assigned to your project – are available to help you. A list of staff members and their phone number is included in the appendix to this Chapter.

Getting Started

You have received your award letter and have this Guide in hand. What do you do next (after you read this Guide carefully, of course)? Here are five steps you should take – if you have not already – to get started.

- 1) Determine who will handle project administration.** Many CDBG recipients contract with professionals to handle the day-to-day management of their projects. If you decide to contract for administration, you must select an administrator according to a federal law requiring that professional services be procured on a competitive basis. Procurement instructions are outlined in Chapter 2. If you are working with a housing project, refer to Chapter 5 – Residential Sustainability.

Recipients choosing to contract for administrative services with Regional Planning Commissions or Councils of Governments do not have to go through the competitive procurement process. See Chapter 2 for details.

- 2) Obtain/Submit your DUNS Number immediately.** The DUNS Number is a unique nine-digit identification number provided by Dun & Bradstreet (D&B). The DUNS Number is randomly issued, never used twice, and is site-specific.

Most potential and existing US Government Contractors, Grantees and Loan Recipients are required to obtain a DUNS Number for US Government registration purposes. This requirement flows down to the CDBG program and its recipients. In order to add your project activities to the program that disburses money for the CDBG program, each funded entity must have this number. Many cities and counties may have already obtained it, and will simply have to inform us what it is in writing.

If you do not have a DUNS Number currently, you will find the instructions on how to get one in Appendix 1 of this manual. After you have been issued a DUNS Number, inform your project manager in writing what that number is.

If you submitted your CDBG application “on behalf of” another entity (e.g., day care center, housing, rural water association), you must establish a formal relationship with that entity (who will be known as your “subrecipient”). Before you distribute any CDBG funds, you must **execute a written agreement with your subrecipient**. The appendix to this Chapter includes a list of the minimum required provisions for the subrecipient agreement and a sample subrecipient agreement.

- 3) **You will soon be receiving contract documents from IEDA.** When they arrive, review them carefully. If there are changes that should be made, notify your IEDA project manager immediately. If the contract is correct, have it signed in the appropriate place by the Chief Elected Official (CEO) for the project. Return the original documents to IEDA and retain a copy for your records.
- 4) Adopt a Prohibition on the Use of **Excessive Force**, a Residential Anti-displacement and Relocation Assistance Plan (**RARA**), a **Code of Conduct** and an **Equal Opportunity Policy**. These are all requirements for local governments tied to the acceptance of CDBG funds. Copies of the excessive force prohibition and RARA must be submitted to IEDA before funds will be released. Samples of these documents are included in the appendix to this Chapter.
- 5) Complete signature **authorization forms**, if necessary. The “authorized signature” for your project is established when your contract is signed. If you want another person to be able to sign official documents related to the project, or if someone other than the original signatory takes over as CEO, you must complete the Alternate Signature Authorization or the Signature Authorization for Change in CEO Form. These forms are included in the appendix to this Chapter.

The Next Steps

You are on your way, but there are still some major tasks to complete. Here are five more steps to take:

- 1) **Begin the environmental review process.** The environmental review process required by federal law has some built-in time constraints. You should begin the environmental review as early as possible. The process involves using a review checklist to document that the project will not have an adverse impact on the environment and contacting other agencies for comments on the environmental impact of your project. This process is described step-by-step in Chapter 3 and Appendix 3. **Remember: you cannot go out to bid, sign construction contracts, acquire property, and/or start construction until you have completed the environmental review and received a Release of Funds from IEDA.**
- 2) **Clear contract conditions.** Your contract may have some special conditions that must be cleared before you can incur costs on your project. Examples of possible contract conditions include receipt of building permits or clearance by other state agencies. You should clear any contract conditions and submit notification to IEDA so construction can begin on schedule. If you have any questions about the conditions in your contract, contact your assigned project manager.
- 3) If necessary, **procure technical services, architectural and/or engineering services.** Many projects require technical services procurement, engineering and/or architectural services. If yours does, you should procure them as soon as possible. You must procure technical services, engineering and architectural services through a competitive process, requesting qualifications from three or more firms or individuals (a bid price is not required) and selecting one based on qualifications. Ideally, the architect or engineer will be familiar with CDBG or similar programs, competent in the required technical areas and able to provide services in a timely manner. The IEDA intends to make available to CDBG community facility and stormwater project recipients a design consultant team with expertise in stormwater, energy efficiency, building design, and construction best practices. This team will be available for a limited number of hours to assist your project’s design professionals in delivering high performing projects designed to meet many of the Iowa Green Streets Criteria. Contact your assigned IEDA project manager to request design assistance form IEDA. Specific procurement requirements are described in Chapter 2.
- 4) **Prepare to contract for construction.** If your project will involve construction, you must follow applicable labor laws. You must follow competitive bidding procedures to select contractors. After you have executed your contract with IEDA and completed any necessary

planning, you should prepare a bid package. When applicable, the Iowa Green Streets project plan, checklist and criteria must be included in or linked to in the bid package provided to contractors. Stormwater projects are to follow the specifications in the Iowa Stormwater Management Manual. In most cases, a wage rate determination will be necessary. You should request a wage rate determination from IEDA 30 days before advertising for bids. Also, 10 days before the bid opening date you should call IEDA to determine if the wage rate has been modified or superseded. Before awarding any contract, you must verify with IEDA that each selected contractor is not on a federal or state debarred list. You should inform IEDA of the date construction will begin. Specific procurement and labor requirements are described in Chapter 2 and Appendix 2.

Do not go out to bid for your project until after you have received a release of funds letter from IEDA.

- 5) **Establish your financial management and reporting procedures.** There is a specific process to be used to “draw down” federal funds. Additionally, there are some important financial management and reporting requirements with which recipients must comply. Review Chapter 4 carefully for instructions on financial management and how to request CDBG funds.

Down the Road

As you get going on your project, it pays to think ahead. Here are seven more issues you will encounter as you move forward with your project:

- 1) It may be months – or even further down the line – but it is never too soon to think about **project monitoring**. Your IEDA project manager will perform an on-site review of your project. The purpose of this visit is to assess your performance and compliance with program requirements and to provide you with any technical assistance you may need. The monitoring visit will go more smoothly if you have kept good records from the very beginning, documenting the progress of the project and the actions you have taken to satisfy the various federal requirements. The appendix to this Chapter includes a record-keeping checklist. Appendix 5 has a record-keeping checklist if you are doing housing rehabilitation.

Recipients are responsible for monitoring the performance of any third-party contractors under any general administration or subrecipient agreement. The recipient is responsible for ensuring that all activities comply with all Federal and state regulations.

- 2) Hold a **public hearing on the status of funded activities**. Section 508 of the Housing and Community Development Act of 1987 requires local governments to comply with the State’s Citizen Participation Plan. You should have already had a public hearing on your CDBG application. You must also have a public hearing on the status of funded activities at the appropriate time. A list of requirements for the public hearing is included in the appendix to this Chapter.
- 3) If you encounter some unforeseen **change to your project** after contract execution, you must submit to your IEDA project manager a written request for a contract amendment. A contract amendment is a formal, substantive change to the contract for time extensions, new activities or alteration of existing activities that will change the scope, location, objectives or scale of the approved activities or beneficiaries. Instructions for contract amendments are included in the appendix to this Chapter.
- 4) If you are acquiring any property or relocating any person(s), business or operations, refer to Chapter 2 – Acquisition and Relocation Requirements.
- 5) Upon completion of your project, if the beneficiaries have changed since the project was originally funded, you must submit the **Grantee Performance Report** (Form 3-D). The report form and instructions are included in the appendix to this Chapter.

- 6) For projects required to follow the Iowa Green Streets Criteria, upon completion of your project, submit through iowagrants.gov completed Iowa Green Streets Criteria Appendices D, E (new construction, gut rehabilitation projects), and F (rehabilitation projects only).

The appendix to this Chapter contains copies of the federal regulations governing the CDBG program. You should familiarize yourself with these rules and regulations and refer to them as necessary.

- 7) Updated Applicant/Recipient Disclosure/Update Report. This provides a listing of any persons with a financial interest in the project. An initial report should have been included as part of your CDBG application. If there are any changes in the information that was provided in the initial report, an updated report must be submitted to IEDA. The report form and instructions are included in the appendix to this Chapter.
- 8) The appendix to this Chapter includes guidelines on audit and closeout procedures. It is a good idea to understand these requirements early in your project since you may need to have audits conducted prior to completion of the project.

In the Appendix to Chapter 1

The Appendix to Chapter 1 contains the following:

- Community Development Staff Members
- Definitions and Acronyms
- Requirements for Subrecipient Agreements
- Sample Subrecipient Agreement
- Sample Policy on the Prohibition of the Use of Excessive Force
- Sample Equal Opportunity Policy Statement
- Sample Residential Anti-displacement and Relocation Assistance Plan
- Signature Authorization Forms
- Record-keeping Checklist
- Citizen Participation Requirements
- Sample Notice of Public Hearing/Status of Funded Activities
- Contract Amendment Procedures
- Applicant/Recipient Disclosure/Update Report and Instructions
- Audit and Closeout Requirements
- Grantee Performance Report and Instructions (Form 3-D) – Refer to Appendix 5 for Housing Rehabilitation
- DUNS Number Guide
- Federal Regulations, State Community Development Block Grant Program (24 CFR Part 570, Subpart I)
- Title 1 of the Housing and Community Development Act of 1974, Section 105(a)

Your Notes

Federal Requirements

This Chapter describes all the federal requirements, with the exception of Environmental Review, that apply to the CDBG program. Recipients should review this Chapter carefully and refer to it as necessary to ensure compliance.

National Objective

The authorizing statute of the CDBG program requires that each activity funded except for program administration and planning activities meet one of three national objectives. The three national objectives are:

- 1) **Benefit to low- and moderate- income (LMI) persons.** The LMI national objective is often referred to as the “primary” national objective because the statute requires that recipients expend 70 percent of their CDBG funds to meet the LMI national objective. There are four subcategories that can be used to meet the LMI national objective:

Area benefit activities (Low Mod Area or LMA): An area benefit activity is one that benefits all residents in a particular area (primarily residential), where at least 51 percent of the residents are LMI persons.

Programs that use this National Objective: Water and Sewer Fund, Community Facilities and Services Fund, and/or opportunities and threats fund which serve an area.

Limited clientele activities (low Mod Limited Clientele or LMC): Under this category, 51 percent of the beneficiaries of an activity have to be LMI persons. Activities in this category provide benefits to a specific group of persons rather than everyone in an area. Benefit a clientele that is generally presumed to be principally LMI such as:

- abused children,
- battered spouses,
- elderly persons,
- severely disabled adults,
- homeless persons,
- illiterate adults,
- persons living with AIDS and migrant farm workers;
- or have income eligibility requirements limiting the activity to LMI persons only; or be of such a nature and in such a location that it can be concluded that clients are primarily LMI.

Programs that use this National Objective: Community Facilities and Services Fund benefiting a certain clientele like Senior Centers and Child Care Centers.

Housing activities (Low Mod Housing Activities or LMH): The housing category of LMI benefit national objective qualifies activities that are undertaken for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by LMI households.

Programs that use this National Objective: Housing Fund

Job creation or retention activities (Low Mod Job creation or retention activities or LMJ): The job creation and retention LMI benefit national objective addresses activities designed to create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons.

Programs that use this National Objective: Job creation, Retention, and Enhancement Fund

- 2) **Aid in the prevention or elimination of slums or blight.** Activities under this national objective are carried out to address one or more of the conditions which have contributed to the deterioration of an area designated as a slum or blighted area. The focus of activities under this national objective is a change in the physical environment of a deteriorating area. Under the elimination of slum and blight national objective, determining the extent of and physical conditions that contribute to blight is central to qualifying an activity. There are two categories that can be used to qualify activities under this national objective:

Prevent or eliminate slums and blight on an area basis (SBA): This category covers activities that aid in the prevention or elimination of slums or blight in a designated area. The designated area in which the activity occurs must meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law. Additionally, the area must meet either *one* of the two conditions specified below:

- Public improvements throughout the area are in a general state of deterioration; or
- At least 25 percent of the properties throughout the area exhibit one or more of the following:
 - Physical deterioration of buildings/improvements;
 - Abandonment of properties;
 - Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;
 - Significant declines in property values or abnormally low property values relative to other areas in the community; or
 - Known or suspected environmental contamination.

Programs that use this National Objective: Downtown Revitalization Fund and/or Opportunities and Threats Fund

Prevent or eliminate slum and blight on a spot basis (SBS). These are activities that eliminate specific conditions of blight or physical decay on a spot basis and are not located in a slum or blighted area.

Programs that use this National Objective: Downtown Revitalization Fund and/or Opportunities and Threats Fund

- 3) **Meet a need having a particular urgency (referred to as urgent need).** Use of the urgent need national objective category is rare. It is designed only for activities that alleviate emergency conditions. Urgent need qualified activities must meet the following criteria:

- The existing conditions must pose a serious and immediate threat to the health or welfare of the community;
- The existing conditions are of recent origin or recently became urgent (generally, within the past 18 months);
- The grantee is unable to finance the activity on its own; and
- Other sources of funding are *not* available.

Programs that use this National Objective: Opportunities and Threats Fund

Procurement

CDBG recipients must comply with the federal procurement requirements of 24 CFR Part 85.36. These regulations direct that all supplies, equipment, construction and services be acquired efficiently and economically, through open and fair competition. You must use sound business judgment, not only in the acquisition of supplies, equipment, construction and services, but in the settlement of all contractual and administrative issues, protests, disputes and claims.

As required by 24 CFR Part 85.36, recipients must adopt a written procurement policy and a code of conduct. Samples are included in the appendix to this Chapter.

Recipients must ensure nondiscrimination in the solicitation and award of contracts funded in whole or in part with CDBG funds, including nondiscriminatory advertising and distribution of solicitations, nondiscriminatory bid specifications or evaluation criteria and nondiscriminatory awards of contracts. Recipients and subrecipients also must take affirmative steps to use small businesses and minority- and women-owned businesses when possible as sources of supplies, equipment, construction and services. For a list of clearinghouses for solicitation of minority-owned and female-owned businesses, see Appendix 2.

Four Methods of Procurement

The regulations at 24 CFR Part 85.36 detail four methods of procurement. These regulations are included in the appendix to this Chapter.

Small Purchase Procedures

This method of procurement can be used for the relatively simple and informal procurement transactions of securing certain services, supplies, equipment or other property that does not cost more than \$100,000 in the aggregate. Price or rate quotations are obtained from an adequate number of qualified sources to determine the most advantageous provider.

Sealed Bids

The sealed bid (formal advertising) method of procurement is consistent with state law for procurement transactions undertaken for public improvement projects (Chapter 384, Code of Iowa). For more detail, reference the Code and/or 24 CFR Part 85.36(d)(2). This is the preferred method of procurement for construction services regardless of cost.

Competitive Proposals

Procurement by competitive proposals generally is the method used for the selection of professional services. More than one source submits an offer and either a fixed-price or cost

reimbursement (with a maximum amount or not to exceed figure) type of contract is awarded. Proposals from an adequate number of qualified sources are solicited through a formal, written request for proposals (RFP). The RFP must be publicized and must identify all evaluation factors and their relative importance.

Recipients must have a method for conducting technical evaluations of the proposals received and for selecting awardees. Any response to publicized requests for proposals must be honored to the maximum extent practical. An award is made to the responsible firm whose proposal is most advantageous, with price and other factors considered.

When procuring architectural/engineering (A/E) professional services, qualification-based procurement procedures should be used. Qualifications are solicited through a formal written request for qualifications (RFQ) process including a publicized notice. The most qualified competitor is selected based on established evaluation review criteria (sample evaluation criteria are included in the appendix to this Chapter). The award is then made subject to fair and reasonable negotiated compensation. This method of procurement, where price is not used as a selection or evaluation factor, may be used only in the procurement of actual A/E professional services.

Noncompetitive Proposals

This method of procurement involves the solicitation of a proposal from only one source. Procurement by noncompetitive proposals (sole-source procurement) may be used only when one of the four following circumstances applies:

- 1) The item is available only from a single source.
- 2) Public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- 3) The federal (state) grantor agency authorizes noncompetitive proposals.
- 4) After solicitation from a number of sources, competition is determined inadequate.

Sole source procurement is unusual and the circumstances and rationale for its use must be fully documented. Additionally, IEDA must approve in advance sole source procurement for contracts or purchases valued at \$25,000 or more.

Exception for Administrative Contracts

Recipients wanting to contract for administrative services with regional or metropolitan planning commissions or councils of governments existing pursuant to Chapters 28H and 473A, Code of Iowa, may do so without regard to the provisions of 24 CFR Part 85.36 provided that such services are billed on an actual cost basis. IEDA has determined that a primary function of metropolitan and regional planning commissions and councils of governments existing under Chapters 28E and 473A, Code of Iowa, is to provide assistance to units of local government, under the direct supervision and control of elected officials from the local units of government served. The public purpose served by the metropolitan and regional planning commissions or councils of governments, combined with their local control, tends to provide protection equal to those contemplated by the provisions of Subpart 36. However, nothing prevents any recipient from complying with the provisions of Subpart 36 when procuring administrative services if the recipient deems compliance to be equitable and in the best interest of the program.

Conflicts of Interest

Recipients must avoid conflicts of interest. In the procurement of property and services, 24 CFR Part 85.36 (for local governments) and OMB Circular 110 (for non-profit organizations) regarding conflicts of interest apply. In all cases not governed by those rules, conflicts of interest are not permitted. If a person is an employee, agent, consultant, elected official or appointed official of a recipient or subrecipient of CDBG funds and has project-related responsibilities or access to inside information, he or she may not obtain a financial benefit or interest from the project for himself or herself or those with whom he or she has family or business ties during his or her tenure or for one year thereafter.

Civil Rights and Fair Housing

Your contract lists several federal regulations related to civil rights, equal opportunity and fair housing. Basically, these regulations mandate that no person in the United States shall, on the grounds of race, color, national origin, religion, creed, age, sex, disability, familial status, political affiliation, citizenship, gender identity, or sexual orientation be denied benefits or be subjected to discrimination under any program funded in whole or in part with federal funds. By signing your contract, you certify that you will comply with the laws listed. If you do not understand the requirements, you should request the full text of the regulations from IEDA and consult with the IEDA civil rights/fair housing specialist.

While some of the civil rights and fair housing regulations simply prohibit discrimination, others require you to take some affirmative steps or action. These are addressed below.

Affirmatively Furthering Fair Housing

Title VIII of the Civil Rights Act of 1968 and Title I of the Housing and Community Development Act of 1974 require that recipients take some action to affirmatively further fair housing in their communities. Acceptable actions range from using the equal housing opportunity logo on your letterhead to sponsoring fair housing training for landlords, real estate agents and lenders.

A list of mandatory & optional affirmative fair housing actions is included in the appendix to this chapter. **All grantees receiving CDBG funds through the State must complete the two mandatory strategies and at least one elective strategy regardless of the CDBG funded project. This requirement is not limited to CDBG housing sustainability projects.** When your project is monitored, your project manager will review the actions you took to affirmatively further fair housing, so be sure to document your activities and the results.

Affirmative Action in Soliciting Minority/Women Business Enterprises

Executive Orders 11625, 12432 and 12138 generally require recipients to make every effort to solicit the participation of minority and women business enterprises (MBE/WBE) in their projects. Recipients must specify the outreach actions they will take to ensure the inclusion, to the maximum extent possible, of minorities and women and entities owned by minorities and women, in all contracts.

You should include qualified MBEs and WBEs on your solicitation lists and solicit their participation whenever they are potential sources of goods or services you need. A list of clearinghouses for solicitation of MBEs and WBEs is included in the appendix to this Chapter, or you may go to the following website at: www.dia.iowa.gov/tsb/. When your project is monitored, your project manager will review the efforts you took to solicit MBE/WBE participation and the

results. You will also be asked to report on your achievements in this area after your project is completed.

Section 3

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] is HUD's legislative directive for providing preference to low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects. In other words, the regulations seek to ensure that low- and very low- income persons, and the businesses that employ these individuals, are notified about the expenditure of HUD funds in their community and encouraged to seek opportunities (if they are created).

The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods. However, recipients are not required to hire or enter into contracts with Section 3 residents or business concerns simply to meet the Section 3 goals—anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought.

When does Section 3 apply?

Section 3 applies to projects/activities involving housing (construction, demolition, rehabilitation) or other public construction—i.e. roads, sewers, community centers, etc. The recipient must have a contract with HUD funding that exceeds \$200,000 for Section 3 requirements to apply. Section 3 requirements apply to the recipient (State/City), and any contract the recipient executes for \$100,000 or more.

If the recipient agency (recipient = the State and/or the applicable City/County) receives Section 3 covered funding and invests these funds into covered projects/activities, but no individual subcontract exceeds \$100,000, responsibility for complying with Section 3 only applies to the recipient (City/County and the State).

Compliance with Section 3

To report Section 3 data, you must analyze whether or not the Section 3 covered contract hired any new employees (temporary or permanent) to complete the activity/project. If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered. However, each recipient must still submit Section 3 reports indicating this information because the contract is a Section 3 covered contract.

If the contract is covered by Section 3, the individual contract exceeds its threshold (\$100,000/\$200,000), and the recipient/contractor did hire new employees (temporary or permanent), it is required that they report the new employees' level of income. If the new employee's household income is less than 80% of area median income prior to their hiring, they are considered a new hire that is Section 3 eligible. If they are above the 80% level of area median income, they are considered a new hire that is not Section 3 eligible.

Again, even if the CDBG-funded/ Section 3 covered project did not create new employment opportunities, the form still must be filled out and reported. The form must be completed for the City/County, and any applicable contractors as well.

To recap: Section 3 applies if...

- Your CDBG contract with the State of Iowa is above \$200,000, and involves housing and/or public construction.
- You have contracted with subcontractors for professional/administrative services contracts and the contract amount is over \$100,000.

Using Subcontractors and Section 3

In addition to certifying new employees' level of income, it is required by Section 3 that a recipient of CDBG funds in excess of \$200,000 make an effort to the "greatest extent feasible" to facilitate awards to Section 3 businesses. While Iowa procurement procedures prevent recipients from choosing a bidder that does not have the lowest bid (for competitive sealed bids), a recipient may choose to give preference to Section 3 businesses as a means of evaluation criteria for professional services contracts where proposals are solicited.

It is essential that recipients work closely with their contractors and subcontractors – early in the contracting process -- to ensure compliance with Section 3 requirements.

In order to give preference to Section 3 businesses during the contract awarding process, you must ask the contractor to certify whether or not they are a Section 3 business when soliciting for proposals. To be considered a Section 3 business, the business must satisfy one of the following requirements:

- 1) Is 51% owned by Section 3 residents**
- 2) Whose permanent, full-time staff is comprised of at least 30% Section 3 residents**
- 3) Has committed 25% of the dollar amount of its subcontracts to Section 3 businesses

**A section 3 resident is someone with a household income that is less than 80% of the area median income.

Forms to Use

To certify if the contractor hired any new employees for the project, please use the "Section 3 New Hire compliance Report", found in the appendix to this chapter. (This form will also have the employer certify whether or not the new employee is a Section 3 resident.)

To certify a business as a section 3 business concern, please use the "Section 3 business certification", found in the appendix to this chapter. You can find income limits by County on IEDA's website: <http://www.iowaeconomicdevelopment.com/CommunityDevelopment/CDBG> under recipient income and census information.

To report Section 3 data to IEDA please use the form found in the appendix to this chapter. This form is due to IEDA with your first construction draw. In the event that more Section 3 eligible employees are hired later in the construction process, a new Section 3 form should be completed and sent in with other contract close-out documents.

For more detailed information about Section 3 and its requirements, please see <http://www.hud.gov/offices/fheo/section3/Sec3-Reporting-Guidance-cpd-final.pdf>.

Section 504 of the Rehabilitation Act of 1973 / Americans with Disabilities Act

Section 504 and the ADA require accessibility of CDBG projects to persons with disabilities. The law requires that new facilities assisted with federal funds be designed and constructed to be readily available to and usable by individuals with disabilities. Alterations to existing (non-housing) facilities shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities. For existing (non-housing) facilities, recipients shall operate programs and activities receiving CDBG assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.

You should work closely with your architect/engineer to ensure plans comply with Section 504 and ADA.

Labor Standards

Federal laws and regulations relating to labor standards include the following:

- The Davis-Bacon Act
- The Copeland "Anti-Kickback" Act
- The Contract Work Hours and Safety Standards Act

As applicable, you must comply with these laws, and make sure your contractors and subcontractors comply as well. These laws apply to all construction contracts in excess of \$2000.

Davis-Bacon Act

Davis-Bacon requires that the wage paid to employees must be equal to or higher than the U.S. Department of Labor's (DOL) determination of the prevailing wage rates for the project type and locality in which the work is being done.

Copeland "Anti-Kickback" Act

The basic requirements of the Copeland "Anti-Kickback" Act are as follows:

- 1) Payment to employees must be made at least once a week and without subsequent deductions or rebate on any account, except for "permissible" salary deductions.
- 2) You must obtain and review payroll forms, including the "Statement of Compliance" from contractors and subcontractors, on a weekly basis.
- 3) You must retain these documents for five years after work completion; each employer must maintain records supporting the payrolls for three years after work completion.

Contract Work Hours and Safety Standards Act

The basic requirements of the Contract Work Hours and Safety Standards Act are as follows:

- 1) Employees shall not work in excess of 40 hours in any workweek unless they receive overtime compensation at a rate not less than one and one-half times the basic rate of pay for those overtime hours worked. The contractor or subcontractor shall be liable to any affected employee for unpaid wages.

- 2) Contractors in violation of the Contract Work Hours and Safety Standards Act (overtime law) are liable to the United States government for liquidated damages, computed at \$10 per day for each employee who worked overtime and was not paid overtime wages. The contractor must submit a certified check for the total amount of liquidated damages to IEDA upon request. Funds may be withheld from contractors and subcontractors to satisfy unpaid wages and liquidated damages only after the contractor or subcontractor receives written notification that funds will be withheld to satisfy labor standards provisions.

Labor Standards Compliance Officer

The labor standards described in this section are complicated and require thorough documentation. Therefore, you must designate a Labor Standards Compliance Officer. This person has overall responsibility for labor compliance and for maintaining the project's labor files. The Labor Standards Compliance Officer must do the following:

- 1) Visit the construction site to confirm the required posters ("Notice to Employees," "Job Safety and Health Protection" and "Equal Employment Opportunity") and correct wage determinations are posted in clear view of employees. Copies for your reference are included in the appendix to this Chapter; you may receive a complete packet upon request with your wage determination.
- 2) Collect and examine weekly payrolls as they are submitted so any necessary corrective action can be initiated immediately. Items to be reviewed include classification of workers, comparison between the classification and wage to verify the rate is at least equal to that required by the wage rate determination; overtime pay, if applicable; deductions; apprentice/trainee information and statement of compliance signature by owner or officer of contractor. If compliance signature is from a representative other than owner, an authorization for alternative signature must be provided.
- 3) Conduct employee interviews. The number of interviews must be sufficient to establish compliance and must represent all classifications of employees.
- 4) Maintain the labor standards file. The file should include the following:
 - Verification of eligibility of each contractor
 - Wage rate determination
 - Construction bid package
 - Public advertisements for bids
 - Documentation of efforts to solicit minority/women contractor participation
 - Contract documents (with required federal language)
 - Pre-construction conference minutes
 - Indication of construction start date
 - Contractor/subcontractor employee payroll sheets/statement of compliance
 - Employee interview forms (including Section 3 interviews, if applicable)
 - Other related correspondence
- Resource Documents
 - Federal Labor Standard Requirements in Housing and Urban Development Programs: HUD Handbook 1344.1 Rev. 2

- A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects: Labor Relations Desk Guide LR01.DG

Requesting Wage Rate Determinations

Recipients obtain wage rate determinations by making a request in lowagrants.gov. The request should be submitted 30 days in advance of the bid advertisement date.

Upon receipt of the request, IEDA will review the information provided and issue the appropriate wage rate determination.

General wage rate determinations published by the DOL Employment Standards Administration, Wage and Hour Division, are effective until superseded or modified in a subsequent published wage rate determination. **You must contact IEDA 10 days before the bid opening date** to verify that your wage rate is still current. Changes to wage rate determinations published less than 10 days before bid opening do not apply if your files include a statement of justification or other documentation establishing that there was not reasonable time available to notify all the contractors planning to submit bids. **You must also contact IEDA for an update if you have not awarded a contract within 90 days after the bid opening.**

Wage rate determinations must be included in all bid solicitations and construction contracts. Contractors must post the wage rate determination in a prominent work site location that is accessible to all workers employed on the project.

Requesting Approval of Additional Classifications

If a contractor or subcontractor must use a craft or category of worker that is not listed on the wage rate determination, the contractor or subcontractor must submit to you, on the company's letterhead, a description of the craft to be employed and the hourly basic rate and fringe benefits to be paid. The rate must fall within the range of other skilled classification rates in the wage determination. The description must also include a statement signed by the company's CEO and affected employee(s) stating that the reported wage rate is believed to be prevailing for that work classification and geographic area.

You must forward the information described above to IEDA. A sample form is included in the appendix to this Chapter for requesting approval of additional classifications. IEDA will review the request and forward it to the Department of Labor for approval. **You should allow six weeks for this process.**

Contractor Eligibility

Recipients must verify the eligibility status of all contractors to ensure they are not listed on HUD's Consolidated List of Debarred, Suspended and Ineligible Contractors or DOL's Consolidated List of Debarred and Suspended Contractors. Recipients must also verify that all contractors are registered in the State of Iowa and have a valid registration number. This must be done before any contract is awarded. You can request verification of contractor eligibility by submitting the request in lowagrants.gov. Upon receipt, IEDA will review the listed contractors and email a verification of eligibility to the recipient.

Labor Standards Administration and Compliance

Other DOL administration and compliance activities which recipients and their contractors and subcontractors are responsible for include the following:

- 1) The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with all labor provisions.
- 2) You must hold a pre-construction conference with the prime contractor and available subcontractors before the start of construction. Participants must be advised of their responsibilities to abide by labor standards provisions and the wage determination contained in the contract documents. Minutes documenting each conference must contain the project name, location and description; wage determination number; name of contractor; contract amount; date and place of conference; conference participants and a summary of items discussed. You should retain minutes of each pre-construction conference in your labor standards file.
- 3) Contractors must make pertinent records available for review and permit on-the-job interviews of employees.
- 4) Contractors and subcontractors may be terminated for noncompliance with labor standards and will be liable for any excess cost involved in completing the work.
- 5) Contractors must be able to furnish certificates from the Bureau of Apprenticeship and Training for apprentices or trainees employed on a particular project. All apprentices must be identified in each payroll submission. The ratio of apprentices to journeymen must not exceed the approved ratio under their respective program and their wage rate must not be less than prescribed under those programs. A DOL Summer Youth Program allows contractors to hire 18-22 year old workers at lower than the prevailing wage. Contractors must secure IEDA approval before using these workers and the lower pay scale.
- 6) All construction contracts covered by Davis-Bacon and subject to labor standards must contain standard provisions and certifications. A copy of the "Federal Labor Standards Provisions" is included in the appendix to this Chapter. All contracts entered into by the contractor with subcontractors must include the same provisions and certifications as those of the major contract with respect to federal laws.
- 7) Contractors and subcontractors may use DOL Form WH-347 ("Payroll") or any other alternate form which provides the same information. If an alternate payroll form is used, the certification language on the back of WH-347 must also be attached. Each contractor and subcontractor and any lower-tier subcontractor must submit weekly payrolls to your designated Labor Standards Compliance Officer for each workweek from the time work starts until it is completed. If no work is performed during a workweek, weekly payrolls need not be submitted. Weekly payrolls shall be numbered sequentially and the final payrolls marked "final." A sample payroll form with instructions is included in Appendix 2. Any subcontractor whose owner is working without any employees on a given work week must be listed on the general contractor's weekly certified payroll.
- 8) You must examine payrolls and related records to ensure compliance with DOL labor standards clauses and applicable federal statutes. You should examine payrolls, related records and employee interviews; verify that apprentices and trainees are registered or certified; ensure the wage rate determination was posted at the work-site; and check the handling of labor-related complaints.
- 9) Underpayments of \$1,000 or more per employer, contractor or subcontractor must be reported to DOL through IEDA. For further information on reporting requirements, contact IEDA's labor specialist.

Summer Youth Employment

Contractors employing workers aged 18-22 (who are bona fide high school, technical school or college students) on HUD-insured or assisted HUD construction projects during the summer (May 15 through September 30) may be exempt from Davis-Bacon and related labor acts.

Requirements and stipulations that must be met before summer youth are employed at less than Davis-Bacon rates are as follows:

- 1) Youth must be sponsored by a responsible employment, training and/or community outreach organization, such as the National Association of Home Builders, Associated Builders and Contractors, Urban Coalition, Private Industry Council, National Urban League, organized labor, a local school, or similar organization, as part of a bona fide Youth Opportunity Program.
- 2) Youth must be bona fide students employed on a temporary basis for the summer.
- 3) Where collective bargaining agreements covering workers performing similar or related activities at the work-site to which youth are stationed exist, the union or unions representing those workers must provide concurrence as to the design of the employment project and the use of the youth.
- 4) The employment must be provided in accordance with state and federal statutory safety, child labor and minimum wage requirements.
- 5) Competent supervision must be provided to all youth employed on the project work-sites. Ratios of youth to such supervisors should be no greater than four to one.

To ensure that the administration of summer youth employment complies with DOL policies and regulations, requests for exceptions to Davis-Bacon must be made to IEDA, which will review the request for its appropriateness and forward it the HUD Field Office Labor Relations Staff for final disposition. Requests must meet the requirements listed above and include the number of youth to be employed and the name of the referring organization. IEDA will advise the requesting contractor in writing of the HUD Labor Relations Office decision.

Programs sponsored by the Workforce Investment Act of 1998 (which replaced the Job Training Partnership Act) that are registered with the Bureau of Apprenticeship and Training would be recognized as bona fide training programs. Therefore, they could be exempt from complying with Davis-Bacon requirements. Check with IEDA's Labor Standards Officer if the project employs apprentices under the WIA.

Required Contract Provisions

Recipients must certify that all federal requirements listed in their contracts with IEDA are satisfied. Further, the certifications must be part of every contract and subcontract the recipient executes. A full listing of required contract language is included in the appendix to this Chapter.

Recipients must ensure that all contracts include the following provisions, as applicable:

- Davis-Bacon Act
- Copeland "Anti-Kickback" Act
- Contract Work Hours and Safety Standards Act
- Access to records by government officials
- Maintenance of records for five years

- Termination clauses
- Federal Labor Standards Provisions – Form 4010 (included in the appendix)
- Required civil rights provisions (included in the appendix)
- Executive Order 11246, for Contracts in excess of \$10,000 (included in the appendix)
- Required provisions for contracts in excess of \$100,000 (included in the appendix)
- Section 3 clause

Project Construction Sign

In order to increase awareness of the benefit that CDBG funds provide to communities, please have a sign placed at the construction site during construction. Specifications for the sign can be found in Appendix 2. You should give these sign specifications to the project architect or engineer so they can be placed in the construction specifications book that will be given to each contractor bidding on the project. If you have questions about the project construction sign, please call your project manager.

Site and Easement Acquisition and Relocation

The requirements in this section apply to acquisition of **real property** and/or **permanent easements** and/or **temporary easements** for CDBG projects. The primary source for HUD real estate acquisition and relocation policy is HUD Handbook 1378, available on the HUD website.

There are two laws that govern property acquisition when CDBG funds are involved: The Uniform Relocation and Real Property Acquisition Act of 1970 (URA) and Section 104(d) of the Housing and Community Development Act of 1974. This section provides a general summary of the most common requirements of CDBG recipients under these laws.

Acquisition and relocation requirements are applicable to the CDBG recipient (City or County government) or the sub-recipient (non-profit organization or Rural Water District). It does not matter if the property used for the CDBG project is purchased with federal funds or local funds, the purchase must still follow the acquisition and relocation requirements outlined in the following pages.

Section 104(d) requires local governments receiving CDBG assistance to provide a one-for-one replacement of all occupied and vacant occupiable lower-income dwelling units that are demolished or converted to another use in connection with a CDBG assisted activity, unless the State of Iowa determines that objective data indicates that there is an adequate supply of vacant lower-income dwellings in standard condition available.

Acquisitions Procedure

Does the purchaser of the property have the power of eminent domain?

NO: (for entities such as non-profit organizations and rural water districts)

Then, complete the following steps in order:

- 1) The sub-recipient notifies the property owner in writing by certified mail that it does not have the power of eminent domain and therefore, it will be unable to acquire the property in the event negotiations fail.

- 2) Inform the owner in writing by certified mail of the fair market value for the property; an appraisal is not necessary, but the offer must include an explanation of how the value was reached.

(An example notice: The Guideform “Voluntary Acquisition for Agencies without Eminent Domain Authority” is in Appendix 2)

YES: (for entities such as Cities and Counties)

Will the purchase be **voluntary or involuntary**?

Voluntary

Must meet **all** of the following criteria:

- 1) No specific property is needed but the search for alternative sites may be limited to a general geographic area.
- 2) The property is not part of a planned or designated area where all the property in the area will eventually be acquired.
- 3) The recipient agrees that it will not use its power of eminent domain even if negotiations fail.

If all of the above is true, the Recipient must inform the property owner in writing by way of certified mail:

- 1) The power of eminent domain will not be used if negotiations fail
- 2) Fair market value for the property; an appraisal is not necessary, but the offer must include an estimate of Fair Market Value. The offer does not have to equal the Fair Market Value.

(An example notice: The Guideform Voluntary Acquisition for Agencies with Eminent Domain Authority is in Appendix 2)

Involuntary

If all of the above criteria for voluntary acquisition are not met then the recipient will complete the following steps in order:

- 1) **Notice of Interest to the Property Owner:** This notice tells the owner of the recipient’s interest in acquiring the property. It should be issued as soon as is feasible, following the recipient’s identification of the real property in which it has an interest. The notice must outline the protection available to the owner and should include information on the recipient’s process and obligation in conducting an appraisal. The HUD brochure “When a Public Agency Acquires Your Property” found in Appendix 2 (Form HUD-1041-CPD) explains the URA policies. The text of this brochure is included in the appendix to this Chapter. Copies of the printed brochure are available upon request from IEDA. This must be given to the property owners.
- 2) **Notice:** Recipient must provide as required to tenants throughout the process
- 3) **Appraisal:** After the owner has been notified of the recipient’s interest in the property, an appraisal must be conducted. The appraisal should be done before negotiating the purchase price. The property owner or a representative must be given the opportunity to accompany the appraiser while on site.

Appraisals are defined as written statements setting forth the market value of a specific property on a specific date. This analysis must be conducted independently and impartially by a certified appraiser and must be supported by analysis of relevant market information.

The market value of a partial acquisition is the value of the whole property less the value of the remaining property. To the extent possible under the law, the appraiser should disregard any enhanced or decreased value to the property to be caused by the project.

Appraisals conducted for the acquisition of property for federal funded projects must follow the Uniform Standards of Professional Appraisal Practice (USPAP). These standards can be found at http://www.appraisalfoundation.org/s_appraisal/sec.asp?CID=3&DID=3.

For a review of minimum appraisal standards reference Helpful Acquisition Information found in Appendix 2.

Appraisals are not required if the owner is donating the property and releases the recipient from its obligation after being informed in writing of the right to an appraisal.

Appraisals are also not necessary when the Agency determines that the property valuation problem will be uncomplicated and the available data indicate a market value of less than \$10,000 (up to \$25,000 if the Agency offers the landowner an appraisal and he refuses it in writing). If the above criteria are met then the Agency will prepare a waiver valuation drafted by a person having sufficient understanding of the local real estate market. If the property owner requests an appraisal one will be conducted.

Recipients must establish minimum qualifications for appraisers. These vary according to the difficulty of the review. Inexperienced appraisers should not be asked to examine complex properties. The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) standards apply to URA. Fee appraisers making a detailed appraisal must be state certified. For a list of state certified appraisers, go to <http://www.asc.gov/default.aspx?id=11>.

Appraisers must not have any conflicts of interest with the owner or property they are to review. This includes direct and indirect ties. Payment for conducting the appraisal may not be tied to the resulting property value.

The appraiser shall disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

- 4) **Review of Appraisal:** After the initial appraisal is conducted, it must be checked by a qualified review appraiser. The review appraiser must examine all appraisals to check for accuracy, documentation and soundness of opinion. If the review appraiser does not accept an appraisal, a second full appraisal must be sought. If the review appraiser does not agree with the original appraisal and it is not practical to do a second appraisal, the review appraiser may present and analyze market value information to support a recommended value. The reasons for the change and the new value must be set out in a certified document.
- 5) **Purchase offer and Summary Statement of the Basis for Just Compensation:** After an appraisal determines the fair market value of the property and is approved by the review appraiser, the recipient should promptly deliver a Purchase Offer and a Summary Statement of the Basis for Just Compensation to the owners. The Purchase Offer should be at an amount not less than the approved appraisal. The Summary Statement of the Basis for Just Compensation is a written explanation of the purchase offer. Please review Helpful Acquisition Information found in Appendix 2 for what it should contain.

If the acquisition will leave the owner with an "uneconomic remnant," the recipient must offer to buy the full property (an uneconomic remnant is considered to be a parcel of property left after acquisition that has little or no value to the owner). If the owners retain or remove property improvements from the site, the salvage value of the improvements should be deducted from the offer of just compensation.

- 6) Negotiation of Purchase Price:** When feasible, negotiations should be conducted in person. Owners have the right to suggest alternatives or additions to the offer of just compensation and to suggest changes in the appraisal. If the owner's information or suggestions warrant a new appraisal, one must be conducted. A review appraisal also may be needed if significant time has passed since the original appraisal. If the second appraisal suggests an increase in the fair market value, this must be communicated to the owner and a new offer of just compensation must be made.

Recipients may not take any coercive action (e.g., advancing the time of condemnation or depositing just compensation funds with the court) to rush or influence the owner's decision. Recipients may allow an owner or tenant to remain on the purchased site at a market rent for the property. However, recipients should ensure that this lease would enable them to legally and readily take possession of the property as required by the project plans.

Recipients may authorize an administrative settlement that exceeds the amount of just compensation. The recipient should document such action with information such as court awards exceeding market value, estimated legal costs or valuation errors. Recipients must not pressure appraisers to change the value of their estimates.

Before taking possession of a property, the recipient must pay the owner the agreed upon price. In the case of a condemnation, money must be deposited with the court for the owner. This amount should be no less than the market value or court award of compensation. Only in exceptional circumstances and with the owner's approval may the recipient enter the property before payment.

The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for the following:

- Recording fees, transfer taxes, documentary stamps, evidence of title, boundary survey and legal description of the real property (however, the recipient is not required to pay costs solely required to perfect the owner's title to the real property);
- Penalty costs and other charges for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the real property; and
- The pro rata portion of any prepaid real property taxes allocable to the period after the recipient obtains title to the property or effective possession of it, whichever is earlier.
- Whenever feasible, the recipient shall pay for the incidental expenses directly so the owner will not have to pay such costs and then seek reimbursement from the recipient. To avoid duplicate expenditures, the property owner should be informed early in the acquisition process of the recipient's intent to make such arrangements.

- 7) Tenant Assistance:** The Recipient must provide advisory services, moving assistance, and relocation payments as applicable.

Condemnation Proceedings

If a property is to be taken by eminent domain, the recipient must initiate formal condemnation proceedings. Recipients may not require the owner to prove the taking of his/her property. Inverse condemnations are takings in fact, but not through legal means. For example, an airport is placed next to a property and the noise from planes makes the property unusable. Even though this property has not been taken through legal means, the use of it has been lost and the owner is entitled to compensation.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal and engineering fees, which the owner actually incurred because of a condemnation proceeding if:

- The final judgment of the court is that the recipient cannot acquire the real property by condemnation; or
- The condemnation is abandoned by the recipient other than under an agreed upon settlement; or
- The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the recipient affects a settlement of such proceeding.

Property Donation

If a property owner wishes to donate their property no appraisal is necessary. The property owner must release the recipient from the obligation to conduct an appraisal in writing. The property owner must also be informed of their rights and be sent a copy of “When a Public Agency Acquires Your Property” (found in Appendix 2).

Relocation Procedure

If the property that is acquired for the CDBG funded project has tenants (households, businesses, non-profit organizations or farm operations) the buyer must provide to each tenant one of the following Notifications: Notice of Relocation Eligibility (NOE) (49 CFR 24.203(b)) or Notice of Nondisplacement.

Tenant households, businesses, non-profit organizations, or farm operations that occupy the property and are **“displaced persons” as defined in the regulations are eligible for all advisory services and financial benefits under either the URA or Section 104(d)**. The buyer must provide all the required notifications in a timely manner. Property owners cannot waive these rights for tenants of their properties on a voluntary transaction.

The buyer must provide all the required notices to tenant households, businesses, non-profit organizations or farm operations that occupy the property and are “displaced persons” as defined in the regulations either at URA or 104d. **The notices are in the appendices to Handbook 1378.**

In the Appendix to Chapter 2

Procurement

- Sample Form of Resolution - Procurement Policy
- Sample Evaluation Criteria for Recipient Use in the Procurement of Professional Services
- Sample Form of Resolution - Code of Conduct
- CDBG Procurement Regulations (24 CFR 85.36)

Civil Rights and Fair Housing

- Civil Rights – Equal Opportunity Applicable Laws and Regulations
- Equal Housing Opportunity Logo
- Sample Public Notice - Affirmative Fair Housing Policy
- Clearinghouses for Solicitation of Minority-owned and Female-owned Businesses
- Section 3 Report Form and Instructions
- Sample Format for Section 3 Employee Interviews
- HUD Median Income Levels by County (for Section 3 Interviews)
- Mandatory and elective Fair Housing strategies for communities

Labor Standards

- Request for Wage Determination Form
- Request for Approval of Additional Classification Form and Instructions
- Request for Contractor Eligibility Form
- Sample Payroll Form and Instructions
- Record of Employee Interview Forms (English and Spanish)
- Federal Labor Standards Questionnaire (English and Spanish)
- On-line Employee Questionnaire
- Federal Labor Standards Complaint Intake Form
- Job Site Poster Samples
- Project Construction Sign: Specifications
- Temporary Construction Sign for Jointly Funded Projects
- Federal Labor Standards Provisions

Required Contract Provisions

- Required contract language and provisions
- Section 3 Clause

Acquisition

- “When A Public Agency Acquires Your Property”
- General URA Acquisition Process
- Helpful Acquisition Information
- Guideform Notice to Owner – Involuntary Acquisition (Threat/Use of Eminent Domain)
- Guideform Notice to Owner – Voluntary Acquisition – Informational Notice (Agencies Without Eminent Domain Authority)
- Guideform Notice to Owner – Voluntary Acquisition – Informational Notice (Agencies With Eminent Domain Authority)

Your Notes

Federal Requirements Continued

Issues Related to Environmental Review

Overview

The National Environmental Policy Act of 1969 (NEPA) establishes national policies, goals, and procedures for protecting, restoring and enhancing environmental quality. CDBG recipients must comply with this law and with related federal regulations, which are referenced in 24 CFR Part 58. As a CDBG recipient, you have taken on the responsibility to evaluate how your project will affect the environment by complying with the requirements set out in 24 CFR Part 58. The requirements are complex, and are only summarized below. For a definitive description of environmental requirements, you may want to consult the regulations, which can be found at <http://www.hud.gov/offices/cpd/environment/index.cfm>.

The recipients of CDBG funds assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in Sec. 58.5.

If another federal agency has funds invested in your project, it will also be conducting an environmental review. You are encouraged to coordinate your review with that agency. This will help eliminate the unnecessary duplication of effort. However, before making a finding based on another agency's review, you should ensure the process of determination is adequate to meet responsibilities under 24 CFR Part 58. Although you may concur with the finding and any assessments conducted by another agency, you are still responsible for making sure the contents of your environmental review record (discussed later in this section) is complete. Also, you must still fulfill the publication and comment requirements outlined in this section. Note also that until approval under HUD regulations at 24 CFR Part 58 has been obtained, even though another federal agency may have approved a project, no action may be taken to commit HUD funds to the project or begin a "choice-limiting action." Choice limiting actions include property acquisition or transfer, rehabilitation, conversion, lease, repair, construction or demolition.

Incurring Costs (24 CFR Part 58.22) and Submitting Draw Requests

Completion of the environmental review process is mandatory before taking any action on a specific site, or making a commitment or expenditure of HUD or any other non-HUD project funds for property acquisition or transfer, rehabilitation, conversion, lease, repair construction or demolition activities. Note: 24 CFR Part 58.22 has limitations on activities pending clearance. “(a) neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 58.1(b) on an activity or project until HUD or the State has approved the recipient’s RROF (Request for Release of Funds) and the related certification from the responsible entity. In addition, until the RROF and the related certification has been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.”

Recipients can be reimbursed for certain costs incurred prior to the Release of Funds. These costs include:

- Administration costs
- Design costs including architectural and engineering
- Costs associated with the new environmental process

These costs must have been incurred after the contract effective date.

For all other project activities, recipients cannot incur costs or draw down funds until the environmental review requirements are satisfied and the IEDA has released funds for the project. If any construction activities, including the signing of the construction contract and/or acquiring property are started before IEDA’s approval of the Request for Release of Funds, it will result in all construction costs becoming ineligible for reimbursement.

Steps to conducting an environmental review

- 1) Create the Environmental Review Record
- 2) Define the project activities
- 3) Determine what level of review is required:
 - Exempt
 - Categorical Exclusions Not Subject to §58.5
 - Categorical Exclusions Subject to §58.5
 - Environmental Assessment
 - Environmental Impact Statement
- 4) Initiate contacts with outside sources, e.g. State Historic Preservation Office
- 5) Collect data

- 6) Complete applicable review format, i.e., Statutory Checklist or Environmental Assessment
- 7) Make environmental determination (i.e., compliance with NEPA-related laws and authorities), **or** finding of no significant impact, **or** finding of significant impact
- 8) Publish or disseminate public notices, when applicable
- 9) Submit “Request for Release of Funds and Certification” form to IEDA
- 10) Wait for release of funds letter from IEDA
- 11) Start project – commit funds

The Environmental Review Record (24 CFR Part 58.38)

Each CDBG project must have a written record of the environmental review process. This is the “Environmental Review Record” (ERR), which must be available for public review and comment. The ERR must contain a description of the project and all of its activities (including non-HUD assisted activities); a map of the project area showing the project limits; documentation of compliance with environmental laws; other relevant documents, notices or information; and public comments on the recipient’s environmental review. Public comments and your responses to those comments are extremely important and must be documented in the ERR.

The ERR will vary in length and content by project. Some projects are exempt from NEPA review, categorically excluded from NEPA, found to have no significant impact on the environment, or may require a full environmental impact statement. The steps to comply with NEPA and other applicable laws and regulations are outlined below.

All projects will need to submit the ERR to IEDA prior to a release of funds being issued.

Defining the project activities

Defining the project activity is a crucial step in the environmental review process. This step helps drive the level of environmental review and thus sets out the correct path for documenting compliance with 24 CFR Part 58. “Project” means an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective. When determining the scope of the project one should be sure to include both HUD and non-HUD funds. For example, if non-HUD funds are proposed to acquire property for a community center and HUD funds are planned to construction of the building, both the land acquisition and construction are subject to the environmental review. Likewise, if CDBG funds are being used to acquire a building or site, and non-CDBG funds are used to improve the project or otherwise effect the building or site, all changes to the building and site are reviewed the same.

Project Aggregation (24 CFR Part 58.32)

Recipients must group together and evaluate as a single project all individual activities which are related on either a geographical or a functional basis, or are logical parts of a composite of

contemplated actions. When grouping activities, the recipient should be aware that several sites, each requiring some degree of environmental review, actually might be considered for one project (e.g., 40 units being rehabilitated within a target area). The recipient is well served by grouping activities by projects, common locations and functions, and by activity phasing. Some factors can be considered on an activity-wide basis, while others require site-by-site analysis.

Project activities taking place in floodplains

When project activities take place in floodplains, the RE must go through the “Eight-Step Decision Making Process” and consider “practicable alternatives” to the proposed action (Executive Order 11988 / 24 CFR Part 55). Please refer to Appendix 3 for a step-by-step list of items that need to be addressed. Be sure to pay close attention to steps 2) and 7) for these call for two publications also located in Appendix 3. Both publications cannot be published concurrently together or with the RROF (there are a total of three publications that run consecutively).

Determine the level of environmental review

Every CDBG project requires some level of environmental review. The level of effort needed to prepare a review and the depth of analysis within should be proportional to the size and complexity of the proposed project. The following are the five levels of environmental review:

- Exempt
- Categorical Exclusions Not Subject to §58.5
- Categorical Exclusions Subject to §58.5
- Environmental Assessment
- Environmental Impact Statement

Exempt Activities (24 CFR Part 58.34)

Few funded by the Authority are exempt from NEPA requirements and other environmental reviews. For exempt activities, a recipient does not have to submit a RROF and certification, and no further approval from IEDA will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination (i.e., “Environmental Determination of Level of Review” form) that each activity or project is exempt and meets the conditions specified for such exemption under this section. The following activities are Exempt under §58.34:

- 1) Environmental and other studies, resource identification and the development of plans and strategies;
- 2) Information and financial services;
- 3) Administrative and management activities;

- 4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- 5) Inspections and testing of properties for hazards or defects;
- 6) Purchase of insurance;
- 7) Purchase of tools;
- 8) Engineering or design costs;
- 9) Technical assistance and training;
- 10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
- 11) Payment of principal and interest on loans made or obligations guaranteed by HUD;

Categorical Exclusions (24 CFR Part 58.35)

Categorical Exclusions are those activities that are not exempt and require no environmental assessment. There are two types of Categorical Exclusions, **§58.35 (a)** Subject to §58.5 and **§58.35 (b)** Not Subject to §58.5:

§58.35 (b) Categorical exclusion not subject to Sec. 58.5

- 1) Tenant-based rental assistance;
- 2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;
- 3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
- 4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- 5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.
- 6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.
- 7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that

conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Sec. 58.47. If your project is categorically excluded not subject to Sec. 58.5 using the above criteria you must complete these steps and include documentation in your ERR:

- Complete “Environmental Determination of Level of Review” form
- Complete “Requirements listed at 24 CFR 58.6” form

§58.35 (a) Categorical exclusion subject to Sec. 58.5

- 1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- 2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- 3) Rehabilitation of buildings and improvements when the following conditions are met:
 - i. In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;
 - ii. In the case of multifamily residential buildings:
 - A. Unit density is not changed more than 20 percent;
 - B. The project does not involve changes in land use from residential to non-residential; and
 - C. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - iii. In the case of non-residential structures, including commercial, industrial, and public buildings:
 - A. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - B. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- 4) Demolition, New Construction or Both
 - i. An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - ii. An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
 - iii. Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
- 5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

6) Combinations of the above activities.

If your project is categorically excluded subject to Sec. 58.5 using the above criteria you must complete these steps and include documentation in your ERR:

- Complete “Environmental Determination of Level of Review” form
- Prepare a “Statutory Checklist” and include supporting source documentation
 - Site visit, maps, photographs
- Complete “Requirements listed at 24 CFR 58.6” form
- Publish or disseminate “Notice of Intent to Request a Release of Funds”
 - If any comments are received in writing, the local government must consider the comments, respond in writing, and provide copies of all correspondence to IEDA.
- Once the local comment period expires, submit a signed “Request for Release of Funds and Certification” form to IEDA.
 - Through the Request for Release of Funds, the recipient accepts the role of responsible federal agency should there be a lawsuit concerning environmental laws and regulations. The CEO assumes responsibility for the jurisdiction when he/she signs the Request for Release of Funds and Certification.
- IEDA will issue a Release of Funds letter after the state comment period expires, pending resolution of any conditions or concerns by environmental agencies, individuals and groups.

After IEDA releases funds, the recipient may draw funds after applicable contract conditions have been satisfied.

Following is a **sample** timetable for the RROF process:

Day 1: RROF notice printed in newspaper (“Notice of Intent to Request a Release of Funds”, aka NOI-RROF)

Day 2: First day of 7-day Local comment period

Day 8: Last day of 7-day Local comment period

Day 9: RROF and Certification sent to IEDA, along with proof of publication of NOI-RROF

Day 12: State receives request

Day 13: First day of State comment period

Day 27: Last day of 15-day State comment period

Day 28: State approves RROF and Certification and issues a Release of Funds Letter

Environmental Assessment (24 CFR Part 58.36 & Subpart E)

If the activity is neither exempt nor categorically excluded, you must prepare an Environmental Assessment (EA). The EA examines and recommends feasible ways to eliminate or minimize adverse environmental impacts and examines alternatives to the project itself, if appropriate.

The EA is a “concise public document” (40 CFR 1508.9) which should focus on issues that are truly important rather than “amassing needless detail” (40 CFR 1500.1) and “analytic rather than encyclopedic” (40 CFR 1502.2). The EA should include direct effects (same time & place) as well as indirect effects – those that are “reasonably foreseeable” (40 CFR 1508.8).

The Environmental Assessment Worksheet is included in the appendix to this Chapter. When properly completed, this form serves as the EA and complies with the environmental requirements in 24 CFR Part 58.40.

If your project requires an EA you must complete these steps and include documentation in your ERR:

- Complete “Environmental Determination of Level of Review” form
- Complete “Environmental Assessment Worksheet” and include supporting source documentation
- Publish or disseminate combined “Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds” (FONSI/NOI-RROF)
 - If any comments are received in writing, the local government must consider the comments, respond in writing, and provide copies of all correspondence to IEDA.
- Once the local comment period expires, submit a signed “Request for Release of Funds and Certification” form to IEDA.
 - Through the Request for Release of Funds, the recipient assumes the role of the responsible federal agency should there be a lawsuit concerning environmental laws and regulations. The CEO assumes responsibility for the jurisdiction when he/she signs the Request for Release of Funds and Certification. (24 CFR Part 58.4)
- IEDA will issue a Release of Funds letter after the state comment period expires, pending resolution of any conditions or concerns by environmental agencies, individuals and groups.

After IEDA releases funds, the recipient may draw funds after applicable contract conditions have been satisfied.

If the EA indicates an activity may significantly affect the environment and requires an Environmental Impact Statement, contact IEDA for assistance.

- 1) If an amendment to the activity is proposed, the recipient must reevaluate its EA findings of no significant impact. An amendment may include new circumstances and/or environmental conditions arising during implementation or if an alternative not considered in the original EA is selected. The reevaluation determines if the FONSI is still valid. If it is, but data or conditions have changed, the recipient must amend the original EA and update the ERR.
- 2) If the project site changes, a new EA must be completed for the new site.

Following is a **sample** timetable for the FONSI/RROF process:

- Day 1: FONSI/NOI-RROF notice printed in newspaper
- Day 2: First day of 15-day Local comment period
- Day 16: Last day of 15-day Local comment period
- Day 17: RROF and Certification sent to IEDA, along with proof of publication of FONSI/NOI-RROF
- Day 20: State receives request
- Day 21: First day of State comment period
- Day 35: Last day of 15-day State comment period
- Day 36: State approves RROF and Certification and issues a Release of Funds Letter

In the Appendix to Chapter 3

Environmental Review

- Environmental Process Flow Chart
- CDBG Recipient Guide to Lead Federal Agency Designation
- DNR and CDBG Recipient Lead Federal Agency Designation
- USDA-RD and CDBG Recipient Lead Federal Agency Designation
- USDA-RD, DNR and CDBG Recipient Lead Federal Agency Designation
- Finding of Exemption/Request for Release of Funds Form
- Finding of Categorical Exclusion Not Subject to: Request for Release of Funds Form
- Exempt Projects and Categorically Excluded Not Subject to the Related Laws and Authorities
- Categorically Excluded Subject to Related Laws Environmental Worksheet
- Categorically Excluded Subject to Related Laws: Notice to Request Release of Funds
- Environmental Assessment Worksheet
- Informational Sheet Section
- Noise Assessment Guidelines
- Historic Preservation
- Procedures for Making Determinations on Floodplain and Wetland Management
- Habitat Description for Federally Listed Threatened, Endangered and Proposed Species in Iowa
- Iowa Protected Water Area Designation
- Forms Section
- Farmland Conversion Impact Rating
- Farmland Conversion Impact rating for Corridor Type Projects
- Civil Rights Impact Analysis Certification
- Notices Section (Floodplain and Wetland Only)
- Notice of Proposed Project to be Located in a Floodplain or Wetlands
- Notice of a Decision Regarding Project to be Located in a Floodplain or Wetlands
- Section 106 Agreements
- Exempt from SHPO Review, Project Documentation Form
- Request for Iowa Site File Search
- Section 106 Archaeology Flowchart
- Section 106 Architectural Flowchart
- Authorization for alternative Signatories for the SHPO Comment Form
- Request for SHPO Comment on a Project - Form and Instructions
- Site Inventory Form and Instructions
- Sample Concurrent Notice to Public of Finding of No Significant Impact/
- Notice of Public Intent to Request Release of Funds
- List of Agencies to Whom Finding of No Significant Impact (FONSI) Should be Distributed
- Request for Release of Funds and Certification

Your Notes

Financial Management

Issues Related to Requesting and Using CDBG Funds

Financial Management

Your financial management system must provide for accurate, current and complete disclosure of the financial activities related to the CDBG project.

General Guidelines

If you use a cash basis accounting system, you are not required to use an accrual system under the CDBG Program.

Your records must adequately identify the sources and uses of funds for CDBG projects. The records must contain information pertaining to the CDBG award and authorization, obligations, unobligated balances, assets, liabilities, outlays and income. All local effort (or other funds) must be documented in the same manner as CDBG funds and be incorporated into the project financial records. You must maintain separate records that readily identify the revenues and expenditures of CDBG and local funds.

You must adequately safeguard all funds, property and other assets through effective internal control and accountability and ensure that they are used solely for the purposes authorized. Your financial management system must provide for a comparison of actual outlays with budgeted amounts and show the relationship of financial information to program performance.

You must adopt procedures to minimize the amount of cash on hand (guideline is \$500 maximum if held for 10 working days or longer) and the time elapsing between receipt of funds from IEDA and disbursement for project activities. You should make requests for funds – called “draws” – from IEDA as close as possible to the time of disbursement, through a procedure that ensures funds are expended within 10 working days of receipt.

You should inform your contractors there might be a 4- to 6-week delay between their submission of an invoice and receipt of payment.

You must have a procedure for determining the reasonableness and allowability of costs in accordance with OMB Circular A-87, Principles for Determining Costs Applicable to Grants and Contracts (found in Appendix 5). This circular provides the principles under which costs are allowable and makes the recipient responsible for grant administration through sound management practices and expenditures in compliance with the contract. You must ensure all costs are reviewed for allowability under the principles adopted by IEDA from OMB Circular A-87 and 24 CFR Part 85, the Housing and Community Development Act of 1974 as amended, State administrative rules and your CDBG contract.

Allowable Costs

Costs incurred in CDBG projects are allowable only under the following conditions:

- The CDBG contract with IEDA has been properly executed.
- Administrative and exempt activity costs are incurred on or after the date of receipt of a letter authorizing such costs or after the effective date of the CDBG contract.
- All other costs are incurred only after all necessary environmental requirements have been completed, and all applicable special conditions have been satisfied.
- Costs are accounted for in accordance with generally accepted accounting principles and are not prohibited by federal, state or local laws.
- Costs are authorized in the award made by IEDA and based on the project as defined in the application or otherwise approved as project modifications by IEDA.
- Costs are incurred for activities eligible under the CDBG Program.

Costs must be documented in your accounting records (e.g., by invoices, vouchers, etc.).

Employees paid in whole or in part from CDBG funds or whose time is to be credited to the project as community financial support must prepare timesheets showing the time they worked on the assisted activity each pay period. The recipient must maintain a payroll analysis showing the time and pay associated with CDBG funds.

Property Management

Expendable personal property costing less than \$5,000 in the aggregate may be purchased without prior approval from IEDA. Such purchases must meet all other tests of allowability. Equipment with a purchase price of \$5,000 or more in the aggregate (“non-expendable personal property”) requires the written approval of IEDA prior to purchase. This condition is considered satisfied when such equipment is specifically referenced in the contract (in the project description or budget). For the use of equipment not purchased with federal funds, allowable use or depreciation charges may be allowed. See OMB Circular A-87 for guidance on determining “allowable” charges.

Payment of Interest Costs

Interest costs that can be construed as reasonable and necessary for the delivery of CDBG activities and projects are considered project related and eligible. Interest costs are considered reasonable and necessary if the eligible project could not be implemented without incurring the interest costs. Related legal fees and bonding costs are also eligible.

General Accounting Procedures

Recipients must use a financial management system that assures proper and efficient administration of CDBG funds. Three basic principles should guide the development of your financial management system:

- 1) Procedures should be formalized so they can be applied consistently.
- 2) Procedures should be designed to ensure adequate internal control of funds.
- 3) Financial transactions should be documented so they can be clearly tracked in an audit.

Regardless of the financial management system used, separate accounting records must be maintained for CDBG funds to distinguish them from all other funds. CDBG revenues and expenditures must be readily identifiable in your accounting records.

Recommended Accounting Documents

Your financial management system should include the following accounting documents (or their equivalent):

- 1) **Cash Receipts Journal:** A journal to record the receipt of all funds applied to the project. The journal should include the date funds were received, the amount of funds received, the source of funds and the accounts into which funds were assigned. Each receipt should be listed separately.
- 2) **Cash Disbursement Journal:** A journal to record all checks issued for payment of program costs, including the date of payment, the payee, the check number, the amount and the program and expense account to which the charge was made.
- 3) **General Ledger:** A ledger maintained to summarize monthly cash receipts and disbursements for each activity included in the project.
- 4) **Journal Entry Vouchers or General Journal:** Records showing explanations and amounts of adjustments to the general ledger accounts.
- 5) **Fixed Assets Ledger:** A listing of all fixed assets acquired with CDBG funds.
- 6) **CDBG Federal Cash Register:** A record of draws (requests for funds), federal checks, EFT's, received and balance of CDBG funds.

Receipt and Disbursement of Funds

A critical factor in requesting and expending federal funds is the timing of receipt and disbursement of funds. Funds may be drawn down only for immediate cash needs and no more than 10 working days may elapse between receipt of funds and disbursement by the recipient. IEDA uses a guideline of \$500 maximum cash on hand following the 10-day limit in determining non-compliance. If non-compliance is determined, IEDA reserves the right to convert the recipient to a mandatory reimbursement system, where the recipient expends its own funds and then requests federal funds to cover the expenditure.

Requesting CDBG Funds and Reporting on Activity Status

Recipients draw down CDBG funds, report expenditures, and activity status using iowagrants.gov GAX form. A copy of this form and the instructions are included in the appendix to this Chapter.

You should not automatically request CDBG funds in the amount needed to cover all expenses when portions of those expenses will be paid with local or other funds. Requests for funds are to be made on an accrual basis. You should request funds only as they are needed.

When requesting funds you must complete the Contract Activity Status section of the report including the status of special conditions which is found on the iowagrants.gov electronic claims form.

Funds must be drawn down for each activity in whole dollar amounts. Requests should be in amounts of no less than \$500, unless a FINAL DRAW.

Requests must be signed by the contract signatory, or by an officer or employee of the recipient designated by the contract signatory and whose attested signature and designation letter are on file at IEDA. See Chapter 1 for more information on designating alternate signatories. Alternate signature forms must be uploaded to electronic documents in iowagrants.gov

When requesting funds, you must submit the **electronic claims form and upload the sign GAX form in iowagrants.gov**. After the initial draw request, draws for the project must be submitted at least every six (6) months.

The request will be verified by IEDA staff for completeness, accuracy, proper signature, and reasonableness in relationship to the status of the project. Major deficiencies may result in the request not being processed. You will be notified either in writing or by telephone or negotiation and likely will be asked to resubmit the request. If there is a minor deficiency, IEDA may correct it and notify you so you can correct your records. Recipients can anticipate a time lapse of 3-4 weeks between IEDA's receipt of a request and the direct deposit of funds in the recipient's designated account. IEDA will send the recipient the state warrant or separate notification that a direct deposit is occurring. Please note the date of deposit to verify the availability of your funds, which are normally in your account three business days from the date shown on the slip. CDBG funds will be transferred to the account your City or County has previously set up with the State of Iowa. If you need to change which account is to receive money, please contact Katie Caggiano at 515.725.3033 or katie.caggiano@iowa.gov.

Program Income

Definition of Program Income

Program income refers to income a recipient receives that is directly generated by the use of CDBG funds. Program income also includes funds generated by the use of other program income. Examples of program income include the following:

- Payments of principal and/or interest on loans made using CDBG funds (or program income funds);
- Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated or constructed with CDBG funds (or program income funds);
- Interest earned on funds held in a revolving loan account; and
- Interest earned on program income pending its disposition.
- If you receive less than \$25,000 of program income (cumulative of all CDBG grants) in a program year, it is considered “miscellaneous revenue” and may be used for any purpose. Otherwise, program income must be used for the same activity from which it was generated, and all CDBG requirements remain in effect. (An exception to this rule occurs when dealing with Revolving Loan Funds - all repayments to the RLF are program income – there is no \$25,000 “exemption.”)

When program income is generated by projects that are only partially assisted with CDBG funds, the program income amount is pro-rated to reflect the percentage of CDBG funds used.

Program Income Received before the Contract End Date

If you receive program income before your contract end date, you must expend it before requesting additional funds. The Request for Payment form you use to draw down CDBG funds includes a space for you to record the amount of program income generated; your request for funds must be reduced by that amount. The Request for Payment form and instructions are included in the appendix to this Chapter.

Program Income Received on or after the Contract End Date

If you receive program income on or after the contract end date, you have two options:

- 1) You may use the program income according to a reuse plan approved by IEDA; or
- 2) You may return the program income to IEDA.

If you have another open CDBG contract at or after the time of closeout of the original contract, program income is treated the same as that received before the end date of the original contract. In other words, the program income from the original project must be expended before requesting additional CDBG funds for the other project.

Reuse Plan

If you plan to reuse program income, you must have an IEDA-approved reuse plan. The reuse plan must include the following elements:

- A forecast of the amount of program income expected to be received;
- A description of the activities for which the program income will be used;
- The location where the activities will occur;
- A description of the persons who will benefit from use of the program income;
- A proposed timetable for receipt and expenditure of program income; and
- Certification that the program income will be used in full compliance with all state and federal requirements.

Reporting and Monitoring

If you are reusing program income, you may be asked to report periodically on its use. IEDA will provide you with the forms and instructions for reporting on program income. All program income use is subject to monitoring by IEDA.

In the Appendix to Chapter 4

- When Documents are Due to IEDA
- Request for GAX payment signature form and instructions
- Electronic Funds Transfer (EFT) Authorization Form

Your Notes

Residential Sustainability

Owner Occupied Rehabilitation

Overview

Residential sustainability, otherwise known as owner-occupied rehabilitation, refers to assistance provided to eligible, homeowners to make needed and necessary improvements to their dwelling units.

Owners must be low-income households (i.e., with household incomes less than 80 percent of the area median family income) and must occupy the property as their principal residence.

Eligible Property Owners

Homeowners receiving assistance must be low-income persons. An assisted owner must have a gross annual income that does not exceed 80 percent of the area median family income (MFI). Initial verification of income eligibility (based on annual gross household income) is valid for six months. To ensure a prospective homeowner is eligible, the income needs to be verified early in the process. The verification must be updated if more than six months transpires from the initial verification to the commitment of funds.

The assisted party must own and occupy the property as his/her principal residence. Ownership means:

- holding fee simple title to the property; or
- maintaining a 99-year leasehold interest in the property; and
- not having any restrictions or encumbrances that would unduly restrict the good and marketable nature of the ownership interest.

Eligible Property Types

A single-family property occupied as the principal residence by a qualified homeowner is eligible for rehabilitation assistance. This includes single-family, single-unit dwelling units, condominium units, cooperative units, and manufactured homes (when the land and the unit both are owned by the owner-occupant, the unit is installed on a permanent foundation, and is taxed as "real property").

Property Standards

Upon completion of rehabilitation, assisted properties must, at a minimum, meet Iowa's Minimum Housing Rehabilitation Standards (applicable to communities with populations less than 15,000) and/or locally adopted standards or housing codes.

Recipients must adopt a method for addressing properties infeasible for rehabilitation (e.g., enforcement of an optional relocation plan or exclusion of such properties from the owner-occupied rehabilitation activity – a so-called “walk-away policy”). The method you selected should have been addressed in the Housing Fund application and must be specified in your Administrative Plan. Optional relocation plans must be approved by IEDA and need to be financed with funds other than the Housing Fund.

Median Family Income levels (MFI) by county are updated periodically by HUD; current lists are always available upon request from IEDA or as a link to IEDA's website.

Administrative Plan

You must submit to IEDA an Administrative Plan. Your contract with IEDA requires the submission of an administrative plan prior to you being able to request funds for your owner-occupied rehabilitation project. An Administrative Plan is a “blueprint” that will describe your housing rehabilitation operational policies, procedures and processes. It helps you ensure that your activity or project complies with federal laws and state administrative rules. A “model” owner-occupied rehabilitation administrative plan is in Appendix 5. There are specific requirements that need to be in your plan and these are displayed in the “model” plan in bold, italicized print. If you wish to develop your own admin plan, it **must contain all required bold and italicized wording and contain them verbatim.**

Determine Program or Project Administration

Many Housing Fund recipients contract with a third party to handle the day-to-day management of their activity project. If you decide to contract for administration you must select an administrator according to a federal law requiring that professional services be procured. Refer to Appendix 2 for Procurement requirements (Part 85 Administrative Requirements for Grants and Cooperative Agreements).

General Administrative Services Provided by Regional Councils

For general administrative services only, there is no competitive procurement process required if the recipient chooses to contract for those general administrative services with a Regional Planning Commission/Council of Government.

General Administration versus Technical Services Administration

“Technical Services” are not the same thing as “General Administration”. They are two different types of activities and need to be contracted for separately. Refer to the guidelines on the next page titled “Housing Fund Administrative Costs”.

Sub-Recipient Agreements

If a recipient intends to enter into a sub-recipient agreement, the recipient must seek and obtain IEDA's review and approval of the proposed sub-recipient agreement prior to entering into the agreement. Sub-recipient agreements must at a minimum meet the "Sub-Recipient Agreement Usage Parameter-Housing Fund" criteria found on the next page.

Housing Fund Administrative Costs

The following breakdown should assist in your efforts to distinguish costs (all of which are administrative in nature) between "**general administration**" and "**technical services**" (a.k.a. direct administration; soft costs; and/or carrying costs). **General administration** is a separate activity contained in the recipient's approved budget and as shown on Attachment A (CDBG) of your contract with IEDA. General administrative costs are paid for out of the general administration line item of the budget. Not all awards have an approved general administration budget.

Technical Services is a part of the rehabilitation line item. Technical Services costs are billed to the activity line item, not the General Administration line item.

The following breakdown is not all-inclusive. All costs must be allowable costs per Federal requirements.

General Administration

- 1) Overall program coordination (e.g., establishing financial accounting documents and systems, management, internal controls and oversight responsibilities, etc.)
- 2) General administrative services (i.e., 3rd party contracts, accounting, legal, etc.)
- 3) Reporting to the IEDA (i.e., requests for funds, quarterly performance reports, etc.)
- 4) Advertising and marketing (general information, public outreach) about the activity or project
- 5) Direct costs and salaries of the recipient's staff directly involved in the administration of the activity or project
- 6) Indirect costs, such as office space rent, utilities, insurance, supplies, etc.
- 7) Costs incurred in the procurement of 3rd party administrative services, technical services or in the procurement / purchase of any indirect costs noted in #6 above
- 8) Internal monitoring and oversight of funded program activities
- 9) Coordination and resolution of monitoring and/or audit issues
- 10) Audit costs
- 11) Environmental Review (overall program)
- 12) Activities to affirmatively further fair housing (in a general way)
- 13) Preparation and adoption of Administrative Plans

Technical Services (Project Specific)

- 1) All technical services necessary for individual, scattered site types of activities, whether accomplished internally with staff or contracted for (e.g., initial inspections, work write-ups, cost estimates, construction supervision, etc.)
- 2) Project specific A/E or design services (plans and specifications)
- 3) Financing costs (e.g., security agreements, filing / recording fees, appraisals, etc.)
- 4) Processing of individual applications for assistance *
- 5) Third party verification of applicant's incomes *
- 6) Income eligibility determination and verification of applicants *
- 7) After-rehabilitation value determination
- 8) Activities to affirmatively further fair housing (project specific)
- 9) Underwriting costs and related fees associated with your financial assistance to individual projects
- 10) Project specific forms and documentation
- 11) Project specific environmental (i.e., SHPO clearance)
- 12) Costs of procuring construction services
- 13) Relocation services (advisory services, notices, locating replacement units, inspections, negotiations, counseling, etc.)
- 14) Homebuyer Education (as applicable)*

* These could be performed as a general administrative expense

Sub-Recipient Agreement Usage Parameters – Housing Fund

- IEDA approval must be given before signing your Sub-recipient Agreement.
- Sub-recipient agreement use under the IEDA's Housing Fund will be limited to regional councils of governments only (no non-profit or for-profit entities will be allowed to enter into sub-recipient agreements with any of the IEDA's recipients).
- The language of all sub-recipient agreements must include a clause(s) that clearly states that the recipient remains the responsible entity regarding the federal funds awarded to them. This includes financial accountability and oversight, monitoring, audits, etc.
- Where the sub-recipient is also the contractual administrative agent (general administration) for the recipient, the funds budgeted for general administration (federal and/or other funds) will not be allowed to be included in (governed by) the sub-recipient agreement.
- Where the sub-recipient is also the procured and contractual technical services provider and/or the lead hazard reduction oversight services provider for the recipient, the funds budgeted for these services (federal and/or other funds) will not be allowed to be included in (governed by) the sub-recipient agreement.
- All general administration and technical services (and/or lead hazard reduction oversight) provision related costs will all need to be handled directly by the recipient through their otherwise normal internal approval and payment processes, separate from all costs allowed to be included under or governed by sub-recipient agreements.
- Where sub-recipient agreements are used, all IEDA required security agreements, depending on the type of activity awarded to the recipient, such as forgivable loan documents, covenants, etc., will be required to be recorded (filed) in the recipient's name, not the sub-recipient's name. The recipient must remain the responsible entity for all applicable long-term compliance requirements associated with their Housing Fund awards.

- If the recipient requests and the IEDA approves the re-use of any return on investment funds such as program income, forgivable loan defaults, recaptured funds, etc., the re-use of funds must be by the recipient, not the sub-recipient. Sub-recipient agreements will not be allowed to include the re-use of funds by the sub-recipient.
- All requests for funds from the sub-recipient, sought as reimbursement from (through) the recipient, must include copies of all supporting documentation applicable to each reimbursement request. The recipient must review and approve all sub-recipient requests for funds prior to making reimbursement payment to the sub-recipient. The recipient must retain all supporting documentation (i.e., billings and invoices from vendors; copies of checks that had been written by the sub-recipient to all vendors; documentation supporting the sub-recipient’s approval processes; etc.) for their own program records retention requirements.
- Sub-recipients must ensure that amounts drawn from recipients are to be for funds expended (as a reimbursement) or for bills on hand only.
- Funds received from the IEDA by the recipient must be expended (either reimbursing the sub-recipient’s line of credit or for the payment of bills on hand) within ten days of receipt from the IEDA.
- Interest costs incurred on all sub-recipient’s lines of credit used to cover the recipient’s award-related costs must be kept to a minimum and must be reasonable. Funds drawn from the IEDA by the recipient (used to reimburse the sub-recipient) must be requested frequently enough to reduce, or limit, the amount of interest charged on funds disbursed from the sub-recipient’s line of credit. All requests for funds from the recipient must detail the following information as follows:

- Interest costs for the reporting period \$ _____
- Total interest costs to date \$ _____
- Date of last principal and interest payment _____
Month Day Year
- Date of receipt of funds (previous request) by the recipient _____
Month Day Year
- Date of receipt of funds (previous request) by the sub-recipient _____
Month Day Year

Income Calculation and Benefit Determination

Recipients must use specific procedures to verify that assisted households are income-qualified to benefit from Housing Fund assistance. The recipient may not take any adjustments or deductions to determine a participant’s initial income eligibility.

This section provides an overview of the income calculation and benefit determination process. For additional detail, consult the “Technical Guide for Determining Income and Allowances for the HOME Program,” available from IEDA or HUD.

Determination of Income Eligibility

Households that receive Housing Fund assistance must be income eligible. An income determination must be completed before assistance begins. A preliminary determination of eligibility should, however, be made much earlier in the process. Application processing is labor intensive, so early screening for income eligibility can eliminate excessive work resulting from processing an ineligible applicant.

Establishing a deadline for formal eligibility determinations is a challenging part of the planning process. The formal determination of income eligibility must be made shortly before a household receives assistance. Because eligibility determination involves verification of income, waiting too long can delay an activity. Conducting income determinations too early in the process, however, might mean that determinations become “stale” and must be redone.

Verification of income eligibility is valid for six months only. The verification must be updated if more than six months transpires from the initial verification to occupancy or investment of funds. Households must qualify as low income at the time funds are invested or at the time of occupancy, whichever is earlier.

Initial Income Verification Process

Your Administrative Plan must describe the process you will use to verify incomes. Generally, that process includes the following:

- 1) Conduct an application interview.
- 2) Document household members, sources of income and asset information.
- 3) Send third-party income verification forms to employers, banks, human service agencies, etc.
- 4) Once verification forms are returned, calculate annual gross income (and adjusted income, only if necessary to determine the level of benefit) using an income calculation worksheet.
- 5) Sign and date the income calculation worksheet.
- 6) Notify the applicant, in writing, of their eligibility (or ineligibility) for Housing Fund assistance.

Annual Gross Income

Annual gross income has a specific definition, involving a number of income inclusions and income exclusions. Annual gross income is “anticipated” for the future 12-month period, based on current circumstances or known upcoming income changes.

Assets are handled by counting income from assets in the computation of annual income. Assets more than and less than \$5,000 are treated differently. If the household's assets are \$5,000 or less, actual income from assets (e.g., interest on a checking account) is counted as annual income. If the household's assets are greater than \$5,000, income from assets is computed as the greater of actual income from assets or imputed income from assets based on a passbook rate (check with a local lender for rate). If a household disposes of assets for less than fair market value, the value of the disposed asset (market value less value received) must be counted for two years. This requirement eliminates the need for an assets limitation and penalizes people who give away assets for the purpose of receiving assistance or paying a lower rent. The recipient also should require participants to submit copies of their tax returns for the previous year. Information on the return will not be used to calculate anticipated income, but can support information provided by the participant (e.g., income amounts and sources, household size, assets).

Annual Income Inclusions

24 CFR Part 5 Annual Income Inclusions

- 1) The full amount, before any payroll deductions, or wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- 2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, base on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a

business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

- 3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 (above). Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
- 4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a period amount (except for certain exclusions, listed in Annual Income Exclusions, number 14).
- 5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (except for certain exclusions, as listed in Annual Income Exclusions, number 3).
- 6) Welfare Assistance. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income:
 - Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
 - Are otherwise excluded from the calculation of annual income per 24 CFR 5.609(c).If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
 - The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - The maximum amount that the welfare assistance agency could allow the family for shelter and utilities. If the family's welfare assistance is reduced from the standard of need by applying a percentage, the amount calculated under 24 CFR 5.609 shall be the amount resulting from one application of the percentage.
- 7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
- 8) All regular pay, special pay, and allowances of a member of the Armed Forces (except as provided in number 8 of Income Exclusions).

Annual Income Exclusions

- 1) Income from employment of children (including foster children) under the age of 18 years.
- 2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
- 3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses (except as provided in number 5 of income inclusions).
- 4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
- 5) Income of a live-in aid (as defined in 24 CFR 5.403).

- 6) Certain increases in income of a disabled member of qualified families residing in HOME-assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.671(a)).
- 7) The full amount of student financial assistance paid directly to the student or to the educational institution.
- 8) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- 9) Amounts received under training programs funded by HUD.
- 10) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS)
- 11) Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and made solely to allow participation in a specific program.
- 12) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.
- 13) Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
- 14) Temporary, nonrecurring, or sporadic income (including gifts).
- 15) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
- 16) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding head of household or spouse).
- 17) Adoption assistance payments in excess of \$480 per adopted child.
- 18) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
- 19) Amounts received by the family in a form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
- 20) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- 21) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to housing owners identifying the benefits that qualify for this exclusion.
- 22) Updates will be published and distributed when necessary. The following list income sources that qualify for that exclusion are:
 - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;

- Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through Americorps, VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);
- Payments received under the Alaskan Native Claims Settlement Act;
- Income derived from the disposition of funds to the Grand River Bank of Ottawa Indians;
- Income derived from certain sub marginal land of the United State that is held in trust for certain Indian tribes;
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
- Payment received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted land, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands;
- Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs;
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (Green Thumb, Senior Aides, Older American Community Service Employment Program);
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
- Earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments;
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement of costs incurred for such care) under the Child Care and Development Block Grant Act of 1990;
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs and career intern programs, AmeriCorps);
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990;
- Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran;
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act; and
- Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.

Asset Inclusions

The following are included as assets:

- 1) Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average 6-month balance. Assets held in foreign countries are considered assets.
- 2) Cash value of revocable trusts available to the applicant.
- 3) Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., broker fees) that would be incurred in selling the asset. Under HOME, equity in the family's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.
- 4) Cash value of stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts.
- 5) Individual retirement, 401(K), and Keogh accounts (even though withdrawal would result in a penalty).
- 6) Retirement and pension funds.
- 7) Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).
- 8) Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
- 9) Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
- 10) Mortgages or deeds of trust held by an applicant.

Asset Exclusions

The following are not included as assets:

- 1) Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars, and vehicles specially equipped for persons with disabilities.
- 2) Interest in Indian trust lands.
- 3) Assets not effectively owned by the applicant. When assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household and that other person is responsible for income taxes incurred on income generated by the asset.
- 4) Equity in cooperatives in which the family lives.
- 5) Assets not accessible to and that provide no income for the applicant.
- 6) Term life insurance policies (i.e., where there is no cash value).
- 7) Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

Using Adjusted Income to Determine the Level of Benefit

Certain adjustments or deductions may be taken from a participant's annual gross income only to determine a level of benefit (not to determine initial income eligibility). For example, if funds are provided for owner-occupied rehabilitation, adjustments to the annual gross income may be taken prior to determining the homeowner's contribution towards the cost of rehabilitation. The participant must still qualify under the initial eligibility criteria (annual gross income). Adjusted income is computed by deducting the following from annual gross income:

For all households

- \$480 for each dependent (i.e., a person, other than the head of household or spouse, who is under 18, or handicapped or disabled or a full-time student).
- Reasonable childcare expenses (for children 12 and under) that enable a household member to work or attend school.
- Expenses for the care of a disabled household member that enables that person or another person to work.

For elderly households only:

- \$400 per household (head or spouse is 62 or older, handicapped or disabled).
- Medical expenses in excess of 3 percent of annual gross income that are not reimbursed by insurance or other sources.

Lead Safe Housing

Regulations

The CDBG program is impacted by HUD's Lead Safe Housing Regulations. This legislation is formally 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" (24 CFR, Part 35, et. al.). HUD has also issued "interpretive guidance" to lead safe housing regulations. Refer to the Chapter 5 Appendix.

The applicability of the various subparts of these regulations will depend upon the type of activity you are undertaking.

Subpart A - "Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property" (Homeownership Assistance and Rental activities);

Subpart B - "General Lead Based Paint Requirements and Definitions for all Programs" (All activities);

Subpart J - "Rehabilitation" (Any activity involving rehabilitation such as owner-occupied rehabilitation programs; rehabilitation in support of, or incidental to, homeownership; and rental rehabilitation);

Subpart K - "Acquisition, Leasing, Support Services or Operation" (Potentially any activity);

Subpart M - "Tenant Based Rental Assistance (TBRA)" (any TBRA activity);

Subpart R - "Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities" (All activities).

You are encouraged to read and become familiar with the subparts of this legislation that apply to your activity. Be aware more than one subpart may apply. If this is the case, the most restrictive subpart takes precedence. Everyone should become familiar with Subpart B (definitions of terms) and Subpart R (details specific requirements and procedures for reducing or abating lead-based paint hazards).

HUD's Lead Safe Housing regulations apply to all residential property constructed prior to January 1, 1978 (commonly referred to as "target housing") being assisted with HUD funds. These requirements also apply to non-residential structures being converted into residential use (e.g., converting an old school building into multi-family, rental housing).

Exemptions

There are a number of exemptions to the regulations:

- Structures constructed after January 1, 1978;
- Certain emergency action activities;
- Residential properties free of lead-based paint (documented through a specific inspection protocol);
- Residential properties where all lead-based paint and hazards have been completely abated and documented accordingly;
- Unoccupied residential properties to be demolished;
- Properties not used for human residential habitation (i.e., commercial, industrial, etc.);
- Any rehabilitation to a pre-1978 structure not disturbing painted surfaces;
- Single Room Occupancy (SRO's) housing (such as barracks or dormitory style housing); and
- Housing specifically designated for (or limited to) elderly and/or disabled.

Requirements

The regulations detail five standard approaches to compliance with the HUD Lead Safe Housing Regulations, all activities. The five approaches for achieving compliance to the specific requirements are "Notification", Identification", "Reduction", "On-Going Maintenance", and "Response to a Child with an Elevated Blood Level".

Notification

There is an up-front notification requirement to the current or the intended occupant(s) of the assisted unit. This initial notification is to convey general information of lead-based paint dangers. You need to use EPA's standard pamphlet "Protect Your Family from Lead in Your Home" or the Iowa Department of Public Health's pamphlet "Lead Poisoning - How to the Protect Iowa's Families" for this purpose. Documentation indicating this initial notification was conveyed to the occupant(s) must be contained in your project files.

A notice must be conveyed to the owner and the occupant(s) of any paint testing and risk assessment that will be done on their residential unit. A notice of the presumption of lead-based paint or lead-based paint hazards must be conveyed if paint testing and risk assessment is not going to be conducted.

You must also notify the owner and the occupant(s) of any lead hazard reduction activity to be accomplished on their unit (including a summary of any rehabilitation activity that will reduce or abate lead-based paint hazards). This information is typically contained in and subsequently conveyed by reports required following an inspection/risk, assessment, or presumption/visual risk assessment.

Following the completion of all rehabilitation work, lead hazard reduction or abatement activity (including cleaning, final visual risk assessment and clearance testing) the owner and occupant(s) must be notified of the clearance testing results.

In conjunction with the notification requirements, reports need to be prepared for all inspections/risk assessments conducted, presumptions/visual risk assessments, and for all final visual risk assessments/clearance testings conducted. Where lead hazard abatement or paint abatement was conducted; specific reports/documentation is required, particularly if a lead-free

certification on the unit(s), is being sought. These reports need to be accomplished in accordance with the Iowa Department of Public Health's (IDPH's) requirements found in chapter 70 of the Iowa Administrative Code. Certified lead professionals must be familiar with the IDPH's requirements. Sample reports are available from the IDPH.

Be aware with any homeownership assistance activity (target housing), the seller must provide the buyer with another notice. Refer to Subpart A of the regulations, "Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property". For rental activities, the same notice is required from the property owner to all tenants prior to their occupancy and throughout the period of affordability.

Another notification requirement (an IDPH/EPA requirement) is the "Pre-Renovation Notification" - contractors are required to notify the property owner about lead-based paint and lead-based paint hazards when their renovation work will disturb painted surfaces. This requirement applies to any renovation work the contractor performs on target housing assisted with or without HUD funds.

There is notification requirements associated with on-going maintenance inspections (rental activities) as well.

Copies of various notices you may need (including the EPA or IDPH pamphlet used for the initial notification) are in this Chapters' appendices. Please note the form used for the final visual risk assessment and clearance testing results serves as both the notification and the required report.

Identification

There are also requirements for lead-based paint and lead-based paint hazards identification. What is specifically required in terms of identification will depend on what activity you are undertaking. If you are undertaking rehabilitation (of any kind), identification of lead-based paint and lead-based paint hazards requirements vary depending on the amount of HUD assistance invested per unit.

Some activities require only a visual risk assessment be conducted to determine if and where any lead hazards exist that need to be addressed. Most activities (rehabilitation in particular) require residential structures to be assisted be tested for lead-based paint (through XRF paint analysis testing and/or paint chip sampling and laboratory analysis) and evaluated (through a formal risk assessment) to determine if and where any lead-based paint is and if and where there are any lead-based paint hazards that need to be addressed. Recipients conducting rehabilitation activities can forego the need for testing and risk assessment by "presuming" that lead-based paint and lead-based paint hazards are present (all painted surfaces, the entire property). By making this "presumption" (which can only be made by a certified lead professional), the recipient avoids the need for paint testing and evaluation, but does not avoid the requirements relating to visual risk assessment, reporting, notification, lead hazard reduction or abatement, and/or on-going maintenance activities.

Another form of identification is clearance testing. Clearance testing (including the final visual risk assessment) is required following the completion of any and all rehabilitation that disturbs paint (known or presumed to be lead-based paint) and/or any specific lead-based paint hazard reduction or abatement activity that is undertaken.

Reduction

One form of reduction is paint stabilization. Paint stabilization is repairing deteriorated painted surfaces (e.g., wet scraping and/or wet sanding followed by repainting). Paint stabilization is only a temporary measure employed to make a residential unit temporarily lead safe.

Another form of reduction is known as interim controls. Interim controls may include paint stabilization, but is not limited only to that type of lead hazard reduction. Interim controls are measures, or a set of measures, to address any and all lead-based paint hazards identified. Interim controls are typically employed to reduce lead-based paint hazards identified in rehabilitation projects (those rehabilitation projects at or less than \$25,000 per unit of HUD assistance for the hard costs of rehabilitation) following required paint testing and risk assessment. Interim controls are only temporary measures employed to make a residential unit temporarily lead safe.

A third form of reduction is known as standard treatments. Standard treatments are the same as interim controls, with a couple of distinctions. Interim controls are measures to address lead-based paint hazards existing in specific locations following required paint testing and risk assessment (in other words, addressing only the hazards where it is specifically known that the painted surface contains lead-based paint). Standard treatments are employed based on the “presumption” of lead-based paint and all hazards and potential hazards must be addressed throughout the unit and the property as a whole. The application of standard treatments also requires that all flat, horizontal surfaces that are rough, porous and/or pitted be addressed (e.g., covering or coating, such as metal coil stock, plastic, polyurethane or linoleum); all dust generating conditions be addressed (i.e., accessible (chewable), friction or impact surfaces); and all bare soil be treated.

Another form of reduction (considered a permanent solution) is known as abatement (specifically, lead-based paint hazards abatement, not lead-based paint abatement). Lead hazards abatement is permanent elimination of all lead-based paint hazards. Total lead-based paint hazards abatement is required for all rehabilitation projects where the per unit HUD assistance is greater than \$25,000 for the hard costs of rehabilitation.

The remaining form of reduction (in actuality “elimination”) is lead based paint abatement, a permanent solution, whereby all lead based paint is removed from the unit(s), the building(s), and the property as a whole (common areas, grounds, etc.). Lead based paint abatement is recommended by IEDA only for multi-family (rental) projects and only when: (a) the property owner is desirous of opting out of the required real estate disclosure to tenants and obtains “lead-free” certification; and (b) is financially feasible to do so.

You should refer to the HUD and/or EPA regulations for more detail on various forms of reduction, elimination, and actual procedures for implementation of various methods of reduction or elimination.

Response to an Elevated Blood Level (EBL) Child

If and when it might become known there is, or there will be, a child residing in a residential unit to be assisted that has an elevated blood level, you need to immediately contact the local or state public health department and inform them of that information so that they can intervene with appropriate action.

Cross-Cutting Legislation

Implementation of HUD’s Lead Safe Housing regulations has been a collaborative and cooperative effort between two state departments, the IEDA and the Iowa Department of Public Health (IDPH). The IDPH is responsible for administering the related and cross-cutting Environmental Protection Agency (EPA) regulations found at 40 CFR, Part 745. HUD’s Lead Safe Housing regulations rely on a framework of personnel trained and/or certified in accordance with the IDPH’s state EPA program.

Lead Professionals Needed to Implement the HUD Regulations

Those trained and/or certified under IDPH's program are collectively referred to as lead professionals. Certain procedures or processes involved in the implementation of HUD's lead safe housing regulations can only be accomplished by lead professionals.

Lead professionals include persons or firms who conduct lead abatement (lead hazard abatement or lead paint abatement), lead inspections, elevated blood lead (EBL) inspections, lead hazard screens, risk assessments, visual risk assessments, clearance testing after lead abatement, clearance testing after interim controls, paint stabilization or standard treatments, on-going maintenance, or rehabilitation pursuant to 24 CFR 35.1340.

Safe Work Practices

HUD's Lead Safe Housing regulations require all rehabilitation activity (less than \$25,000 in HUD assistance) disturbing painted surfaces in assisted target housing (known or presumed to be lead-based paint) and any additional lead hazard reduction activity, employ "safe work practices". Safe work practices entails:

- Using only contractors (including their employees and subcontractors) having the required eight hours of safe work practices training;
- Not using any of the "prohibited methods of paint removal", such as:
 - Open flame burning or torching,
 - Machine sanding or grinding without HEPA exhaust controls,
 - Abrasive blasting or sandblasting without HEPA exhaust controls,
 - Heat guns operating above 1,100 degrees F,
 - Dry sanding or scraping,
 - Paint stripping in poorly ventilated areas using volatile strippers containing hazardous substances.
- Requiring and using thorough and specialized cleaning methods following any lead hazard reduction activity (including lead-based hazards addressed with normal rehabilitation work);
- Providing both the occupant(s) of the unit and all workers with adequate protection.

Safe work practices are not required when lead hazard reduction, rehabilitation that disturbs painted surfaces, or on-going maintenance activities do not disturb painted surfaces that total more than the regulatory "de minimis levels." The de minimis levels are: a) twenty (20) square feet or less on exterior surfaces; b) two (2) square feet or less on any one interior room or space; or c) ten percent (10%) of the total surface area or less of an interior or exterior component with a small surface area (e.g., window sills, baseboards, trim, etc.).

Occupant Protection

Occupant protection (including their belongings) must be provided during lead hazard reduction or abatement activity, rehabilitation that disturbs paint (known or presumed lead-based painted surfaces), or on-going maintenance activity. During any of this type of activity:

- The occupants of the assisted residential unit shall not be permitted to enter the workspace(s) until after the work has been completed, cleaned and has passed clearance testing;
- All workspaces (including access to and from the workspaces) shall be contained and secured to deter entry by anyone other than the trained or certified workers doing the work;
- The occupant's belongings shall be protected from contamination by lead-dust hazards and debris generated from the work. The occupant's belongings shall either be moved to a safe and secure area outside of the containment area(s), or moved to the center of the workspace and covered with an impermeable covering with all seams and edges taped or otherwise sealed;
- Temporary relocation of the occupants to a suitable, decent, safe and similarly accessible dwelling unit, free of lead-based paint hazards, shall be provided if:
 - Utilities will be shut off for more than eight (8) hours; or
 - The lead hazard reduction activity is being done in the only kitchen or in the only bathroom of the unit and cannot be completed within 8-daytime hours; or
 - There is extensive lead hazard reduction being done in several rooms and over an extended period of time (i.e., several areas over several days); or
 - A child under the age of six resides in the unit; or
 - Construction debris and/or dust cannot be contained and/or access to the work area(s) cannot be secured from entry by the occupants; or
 - You are performing lead hazard or lead paint abatement.
 - For owner-occupied rehabilitation activities (target housing), recipients are required to temporarily locate all assisted property owners during any interior rehabilitation that disturbs paint (known or presumed to be lead based paint) and/or during any interior lead hazard reduction activity. For homeownership assistance activities (those involving rehabilitation to target housing), it is recommended that all interior rehabilitation and lead hazard reduction activity be accomplished prior to allowing the assisted homebuyer to occupy the purchased unit.
- Temporary relocation of the occupants to a suitable, decent, safe and similarly accessible dwelling unit free of lead-based paint hazards shall be provided unless:
 - Treatment will not disturb lead-based paint, lead-dust hazards, or lead-soil hazards; or
 - Only the exterior of the unit is being treated and: a) all windows, doors and ventilation intakes or other openings in or near the workspace are sealed during the lead hazard reduction activity; b) the treatment is followed by necessary cleaning and clearance testing; and c) there are provisions for entry to the unit that is free of lead-dust hazards, lead-soil hazards and debris; or
 - Treatment of the interior (or interior space) will be completed within one period of 8-daytime hours (this includes workspace preparation, completion of the work, cleaning and successful clearance testing).

Worker Protection

Worker protection is required. This requires contractor adherence / compliance to OSHA's Lead in Construction worker safety and protection standards. There are worksite preparation requirements to prevent the release of leaded dust and to contain lead-based paint chips and/or debris to within the workspace(s) until it can be safely removed. Worksite preparation might include covering of floors and furnishings (if not removed from the workspace) or covering exterior areas adjacent to the lead hazard reduction or abatement activity, sealing off all workspaces and securing access to those areas, and turning off HVAC systems during the reduction or abatement activity. Workers may not use any of the prohibited methods of paint removal. Workers will need to use appropriate respiratory protection (APRs) and wear appropriate protective clothing and gear during lead hazard reduction or abatement activity.

Cleaning and Clearance Testing

Directly related to occupant and worker protection is the thorough cleaning procedures necessary to pass the required clearance testing at the conclusion of any rehabilitation that disturbs painted surfaces (known or presumed to be lead-based paint) and/or any lead hazard reduction or abatement activity. This will entail vacuuming the work areas (ceilings, walls, floors, window troughs and sills, etc.) with a HEPA vacuum, wet washing (first with a detergent solution, and twice with rinse cycles), and re-vacuuming those areas with a HEPA vacuum. All waste and debris to be removed from the worksite must be removed in sealed containers or wrapped and taped so as not to contaminate areas of the unit that were not treated.

Clearance testing is required following any lead hazard reduction or abatement activity accomplished on federally assisted target housing (paint stabilization, interim controls, standard treatments, on-going maintenance, rehabilitation activity that disturbs known or presumed lead based paint, or lead hazard or lead paint abatement). Clearance testing (rehabilitation under \$25,000) entails a final visual risk assessment, dust-wipe sampling and laboratory analysis and the preparation of a report, as well as notification to the property owner. Clearance testing must be performed in accordance with the Iowa Department of Public Health's State Environmental Protection Agency program requirements and can only be performed by certain certified lead professionals. Clearance testing results must conform to the EPA clearance standards found in the Iowa Department of Public Health's Chapter 70 of the Iowa Administrative Code. There are specific procedures for clearance testing following lead based paint or lead based paint hazard abatement. There are specific procedures for lead-free inspections following lead based paint abatement.

The preceding information is only a brief summary of the requirements. You should become familiar with the HUD Lead Safe Housing regulations (particularly Subparts B and R, and any other subpart applicable to the type of activity you are conducting if your project or activity involves target housing). The HUD "Guidelines for the Control of Lead-Based Paint in Housing" (made available to all individuals that have taken any of the IDPH's lead professional training and certification courses) is another valuable reference tool, particularly for procedural issues.

Remember there are varying requirements depending on the activity type you are doing. Where one activity is subject to more than one subpart of the regulations, the more restrictive requirements apply. As you conduct your activities that are subject to HUD's Lead Safe Housing regulations, feel free to contact your IEDA Project Manager with questions.

Procurement

Nonprofit and local government CDBG recipients must comply with federal procurement requirements of 24 CFR 85.36. These regulations direct that all supplies, equipment, construction and services be acquired efficiently and economically, through open and fair competition. You must use sound business judgment, not only in the acquisition of supplies, equipment, construction and services, but in the settlement of all contractual and administrative issues, protests, disputes and claims. Refer to Chapter 2 and Appendix 2 for sealed bid method of procurement.

Reporting

Recipients of housing rehabilitation grants are required to report on their expenditure of funds and activity status. These reports help keep IEDA and your IEDA Project Manager informed about the progress of your activity and also provide the state with information needed for reports submitted to HUD.

Monitoring Your Project

Your CDBG program will be monitored by your project manager from IEDA during the life of the program. This includes both desk monitoring and on-site monitoring. The IEDA has a formally established/written process for conducting oversight and on-site monitoring. IEDA staff will set-up an on-site monitoring date with the CEO and grant administrator. For more information on what this monitoring will entail, you may go to the IEDA website at:

<http://www.iowaeconomicdevelopment.com/userdocs/documents/ieda/CDBG-MonitoringPolicy4-11.pdf>

For review of the Monitoring Checklists, you may visit our website at:

<http://www.iowaeconomicdevelopment.com/userdocs/documents/ieda/cdbgmonitoring.pdf>

In the Appendix to Chapter 5

- Iowa's Minimum Rehabilitation Standards
- Sample Forgivable Loan and Promissory Note
- Housing Fund Administrative Rules
- Title I of the Housing and Community Development Act of 1974 – Section 105
- 80% Median Family Income by County
- General Principles for Determining Allowable Costs – A87
- Record-Keeping Checklist
- Model Owner-Occupied Housing Rehabilitation Administrative Plan
- Lead Safe Housing Regulations and Forms

Your Notes

Chapter 6

Iowa Green Streets Criteria

Overview

This chapter describes the Iowa Green Streets Criteria requirements that apply to the CDBG program. Recipients should review the chapter carefully and the full Iowa Green Streets Criteria in Appendix 6 or online at <http://iowaeconomicdevelopment.com/CommunityDevelopment/Green> and refer to it as necessary to ensure compliance.

The Iowa Green Streets Criteria promote public health, energy efficiency, water conservation, smart locations, operational savings and sustainable building practices. The Iowa Green Streets Criteria apply to CDBG Community Facilities and Services Fund, some CDBG Opportunities and Threats projects and CDBG Disaster Recovery Multifamily projects. A separate version, Iowa Green Streets Criteria for Downtown Revitalization Projects applies to CDBG funded downtown revitalization projects and can be found at <http://iowaeconomicdevelopment.com/CDBG/DowntownFund>.

In addition to increasing resource efficiency and reducing environmental impacts, green building strategies can yield cost savings through long-term reduction in operating expenses. The benefits include improved energy performance and comfort, a healthier indoor environment, increased durability of building components, and simplified maintenance requirements that can lead to financial efficiencies for property managers and owners. Green building practices improve the economics of managing affordable housing and community facilities while enhancing quality of life for residents, visitors and employees.

Guiding principles behind the Iowa Green Streets Criteria ensure that buildings must be cost effective to build, and durable and practical to maintain. In addition, the principles work together to help produce green buildings that:

- Result in a high-quality, healthy living and working environment
- Lower utility costs
- Enhance connections to nature
- Protect the environment by conserving energy, water, materials and other resources
- Advance the health of local and regional ecosystems

How to Use This Document

The Iowa Green Streets Criteria is based on the national Green Communities Criteria available online at www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities/criteria. The Iowa Economic Development Authority thanks Enterprise and its partners for development of the national Green Communities Criteria and the use of those criteria in development of the Iowa Green Streets Criteria.

All of the mandatory Iowa Green Streets Criteria are required for both residential and non-residential applications. However, there are certain criteria that are not applicable to or are different for non-residential applications. Therefore, certain criterion include different requirements for residential versus non-residential projects.

Please be aware that this Iowa Green Streets Criteria document is subject to periodic revision and update. Refer to the Iowa Economic Development Authority's Community Development Division Web site, <http://iowaeconomicdevelopment.com/UserDocs/documents/IEDA/Iowa-Green-Streets-Criteria.pdf> for the most current version.

Activities and Projects Covered by the Iowa Green Streets Criteria

The Iowa Green Streets Criteria include mandatory and optional components in the criteria for the following types of activities or projects.

- Community Facilities
- Downtown Revitalization (See specific criteria for downtown revitalization projects)
- Sustainable Community Demonstration
- Multifamily
- Any other projects involving new construction or rehabilitation of an existing building

Getting Started

Remember that in submitting the Iowa Green Streets Criteria Green Development Plan and Checklist with your project proposal that your project committed to and is contractually required to meet the performance requirements of the Iowa Green Streets Criteria.

To ensure compliance with the Iowa Green Streets Criteria in a manner that will result in the highest performing project within your project budget here are eight steps you should take.

- 1) When procuring technical services, architectural and/or engineering services, remember to also procure the applicable third-party energy system design and rating expertise for your project.
- 2) Host an integrated design workshop with your design professionals and energy expertise contractor and as many other people involved with your project as possible. An integrative design process facilitates the design and development team's achievement of green objectives throughout the project life cycle. The outcomes of an integrative design process can include substantially lower development costs and greater health, economic, and environmental benefits for residents, property owners, and communities. Contact the IEDA to identify design expertise IEDA can make available to assist your project's design team in identifying best practices in design and construction for your project.
- 3) Develop construction documents that include Appendix G, Project Plan and Spec Book Checklist, and language notifying potential bidders that the project is following the Iowa Green Streets Criteria and that construction performance meeting the criteria is required. Do not forget this includes language requiring a construction waste management plan that will result in 25 percent or more of construction and demolition materials being diverted from the landfill via reduction, reuse or recycling.
- 4) Submit through www.iowagrants.gov construction plans/specifications and a completed Appendix C, Certification of Construction Contract Document Compliance, prior to issuing construction bids.
- 5) Following award of the construction contract, work with IEDA CDBG Design Technical Assistance consulting team to arrange a meeting with the general contractor and subcontractors to review the Iowa Green Streets Criteria and the sustainable design practices integrated into the construction documents, the intent of those practices and best practices for installation.
- 6) Prior to drywall installation, notify the third-party energy professional to complete a thermal bypass checklist inspection to ensure proper construction techniques were utilized in constructing the building's thermal envelope.
- 7) Upon project completion work with the third-party energy professional to conduct any final testing protocols to verify attainment of the Iowa Green Streets Criteria energy performance requirements.
- 8) Upon project completion, submit through www.iowagrants.gov a completed Iowa Green Streets Criteria Appendix D, Certification of Compliance at End of Construction, and a

completed Iowa Green Streets Criteria Appendix E, Energy Performance Certification, for new construction and gut rehabilitation projects or an Appendix F, Energy Performance Certification – Rehabilitation, for projects involving less than gut rehabilitation.

The appendix to this chapter includes the complete Iowa Green Streets Criteria. It is very important to fully understand the Iowa Green Streets Criteria early on in the project design process.

If you have any questions, please contact your project manager or Jeff Geerts, jeff.geerts@iowa.gov or 515-725-3069.

In the Appendix to Chapter 6

- Green Streets Criteria
- Appendices A – G

Your Notes

Downtown Revitalization Program

Overview

This chapter describes the Downtown Revitalization program component of the Iowa CDBG program. Recipients should review this chapter carefully as well as the sample documents in Appendix 7 to enhance program compliance.

The CDBG Downtown Revitalization Fund provides grants to communities for a variety of projects and activities contributing to comprehensive preservation/revitalization in historic city centers. To date the program has primarily funded façade improvements to privately owned buildings that are often part of a larger downtown revitalization initiative

All Programs Must:

- Meet a CDBG national objective;
- Be eligible under the CDBG program;
- Positively impact the community;
- Be ready to proceed and be completed in a timely fashion;
- Include community support for a downtown revitalization effort;
- Include other funding sources and documentation of applicant efforts to secure the maximum amount of local support for the activity;
- Meet or exceed the minimum building and site design criteria established by IEDA including Green Streets;
- Achieve a level of planning for comprehensive downtown revitalization efforts.

The national objective most applicable to Downtown Revitalization Fund projects is the slum and blight national objective. To address the slum and blight national objective, the applicant must address the documented deterioration in the area to be assisted, illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

Administrative Plan

A program administrative plan needs to be submitted and approved by IEDA prior to the first program drawdown. An administrative plan is an outline that describes what person or organization is responsible for all of the key management functions associated with the operations of a Downtown Revitalization Fund. General operational policies and procedures should also be included in the plan. A model administrative plan outline can be found in Appendix 7. All items cited in the outline must be addressed. The specifics of how the outline headings are addressed are however, generally up to the recipient.

Grant Administration / Project Management

If you decide to contract for grant administration, you must select an administrator in accordance with federal law requiring that professional services be procured. Refer to Appendix 2 for Procurement requirements (Part 85 Administrative Requirements for Grants and Cooperative Agreements). Please note that there is no competitive procurement process required if the recipient chooses to contract for general administrative services with their Regional Planning Commission/Council of Government.

It is very common for Downtown Revitalization Fund recipients to contract with a third party to handle a portion of the day-to-day management of their project. Recipients must follow federal procurement requirements when selecting a project manager. The only exception to this requirement is when the management position is filled by someone in an existing position who is assigned the DTR management task without receiving any corresponding increase in salary or wages

Easement Agreement

An easement agreement between the recipient and the respective property owners is a required document in the DTR Program. The agreement provides the legal means for city officials or parties authorized by the city to enter the property and to perform work. Furthermore, it may spell out the process involved in the owner making changes to the facade following project completion. Finally, it requires the owner to maintain the property improvements funded through the DTR Program. The agreement must be signed by both the city and the owner with both signatures notarized. The easement must then be recorded at the county. A sample easement agreement document can be found in Appendix 7. The recipient's legal counsel should review the document and may edit or add provisions to suit local preferences. An easement agreement needs to be submitted and approved as a grant condition by IEDA prior to the first program construction drawdown.

Construction Terms

IEDA believes that it is crucial that there be complete understanding and disclosure between the recipient and the property owner. Accordingly, the relationship between the two parties concerning construction needs to be clearly defined to prevent problems from arising during the project. The construction terms agreement can also provide for a lien to be placed against the improved property by the recipient if necessary to recover costs. A sample Construction Terms Agreement form can be found in Appendix 7. A construction terms agreement needs to be submitted and approved by IEDA prior to the first program construction drawdown.

Reporting

Recipients of facade grants are required to periodically report on their expenditure of funds and activity status. These reports help keep IEDA and your IEDA Project Manager informed about the progress of your activity and also provide the state with information needed for reports submitted to HUD.

Project Monitoring

Your CDBG program will be monitored by your IEDA project manager during the life of the program. This includes both desk monitoring and on-site monitoring. The IEDA has a formally established/written process for conducting oversight and on-site monitoring. IEDA staff will set-up an on-site monitoring date with the CEO and grant administrator.

For more information on what this monitoring will entail, you may go to the IEDA website at: <http://www.iowaeconomicdevelopment.com/userdocs/documents/ieda/CDBG-MonitoringPolicy4-11.pdf> For review of the Monitoring Checklists, you may visit our website at: <http://www.iowaeconomicdevelopment.com/userdocs/documents/ieda/cdbgmonitoring.pdf>.

In the Appendix to Chapter 7

- Sample Administrative Plan
- Sample Easement Agreement
- Sample Construction Terms Agreement
- Green Streets Criteria for Downtown Revitalization Projects (Appendices A-E apply)

Your Notes

In the Appendix to Chapter 1

The Appendix to Chapter 1 contains the following:

▪ IEDA Community Development Staff List.....	2
▪ Definitions and Acronyms.....	3
▪ Requirements for Subrecipient Agreements	5
▪ Sample Subrecipient Agreement.....	6
▪ Sample Policy on the Prohibition of the Use of Excessive Force.....	9
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▪ Signature Authorization Forms.....	13
▪ Record-keeping Checklist.....	15
▪ Citizen Participation Requirements	19
▪ Sample Notice of Public Hearing/Status of Funded Activities.....	20
▪ Contract Amendment Procedures	21
▪ Applicant/Recipient Disclosure/Update Report and Instructions.....	22
▪ Audit and Closeout Requirements.....	25
▪ Grantee Performance Report and Instructions (Form 3-D) (Refer to Appendix 5 for Housing Form)	29
▪ DUNS Number Guide	31
▪ Federal CDBG Regulations (24 CFR Part 570 Subpart I).....	33
▪ Title 1 of the Housing and Community Development Act of 1974, Section 105(a)	48

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DEFINITIONS AND ACRONYMS

The following terms and acronyms are used throughout the Management Guide:

Administrative Plan: A document that a housing fund recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

Annual (Gross) Income: This is the definition of the Section 8 Existing Housing Program. Annual (Gross) Income is used in determining the income of a household for initial eligibility.

Assisted Units: Units for which CDBG funds are used.

CDBG: Community Development Block Grant

CEO: Chief Elected Official (i.e., Mayor or Board of Supervisors chair)

CFR: Code of Federal Regulations

Household: One or more persons occupying a housing unit.

HUD: U.S. Department of Housing and Urban Development

IEDA: Iowa Economic Development Authority

IOWAGRANTS.GOV. "Iowa Grants.gov" means Iowa's Funding Opportunity Search and Grant Management System. This system allows you to electronically apply for and manage grants received by the state of Iowa. Persons accessing the system for this purpose are required to register online at www.IowaGrants.gov.

Lead Hazard Reduction: The reduction or abatement of lead-based paint hazards which include deteriorated lead-based paint; lead-based paint on friction surfaces, impact surfaces and accessible surfaces; and dust and soil that are contaminated with lead above a specified standard.

Lead Professional: A person who conducts lead abatement, lead inspections, elevated blood level (EBL) inspections, lead hazard screens, risk assessments, visual risk assessments, clearance testing after lead abatement, lead hazard reduction, or clearance testing after interim controls, paint stabilization, or standard treatments, ongoing lead-based paint maintenance, or rehabilitation pursuant to 24 CFR 35.1340.

Lead-Based Paint Activities: Activities, including minor heating, ventilation or air-conditioning work, electrical work, and plumbing, that disrupts less than the minimum areas of a painted surface established in this definition where none of the work practices prohibited or restricted by this chapter are used and where the work does not involve window replacement or demolition of painted surface areas. When painted components or portions of painted components are removed, the entire surface area removed is the amount of the painted surface disturbed. Projects, other than emergency renovation, performed in the same room within the same 30 days must be considered the same project for the purpose of determining whether the project is a minor repair and maintenance activity. Renovations perfected in response to an elevated blood lead (EBL) inspection are not considered minor repair and maintenance activities. The minimum area for minor repair and maintenance activities is:

1. Less than 1.0 square foot of an interior painted or finished wood surface per renovation;
2. Less than 6.0 square feet of a painted or finished drywall or plaster surface per room; or
3. Less than 20.0 square feet of an exterior painted or finished surface per renovation.

Projects performed pursuant to 24 CFR 35 shall comply with the de minimis levels in 24 CFR 35.1350 if these de minimis levels are more restrictive than the minimum areas of a painted surface established in this definition.

Lead-Based Paint Hazard: Any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-based paint that is deteriorated or present in accessible surfaces, friction surfaces, and impact surfaces that would result in adverse human health effects.

Lead-Based Paint: Paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or more than 0.5 percent by weight.

LMI: Low- and moderate-income (generally describes households with incomes less than 80 percent of the area median family income).

MBE/WBE: Minority-owned business enterprise/Woman-owned business enterprise

MFI: Area median family income (which HUD issues by family size and by county).

OMB: Office of Management and Budget (Federal)

Recaptured Funds: Housing fund moneys which are recouped by the recipient when the housing unit assisted by the housing fund dollars does not continue to be the principal residence of the assisted homebuyer (i.e., is sold or transferred) for the full affordability period required by federal statute. Recaptured funds are not program income.

Recipient: The entity under contract with IEDA to receive CDBG funds and undertake a funded activity.

Repayment: Housing fund moneys which the recipient must repay to IEDA 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 (including long-term affordability).

Single Family Unit: 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.

Subrecipient: An entity operating under an agreement or contract with a recipient to carry out a funded activity as approved by IEDA.

Targeting: Requirements relating to the income or other households characteristics that may occupy Housing Fund-assisted units.

REQUIREMENTS FOR SUBRECIPIENT AGREEMENTS

Note: If you will be receiving CDBG funds for housing rehabilitation, please refer to Appendix 5 “Residential Sustainability Program” for the Subrecipient Agreement parameters.

At a minimum, the written agreement with the subrecipient shall include provisions concerning the following items:

- statement of work including description, schedule and budget
- records and reports
- program income
- uniform administrative requirements
- other program requirements
- conditions for religious organizations
- unallowable costs
- suspension and termination
- reversion of assets
- default and notice of default

The statement of work and records to be maintained provide the foundation for recipient monitoring of subrecipient performance. These will vary by activity and recipient. Most of the other elements of the subrecipient agreement generally can be covered by standard language.

Included in this appendix is a sample of an acceptable subrecipient agreement format. This subrecipient agreement is not intended to be all-inclusive; it merely provides guidance to ensure compliance with CDBG regulations. There are a variety of factors that can alter the exact composition of the agreement. Regardless, it is important that the agreement delineates the functions and responsibilities of each party. Please consult with your city attorney, county attorney or legal counsel to ensure the subrecipient agreement meets your needs.

In cases where the subrecipient will enter into contractual arrangements for professional and construction services, the subrecipient agreement must certify that the subrecipient will recognize and adhere to all applicable CDBG regulations (e.g., labor standards, procurement, financial management, civil rights, etc.) and contract conditions. Additionally, the subrecipient must be required to submit reports to the recipient (at least quarterly) so the recipient can satisfy its reporting requirements to IEDA.

SUBRECIPIENT AGREEMENT FOR FEDERALLY FUNDED PROJECT

SAMPLE

THIS CONTRACT, made and entered into this ____ day of _____, 20__ by and between _____, IOWA, (hereinafter called the "Local Government"); and, _____, (hereinafter called "the Subrecipient") WITNESSETH THAT:

WHEREAS, [Local Government], at the request of the Subrecipient, has applied to the Iowa Economic Development Authority for a grant of federal funds from the U.S. Department of Housing and Urban Development pursuant to Title I of the Housing and Community Development Act of 1974 and Chapter 23 of the Iowa Administrative Code to: (describe project activities and performance targets); and,

WHEREAS, the [Local Government] has been awarded a grant of funds as aforesaid in the amount of \$_____ subject to the condition that the [Local Government] provide a local matching contribution in the amount of \$_____; and,

WHEREAS, the parties hereto desire to make a written agreement with respect to said funds and the implementation of the project to which they pertain;

NOW, THEREFORE, the parties hereto have agreed to the terms and conditions as hereafter stated:

Section 1. Matching Funds. The Subrecipient shall expend the sum of \$_____ of its own funds constituting X % of the local matching contribution (for what? when infused? how managed?).

Section 2. Construction Contracts and Services. The [Local Government / Subrecipient] shall, for the purpose of constructing the aforesaid proposed project, proceed forthwith to engage the services of an architect/engineer, adopt plans and specifications, and award construction contracts in accordance with the laws and regulations of the State of Iowa and of the United States.

Section 3. Administration. The administration of the CDBG Contract #_____ and all transactions involving the expenditure of any of the grant funds within the scope of said contract shall be the sole prerogative of the [Local Government] carried out in such manner as it deems appropriate and consistent with Title I of the Housing and Community Development Act of 1974 and 261--Chapter 23 of the Iowa Administrative Code.

Section 4. Property Ownership. Any and all improvements or property, real or personal, constructed, installed, or acquired pursuant to this contract shall be and remain the property of the Subrecipient (provide any conditions as appropriate here). If, from the date funds are first spent for the property until five years after closeout of the [Local Government]'s grant the use or planned use of the property is proposed to be changed, then the subrecipient shall notify the [Local Government] of the proposed change. The [Local Government] shall contact the Iowa Economic Development Authority for instructions on how to proceed. If the Subrecipient proceeds with a use determined by the IEDA to be inconsistent with the use of the CDBG funds, the Subrecipient shall reimburse the [Local Government] and the [Local Government] shall reimburse the IEDA in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds.

Section 5. Proposed Project. The Subrecipient shall grant access to the premises and Subrecipients' program records for the [Local Government] and its contractors to perform such required functions consistent with the CDBG contract as the [Local Government] shall deem appropriate.

Section 6. Excess Costs. It is agreed that if the construction of said project results in contractual liability of the [Local Government] in an amount greater than said funds as stated in Section 1, the Subrecipient shall be responsible for covering 100% of excess costs and hold the [Local Government] free of any contractual liability.

Section 7. Indemnification. The Subrecipient shall hold the [Local Government] and its officers and employees harmless from any and all claims, losses, damages or liability whatsoever resulting from or arising out of this contract or the project to which it pertains.

Section 8. Unallowable Costs. If [Local Government] determines at any time, whether through monitoring, audit, closeout procedures or by other means or process that the Subrecipient has expended funds which are unallowable, the Subrecipient will be notified of the questioned costs and given an opportunity to justify questioned costs prior to [Local Government]'s final determination of the disallowance of costs. If it is [Local Government]'s final determination that costs previously paid by the [Local Government] are unallowable under the terms of the Agreement, the expenditures will be disallowed and the Subrecipient shall repay to [Local Government] any and all disallowed costs.

Section 9. Events of Default. The following shall constitute Events of Default under this Agreement:

- a. Material Misrepresentation. If at any time any representation, warranty or statement made or furnished to the [Local Government] by, or on behalf of the Subrecipient in connection with this Agreement or to induce the [Local Government] to make a grant to the Subrecipient shall be determined by the [Local Government] to be incorrect, false, misleading or erroneous in any material respect when made or furnished and shall not have been remedied to the [Local Government]'s satisfaction within thirty (30) days after written notice by the [Local Government] is given to the Subrecipient.
- b. Noncompliance. If there is a failure by the Subrecipient to comply with any of the covenants, terms or conditions contained in this Agreement.
- c. Agreement Expiration Date. If the Project, in the sole judgment of the [Local Government], is not completed on or before the Agreement Expiration Date.
- d. Misspending. If the Subrecipient expends Grant proceeds for purposes not described in the CDBG application, this Agreement, or as authorized by the [Local Government].
- e. Insurance. The following provision shall apply to Activity Number(s) _____. If loss, theft, damage or destruction of any substantial portion of the property of the Subrecipient occurs for which there is either no insurance coverage or for which, in the opinion of the [Local Government], there is insufficient insurance coverage.

Section 10. Notice of Default. [Local Government] shall issue a written notice of default providing therein a fifteen (15) day period in which the Subrecipient shall have an opportunity to cure, provided that cure is possible and feasible.

Section 11. Remedies upon Default. If, after opportunity to cure, the default remains, [Local Government] shall have the right, in addition to any rights and remedies available to it to do one or both of the following:

- a. exercise any remedy provided by law;
- b. require immediate repayment of up to the full amount of funds disbursed to the Subrecipient under this Agreement plus interest.

Section 12. Miscellaneous. Neither party to this contract shall assign its rights and obligations hereunder without the prior written authorization of the other party. This contract shall be governed by the laws of the State of Iowa. In the event any provision of this contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The terms and conditions of this contract may be amended only by written instrument executed by both parties and, when necessary, with the concurrence of the State of Iowa, Department of Economic Development. Such amendments include any deviation from the recipient program schedule, or other terms and conditions provided for by the Iowa Economic Development Authority contract number _____ which is by this reference incorporated herein and made a part hereof of this Subrecipient agreement.

Section 13. Federal Laws. By virtue of the federal funding provided for under this agreement, the parties hereto shall be bound by and adhere to all applicable federal laws, rules, policies, orders and directions, including by way of specification but not limited to the following:

- a. The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-19 and implementing regulations; Executive Order 11063, as amended by Presidential Executive Order 12259; Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d-1), and the Americans with Disabilities Act, as applicable (P.L. 101-336, 42 U.S.C. 12101-12213); and related Civil Rights and Equal Opportunity statutes; and regulations which supplement these laws and orders.
- b. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (24 U.S.C. 794).
- c. The requirements of Executive Order 11246, as amended by Presidential Executive Order 11375 and the regulations issued under the Order at 41 CFR Chapter 60.
- d. The requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701.
- e. The requirements of Executive Orders 11625, 12432, and 12138. Consistent with responsibilities under these Orders, the provider must make efforts to encourage the use of minority- and women-owned business enterprises in connection with activities funded under this part.
- f. The maintenance of books, records, documents and other such evidence pertaining to all costs and expenses incurred and revenues received under this contract/subagreement to the extent and in such detail as will properly reflect all costs, direct and indirect, of labor, materials, and equipment, supplies, services, and other costs and expenses of whatever nature, for which payment is claimed under their contract/subagreement as specified in 261-Chapter 23, Iowa Administrative Code and OMB Circular A-102.
- g. At any time during normal business hours and as frequently as deemed necessary, the parties heretofore shall make available to the Iowa Economic Development Authority, the State Auditor, the General Accounting Office, and the Department of Housing and Urban Development, for their examination, all of its records pertaining to all matters covered by this contract/subagreement and permit these agencies to audit, examine, make excerpts or transcripts from such records, contract, invoices, payrolls, personnel records, conditions of employment, and all other matters covered by this contract/subagreement.
- h. Others as applicable.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized representatives.

LOCAL GOVERNMENT: _____

By: _____ Date: ____ / ____ / ____

Attested By: _____ Date: ____ / ____ / ____

SUBRECIPIENT: _____

By: _____ Date: ____ / ____ / ____

Attested by: _____ Date: ____ / ____ / ____

POLICY ON THE PROHIBITION OF THE USE OF EXCESSIVE FORCE

WHEREAS, *{jurisdiction}* has received federal funding through the Community Development Block Grant (CDBG) program; and,

WHEREAS, Section 519 of the Department of Veteran Affairs and U.S. Department of Housing and Urban Development, and Independent Agencies Appropriations Act of 1990 requires that all CDBG recipients adopt and enforce a policy to prohibit the use of excessive force by law enforcement agencies within the recipient's jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

WHEREAS, all recipients of CDBG funds are further required to follow a policy of enforcing applicable state and local laws against physically barring entrances or exits to a facility that is the subject of a nonviolent protest demonstration; and

WHEREAS, *{jurisdiction}* endorses a policy prohibiting the use of excessive force and will inform all law enforcement agencies within its jurisdiction of this policy,

NOW, THEREFORE, BE IT RESOLVED, *{jurisdiction}* hereby prohibits any law enforcement agency operating within its jurisdiction from using excessive force against any individuals engaged in nonviolent civil rights demonstrations. In addition, *{jurisdiction}* agrees to enforce any applicable state or local laws against physically barring entrances or exits from a facility or location that is the subject of a non-violent protest demonstration. *{jurisdiction}* further pledges enforcement of this policy within its jurisdiction and encourages any individual or group who feels that *{jurisdiction}* has not complied with this policy to file a complaint.

Information and assistance relative to excessive force complaints shall be provided by *{name and phone number of the jurisdiction's office responsible for policy enforcement}*.

Adopted by *{jurisdiction}* this ____ day of _____, 20____

Signed *{chief elected official}* _____

SAMPLE EQUAL OPPORTUNITY POLICY STATEMENT

DATE: ____ / ____ / ____

It is the policy of (*City/County*) to provide equal opportunity to all employees, applicants and program beneficiaries; to provide equal opportunity for advancement of employees; to provide program and employment facilities which are accessible to the handicapped and to administer its programs in a manner that does not discriminate against any person because of race, creed, color, religion, sex, national origin, disability, age, familial status, political affiliation, citizenship or sexual orientation.

The *Mayor/Chairperson* has ultimate responsibility for the overall administration of the affirmative action/equal opportunity program. The total integration of equal opportunity into all parts of personnel and program management is the *Mayor/Chairperson's* responsibility. The *Mayor/Chairperson* will review all policies and procedures as they affect equal opportunity and affirmative action and ensure compliance with relevant federal and state statutes.

The right of appeal and recourse is guaranteed by (*City/County*). Any person who feels that he or she has been denied employment, participation, representation, or services in any program administer by the (*City/County*) because of race, creed, color, religion, sex, national origin, age, disability, political affiliation, sexual orientation, or citizenship has the right to file an equal opportunity complaint. Information and assistance relative to equal opportunity complaints shall be provided by _____, who can be contacted at _____.

This Equal Opportunity Policy of the (*City/County*) shall be posted in conspicuous places within the facility, distributed to all employees, contractors and to the persons of all advisory and policy-making groups.

Mayor/Chairperson
City/County

GUIDEFORM RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN

This Residential Anti-displacement and Relocation Assistance Plan (RARAP) is prepared by [name of jurisdiction] in accordance with the Housing and Community Development Act of 1974, as amended; and HUD regulations at 24 CFR 42.325 and is applicable to our CDBG¹, UDAG and/or HOME-assisted projects.

Minimize Displacement

Consistent with the goals and objectives of activities assisted under the Act, [jurisdiction] will take the following steps to minimize the direct and indirect displacement of persons from their homes: *(The steps provided below are examples only, each jurisdiction must determine the actions it will take based on local needs and priorities.)*

- Coordinate code enforcement with rehabilitation and housing assistance programs.
- Evaluate housing codes and rehabilitation standards in reinvestment areas to prevent undue financial burden on established owners and tenants.
- Stage rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
- Arrange for facilities to house persons who must be relocated temporarily during rehabilitation.
- Adopt policies to identify and mitigate displacement resulting from intensive public investment in neighborhoods.
- Adopt policies which provide reasonable protections for tenants faced with conversion to a condominium or cooperative.
- Adopt tax assessment policies, such as deferred tax payment plans, to reduce impact of increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas.
- Establish counseling centers to provide homeowners and tenants with information on assistance available to help them remain in their neighborhood in the face of revitalization pressures.
- Where feasible, give priority to rehabilitation of housing, as opposed to demolition, to avoid displacement.
- If feasible, demolish or convert only dwelling units that are not occupied or vacant occupiable dwelling units (especially those units which are “lower-income dwelling units” (as defined in 24 CFR 42.305).
- Target only those properties deemed essential to the need or success of the project.

Relocation Assistance to Displaced Persons

[Jurisdiction] will provide relocation assistance for lower-income tenants who, in connection with an activity assisted under the [CDBG and/or HOME] Program[s], move permanently or move personal property from real property as a direct result of the demolition of any dwelling unit or the conversion of a lower-income dwelling unit in accordance with the requirements of 24 CFR 42.350. A displaced person who is not a lower-income tenant, will be provided relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24.

¹ CDBG programs include: Entitlement Community Development Block Grant (CDBG) Program, State CDBG Program, CDBG Small Cities Program, Section 108 Loan Guarantee Program, CDBG Special Purpose Grants Program, and the Neighborhood Stabilization Program (NSP).

One-for-One Replacement of Lower-Income Dwelling Units

The [jurisdiction] will replace all occupied and vacant occupiable lower-income dwelling units demolished or converted to a use other than lower-income housing in connection with a project assisted with funds provided under the [CDBG and/or HOME] Program[s] in accordance with 24 CFR 42.375.

Before entering into a contract committing [jurisdiction] to provide funds for a project that will directly result in demolition or conversion of lower-income dwelling units, [jurisdiction] will make public by [describe how, such as publication in a newspaper of general circulation] and submit to HUD [the State, under the State CDBG and/or HOME Program(s)] the following information in writing:

- 1) A description of the proposed assisted project;
- 2) The address, number of bedrooms, and location on a map of lower-income dwelling units that will be demolished or converted to a use other than as lower-income dwelling units as a result of an assisted project;
- 3) A time schedule for the commencement and completion of the demolition or conversion;
- 4) To the extent known, the address, number of lower-income dwelling units by size (number of bedrooms) and location on a map of the replacement lower-income housing that has been or will be provided. NOTE: See also 24 CFR 42.375(d).
- 5) 5. The source of funding and a time schedule for the provision of the replacement dwelling units;
- 6) The basis for concluding that each replacement dwelling unit will remain a lower-income dwelling unit for at least 10 years from the date of initial occupancy; and
- 7) Information demonstrating that any proposed replacement of lower-income dwelling units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the HUD-approved Consolidated Plan and 24 CFR 42.375(b).

To the extent that the specific location of the replacement dwelling units and other data in items 4 through 7 are not available at the time of the general submission, [jurisdiction] will identify the general location of such dwelling units on a map and complete the disclosure and submission requirements as soon as the specific data is available.

Replacement not Required Based on Unit Availability

Under 24 CFR 42.375(d), the [jurisdiction] may submit a request to HUD (or to the State, if funded by the State) for a determination that the one-for-one replacement requirement does not apply based on objective data that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the area.

Contacts

The [name and phone number of the office] is responsible for tracking the replacement of lower income dwelling units and ensuring that they are provided within the required period.

The [name and phone number of the office] is responsible for providing relocation payments and other relocation assistance to any lower-income person displaced by the demolition of any dwelling unit or the conversion of lower-income dwelling units to another use.

SIGNATURE AUTHORIZATION FOR ALTERNATE SIGNATORS

Upload a scanned copy of the completed document to the Electronic Documents form in IowaGrants. Retain the original, signed copy in your files.

RE: Contract Number: _____
Recipient: _____

In the event that the Chief Elected Official (CEO) is unable to sign project related correspondence for the Recipient's above referenced contract, the following alternates are designated below. The signatures attested below are effective as of: _____.

Sincerely,

CEO

Signatory # 1

Signatory # 2

Signatory # 3

Witness

SIGNATURE AUTHORIZATION FOR CEO CHANGE

Upload a scanned copy of the completed document to the Electronic Documents form in IowaGrants. Retain the original, signed copy in your files.

RE: Contract Number: _____
Recipient: _____

Our community has had a change of Chief Elected Official (CEO). As of _____ the effective date of the change, reports and all related program correspondence will be signed by the signatory below.

Sincerely,

CEO

Witness

RECORD-KEEPING CHECKLIST

Note: If you will be receiving CDBG funds for housing rehabilitation, please refer to Appendix 5 "Sustainable Residential Program" for the Record-Keeping Checklist.

All records must be maintained for five years. This checklist serves only as a guide; record-keeping needs and requirements may vary from project to project.

I. Application/Contract Documents

- Copy of the CDBG application and pre-application, if applicable
- Amendments to the application
- Correspondence and materials related to the application
- Copy of the signed contract with IEDA
- Copies of any requests for amendments and IEDA's response to requests

II. Citizen Participation

- Public hearing notices
- Public hearing minutes
- Proof of publication of notice/minutes
- Documentation of the accessibility of public meetings
- Documentation of process for responding to citizen complaints
- Copies of citizen complaints, grievances or comments

III. Environmental Review

If Exempt:

- Documentation of how the determination was made
- Finding of Exemption, Request for Release of Funds form
- Documentation of how the determination was made

If Categorically Excluded and Not Subject to the Related Federal Laws:

- Documentation of how the determination was made
- Finding of Categorically Exclusion, Request for Release of Funds form
- Documentation of how the determination was made

If Categorically Excluded and Subject to the Related Federal Laws:

- Documentation of how the determination was made
- Categorically Excluded Checklist
- All documentation pertaining to the Section 106 process
- A Copy of the FEMA Flood Hazard Boundary Map
- If the project is located in a floodplain: copies of the published notices
- Water Quality Map
- National Inventory Map
- County Distribution of Federally Listed Species in Iowa
- USDA NRCS Farmland Conversion Impact rating form
- Copy of the Intent to Request Release of Funds notice
- Copy of the Request for Release of Funds and Certification form
- Letter from IEDA releasing fund

If an Environmental Assessment was required:

- Documentation of how the determination was made
- Environmental Clearance Worksheet
- All documentation pertaining to the Section 106 process
- A Copy of the FEMA Flood Hazard Boundary Map
- If the project is located in a floodplain: copies of published notices
- Water Quality Map
- National Inventory Map
- County Distribution of Federally Listed Species in Iowa
- USDA NRCS Farmland Conversion Impact rating form
- Copy of the concurrent FONSI and Request for Release of Funds Notice
- Copy of the Request for Release of Funds and Certification form
- Letter from IEDA releasing funds
- Copies of citizen comments made on the environmental assessment

IV. Financial Management

- Copies of invoices for project expenses and other source documentation as applicable (e.g., purchase orders, contracts, budget transfer memoranda, time records)
- Copies of requests for funds
- Copies of State warrants
- Copies of minutes approving payment of invoices
- Bank records (e.g., canceled checks, deposit slips, bank statements)
- Written accounting procedures
- Accounting books of original and final entry
- Documentation of local effort
- Program income records

V. Professional Services and Architectural/Engineering Services Procurement

- List of firm/individuals solicited
- Written request for proposal for professional services (if secured by competitive negotiation)/request for qualifications for architect/engineer
- Evaluation criteria
- Publicized notice
- Denial/award letters
- Minutes of the meeting at which the contract was awarded

VI. Construction Contract/Labor Standards (if applicable)

- Notice of appointment of Labor Standards Officer
- Labor standards checklist
- Request for wage determination
- Copy of bid advertisement
- Copy of bid package
 - Project specifications
 - Copy of wage determination from IEDA
 - Statement of terms and conditions
 - Contractor and subcontractor certification forms
 - Bid, performance and other bond requirements
- Contract procurement and award
 - Minutes of the bid opening meeting
 - Log of bid package recipients and bidders
 - Check for contractor debarment
 - 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 work
- 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

VII. Civil Rights/Fair Housing

- Beneficiary demographic data
- Documentation of Section 3 activities and results
- Equal Opportunity Policy and documentation of how it was made public
- Documentation of equal employment opportunity activities and results
- Current workforce analysis, if applicable
- Affirmative action plan, if applicable
- Records of discrimination complaints and how they were resolved
- Documentation of actions to affirmatively further fair housing and results
- Documentation of actions taken to solicit participation from minority- and women-owned businesses

VIII. Acquisition (for each property acquired)

- Site acquisition summary
- Copies of required notice (showing dates)
- Evidence each owner was invited to accompany the appraiser on inspection of the property
- Copy of appraisal reports and review appraiser's reports
- Copy of the written purchase offer, a statement describing the basis for just compensation, and evidence of date received by owner
- Copy of the purchase agreement
- Copy of the recorded deed
- Copy of the statement of settlement cost
- Evidence the owner received the net proceeds due from the sale (e.g., copies of canceled checks)
- Copy of any appeal concerning a payment, together with a copy of all pertinent determinations and other relevant documentation

IX. Relocation File (for each case)

- 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/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

CITIZEN PARTICIPATION REQUIREMENTS

To comply with the participation requirements of Section 508 of the Housing and Community Development Act of 1987, local government applicants and recipients must do the following:

- 1) Conduct at least one public hearing on the activities proposed in the application and at least one public hearing on the status of funded activities.

The application hearing must include a review of: (a) how the need for the proposed activities was identified, (b) how the proposed activities will be funded and sources of funds, (c) the date application will be submitted, (d) requested amount of federal funds, (e) estimated portion of federal funds that will benefit persons of low and moderate income, (f) where the proposed activities will be conducted, (g) plans to minimize displacement of persons and businesses as a result of funded activities, (h) plans to assist persons actually displaced and (i) the nature of the proposed activities.

The hearing on the status of funded activities must include a review of: (a) a general description of accomplishments to date, (b) a summary of expenditures to date, (c) a general description of remaining work and (d) a general description of changes made to the project budget, performance targets, activity schedules, project scope, location, objectives or beneficiaries.

- 2) Publish hearing notices in a manner consistent with requirements of the Iowa Code, Section 362.3.
- 3) Ensure the public reasonable access to all local meetings, project records and information relating to the proposed and actual use of federal funds.
- 4) Conduct all related public meetings or hearings in public buildings or facilities that are accessible to persons with disabilities.
- 5) Provide citizens names and addresses of: (a) the person(s) authorized to receive and respond to citizen proposals, questions and complaints concerning proposed or funded activities, and (b) the person(s) available and able to provide technical assistance to groups representative low- and moderate-income persons in preparing and presenting their proposals for the request and use of federal funds.
- 6) Provide translators during or written translations after public hearings attended by non-English speaking residents upon their request whenever they represent a significant proportion of the persons benefited by the proposed or actual activities. Federally assisted recipients are required to make reasonable efforts to provide language assistance to ensure meaningful access for "Limited English Proficiency" (LEP) persons to the recipient's programs and activities.

Language assistance that a recipient might provide to LEP persons include:

- Oral interpretation services
- Bilingual staff
- Telephone service lines interpreter
- Written translation service
- Translating information materials in identified language(s)

Notice of Public Hearing - Status of Funded Activities

(Sample)

NOTICE OF PUBLIC HEARING ON THE STATUS OF FUNDED ACTIVITIES FOR THE
{PROJECT NAME}.

Pursuant to the requirements of Section 508 of the Housing and Community Development Act of 1987, as amended, the {_____ **City Council or** _____ **County Board of Supervisors (depending on the recipient)**} will hold a public hearing on **{date}** at **{time}** at **{location of meeting}**. The purpose of the hearing will be to discuss the status of funding for the **{project name and brief project description}**. The project is being funded in part through a Community Development Block Grant provided by the Iowa Economic Development Authority and **{source or sources of local matching funds}**. If you have questions concerning the project or if you require special accommodations to attend the hearing such as handicapped accessibility or translation services, you may contact **{name of person}** at **{telephone number}**. Persons interested in the status of funding or the progress of the project are welcome to attend this meeting.

CONTRACT AMENDMENT PROCEDURES

Key elements of the amendment request process are as follows:

- 1) The recipient CEO can request a contract amendment to IEDA through IowaGrants any time during the grant period as stated in the contract. However, IEDA will approve requests made during the last 90 days of the grant period only if revisions are necessary to complete the contract work activities.
- 2) A recipient must seek an amendment when estimated expenditures will exceed a budget line item by more than 10 percent or \$10,000.
- 3) When amendment requests involve substantial redistribution of funds between activities, the local government recipients must provide reasonable public notice and an opportunity for public comment on the proposed change.
- 4) Amendment requests must fully explain the reason for the amendment and be requested and signed by the CEO.
- 5) Addition of new activities will not be approved unless the new activities are eligible and the original activities will be completed according to the contract. IEDA may allow up to \$10,000 of the original funds to be used for a new activity.
- 6) The recipient must be able to complete proposed activities in a reasonable period of time.

IEDA will notify the recipient through IowaGrants when an amendment is approved or denied. If IEDA determines the proposed amendment a minor amendment, IEDA will approve the amendment with no further recipient action required. If the proposed change is a major amendment, the recipient must provide justification and documentation to support the request.

Minor amendment process: The Recipient's elected official creates a letter and the Grantee Contact submits the request by clicking on "Add" in "Contract Amendments" in the recipient's IowaGrants account. The Grantee Contact completes the "Title", "Contract Amendment Type", and "Status" then clicks on "Save" The amend is then selected and the EO letter and supporting documentation is uploaded into IowaGrants. The Project Manager then approves, defers, or rejects the amendment and sends it back to the Grantee Contact. Once approved the next level (Team Leader) at IEDA approves or rejects the request. If the Team Leader approves the amendment then the Project Manager makes the final approval and the amendment is in effect. If the amendment requires a budget change then after the Team Leader approves the amendment it is forwarded to the Contract and Compliance Manger who makes the necessary changes and approves the amendment and then the amendment is in effect.

Major amendment process: A major amendment falls into 2 catagories: 1. Federal budget and time extension. 1. A Federal budget amendment is any decrease or increase in Federal Funds. 2. Time extension (change in contract end date). Any request that will extend the contract end date over 4 years from the start date of the contract. These time extensions will be given under exceptional circumstances only. The process will be similar to the minor amendment process except that higher levels of management must review and approve the request.

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing
and Urban Development

OMB Approval No. 2510-0011 (exp. 12/31/2006)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report or an Update Report

1. Applicant/Recipient Name, Address, and Phone (include area code): () -	2. Social Security Number or Employer ID Number: - -
3. HUD Program Name	4. Amount of HUD Assistance Requested/Received
5. State the name and location (street address, City and State) of the project or activity:	

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3). <input type="checkbox"/> Yes <input type="checkbox"/> No	2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of \$200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9 <input type="checkbox"/> Yes <input type="checkbox"/> No.
---	--

If you answered "No" to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form. **However,** you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(Note: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity (\$ and %)

(Note: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed \$10,000 for each violation.

I certify that this information is true and complete.

Signature: X	Date: (mm/dd/yyyy)
---------------------	--------------------

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:

- (1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of \$200,000 during the during the fiscal year;
- (2) You are updating a prior report as discussed below; or
- (3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. Update reports (filed by "Recipients" of HUD Assistance):

General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.

All applicants for HUD competitive assistance must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. **NOTE:** In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to **either** question 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD **and any other source** - that have been or are to be, made available for the project or activity. Non-government sources of

funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need

not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

AUDIT AND CLOSEOUT REQUIREMENTS

A Ready to Close/Single Audit form will be mailed 90 days prior to contract expiration date. (see following page for an example). This letter will advise you of what you must do to comply with federal audit requirements. The letter must be must completed and uploaded to lowagrants.gov (see example of screens and how to upload on following pages) whether audit is required or not or whether you are ready to close or not.

Contracts may be subject to audit before the closeout of the contract can be completed. 200 CFR Part 200 mandates that the recipients/subrecipients of federal funds expending **\$750,000 or more** within a fiscal year must have these funds audited in accordance with OMB Circular A-133.

The Ready to Close/Single Audit Form letter will instruct you to (1) determine if your contract is subject to an audit, (2) notify IEDA of your determination, (3) if liable, select an auditor and notify IEDA of your selection, and (4) submit your final reports to IEDA.

- For recipients/subrecipients expending \$750,000 or more in federal funds received from more than one source of federal funding, an organization-wide audit must be performed.
- The recipient/subrecipient should identify all Federal awards received and expended and the Federal programs under which they were received. Federal program and award information should include, as applicable, the CFDA (Catalog of Federal Domestic Assistance) title and number, award (contract) number and year, name of the Federal agency, and name of the pass-through entity.

Please note that in addition to the above form, at the beginning of a new fiscal year (July 1) a Audit Reminder Letter along with a Single Audit Form will be mail to any contract that was still open in the previous fiscal year. This form must be filled out and returned per HUD requirements.

THE CFDA Number for the CDBG Program is 14.228

- For recipients/subrecipients expending \$750,000 or more in federal funds received from a single source of funding, a project audit, targeting only transactions dealing specifically with the CDBG project, may be performed in lieu of an organization-wide audit.
- Recipients/subrecipients expending less than \$750,000 in federal funds within a year are exempt from federal audit requirements.
- IEDA reserves the right to request additional information as needed.

PLEASE SHARE THIS INFORMATION WITH YOUR AUDITOR IF AN AUDIT IS REQUIRED.

At closeout you will also be required to submit a final Section 3 report. That report can be found in the Civil Rights section of Appendix 2 of this Management Guide. If your project was a community facility where beneficiaries changed between the CDBG award and project completion, you will be required to submit a final Form 3-D which can be found at the end of Appendix 1 of this Management Guide.

READY TO CLOSE / SINGLE AUDIT FORM

Recipient «Contract_Recipient»
Contract Number «Contract_Num»

Start Date: «Award_Date»
End Date: «End_Date»

READY TO CLOSE

Yes, contract is complete and ready to close.

No, contract is not complete, need an extension (attach extension letter) or explanation of why not ready to close.

SINGLE AUDIT FORM

The Single Audit Act of 1996, as amended, changed the threshold of required audits from entities awarded federal funds. If a unit of local government or non-profit organization has expended \$750,000 or more in federal funds from any federal sources or programs during a fiscal year, that entity is required to have these funds audited in accordance with the implementing regulations found in OMB Circular A-133.

Entities that have not expended \$750,000 in federal funds in a fiscal year are not required to have an A-133 audit performed.

After reviewing the audit requirements described above, check one of the boxes below and have this form signed by the appropriate official of your organization, and return it to:

Khristy Landphair, Closeout Coordinator
Iowa Economic Development Authority
200 E. Grand Avenue
Des Moines, IA 50309

I certify that, **No Audit Required** **Audit is Required (will be available)** _____

For fiscal year 2014 and/or 2015 (circle one or both)

Signature

Date

NOTE: IEDA must receive this form back within 30 days of receipt.

Ready to Close/Single Audit Form

Click on “Audit Documents”

The screenshot shows a web browser window with the URL <https://www.iowagrants.gov/grantComponents.do?documentPk=1332791491069>. The page displays information for a grant with Program Officer **Joseph Bonike** and an Awarded Amount of **\$300,000.00**.

Under the "Associated Forms" section, there are links for [Status Report](#), [Site Visit](#), and [Contract Amendment](#).

The "Grant/Project Components" section includes a table with the following data:

Component	Last Edited
General Information	12/29/2014
WS-Main Data	09/09/2014
Activities	
WS - Budget	06/18/2012
Appropriations	05/18/2012
Section 3, Contractor Clearance, Environmental Reviews, Wage Rates, 3D, Wage Restitution	
Claims	
Contract Amendments	
Site Visits	
Close-Out	
Contract Holds	
Contract Condition Clearance Documents	09/27/2013
Audit Documents	03/11/2015
Monitoring Uploads	09/23/2014
Required Uploads	09/27/2012
Electronic Documents	01/29/2013
Correspondence	12/29/2014
Opportunity	-
Application	-
Application Versions	-
Application Annotations	-
Review Forms	-

The browser's address bar at the bottom shows the full URL: [https://www.iowagrants.gov/viewComponent.do?property\(documentPk\)=1332791491069&property\(componentDefPk\)=1312396782263&property\(componentPk\)=1337181918132](https://www.iowagrants.gov/viewComponent.do?property(documentPk)=1332791491069&property(componentDefPk)=1312396782263&property(componentPk)=1337181918132). The zoom level is set to 125%.

IEDA will already have the required form entered and all that has to be done to upload document is click on the green plus sign.

The screenshot shows the IowaGrants.gov website interface. At the top, there is a navigation menu with 'Menu', 'Help', and 'Log Out'. Below this is a toolbar with icons for 'Back', 'Print', 'Add', 'Delete', 'Edit', and 'Save'. The main content area is titled 'Grant/Project Tracking' and displays details for 'Grant/Project: 12-WS-005 - Braddyville - 2012'. The details include: Status: Underway, Program Area: CDBG, Grantee Organization: Southwest Iowa Planning Council, Program Officer: Joseph Bohlke, and Awarded Amount: \$300,000.00. Below the details is a section for 'Audit Documents' with a table listing various forms and their dates. The 'Add' button is highlighted in green.

Year	Document Type	Date Letter Sent	Date Completed	Audit Required?	If Audit is required, was Segregation of Duties a finding?	Single Audit Form	Comments
2013	Audit Reminder Form	08/28/2013	09/09/2013	No	Not Applicable	20131003094132898.pdf	Delete Audit not required
2014	Audit Reminder Form	07/01/2014	07/28/2014	No	Not Applicable	20140728081222273.pdf	Delete Audit not required
2014			11/04/2014	No		20141105125022881.pdf	Delete Contract complete in Dec 2014
2014	Ready to Close/Single Audit Form	03/11/2015				Add	

Last Edited By: Khristy Landphair, 03/11/2015

Iowa.gov - The Official Website of the State of Iowa. Dulles Technology Partners Inc.

Recipient: _____
 Contract Number: _____
 Contract End Date: _____
 Activity Code/Category: _____

IOWA ECONOMIC DEVELOPMENT AUTHORITY
**Community Development Block Grant (CDBG)
 Program
 Grantee Performance Report
 Form 3-D**

Final Accomplishments and Equal Opportunity Data

INCOME LEVEL DATA

Complete this table for Community Facilities and Services fund projects based on the following criteria:

1. Projects that require a re-survey of beneficiaries upon project completion (e.g., child care centers, treatment centers, medical clinics) – **Complete entire table**
- OR,
2. Projects considered to be Limited Clientele projects that are presumed 51% LMI under the CDBG regulations - **Complete only the last three lines of the table:** (Total LMI, >80% (non-LMI), and Total Served)

RACIAL/ETHNIC DATA

Complete this table for ALL Community Facilities and Services fund projects.

INCOME LEVEL DATA	
Median Income Level	Number of Persons
< 30%	
30 – 50%	
51 – 60%	
61 – 80%	
TOTAL LMI	
> 80% (non-LMI)	
TOTAL SERVED	

*Note:
 This form is not required for storm water projects funded under the Community Facilities and Services fund.*

RACIAL/ETHNIC DATA		
Racial/Ethnic Group	Number of Persons	
	Each Group	Hispanic Origin
White		
Black or African American		
Asian		
American Indian and Alaskan Native		
Native Hawaiian and Other Pacific Islander		
White American Indian/Alaskan Native		
White Asian		
White Black		
Black Native American		
Other Multi-Race		
TOTAL SERVED		

I hereby certify that the above data completely and accurately reflects the status of the above-referenced contract.

Signature – Chief Elected Official _____ Date _____

IEDA USE ONLY		
Project Manager Approval: _____	Date: _____	Statistical Analyst Approval: _____
_____	Date: _____	
Comments:		

Form 3-D is required for all Community Facilities and Services Fund projects where the actual beneficiaries of the project are not identified in an application or are different from the projected beneficiaries identified in the application. The difference may be in the total number of beneficiaries or in the characteristics of the beneficiaries.

Form 3-D is not required for projects where beneficiary data has not changed since the application (*i.e.*, using census data for a community-wide water, sewer or storm water project or target neighborhood data).

Final Accomplishments and Equal Opportunity Data Complete a separate form for each activity excluding Administration.

1. Fill in the **Recipient**, **Contract Number**, and the **Contract Expiration Date** in the space provided in the top left corner of the Grantee Performance Form.

Enter the Contract Activity Code and Activity Description from Attachment A of your contract. (For example: 215 – Day Care Centers; 11 – Handicapped Centers; 7 – Senior Centers.)

Income Level Data

2. Enter actual beneficiary data into the “**Number of Persons**” column for each income range listed. To obtain this information, the beneficiaries must be surveyed according to these different income levels. Information on conducting a survey is available at www.iowalifechanging.com/community in the "Downloads" area. Examples of the types of projects this would typically apply to are childcare centers, treatment centers or medical clinics.

Note: For Limited Clientele projects that are presumed to be 51% LMI under the CDBG regulations, you need only complete the last three lines of this table: Total LMI, >80% (non-LMI), and Total Served.

Equal Opportunity Data

3. In the unshaded “**Each Group**” column, enter the number of persons of that group that benefited from the activity. These groups are based on the following census definitions:

White. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Black/African American. A person having origins in any of the black racial groups of Africa.

Asian or Pacific Islander. A person having origins in any of the peoples of the Far East, Southeast Asia, the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

American Indian/Alaska Native. A person having origins in any of the original peoples North and South America (including Central America), and who maintains affiliation or community involvement.

Native Hawaiian/Other Pacific Islander. A person having origins in any of the original people of Hawaii, Guam, Samoa or other Pacific Islands.

American Indian/Alaska Native & White. A person having these multiple race heritages as defined above.

Asian & White. A person having these multiple race heritages as defined above.

Black/African American & White. A person having these multiple race heritages as defined above.

American Indian/Alaska Native & Black/African American. A person having these multiple race heritages as defined above.

Other Multi Racial. For reporting individual responses that are not included in any of the other categories listed above.

Enter the sum of the racial data for these groups in the “**Total Served**” row of this table. This total should equal the “**Total Served**” row in the **Income Level Data** table.

In the shaded “**Hispanic Origin**” column, enter the number of those already listed in each racial group that are of Hispanic origin. Hispanic or Latino ethnicity is defined as a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

This form must be signed by the Chief Elected Official. Mail the original to:

Iowa Economic Development Authority
Community Development Division
200 East Grand Avenue
Des Moines, Iowa 50309

***Keep a copy for your records.**



Decide with Confidence
Dun & Bradstreet
DUNS Number Guide

Most potential and existing **US Government Contractors, Grantees and Loan Recipients** are required to obtain a DUNS Number for US Government registration purposes. The DUNS Number verifies the legal name, physical address and tradestyle (DBA) of each location and is the key to starting the CCR registration process.

Data Universal Numbering System (DUNS) Number: The DUNS Number is a unique nine-digit identification number provided by Dun & Bradstreet (D&B). The DUNS Number is randomly issued, never used twice and is site specific. Each distinct physical location of an entity is assigned its own DUNS Number worldwide.

Obtaining a DUNS Number is a quick and easy process. It is the responsibility of the US Government contractor, grantee or loan recipient to obtain their existing DUNS Number or to take the steps required to request a new DUNS Number. To confirm your current status with D&B, all US locations should contact the D&B Government Customer Response Center (GCRC) using the toll-free number or the online webform process. International locations (non-US) are asked to use the online internet link only. Obtaining a DUNS Number is absolutely **FREE** for all entities doing business with the Federal Government. The process to request a DUNS Number takes about 15 minutes when calling and responses to webform submittals online are returned within 1-2 business days. The following information is requested to obtain a DUNS Number:

<p>All US locations (including US Virgin Islands and Puerto Rico) can call toll free at 866-705-5711</p> <p>Federal contractors - Press Option 3 Grantees - Press Option 4 Loan recipients - Press Option 5</p> <p>or use the online webform process at http://fedgov.dnb.com/webform</p>	<p>All International (non-US) locations (including Guam, Marianas Islands and American Samoa) should use the online webform process at http://fedgov.dnb.com/webform</p>
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Managing your DUNS Number: D&B will periodically contact DUNS Numbered locations to verify a company's information for accuracy. Organizations with multiple DUNS Numbers may request a FREE family tree listing from D&B to help determine which branch/division/subsidiary location has an existing DUNS Number and if the information on file at D&B is current. D&B recommends organizations with multiple DUNS Numbers have a single point of contact for controlling DUNS Number requests to ensure the appropriate branches/divisions/subsidiaries have the accurate DUNS Numbers for Federal purposes.

<ul style="list-style-type: none"> • Legal Company Name • Headquarters Company Name and Address • Tradestyle or DBA Company Name • Physical Address, City, State and Zip Code 	<ul style="list-style-type: none"> • Mailing Address • Telephone Number • Contact Name and Title • Number of Employees at your physical location
---	--

All DUNS requests should contact D&B by following the below instructions. Within 24 hours of issuance, the DUNS Number is generally available for starting CCR registration.

FEDERAL CDBG REGULATIONS – STATE CDBG PROGRAM

(24 CFR 570, Subpart I)

PART 570 -. COMMUNITY DEVELOPMENT BLOCK GRANTS Subpart I-State Development Block Grant Program

570.480 General.
570.481 Definition.
570.482 Eligible activities.
570.483 Criteria for national objectives.
570.484 Overall benefit to low and moderate income persons.
570.485 Making of grants.
570.486 Local government requirements.
570.487 Other applicable laws and related program requirements.
570.488 Displacement, relocation, acquisition, and replacement of housing.
570.489 Program administrative requirements.
570.490 Recordkeeping requirements.
570.491 State's reviews and audits.
570.492 HUD's reviews and audits.
570.493 Timely distribution of funds by states.
570.494 Reviews and audit response.
570.496 Remedies for noncompliance, opportunity for hearing.
570.497 Condition of State election to administer State CDBG program.

Subpart I—State Community Development Block Grant Program

Source: 57 FR 53397, Nov. 9, 1992, unless otherwise noted.

§ 570.480 General.

(a) This subpart describes policies and procedures applicable to states that elect to receive Community Development Block Grant funds for distribution to units of general local government in the state's non-entitlement areas under the Housing and Community Development Act of 1974. Other subparts of part 570 are not applicable to the State CDBG Program, except as expressly provided otherwise.

(b) HUD's authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially-declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.

(c) In exercising the Secretary's obligation and responsibility to review a state's performance, the Secretary will give maximum feasible deference to the state's interpretation of the statutory requirements and the requirements of this regulation, provided that these interpretations are not plainly inconsistent with the Act and the Secretary's obligation to enforce compliance with the intent of the Congress as declared in the Act. The Secretary will not determine that a state has failed to carry out its certifications in compliance with requirements of the Act (and this regulation) unless the Secretary finds that procedures and requirements adopted by the state are insufficient to afford reasonable assurance that activities undertaken by units of general local government were not plainly inappropriate to meeting the primary objectives of the Act, this regulation, and the state's community development objectives.

(d) Administrative action taken by the Secretary that is not explicitly and fully part of this regulation shall only apply to a specific case or issue at a specific time, and shall not be generally applicable to the state-administered CDBG program.

(e) Religious organizations are eligible to participate under the State CDBG Program as provided in §570.200(j).

[57 FR 53397, Nov. 9, 1992, as amended at 61 FR 11477, Mar. 20, 1996; 61 FR 54921, Oct. 22, 1996; 69 FR 41718, July 9, 2004]

§ 570.481 Definitions.

(a) Except for terms defined in applicable statutes or this subpart, the Secretary will defer to a state's definitions, provided that these definitions are explicit, reasonable and not plainly inconsistent with the Act. As used in this subpart, the following terms shall have the meaning indicated:

(1) *Act* means title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*).

(2) *CDBG funds* means Community Development Block Grant funds, in the form of grants under this subpart and program income, and loans guaranteed by the state under section 108 of the Act.

(b) [Reserved]

[57 FR 53397, Nov. 9, 1992, as amended at 61 FR 5209, Feb. 9, 1996]

§ 570.482 Eligible activities.

(a) *General.* The choice of activities on which block grant funds are expended represents the determination by state and local participants, developed in accordance with the state's program design and procedures, as to which approach or approaches will best serve these interests. The eligible activities are listed at section 105(a) of the Act.

(b) *Special assessments under the CDBG program.* The following policies relate to special assessments under the CDBG program:

(1) *Public improvements initially assisted with CDBG funds.* Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:

(i) Special assessments to recover the *CDBG funds* may be made only against properties owned and occupied by persons *not* of low and moderate income. These assessments constitute program income.

(ii) Special assessments to recover the *non-CDBG* portion may be made, provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if, when permitted by the state, the unit of general local government certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.

(2) *Public improvements not initially assisted with CDBG funds.* CDBG funds may be used to pay special assessments levied against property when this form of assessment is used to recover the capital cost of eligible public improvements initially financed solely from sources other than CDBG funds. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments provided that:

(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this subpart, including labor, environmental and citizen participation requirements;

(ii) The installation of the public improvement meets a criterion for national objectives. (See §570.483(b)(1), (c), and (d).);

(iii) The requirements of §570.482(b)(1)(ii) are met.

(c) *Special eligibility provisions.* (1) Microenterprise development activities eligible under section 105(a)(23) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*) (the Act) may be carried out either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients).

(2) *Provision of public services.* The following activities shall not be subject to the restrictions on public services under section 105(a)(8) of the Act:

(i) Support services provided under section 105(a)(23) of the Act, and paragraph (c) of this section;

(ii) Services carried out under the provisions of section 105(a)(15) of the Act, that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and

(iii) Services of any type carried out under the provisions of section 105(a)(15) of the Act pursuant to a strategy approved by a state under the provisions of §91.315(e)(2) of this title.

(3) Environmental cleanup and economic development or redevelopment of contaminated properties. Remediation of known or suspected environmental contamination may be undertaken under the authority of section 205 of Public Law 105–276 and section 105(a)(4) of the Act. Economic development activities carried out under sections 105(a)(14), (a)(15), or (a)(17) of the Act may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination.

(d) [Reserved]

(e) *Guidelines and objectives for evaluating project costs and financial requirements* — (1) *Applicability*. The following guidelines, also referred to as the underwriting guidelines, are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under section 105(a)(17) of the Act, economic development activities eligible under section 105(a)(14) of the Act, and activities that are part of a community economic development project eligible under section 105(a)(15) of the Act. The use of the underwriting guidelines published by HUD is not mandatory. However, states electing not to use these guidelines would be expected to ensure that the state or units of general local government conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business.

(2) *Objectives*. The underwriting guidelines are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. These underwriting guidelines are published as appendix A to this part. The objectives of the underwriting guidelines are to ensure:

- (i) That project costs are reasonable;
- (ii) That all sources of project financing are committed;
- (iii) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;
- (iv) That the project is financially feasible;
- (v) That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and
- (vi) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

(f) *Standards for evaluating public benefit* — (1) *Purpose and applicability*. The grantee is responsible for making sure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds under the categories of eligibility governed by these standards. The standards set forth below identify the types of public benefit that will be recognized for this purpose and the minimum level of each that must be obtained for the amount of CDBG funds used. These standards are applicable to activities that are eligible for CDBG assistance under section 105(a)(17) of the Act, economic development activities eligible under section 105(a)(14) of the Act, and activities that are part of a community economic development project eligible under section 105(a)(15) of the

Act. Certain public facilities and improvements eligible under section 105(a)(2) of the Act, which are undertaken for economic development purposes, are also subject to these standards, as specified in §570.483(b)(4)(vi)(F)(2). Unlike the guidelines for project costs and financial requirements covered under paragraph (a) of this section, the use of the standards for public benefit is mandatory.

(2) *Standards for activities in the aggregate*. Activities covered by these standards must, in the aggregate, either:

(i) Create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or

(ii) Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per \$350 of CDBG funds used.

(3) *Applying the aggregate standards*. (i) A state shall apply the aggregate standards under paragraph (e)(2) of this section to all funds distributed for applicable activities from each annual grant. This includes the amount of the annual grant, any funds reallocated by HUD to the state, any program income distributed by the state and any guaranteed loan funds made under the provisions of subpart M of this part covered in the method of distribution in the final statement for a given annual grant year.

(ii) The grantee shall apply the aggregate standards to the number of jobs to be created/retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the grantee may elect to count the activity under either the jobs standard or the area residents standard, but not both.

(iv) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the aggregate standards.

(v) Any activity subject to these standards which meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (f)(2) of this section:

(A) Provides jobs exclusively for unemployed persons or participants in one or more of the following programs:

- (1) Jobs Training Partnership Act (JTPA);
- (2) Jobs Opportunities for Basic Skills (JOBS); or
- (3) Aid to Families with Dependent Children (AFDC);

(B) Provides jobs predominantly for residents of Public and Indian Housing units;

(C) Provides jobs predominantly for homeless persons;

(D) Provides jobs predominantly for low-skilled, low- and moderate-income persons, where the business agrees to provide clear opportunities for promotion and economic advancement, such as through the provision of training;

(E) Provides jobs predominantly for persons residing within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(F) Provides assistance to business(es) that operate(s) within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(G) Stabilizes or revitalizes a neighborhood income that has at least 70 percent of its residents who are low- and moderate-income;

(H) Provides assistance to a Community Development Financial Institution (as defined in the Community Development Banking and Financial Institutions Act of 1994, (12 U.S.C. 4701 note)) serving an area that has at least 70 percent of its residents who are low- and moderate-income;

(I) Provides assistance to an organization eligible to carry out activities under section 105(a)(15) of the Act serving an area that has at least 70 percent of its residents who are low- and moderate-income;

(J) Provides employment opportunities that are an integral component of a project designed to promote spatial deconcentration of low- and moderate-income and minority persons;

(K) With prior HUD approval, provides substantial benefit to low-income persons through other innovative approaches;

(L) Provides services to the residents of an area pursuant to a strategy approved by the State under the provisions of §91.315(e)(2) of this title;

(M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by the State under the provisions of §91.315(e)(2) of this title.

(N) Directly involves the economic development or redevelopment of environmentally contaminated properties.

(4) *Standards for individual activities.* Any activity subject to these standards which falls into one or more of the following categories will be considered by HUD to provide insufficient public benefit, and therefore may under no circumstances be assisted with CDBG funds:

(i) The amount of CDBG assistance exceeds either of the following, as applicable:

(A) \$50,000 per full-time equivalent, permanent job created or retained; or

(B) \$1,000 per low- and moderate-income person to which goods or services are provided by the activity.

(ii) The activity consists of or includes any of the following:

(A) General promotion of the community as a whole (as opposed to the promotion of specific areas and programs);

(B) Assistance to professional sports teams;

(C) Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons;

(D) Acquisition of land for which the specific proposed use has not yet been identified; and

(E) Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

(5) *Applying the individual activity standards.* (i) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, it will be disqualified only if the amount of CDBG assistance exceeds both of the amounts in paragraph (f)(4)(i) of this section.

(ii) The individual activity tests in paragraph (f)(4)(i) of this section shall be applied to the number of jobs to be created or retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained

jobs for the purposes of applying the individual activity standards in paragraph (f)(4)(i) of this section.

(6) *Documentation.* The state and its grant recipients must maintain sufficient records to demonstrate the level of public benefit, based on the above standards, that is actually achieved upon completion of the CDBG-assisted economic development activity(ies) and how that compares to the level of such benefit anticipated when the CDBG assistance was obligated. If a state grant recipient's actual results show a pattern of substantial variation from anticipated results, the state and its recipient are expected to take those actions reasonably within their respective control to improve the accuracy of the projections. If the actual results demonstrate that the state has failed the public benefit standards, HUD may require the state to meet more stringent standards in future years as appropriate.

(g) *Amendments to economic development projects after review determinations.* If, after the grantee enters into a contract to provide assistance to a project, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, the project should be reevaluated under these and the recipient's guidelines. (This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided, or an extension to the loan payment period required in the contract.) If a reevaluation of the project indicates that the financial elements and public benefit to be derived have also substantially changed, then the recipient should make appropriate adjustments in the amount, type, terms or conditions of CDBG assistance which has been offered, to reflect the impact of the substantial change. (For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance.) If the amount of CDBG assistance provided to the project is increased, the amended project must still comply with the public benefit standards under paragraph (f) of this section.

(h) *Prohibition on use of assistance for employment relocation activities* — (1) *Prohibition.* CDBG funds may not be used to directly assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one labor market area (LMA) to another LMA if the relocation is likely to result in a significant loss of jobs in the LMA from which the relocation occurs.

(2) *Definitions.* The following definitions apply to the section:

(i) *Directly assist.* Directly assist means the provision of CDBG funds to a business pursuant to section 105(a)(15) or (17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*). Direct assistance also includes assistance under section 105(a)(1), (2), (4), (7), and (14) of the Housing and Community Development Act of 1974, when the state's grantee, subrecipient, or nonprofit entity eligible under section 105(a)(15) enters into an agreement with a business to undertake one or more of these activities as a condition of the business relocating a facility, plant, or operation to the LMA. Provision of public facilities and indirect assistance that will provide benefit to multiple businesses does not fall under the definition of "directly assist," unless it includes the provision of infrastructure to aid a specific business that is the subject of an agreement with the specific assisted business.

(ii) *Labor market area (LMA).* For metropolitan areas, an LMA is an area defined as such by the U.S. Bureau of Labor Statistics (BLS). An LMA is an economically integrated geographic area within which individuals can live and find employment within a reasonable distance or can readily change employment without changing their place of residence. In addition, LMAs are nonoverlapping and geographically exhaustive. For metropolitan areas, grantees must use employment data, as defined by the BLS, for the LMA in which the affected business is currently located and from which current jobs may be lost. For non-metropolitan areas, grantees must use employment data, as defined by the BLS, for the LMA in which the assisted business is currently located and from which current jobs may be lost. For non-metropolitan areas, a LMA is either an area defined by the BLS as an LMA, or a state may choose to combine non-metropolitan LMAs. States are required to define or reaffirm prior definitions of their LMAs on an annual basis and retain records to substantiate such areas prior to any business relocation that would be impacted by this rule. Metropolitan LMAs cannot be combined, nor can a

non-metropolitan LMA be combined with a metropolitan LMA. For the Insular Areas, each jurisdiction will be considered to be an LMA. For the HUD-administered Small Cities Program, each of the three participating counties in Hawaii will be considered to be its own LMA. Recipients of Fiscal Year 1999 Small Cities Program funding in New York will follow the requirements for State CDBG recipients.

(iii) *Operation.* A business operation includes, but is not limited to, any equipment, employment opportunity, production capacity, or product line of the business.

(iv) *Significant loss of jobs.* (A) A loss of jobs is significant if: The number of jobs to be lost in the LMA in which the affected business is currently located is equal to or greater than one-tenth of one percent of the total number of persons in the labor force of that LMA; or in all cases, a loss of 500 or more jobs. Notwithstanding the aforementioned, a loss of 25 jobs or fewer does not constitute a significant loss of jobs.

(B) A job is considered to be lost due to the provision of CDBG assistance if the job is relocated within three years from the date the assistance is provided to the business or the time period within which jobs are to be created as specified by the agreement among the business, the recipient, and the state (as applicable) if it is longer than three years.

(3) *Written agreement.* Before directly assisting a business with CDBG funds, the recipient, subrecipient, or (in the case of any activity carried out pursuant to 105(a)(15)) nonprofit entity shall sign a written agreement with the assisted business. The written agreement shall include:

(i) *Statement.* A statement from the assisted business as to whether the assisted activity will result in the relocation of any industrial or commercial plant, facility, or operation from one LMA to another and, if so, the number of jobs that will be relocated from each LMA;

(ii) *Required certification.* If the assistance will not result in a relocation covered by this section, a certification from the assisted business that neither it, nor any of its subsidiaries, has plans to relocate jobs at the time the agreement is signed that would result in a significant job loss as defined in this rule; and

(iii) *Reimbursement of assistance.* The agreement shall provide for reimbursement to the recipient of any assistance provided to, or expended on behalf of, the business in the event that assistance results in a relocation prohibited under this section.

(4) *Assistance not covered by this paragraph.* This paragraph does not apply to:

(i) *Relocation assistance.* Relocation assistance required by the Uniform Assistance and Real Property Acquisition Policies Act of 1970 (URA), (42 U.S.C. 4601–4655); optional relocation assistance under section 105(a)(11), as implemented at 570.606(d);

(ii) *Microenterprises.* Assistance to microenterprises as defined by section 102(a)(22) of the Housing and Community Development Act of 1974; and

(iii) *Arms-length transactions.* Assistance to a business that purchases business equipment, inventory, or other physical assets in an arms-length transaction, including the assets of an existing business, provided that the purchase does not result in the relocation of the sellers' business operation (including customer base or list, goodwill, product lines, or trade names) from one LMA to another LMA and does not produce a significant loss of jobs in the LMA from which the relocation occurs.

[57 FR 53397, Nov. 9, 1992, as amended at 60 FR 1949, Jan. 5, 1995; 61 FR 54921, Oct. 22, 1996; 70 FR 76370, Dec. 23, 2005; 71 FR 30035, May 24, 2006]

§ 570.483 Criteria for national objectives.

(a) *General.* The following criteria shall be used to determine whether a CDBG assisted activity complies with one or more of the national

objectives as required to section 104(b)(3) of the Act. (HUD is willing to consider a waiver of these requirements in accordance with §570.480(b)).

(b) *Activities benefiting low and moderate-income persons.* An activity will be considered to address the objective of benefiting low and moderate-income persons if it meets one of the criteria in paragraph (b) of this section, unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. The activities, when taken as a whole, must not benefit moderate-income persons to the exclusion of low-income persons:

(1) *Area benefit activities.*(i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. Units of general local government may, at the discretion of the state, use either HUD-provided data comparing census data with appropriate low and moderate-income levels or survey data that is methodologically sound. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.

(ii) An activity, where the assistance is to a public improvement that provides benefits to all the residents of an area, that is limited to paying special assessments levied against residential properties owned and occupied by persons of low and moderate income. (iii)

(A) An activity to develop, establish and operate (not to exceed two years after establishment), a uniform emergency telephone number system serving an area having less than 51 percent of low and moderate income residents, when the system has not been made operational before the receipt of CDBG funds, provided a prior written determination is obtained from HUD. HUD's determination will be based upon certifications by the State that:

(1) The system will contribute significantly to the safety of the residents of the area. The unit of general local government must provide the state a list of jurisdictions and unincorporated areas to be served by the system and a list of the emergency services that will participate in the emergency telephone number system;

(2) At least 51 percent of the use of the system will be by low and moderate-income persons. The state's certification may be based upon information which identifies the total number of calls actually received over the preceding twelve-month period for each of the emergency services to be covered by the emergency telephone number system and relates those calls to the geographic segment (expressed as nearly as possible in terms of census tracts, enumeration districts, block groups, or combinations thereof that are contained within the segment) of the service area from which the calls were generated. In analyzing this data to meet the requirements of this section, the state will assume that the distribution of income among callers generally reflects the income characteristics of the general population residing in the same geographic area where the callers reside. Alternatively, the state's certification may be based upon other data, agreed to by HUD and the state, which shows that over the preceding twelve-month period the users of all the services to be included in the emergency telephone number system consisted of at least 51 percent low and moderate income persons.

(3) Other federal funds received by the unit of general local government are insufficient or unavailable for a uniform emergency telephone number system. The unit of general local government must submit a statement explaining whether the problem is caused by the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the unit of general local government.

(4) The percentage of the total costs of the system paid for by CDBG funds does not exceed the percentage of low and moderate-income persons in the service area of the system. The unit of general local government must include a description of the boundaries of the service area of the system; the census tracts or enumeration districts within the boundaries; the total number of persons and the total number of low and moderate income persons in each census tract or enumeration

district, and the percentage of low and moderate income persons in the service area; and the total cost of the system.

(B) The certifications of the state must be submitted along with a brief statement describing the factual basis upon which the certifications were made.

(iv) Activities meeting the requirements of paragraph (e)(4)(i) of this section may be considered to qualify under paragraph (b)(1) of this section.

(v) HUD will consider activities meeting the requirements of paragraph (e)(5)(i) of this section to qualify under paragraph (b)(1) of this section, provided that the area covered by the strategy meets one of the following criteria:

(A) The area is in a Federally-designated Empowerment Zone or Enterprise Community;

(B) The area is primarily residential and contains a percentage of low and moderate-income residents that is no less than 70 percent;

(C) All of the census tracts (or block numbering areas) in the area have poverty rates of at least 20 percent, at least 90 percent of the census tracts (or block numbering areas) in the area have poverty rates of at least 25 percent, and the area is primarily residential. (If only part of a census tract or block numbering area is included in a strategy area, the poverty rate shall be computed for those block groups (or any part thereof) which are included in the strategy area.)

(D) Upon request by the State, HUD may grant exceptions to the 70 percent low and moderate income or 25 percent poverty minimum thresholds on a case-by-case basis. In no case, however, may a strategy area have both a percentage of low and moderate-income residents less than 51 percent and a poverty rate less than 20 percent.

(2) *Limited clientele activities.* (i) An activity which benefits a limited clientele, at least 51 percent of whom are low and moderate-income persons. The following kinds of activities may not qualify under paragraph (b)(2) of this section:

(A) Activities, the benefits of which are available to all the residents of an area;

(B) Activities involving the acquisition, construction or rehabilitation of property for housing; or

(C) Activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (b)(2)(v) of this section.

(ii) To qualify under paragraph (b)(2) of this section, the activity must meet one or the following tests:

(A) It must benefit a clientele who are generally presumed to be principally low and moderate-income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low and moderate income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

(B) It must require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or

(C) It must have income eligibility requirements which limit the activity exclusively to low and moderate income persons; or

(D) It must be of such a nature, and be in such a location, that it may be concluded that the activity's clientele will primarily be low and moderate-income persons.

(iii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition

of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

(A) The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under §570.483(b)(1);

(B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under §570.483(b) (1) or (4); or

(C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under §570.483(b)(3).

(iv) A microenterprise assistance activity (carried out in accordance with the provisions of section 105(a)(23) of the Act or §570.482(c) and limited to microenterprises) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.

(v) An activity designed to provide job training and placement and/or other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstances:

(A) In such cases where such training or provision of supportive services is an integrally-related component of a larger project, the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and

(B) The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the total number of persons assisted who are low or moderate income.

(3) *Housing activities.* An eligible activity carried out for the purpose of providing or improving permanent residential structures that, upon completion, will be occupied by low and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the unit of general local government, a subrecipient, an entity eligible to receive assistance under section 105(a)(15) of the Act, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. If two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. If housing activities being assisted meet the requirements of paragraph (e)(4)(ii) or (e)(5)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate-income households must be at affordable rents to qualify under this criterion. The unit of general local government shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

(i) When less than 51 percent of the units in a structure will be occupied by low and moderate-income households, CDBG assistance may be provided in the following limited circumstances:

(A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project; and

(B) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and

(C) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate-income households.

(ii) Where CDBG funds are used to assist rehabilitation delivery services or in direct support of the unit of general local government's Rental Rehabilitation Program authorized under 24 CFR part 511, the funds shall be considered to benefit low and moderate income persons where not less than 51 percent of the units assisted, or to be assisted, by the Rental Rehabilitation Program overall are for low and moderate income persons.

(iii) When CDBG funds are used for housing services eligible under section 105(a)(21) of the Act, such funds shall be considered to benefit low and moderate income persons if the housing units for which the services are provided are HOME-assisted and the requirements of §92.252 or §92.254 of this title are met.

(4) *Job creation or retention activities.* (i) An activity designed to create permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low and moderate-income persons. For an activity that creates jobs, the unit of general local government must document that at least 51 percent of the jobs will be held by, or will be made available to low and moderate income persons.

(ii) For an activity that retains jobs, the unit of general local government must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided: The job is known to be held by a low or moderate income person; or the job can reasonably be expected to turn over within the following two years and that it will be filled by, or that steps will be taken to ensure that it is made available to, a low or moderate income person upon turnover.

(iii) Jobs will be considered to be available to low and moderate income persons for these purposes only if:

(A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(B) The unit of general local government and the assisted business take actions to ensure that low and moderate-income persons receive first consideration for filling such jobs.

(iv) For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if:

(A) He/she resides within a census tract (or block numbering area) that either:

(1) Meets the requirements of paragraph (b)(4)(v) of this section; or

(2) Has at least 70 percent of its residents who are low- and moderate-income persons; or

(B) The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (b)(4)(v) of this section and the job under consideration is to be located within that census tract.

(v) A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs (b)(4)(iv) (A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

(A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

(B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:

(1) All block groups in the census tract have poverty rates of at least 20 percent;

(2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

(3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

(vi) As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:

(A) In certain cases such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided the businesses are not otherwise assisted by CDBG funds.

(B) Where CDBG funds are used to pay for the staff and overhead costs of an entity specified in section 105(a)(15) of the Act making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any one-year period.

(C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during any one-year period.

(D) Where CDBG funds are used for activities meeting the criteria listed at §570.482(f)(3)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during any one-year period, except as provided at paragraph (e)(6) of this section.

(E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during any one-year period, except as provided at paragraph (e)(6) of this section.

(F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.

(1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

(2) In any case where the cost per job to be created or retained (as determined under paragraph (b)(4)(vi)(F)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the public facility/improvement between the date the state awards the CDBG funds to the recipient and the date one year after the physical completion of the public facility/improvement. In addition, the assisted activity must comply with the public benefit standards at §570.482(f).

(5) *Planning-only activities.* An activity involving planning (when such activity is the only activity for which the grant to the unit of general local government is given, or if the planning activity is unrelated to any other activity assisted by the grant) if it can be documented that at least 51 percent of the persons who would benefit from implementation of the plan are low and moderate income persons. Any such planning activity for an area or a community composed of persons of whom at least 51 percent are low and moderate income shall be considered to meet this national objective.

(c) *Activities which aid in the prevention or elimination of slums or blight.* Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(1) *Activities to address slums or blight on an area basis.* An activity will be considered to address prevention or elimination of slums or blight in an area if the state can determine that:

(i) The area, delineated by the unit of general local government, meets a definition of a slum, blighted, deteriorated or deteriorating area under state or local law;

(ii) The area also meets the conditions in either paragraph (c)(1)(i)(A) or (c)(1)(i)(B) of this section.

(A) At least 25 percent of properties throughout the area experience one or more of the following conditions:

(1) Physical deterioration of buildings or improvements;

(2) Abandonment of properties;

(3) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;

(4) Significant declines in property values or abnormally low property values relative to other areas in the community; or

(5) Known or suspected environmental contamination.

(B) The public improvements throughout the area are in a general state of deterioration.

(iii) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is also undertaken. The State shall ensure that the unit of general local government has developed minimum standards for building quality which may take into account local conditions.

(iv) The state keeps records sufficient to document its findings that a project meets the national objective of prevention or elimination of slums and blight. The state must establish definitions of the conditions listed at §570.483(c)(1)(ii)(A) and maintain records to substantiate how the area met the slums or blighted criteria. The designation of an area as slum or blighted under this section is required to be redetermined every 10 years for continued qualification. Documentation must be retained pursuant to the recordkeeping requirements contained at §570.490.

(2) *Activities to address slums or blight on a spot basis.* The following activities can be undertaken on a spot basis to eliminate specific conditions of blight, physical decay, or environmental contamination that are not located in a slum or blighted area: Acquisition; clearance; relocation; historic preservation; remediation of environmentally contaminated properties; or rehabilitation of buildings or improvements. However, rehabilitation must be limited to eliminating those conditions that are detrimental to public health and safety. If acquisition or relocation is undertaken, it must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination.

(3) *Planning only activities.* An activity involving planning (when the activity is the only activity for which the grant to the unit of general local government is given, or the planning activity is unrelated to any other activity assisted by the grant) if the plans are for a slum or blighted area, or if all elements of the planning are necessary for and related to an activity which, if funded, would meet one of the other criteria of elimination of slums or blight.

(d) *Activities designed to meet community development needs having a particular urgency.* In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the unit of general local government certifies, and the state determines, that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the unit of general local government is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became urgent within 18 months preceding the certification by the unit of general local government.

(e) *Additional criteria.* (1) In any case where the activity undertaken is a public improvement and the activity is clearly designed to serve a primarily residential area, the activity must meet the requirements of paragraph (b)(1) of this section whether or not the requirements of paragraph (b)(4) of this section are met in order to qualify as benefiting low and moderate income persons.

(2) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under §570.489(j).

(3) Where the assisted activity is relocation assistance that the unit of general local government is required to provide, the relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation assistance is voluntary, the unit of general local government may qualify the assistance either on the basis of the national objective addressed by the displacing activity or, if the relocation assistance is to low and moderate income persons, on the basis of the national objective of benefiting low and moderate income persons.

(4) Where CDBG-assisted activities are carried out by a Community Development Financial Institution whose charter limits its investment area to a primarily residential area consisting of at least 51 percent low- and moderate-income persons, the unit of general local government may also elect the following options:

(i) Activities carried out by the Community Development Financial Institution for the purpose of creating or retaining jobs may, at the option of the unit of general local government, be considered to meet the requirements of this paragraph under the criteria at paragraph (b)(1)(iv) of this section in lieu of the criteria at paragraph (b)(4) of this section; and

(ii) All housing activities for which the Community Development Financial Institution obligates CDBG assistance during any one-year period may be considered to be a single structure for purposes of applying the criteria at paragraph (b)(3) of this section.

(5) If the unit of general local government has elected to prepare a community revitalization strategy pursuant to the authority of §91.315(e)(2) of this title, and the State has approved the strategy, the unit of general local government may also elect the following options:

(i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of paragraph (b) of this section under the criteria at §570.483(b)(1)(v) instead of the criteria at §570.483(b)(4); and

(ii) All housing activities in the area undertaken pursuant to the strategy may be considered to be a single structure for purposes of applying the criteria at paragraph (b)(3) of this section.

(6) If an activity meeting the criteria in §570.482(f)(3)(v) also meets the requirements of either paragraph (e)(4)(i) or (e)(5)(i) of this section, the unit of general local government may elect to qualify the activity either under the area benefit criteria at paragraph (b)(1)(iv) or (v) of this section or under the job aggregation criteria at paragraph (b)(4)(vi)(D) of this section, but not under both. Where an activity may meet the job aggregation criteria at both paragraphs (b)(4)(vi)(D) and (E) of this section, the unit of general local government may elect to qualify the activity under either criterion, but not both.

(f) *Planning and administrative costs.* CDBG funds expended for eligible planning and administrative costs by units of general local government in conjunction with other CDBG assisted activities will be considered to address the national objectives.

[57 FR 53397, Nov. 9, 1992, as amended at 60 FR 1951, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 61 FR 54921, Oct. 22, 1996; 71 FR 30036, May 24, 2006]

§ 570.484 Overall benefit to low and moderate income persons.

(a) *General.* The State must certify that, in the aggregate, not less than 70 percent of the CDBG funds received by the state during a period specified by the state, not to exceed three years, will be used for activities that benefit persons of low and moderate income. The period selected and certified to by the state shall be designated by fiscal year of annual grants, and shall be for one, two or three consecutive annual grants. The period shall be in effect until all included funds are expended. No CDBG funds may be included in more than one period selected, and all CDBG funds received must be included in a selected period.

(b) *Computation of 70 percent benefit.* Determination that a state has carried out its certification under paragraph (a) of this section requires evidence that not less than 70 percent of the aggregate of the designated annual grant(s), any funds reallocated by HUD to the state, any distributed program income and any guaranteed loan funds under the provisions of subpart M of this part covered in the method of distribution in the final statement or statements for the designated annual grant year or years have been expended for activities meeting criteria as provided in §570.483(b) for activities benefiting low and moderate income persons. In calculating the percentage of funds expended for such activities:

(1) All CDBG funds included in the period selected and certified to by the state shall be accounted for, except for funds used by the State, or by the units of general local government, for program administration, or for planning activities other than those which must meet a national objective under §570.483 (b)(5) or (c)(3).

(2) Any funds expended by a state for the purpose of repayment of loans guaranteed under the provisions of subpart M of this part shall be excepted from inclusion in this calculation.

(3) Except as provided in paragraph (b)(4) of this section, CDBG funds expended for an eligible activity meeting the criteria for activities benefiting low and moderate income persons shall count in their entirety towards meeting the 70 percent benefit to persons of low and moderate income requirement.

(4) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under §570.483(b)(3) shall be counted for this purpose, but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons, except that the amount counted shall not exceed the amount of CDBG funds provided.

§ 570.485 Making of grants.

(a) *Required submissions.* In order to receive its annual CDBG grant under this subpart, a State must submit a consolidated plan in accordance with 24 CFR part 91. That part includes requirements for the content of

the consolidated plan, for the process of developing the plan, including citizen participation provisions, for the submission date, for HUD approval, and for the amendment process.

(b) *Failure to make submission.* The state's failure to make the submission required by paragraph (a) of this section within the prescribed deadline constitutes the state's election not to receive and distribute amounts allocated for its non-entitlement areas for the applicable fiscal year. Funds will be either:

(1) Administered by HUD pursuant to subpart F of this part if the state has not administered the program in any previous fiscal year; or

(2) Reallocated to all states in the succeeding fiscal year according to the formula of section 106(d) of the Act, if the state administered the program in any previous year.

(c) *Approval of grant.* HUD will approve a grant if the State's submissions have been made and approved in accordance with 24 CFR part 91, and the certifications required therein are satisfactory to the Secretary. The certifications will be satisfactory to the Secretary for this purpose unless the Secretary has determined pursuant to §570.493 that the State has not complied with the requirements of this subpart, or has determined that there is evidence, not directly involving the State's past performance under this program, that tends to challenge in a substantial manner the State's certification of future performance. If the Secretary makes any such determination, however, the State may be required to submit further assurances as the Secretary may deem warranted or necessary to find the grantee's certification satisfactory.

[57 FR 53397, Nov. 9, 1992, as amended at 60 FR 1916, Jan. 5, 1995; 61 FR 54922, Oct. 22, 1996]

§ 570.486 Local government requirements.

(a) *Citizen participation requirements of a unit of general local government.* Each unit of general local government shall meet the following requirements as required by the state at §91.115(e) of this title.

(1) Provide for and encourage citizen participation, particularly by low and moderate-income persons who reside in slum or blighted areas and areas in which CDBG funds are proposed to be used;

(2) Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to the unit of local government's proposed and actual use of CDBG funds;

(3) Furnish citizens information, including but not limited to:

(i) The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and anticipated program income);

(ii) The range of activities that may be undertaken with the CDBG funds;

(iii) The estimated amount of the CDBG funds proposed to be used for activities that will meet the national objective of benefit to low and moderate income persons; and

(iv) The proposed CDBG activities likely to result in displacement and the unit of general local government's anti-displacement and relocation plans required under §570.488.

(4) Provide technical assistance to groups representative of persons of low and moderate income that request assistance in developing proposals in accordance with the procedures developed by the state. Such assistance need not include providing funds to such groups;

(5) Provide for a minimum of two public hearings, each at a different stage of the program, for the purpose of obtaining citizens' views and responding to proposals and questions. Together the hearings must cover community development and housing needs, development of proposed activities and a review of program performance. The public hearings to cover community development and housing needs must be held before submission of an application to the state. There must be reasonable notice of the hearings and they must be held at times and

locations convenient to potential or actual beneficiaries, with accommodations for the handicapped. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate;

(6) Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the unit of general local government's application to the state. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state.

(7) Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.

(b) *Activities serving beneficiaries outside the jurisdiction of the unit of general local government.* CDBG-funded activities may serve beneficiaries outside the jurisdiction of the unit of general local government that receives the grant, provided the unit of general local government determines that the activity is meeting its needs in accordance with section 106(d)(2)(D) of the Act.

[57 FR 53397, Nov. 9, 1992, as amended at 61 FR 54922, Oct. 22, 1996]

§ 570.487 Other applicable laws and related program requirements.

(a) *General.* Certain statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. Certain statutes or executive orders that may be applicable to activities assisted under the Act by their own terms are administered or enforced by governmental officials, departments or agencies other than HUD. Paragraphs (d) and (c) of this section contain two of the requirements expressly made applicable to CDBG activities by the Act itself.

(b) *Affirmatively furthering fair housing.* The Act requires the state to certify to the satisfaction of HUD that it will affirmatively further fair housing. The act also requires each unit of general local government to certify that it will affirmatively further fair housing. The certification that the State will affirmatively further fair housing shall specifically require the State to assume the responsibility of fair housing planning by:

(1) Conducting an analysis to identify impediments to fair housing choice within the State;

(2) Taking appropriate actions to overcome the effects of any impediments identified through that analysis;

(3) Maintaining records reflecting the analysis and actions in this regard; and

(4) Assuring that units of local government funded by the State comply with their certifications to affirmatively further fair housing.

(c) *Lead-Based Paint Poisoning Prevention Act.* States shall devise, adopt and carry out procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title.

(d) States shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135. Section 3 requires that employment and other economic opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be given to low- and very low-income persons.

(e) *Architectural Barriers Act and the Americans with Disabilities Act.* The Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) requires certain Federal and Federally-funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this subpart after November 21, 1996 and that meets the definition of *residential structure* as defined in 24 CFR 40.2, or the definition of *building* as defined in 41 CFR 101–19.602(a), is subject to the requirements of the Architectural Barriers Act of 1968 and shall comply with the Uniform Federal Accessibility Standards. For general type buildings, these standards are in appendix A to 41 CFR part 101–19.6. For residential structures, these standards are available from the Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability Rights Division, Room 5240, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2333 (voice) or (202) 708–1734 (TTY) (these are not toll-free numbers).

[57 FR 53397, Nov. 9, 1992, as amended at 59 FR 33894, June 30, 1994; 60 FR 1916, Jan. 5, 1995; 61 FR 54922, Oct. 22, 1996; 64 FR 50225, Sept. 15, 1999]

§ 570.488 Displacement, relocation, acquisition, and replacement of housing.

The requirements for States and state recipients with regard to the displacement, relocation, acquisition, and replacement of housing are in §570.606 and 24 CFR part 42.

[61 FR 11477, Mar. 20, 1996]

§ 570.489 Program administrative requirements.

(a) *Administrative and planning costs — (1) State administrative costs.* (i) The state is responsible for the administration of all CDBG funds. The state shall pay from its own resources all administrative costs incurred by the state in carrying out its responsibilities under this subpart, except that the state may use CDBG funds to pay such costs in an amount not to exceed \$100,000 plus 50 percent of such costs in excess of \$100,000. States are therefore required to match such costs in excess of \$100,000 on a dollar for dollar basis. The amount of CDBG funds used to pay such costs in excess of \$100,000 shall not exceed 2 percent of the aggregate of the state's annual grant, program income received by units of general local government (whether retained by the unit of general local government or paid to the State) and funds reallocated by HUD to the state.

(ii) For determining the amount of CDBG funds available in past years for administrative costs incurred by the state, the following schedule applies:

(A) \$100,000 per annual grant beginning with FY 1984 allocations;

(B) Two percent of program income returned by units of general local government to the State after August 21, 1985; and

(C) Two percent of program income received by units of general local government after February 11, 1991.

(iii) The state has the option of selecting its approach for demonstrating compliance with this requirement. Regardless of the approach selected by the state, the state will be required to pay its 50 percent of administrative costs in excess of \$100,000 in the same amount and at the same time at which it draws CDBG funds for such costs after the expenditure of the \$100,000. Any state for which it is determined that matching costs contributions are in arrears on the use of CDBG funds for administrative costs will be required to bring matching cost expenditures up to the level of CDBG expenditures for such costs within one year of the effective date of this subpart. A state grant may not be closed out if the state's matching cost contribution is not at least equal to the amount of CDBG funds in excess of \$100,000 expended for administration. Funds from any year's grant may be used to pay administrative costs associated with any other year's grant. The two approaches are:

(A) Cumulative accounting of administrative costs incurred by the state since its assumption of the Program. Under this approach, the state will identify, for each grant it has received, the CDBG funds eligible to be used for administrative costs as well as the maximum amount of matching funds which the state is required to pay. The amounts will then be aggregated for all grants received. The state must keep records demonstrating the actual amount of CDBG funds from each grant received which was used for administrative costs as well as matching amounts paid by the state. These amounts will also be aggregated for all grants received. The state will be considered to be in compliance with the requirement if the aggregate of actual amounts spent for administrative costs does not exceed the maximum amount allowable and the amount which the state has paid in matching funds is at least equal to the amount of CDBG funds in excess of \$100,000 (for each applicable allocation) drawn for administrative purposes. Any administrative amounts associated with a particular state grant shall be deducted from the aggregate totals upon closeout of that state grant.

(B) An accounting process developed and implemented by the state which provides sufficient information to demonstrate that the requirements of this subsection are met.

(2) The state may not charge fees of any entity for processing or considering any application for CDBG fund, or for carrying out its responsibilities under this subpart.

(3) The state and its funded units of general local government shall not expend for planning, management and administrative costs more than 20 percent of the aggregate amount of the annual grant, plus program income and funds reallocated by HUD to the State which are distributed during the time the final Statement for the annual grant is in effect. Administrative costs are those described at §570.489(a)(1) for states, and for units of general local government those described at sections 105(a)(12) and (a)(13) of the Act.

(b) *Reimbursement of pre-agreement costs.* The state may permit, in accordance with such procedures as the State may establish, a unit of local government to incur costs for CDBG activities before the establishment of a formal grant relationship between the State and the unit of general local government and to charge these pre-agreement costs to the grant, provided that the activities are eligible and undertaken in accordance with the requirements of this subpart and 24 CFR part 58.

(c) *Federal grant payments — (1) Payments.* The state shall be paid in advance in accordance with Treasury Circular 1075 (31 CFR part 205). The State shall use procedures to minimize the time elapsing between the transfer of grant funds and disbursement of funds by the State to units of general local government. Units of general local government shall also use procedures to minimize the time elapsing between the transfer of funds by the State and disbursement for CDBG activities.

(2) *Interest on advances.* Interest earned by units of general local government on grant funds before disbursement of the funds for activities is not program income and must be returned to the Treasury, except that the unit of general local government may keep interest amounts of up to \$100 per year for administrative expenses. However, the state shall not be held accountable for interest earned on grants for which payments are made in accordance with paragraph (c)(1) of this section pending disbursement for CDBG activities.

(d) *Fiscal controls and accounting procedures.* (1) A state shall have fiscal and administrative requirements for expending and accounting for all funds received under this subpart. These requirements must be available for Federal inspection and must:

(i) Be sufficiently specific to ensure that funds received under this subpart are used in compliance with all applicable statutory and regulatory provisions:

(ii) Ensure that funds received under this subpart are only spent for reasonable and necessary costs of operating programs under this subpart; and

(iii) Ensure that funds received under this subpart are not used for general expenses required to carry out other responsibilities of state and local governments.

(2) A state may satisfy this requirement by:

(i) Using fiscal and administrative requirements applicable to the use of its own funds;

(ii) Adopting new fiscal and administrative requirements; or

(iii) Applying the provisions in 24 CFR part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

(e) *Program income.* (1) For the purposes of this subpart, "program income" is defined as gross income received by a state, a unit of general local government or a subrecipient of a unit of general local government that was generated from the use of CDBG funds, except as provided in paragraph (e)(2) of this section. When income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used (e.g., a single loan supported by CDBG funds and other funds; a single parcel of land purchased with CDBG funds and other funds). Program income includes, but is not limited to, the following:

(i) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;

(ii) Proceeds from the disposition of equipment purchased with CDBG funds;

(iii) Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient of a unit of general local government with CDBG funds; less the costs incidental to the generation of the income;

(iv) Gross income from the use or rental of real property owned by the unit of general local government or a subrecipient of a unit of general local government, that was constructed or improved with CDBG funds, less the costs incidental to the generation of the income;

(v) Payments of principal and interest on loans made using CDBG funds;

(vi) Proceeds from the sale of loans made with CDBG funds;

(vii) Proceeds from the sale of obligations secured by loans made with CDBG funds;

(viii) Interest earned on funds held in a revolving fund account;

(ix) Interest earned on program income pending disposition of the income;

(x) Funds collected through special assessments made against properties owned and occupied by households *not* of low and moderate income, where the special assessments are used to recover all or part of the CDBG portion of a public improvement; and

(xi) Gross income paid to a unit of general local government or subrecipient from the ownership interest in a for-profit entity acquired in return for the provision of CDBG assistance.

(2) "Program income" does not include the following:

(i) The total amount of funds which is less than \$25,000 received in a single year that is retained by a unit of general local government and its subrecipients;

(ii) Amounts generated by activities eligible under section 105(a)(15) of the Act and carried out by an entity under the authority of section 105(a)(15) of the Act;

(iii) Amounts generated by activities that are financed by a loan guaranteed under section 108 of the Act and meet one or more of the public benefit criteria specified at §570.482(f)(3)(v) or are carried out in conjunction with a grant under section 108(q) of the Act in an area determined by HUD to meet the eligibility requirements for designation as an Urban Empowerment Zone pursuant to 24 CFR part 597, subpart B. Such exclusion shall not apply if CDBG funds are used to repay the

guaranteed loan. When such a guaranteed loan is partially repaid with CDBG funds, the amount generated shall be prorated to reflect the percentage of CDBG funds used. Amounts generated by activities financed with loans guaranteed under section 108 of the Act which are not defined as program income shall be treated as miscellaneous revenue and shall not be subject to any of the requirements of this part. However, such treatment shall not affect the right of the Secretary to require the section 108 borrower to pledge such amounts as security for the guaranteed loan. The determination whether such amounts shall constitute program income shall be governed by the provisions of the contract required at §570.705(b)(1).

(3) The state may permit the unit of general local government which receives or will receive program income to retain the program income, subject to the requirements of paragraph (e)(3)(ii) of this section, or the state may require the unit of general local government to pay the program income to the state. The state, however, must permit the unit of general local government to retain the program income if the program income will be used to continue the activity from which the program income was derived. The state will determine when an activity will be considered to be continued.

(i) *Program income paid to the state.* Program income that is paid to the state is treated as additional CDBG funds subject to the requirements of this subpart and must be distributed to units of general local government in accordance with the method of distribution in the state's final Statement. To the maximum extent feasible, program income shall be distributed before the state makes additional withdrawals from the Treasury, except as provided in paragraph (f) of this section. (ii) *Program income retained by a unit of general local government.*

(A) Program income that is received and retained by the unit of general local government before closeout of the grant that generated the program income is treated as additional CDBG funds and is subject to all applicable requirements of this subpart.

(B) Program income that is received and retained by the unit of general local government after closeout of the grant that generated the program income is not subject to the requirements of this subpart, except:

(1) If the unit of general local government has another ongoing CDBG grant from the state at the time of closeout, the program income continues to be subject to the requirements of this subpart as long as there is an ongoing grant; and

(2) If program income is used to continue the activity that generated the program income, the requirements of this subpart apply to the program income as long as the unit of general local government uses the program income to continue the activity;

(3) The state may extend the period of applicability of the requirements of this subpart.

(C) The state shall require units of general local government, to the maximum extent feasible, to disburse program income that is subject to the requirements of this subpart before requesting additional funds from the state for activities, except as provided in paragraph (f) of this section.

(f) *Revolving funds.* (1) The state may permit units of general local government to establish revolving funds to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities which, in turn, generate payments to the fund for use in carrying out such activities. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the Treasury for revolving fund activities. Such program income is not required to be disbursed for non-revolving fund activities.

(2) The state may establish a revolving fund to distribute funds to units of general local government to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to fund grants to units of general local government to carry out specific activities which, in turn, generate payments to the fund for additional grants to units of general local government to carry out such activities.

Program income in the revolving fund must be disbursed from the fund before additional grant funds are drawn from the Treasury for payments to units of general local government which could be funded from the revolving fund.

(3) A revolving fund established by either the State or unit of general local government shall not be directly funded or capitalized with grant funds.

(g) *Procurement.* When procuring property or services to be paid for in whole or in part with CDBG funds, the state shall follow its procurement policies and procedures. The state shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the state. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by §570.489(h).) The state shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, executive orders and implementing regulations.

(h) *Conflict of interest — (1) Applicability.* (i) In the procurement of supplies, equipment, construction, and services by the States, units of local general governments, and subrecipients, the conflict of interest provisions in paragraph (g) of this section shall apply.

(ii) In all cases not governed by paragraph (g) of this section, this paragraph (h) shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance with CDBG funds by the unit of general local government or its subrecipients, to individuals, businesses and other private entities.

(2) *Conflicts prohibited.* Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (h)(3) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(3) *Persons covered.* The conflict of interest provisions for paragraph (h)(2) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving CDBG funds.

(4) *Exceptions: Thresholds requirements.* Upon written request by the State, an exception to the provisions of paragraph (h)(2) of this section involving an employee, agent, consultant, officer, or elected official or appointed official of the state may be granted by HUD on a case-by-case basis. In all other cases, the state may grant such an exception upon written request of the unit of general local government provided the state shall fully document its determination in compliance with all requirements of paragraph (h)(4) of this section including the state's position with respect to each factor at paragraph (h)(5) of this section and such documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the state or unit of general local government as appropriate. An exception may be considered only after the state or unit of general local government, as appropriate, has provided the following:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the attorney for the state or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate state or local law.

(5) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the requirements of paragraph (h)(4) of this section have been satisfactorily met, the cumulative effect of the following factors, where applicable, shall be considered:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(3) of this section;

(vi) Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

(i) *Closeout of grants to units of general local government.* The State shall establish requirements for timely closeout of grants to units of general local government and shall take action to ensure the timely closeout of such grants.

(j) *Change of use of real property.* The standards described in this section apply to real property within the unit of general local government's control (including activities undertaken by subrecipients) which was acquired or improved in whole or in part using CDBG funds in excess of the threshold for small purchase procurement (24 CFR 85.36, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments"). These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of the unit of general local government's grant.

(1) A unit of general local governments may not change the use or planned use of any such property (including the beneficiaries of such use) from that for which the acquisition or improvement was made, unless the unit of general local government provides affected citizens with reasonable notice of and opportunity to comment on any proposed change, and either:

(i) The new use of the property qualifies as meeting one of the national objectives and is not a building for the general conduct of government; or

(ii) The requirements in paragraph (j)(2) of this section are met.

(2) If the unit of general local government determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under paragraph (j)(1) of this section, it may retain or dispose of the property for the changed use if the unit of general local government's CDBG program is reimbursed or the state's CDBG program is reimbursed, at the discretion of the state. The reimbursement shall be in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property, except that if the change in use occurs after grant closeout but within 5 years of such closeout, the unit of general local government shall make the reimbursement to the State's CDBG program account.

(3) Following the reimbursement of the CDBG program in accordance with paragraph (j)(2) of this section, the property no longer will be subject to any CDBG requirements.

(k) *Accountability for real and personal property.* The State shall establish and implement requirements, consistent with State law and the purposes and requirements of this subpart (including paragraph (j) of this section) governing the use, management, and disposition of real and personal property acquired with CDBG funds.

(l) *Debarment and suspension.* The requirements in 2 CFR part 2424 are applicable. CDBG funds may not be provided to excluded or disqualified persons.

(m) *Audits.* Audits of the state and units of general local government shall be conducted in accordance with 24 CFR part 44 which implements the Single Audit Act (31 U.S.C. 7501-07). States shall develop and administer an audits management system to ensure that audits of units of general local government are conducted in accordance with 24 CFR part 44.

[57 FR 53397, Nov. 9, 1992, as amended at 60 FR 1952, Jan. 5, 1995; 61 FR 54922, Oct. 22, 1996; 67 FR 15112, Mar. 29, 2002; 72 FR 73496, Dec. 27, 2007]

§ 570.490 Recordkeeping requirements.

(a) *State records.* (1) The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of CDBG funds under §570.493. The content of records maintained by the state shall be as jointly agreed upon by HUD and the states and sufficient to enable HUD to make the determinations described at §570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program. The records shall also permit audit of the states in accordance with 24 CFR part 85.

(2) The state shall keep records to document its funding decisions reached under the method of distribution described in 24 CFR 91.320(j)(1), including all the criteria used to select applications from local governments for funding and the relative importance of the criteria (if applicable), regardless of the organizational level at which final funding decisions are made, so that they can be reviewed by HUD, the Inspector General, the Government Accountability Office, and citizens pursuant to the requirements of §570.490(c).

(b) *Unit of general local government's record.* The State shall establish recordkeeping requirements for units of general local government receiving CDBG funds that are sufficient to facilitate reviews and audits of such units of general local government under §§570.492 and 570.493. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

(c) *Access to records.* (1) Representatives of HUD, the Inspector General, and the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits.

(2) The State shall provide citizens with reasonable access to records regarding the past use of CDBG funds and ensure that units of general local government provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with State or local requirements concerning the privacy of personal records.

(d) *Record retention.* Records of the State and units of general local government, including supporting documentation, shall be retained for the greater of three years from closeout of the grant to the state, or the period required by other applicable laws and regulations as described in §570.487 and §570.488.

[57 FR 53397, Nov. 9, 1992, as amended at 71 FR 6971, Feb. 9, 2006]

§ 570.491 Performance and evaluation report.

The annual performance and evaluation report shall be submitted in accordance with 24 CFR part 91.

(Approved by the Office of Management and Budget under control number 2506-0117)

[60 FR 1916, Jan. 5, 1995]

§ 570.492 State's reviews and audits.

(a) The state shall make reviews and audits including on-site reviews, of units of general local government as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the Act.

(b) In the case of noncompliance with these requirements, the State shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences and prevent a recurrence. The state shall establish remedies for units of general local government noncompliance.

§ 570.493 HUD's reviews and audits.

(a) *General.* At least on an annual basis, HUD shall make such reviews and audits as may be necessary or appropriate to determine:

(1) Whether the state has distributed CDBG funds to units of general local government in a timely manner in conformance to the method of distribution described in its action plan under part 91 of this title;

(2) Whether the state has carried out its certifications in compliance with the requirements of the Act and this subpart and other applicable laws; and

(3) Whether the state has made reviews and audits of the units of general local government required by §570.492.

(b) *Information considered.* In conducting performance reviews and audits, HUD will rely primarily on information obtained from the state's performance report, records maintained by the state, findings from on-site monitoring, audit reports, and the status of the state's unexpended grant funds. HUD may also consider relevant information on the state's performance gained from other sources, including litigation, citizens' comments, and other information provided by the state. A State's failure to maintain records in accordance with §570.490 may result in a finding that the State has failed to meet the applicable requirement to which the record pertains.

[57 FR 53397, Nov. 9, 1992, as amended at 61 FR 54922, Oct. 22, 1996]

§ 570.494 Timely distribution of funds by states.

(a) States are encouraged to adopt and achieve a goal of obligating and announcing 95 percent of funds to units of general local government within 12 months of the state signing its grant agreement with HUD.

(b) HUD will review each state to determine if the state has distributed CDBG funds in a timely manner. The state's distribution of CDBG funds is timely if:

(1) All of the state's annual grant (excluding state administration) has been obligated and announced to units of general local government within 15 months of the state signing its grant agreement with HUD; and

(2) Recaptured funds and program income received by the state are expeditiously obligated and announced to units of general local government.

(c) HUD may collect necessary information from states to determine whether CDBG funds have been distributed in a timely manner.

§ 570.495 Reviews and audits response.

(a) If HUD's review and audit under §570.493 results in a negative determination, or if HUD otherwise determines that a state or unit of general local government has failed to comply with any requirement of

this subpart, the state will be given an opportunity to contest the finding and will be requested to submit a plan for corrective action. If the state is unsuccessful in contesting the validity of the finding to the satisfaction of HUD, or if the state's plan for corrective action is not satisfactory to HUD, HUD may take one or more of the following actions to prevent a continuation of the deficiency; mitigate, to the extent possible, the adverse effects or consequence of the deficiency; or prevent a recurrence of the deficiency:

(1) Issue a letter of warning that advises the State of the deficiency and puts the state on notice that additional action will be taken if the deficiency is not corrected or is repeated;

(2) Advise the state that additional information or assurances will be required before acceptance of one or more of the certifications required for the succeeding year grant;

(3) Advise the state to suspend or terminate disbursement of funds for a deficient activity or grant;

(4) Advise the state to reimburse its grant in any amounts improperly expended;

(5) Change the method of payment to the state from an advance basis to a reimbursement basis;

(6) Based on the state's current failure to comply with a requirement of this subpart which will affect the use of the succeeding year grant, condition the use of the succeeding fiscal years grant funds upon appropriate corrective action by the state. When the use of funds is conditioned, HUD shall specify the reasons for the conditions and the actions necessary to satisfy the conditions.

(b)(1) Whenever HUD determines that a state or unit of general local government which is a recipient of CDBG funds has failed to comply with section 109 of the Act (nondiscrimination requirements), HUD shall notify the governor of the State or chief executive officer of the unit of general local government of the noncompliance and shall request the governor or the chief executive officer to secure compliance. If within a reasonable time, not to exceed sixty days, the governor or chief executive officer fails or refuses to secure compliance, HUD may take the following action:

(i) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(ii) Exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-7);

(iii) Exercise the powers and functions provided for in §570.496; or

(iv) Take such other action as may be provided by law.

(2) When a matter is referred to the Attorney General pursuant to paragraph (b)(1)(i) of this section, or whenever HUD has reason to believe that a State or unit of general local government is engaged in a pattern or practice in violation of the provisions of section 109 of the Act, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

§ 570.496 Remedies for noncompliance; opportunity for hearing.

(a) *General.* Action pursuant to this section will be taken only after at least one of the corrective or remedial actions specified in §570.495 has been taken, and only then if the State or unit of general local government has not made an appropriate or timely response.

(b) *Remedies.* (1) If HUD finds after reasonable notice and opportunity for hearing that a State or unit of general local government has failed to comply with any provision of this subpart, until HUD is satisfied that there is no longer failure to comply, HUD shall:

(i) Terminate payments to the state;

(ii) Reduce payments for current or future grants to the state by an amount equal to the amount of CDBG funds distributed or used without compliance with the requirements of this subpart;

(iii) Limit the availability of payments to the state to activities not affected by the failure to comply or to activities designed to overcome the failure to comply;

(iv) Based on the state's failure to comply with a requirement of this subpart (other than the state's current failure to comply which will affect the use of the succeeding year grant), condition the use of the grant funds upon appropriate corrective action by the state specified by HUD; or

(v) With respect to a CDBG grant awarded by the state to a unit of general local government, withhold, reduce, or withdraw the grant, require the state to withhold, reduce, or withdraw the grant, or take other action as appropriate, except that CDBG funds expended on eligible activities shall not be recaptured or deducted from future CDBG grants to such unit of general local government.

(2) HUD may on due notice suspend payments at any time after the issuance of a notice of opportunity for hearing pursuant to paragraph (d) of this section, pending such hearing and a final decision, to the extent HUD determines such action necessary to prevent a continuation of the noncompliance.

(c) In lieu of, or in addition to, the action authorized by paragraph (b) of this section, if HUD has reason to believe that the state or unit of general local government has failed to comply substantially with any provision of this subpart, HUD may:

(1) Refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; and

(2) Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the CDBG funds which was not expended in accordance with this subpart, or for mandatory or injunctive relief.

(d) *Proceedings.* When HUD proposes to take action pursuant to this section, the respondent in the proceedings will be the state. At the option of HUD, a unit of general local government may also be a respondent. These procedures are to be followed before imposition of a sanction described in paragraph (b)(1) of this section:

(1) *Notice of opportunity for hearing.* HUD shall notify the respondent in writing of the proposed action and of the opportunity for a hearing. The notice shall be sent to the respondent by first class mail and shall provide notice:

(i) In a manner which is adequate to allow the respondent to prepare its response, the basis upon which HUD determined that the respondent failed to comply with a provision of this subpart;

(ii) That the hearing procedures are governed by these rules;

(iii) That the respondent has 14 days from receipt of the notice within which to provide a written request for a hearing to the Docket Clerk, Office of Administrative Law Judges, and the address and telephone number of the Docket Clerk;

(iv) Of the action which HUD proposes to take and that the authority for this action is §570.496 of this subpart;

(v) That if the respondent fails to request a hearing within the time specified, HUD's determination that the respondent failed to comply with a provision of this subpart shall be final and HUD may proceed to take the proposed action.

(2) *Initiation of hearing.* The respondent shall be allowed 14 days from receipt of the notice within which to notify HUD in writing of its request for a hearing. If no request is received within the time specified, HUD's determination that the respondent failed to comply with a provision of this subpart shall be final and HUD may proceed to take the proposed action.

(3) *Administrative Law Judge.* Proceedings conducted under these rules shall be presided over by an Administrative Law Judge (ALJ), appointed as provided by section 11 of the Administrative Procedure Act (5 U.S.C. 3105). The case shall be referred to the ALJ by HUD at the

time a hearing is requested. The ALJ shall promptly notify the parties of the time and place at which the hearing will be held. The ALJ shall conduct a fair and impartial hearing and take all action necessary to avoid delay in the disposition of proceedings and to maintain order. The ALJ shall have all powers necessary to those ends, including but not limited to the power:

(i) To administer oaths and affirmations;

(ii) To issue subpoenas as authorized by law;

(iii) To rule upon offers of proof and receive relevant evidence;

(iv) To order or limit discovery before the hearing as the interests of justice may require;

(v) To regulate the course of the hearing and the conduct of the parties and their counsel;

(vi) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(vii) To consider and rule upon all procedural and other motions appropriate in adjudicative proceedings; and

(viii) To make and file initial determinations.

(4) *Ex parte communications.* An ex parte communication is any communication with an ALJ, direct or indirect, oral or written, concerning the merits or procedures of any pending proceeding which is made by a party in the absence of any other party. Ex parte communications are prohibited except where the purpose and content of the communication have been disclosed in advance or simultaneously to all parties, or the communication is a request for information concerning the status of the case. Any ALJ who receives an ex parte communication which the ALJ knows or has reason to believe is unauthorized shall promptly place the communication, or its substance, in all files and shall furnish copies to all parties. Unauthorized ex parte communications shall not be taken into consideration in deciding any matter in issue.

(5) *The hearing.* All parties shall have the right to be represented at the hearing by counsel. The ALJ shall conduct the proceedings in an expeditious manner while allowing the parties to present all oral and written evidence which tends to support their respective positions, but the ALJ shall exclude irrelevant, immaterial or unduly repetitious evidence. HUD has the burden of proof in showing by a preponderance of evidence that the respondent failed to comply with a provision of this subpart. Each party shall be allowed to cross-examine adverse witnesses and to rebut and comment upon evidence presented by the other party. Hearings shall be open to the public. So far as the orderly conduct of the hearing permits, interested persons other than the parties may appear and participate in the hearing.

(6) *Transcripts.* Hearings shall be recorded and transcribed only by a reporter under the supervision of the ALJ. The original transcript shall be a part of the record and shall constitute the sole official transcript. Respondents and the public, at their own expense, shall obtain copies of the transcript.

(7) *The ALJ's decisions.* At the conclusion of the hearing, the ALJ shall give the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor. Generally, within 60 days after the conclusion of the hearing, the ALJ shall prepare a written decision which includes a Statement of findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law or discretion presented on the record and the appropriate sanction or denial thereof. The decision shall be based on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. A copy of the decision shall be furnished to the parties immediately by first class mail and shall include a notice that any requests for review by the Secretary must be made in writing to the Secretary within 30 days of the receipt of the decision.

(8) *Record.* The transcript of testimony and exhibits, together with the decision of the ALJ and all papers and requests filed in the

proceeding, constitutes the exclusive record for decision and, on payment of its reasonable cost, shall be made available to the parties. After reaching the initial decision, the ALJ shall certify to the complete record and forward the record to the Secretary.

(9) *Review by the Secretary.* The decision by the ALJ shall constitute the final decision of HUD unless, within 30 days after the receipt of the decision, either the respondent or the Assistant Secretary for Community Planning and Development files an exception and request for review by the Secretary. The excepting party must transmit simultaneously to the Secretary and the other party the request for review and the bases of the party's exceptions to the findings of the ALJ. The other party shall be allowed 30 days from receipt of the exception to provide the Secretary and the excepting party with a written reply. The Secretary shall then review the record of the case, including the exceptions and the reply. On the basis of such review, the Secretary shall issue a written determination, including a Statement of the rationale therefor, affirming, modifying or revoking the decision of the ALJ. The Secretary's decision shall be made and transmitted to the parties within 60 days after the decision of the ALJ was furnished to the parties.

(10) *Judicial review.* The respondent may seek judicial review of HUD's decision pursuant to section 111(c) of the Act.

[74 FR 4636, Jan. 26, 2009]

§ 570.497 Condition of State election to administer State CDBG Program.

Pursuant to section 106(d)(2)(A)(i) of the Act, a State has the right to elect, in such manner and at such time as the Secretary may prescribe, to administer funds allocated under subpart A of this part for use in non-entitlement areas of the State. After January 26, 1995, any State which elects to administer the allocation of CDBG funds for use in non-entitlement areas of the State in any year must, in addition to all other requirements of this subpart, submit a pledge by the State in accordance with section 108(d)(2) of the Act, and in a form acceptable to HUD, of any future CDBG grants it may receive under subpart A and this subpart. Such pledge shall be for the purpose of assuring repayment of any debt obligations (as defined in §570.701), in accordance with their terms, that HUD may have guaranteed in the respective State on behalf of any non-entitlement public entity (as defined in §570.701) or its designated public agency prior to the State's election.

[59 FR 66604, Dec. 27, 1994]

TITLE 1 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

* Sec. 209 of the 1998 VA - HUD appropriations act, Public Law 105-65, added the following as an eligible activity:

SEC. 209. BROWNFIELDS AS ELIGIBLE CDBG ACTIVITY - During fiscal year 1998, States and entitlement communities may use funds allocated under the community development block grants program under title I of the Housing and community Development Act of 1974 for environmental cleanup and economic development activities related to Brownfields projects in conjunction with the appropriate environmental regulatory agencies, as if such activities were eligible under section 105(a) of such Act.

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 non-entitled 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 (8) 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 non-entitlement 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 heating 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;

¹Sec. 807(c)(3) of the Housing and Community Development Act of 1992, Public Law 102-550, October 28, 1992 added the following:

(3) SENSE OF THE CONGRESS: -It is the sense of the Congress that each grantee under title I of the Housing and Community Development Act of 1974 should reserve 1 percent of any grant amounts the grantee receives in each fiscal year for the purpose of providing assistance under section 105(a)(23) of such Act to facilitate economic development through commercial 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 homebuyer; 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.

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Procurement



SAMPLE FORM OF RESOLUTION PROCUREMENT POLICY

This sample is for purposes of illustration only. Recipients are directed to develop and adopt individualized Procurement Policies as specified in 24 CFR; Part 85.36.

PURPOSE

The purpose of this Procurement Policy is to ensure that sound business judgment is utilized in all procurement transactions and that supplies, equipment, construction, and services are obtained efficiently and economically and in compliance with applicable federal law and executive orders and to ensure that all procurement transactions will be conducted in a manner that provides full and open competition.

APPLICATION

This policy applies to the procurement of all supplies, equipment, construction, and services of and for (Recipient) related to the implementation and administration of the CDBG award. All procurement will be done in accordance with 24 CFR; Part 85.36.

POLICY

METHODS OF PROCUREMENT

Procurement under grants shall be made by one of the following methods, as described herein: (a) small purchase procedures; (b) sealed bids (formal advertising); (c) competitive proposals; (d) noncompetitive proposals.

- A. Small purchase procedures are relatively simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies, or other property, costing in aggregate not more than \$100,000. If small purchase procedures are used for a procurement under a grant, price or rate quotations (minimum of 2) shall be obtained from an adequate number of qualified sources.
- B. In sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all of the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the required method for procuring construction.
 1. In order for formal advertising to be feasible, appropriate conditions must be present, including, at a minimum, the following:
 - a) A complete, adequate and realistic specification or purchase description is available.
 - b) Two or more responsible bidders are willing and able to compete effectively for (Recipient's) business; and
 - c) The procurement lends itself to a firm-fixed-price contract, and the selection of the successful bidder can be made principally on the basis of price.

2. When sealed bids are used for a procurement under a grant, the following requirements apply:
 - a) A sufficient time prior to the date set for opening of bids, bids shall be solicited (publicly advertised) from an adequate number of known suppliers.
 - b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation for bids.
 - c) All bids shall be opened publicly at the time and place stated in the invitation for bids.
 - d) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of (Recipient) indicates that such discounts are generally taken.
 - e) Any or all bids may be rejected if there are sound documented business reasons in the best interest of the program.
- C. Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive proposals are generally used when conditions are not appropriate for the use of sealed bids. If the competitive proposals method is used for a procurement under a grant, the following requirements apply:
 1. Requests for Proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical.
 2. Requests for Proposals shall be solicited from an adequate number of qualified sources.
 3. (Recipient) shall have a method for conducting evaluations of the proposals received and for selecting awardees.
 4. Awards will be made to the responsible offeror whose proposal will be most advantageous to the procuring party, with price (other than architectural/engineering) and other factors considered. Unsuccessful offerors will be promptly notified in writing.
 5. (Recipient) should use competitive proposal procedures for qualification-based procurement of architectural/engineering (A/E) professional services whereby competitor's qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in the procurement of A/E professional services. It cannot be used to procure other types of services (e.g., administration professional services) even though A/E firms are a potential source to perform the proposed effort.

- D. Noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation from a number of sources, competition is determined inadequate. Noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids (formal advertising), or competitive proposals. Circumstances under which a contract may be awarded by noncompetitive proposals are limited to the following:
1. The item is available from only a single source;
 2. After solicitation of a number of sources, competition is determined inadequate;
 3. A public exigency or emergency exists when the urgency for the requirement will not permit a delay incident to competitive solicitation; and
 4. The awarding agency (IEDA) authorizes noncompetitive proposals. (Sole source procurement for supplies, equipment, construction, and services valued at \$25,000 or more must have prior approval of the Iowa Economic Development Authority).
- E. (Recipient) will provide, to the greatest extent possible, that contracts be awarded to qualified small and minority firms, women business enterprises, and labor surplus area firms whenever they are potential sources.
- F. Any other method of procurement must have prior approval of the Iowa Economic Development Authority.

CONTRACT PRICING

- A. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.
- B. (Recipient) shall perform some form of cost/price analysis for every procurement action, including modifications, amendments or change orders.

PROCUREMENT RECORDS

(Recipient) shall maintain records sufficient to detail the significant history of a procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

Passed and adopted this _____ day of _____, _____.

(signature)

(typed name), (title)

ATTEST

(signature)

(typed name), (title)

SAMPLE EVALUATION CRITERIA FOR RECIPIENT USE IN THE PROCUREMENT OF PROFESSIONAL SERVICES

In accordance with 24 CFR, Part 85.36, the procurement standards applicable to all recipients, contractual agreements entered into by the recipient can only be made to responsible firms/individuals that possess the ability to perform successfully under the terms and conditions of the proposed procurement. When a recipient uses the “competitive proposals” method of procurement (used for the procurement of professional services), the requests for proposals or requests for qualifications need to identify all evaluation factors and their relative importance. Recipients must have a method for conducting technical evaluations of the proposals or qualifications received and for selecting awardees.

To assist recipients in formulating evaluation criteria, the following is a list of items that could be used for this purpose:

- The firm’s past experience with similar projects;
- Recipient’s familiarity with the firm;
- The firm’s availability of staff/capability of staff;
- The firm’s technical and financial resources;
- The firm’s geographic location;
- The firm’s ability to complete projects in a timely manner and within budgetary constraints;
- The firm’s integrity and compliance with public policy;
- The firm is a MBE/WBE, small, and/or within the grantee's Section 3 area (county);
- The firm is not on HUD’s or DOL’s debarred or suspended lists; and
- Cost (NOTE: In the procurement of architectural/engineering (A/E) services, “cost” is not a consideration until after the selection process is completed. Fair and reasonable compensation is then negotiated with the selected firm(s)).

SAMPLE FORM OF RESOLUTION
CODE OF CONDUCT

This sample is for purposes of illustration only. Recipients are directed to develop and adopt individualized Conduct Codes as specified in 24 CFR; Part 85 (85.36(b.)(3)).

PURPOSE

The purpose of this Code of Conduct is to ensure the efficient, fair, and professional administration of federal grant funds in compliance with 24 CFR; Part 85 (85.36(b.)(3)) and other applicable federal and state standards, regulations, and laws.

APPLICATION

This Code of Conduct applies to all officers, employees, or agents of (Recipient) engaged in the award or administration of contracts supported by federal grant funds.

REQUIREMENTS

No officer, employee, or agent of (Recipient) shall participate in the selection, award, or administration of a contract supported by federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer, or agent;
- b. Any member of his/her immediate family;
- c. His/her partner; or
- d. An organization which employs, or is about to employ any of the above;

has a financial or other interest in the firm selected for award.

(Recipient) officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

REMEDIES

To the extent permitted by federal, state, or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against (Recipient's) officers, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents.

Passed and adopted this _____ day of _____, _____.

(signature)

(typed name), (title)

ATTEST:

(signature)

(typed name), (title)

TITLE 24 - HOUSING AND URBAN DEVELOPMENT

PART 85 — ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Subpart C_Post-Award Requirements

Sec. 85.36 Procurement.

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards.

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents.

The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only—

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition.

(1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions.

These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed.

(1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 85.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

- (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
- (2) Affirmative steps shall include:
 - (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
 - (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
 - (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.
- (f) Contract cost and price.
 - (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
 - (2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
 - (3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.
 - (4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.
- (g) Awarding agency review.
 - (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the

specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

- (1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
- (2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- (3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
- (4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)
- (5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
- (6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
- (7) Notice of awarding agency requirements and regulations pertaining to reporting.
- (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
- (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
- (13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).[53 FR 8068, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19642, Apr. 19, 1995]

Civil Rights and Fair Housing



CIVIL RIGHTS-FAIR HOUSING-EQUAL OPPORTUNITY APPLICABLE LAWS & REGULATIONS

Civil Rights – Fair Housing – Equal Opportunity That Apply When Using Federal CDBG Money

THE CIVIL RIGHTS ACT – Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance.

THE FAIR HOUSING ACT—Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status, or national origin. This law also mandates that you administer your program in a manner that affirmatively furthers fair housing. It was amended in 1988 to affirmatively further fair housing. **In order for you to affirmatively further fair housing, you can use the official equal housing opportunity logo on any advertising and brochures that you produce about your program, use it on your city/company letterhead, or sponsor fair housing training for landlords, real estate agents and lenders. A copy of the Equal Housing Opportunity Logo can be found in your Management Guide.**

SECTION 109, HOUSING & COMMUNITY DEVELOPMENT ACT OF 1974 provides that no person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.

EXECUTIVE ORDERS 11625, 12432, 12138 AND OMB CIRCULAR A-102, Attachment O, Paragraph 9(a) provide that, you as a grantee, shall take affirmative steps to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Paragraph 9(b) requires that the grantee take similar appropriate affirmative action in support of women's business enterprises. **In order to comply with this, you may solicit minority and women businesses by notifying the MBE/WBE clearinghouses List that is in your Management Guide. A List of Minority Business Enterprises/Women-Owned Business Enterprises is also available from the Iowa Economic Development Authority.**

SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968, AS AMENDED, provides that, to the greatest extent feasible, opportunities for training and employment shall be given to lower-income residents in the area in which the project is located. The intent is to harness economic opportunities for low-income households in the neighborhoods where they live. Section 3 applies only to activities involving housing construction, housing rehabilitation or other public construction, with a Housing Fund award of greater than \$200,000 and for contracts and subcontracts greater than \$100,000. **In order to comply with Section 3, you will be asked to submit a Section 3 report at the beginning of your project. You will be asked to update the Section 3 report at the end of your project only when necessary.** This form is included in the Management Guide.

SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED provides that no otherwise qualified handicapped individual in the United States, shall solely by reason of his/her handicap be excluded from the participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance. **In order to comply with section 504, it requires housing units of new construction be accessible to persons with disabilities. A minimum of 5 percent of the total dwelling units in a multi-family housing project shall be made accessible for persons with mobility impairments. An additional 2 percent of units in such a project shall be accessible for persons with hearing or vision impairments. Work closely with your architect.**

AGE DISCRIMINATION ACT OF 1975, AS AMENDED provides that no persons in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. It is not a violation of the Act for a HOME PJ or its housing partner(s) to operate elderly-only housing since the HOME statute permits such housing.

AMERICANS WITH DISABILITIES ACT (ADA). Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. The prohibitions against discrimination under Title II of the ADA are essentially the same as those in Section 504, except they apply to all programs, activities, and services of a public entity, not just those funded with Federal financial assistance.

EXECUTIVE ORDER 11063, as amended by Executive Order 12259 provides that no person in the United States because of race, color, sex, creed or national origin, shall be denied equal opportunity in housing and related facilities owned or operated by the Federal Government or provided with Federal financial assistance. **If you are a city or county receiving CDBG or HOME dollars... the city or county must provide equal opportunity to all employees, applicants, and beneficiaries...in a manner that doesn't discriminate.**

An Equal Opportunity Policy must be posted

-in a conspicuous place—such as the city hall lobby,

-distributed to all employees, contractors, and

-to the persons of all advisory and policy making groups

A Sample “Equal Opportunity Policy” form can be found in the Management Guide Appendix.

EXECUTIVE ORDER 11246 provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of **employment** during the performance of Federal or federally-assisted construction contracts in excess of \$10,000.

PROHIBITION OF THE USE OF EXCESSIVE FORCE – If the recipient is a local government, it shall **adopt and enforce a policy** to prohibit the use of excessive force by law enforcement agencies within their jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and enforce state and local laws against physically barring entrance to or exit from a facility subject to nonviolent civil rights demonstrations. **There is a sample “Excessive Force Policy” in your Management Guide.**

IOWA CIVIL RIGHTS ACT OF 1965 This Act mirrors the Federal Civil Rights Act.

IOWA CODE SECTION 19B.7 This prohibits discriminatory and unfair practices within any program receiving or benefiting from state financial assistance in whole or in part.

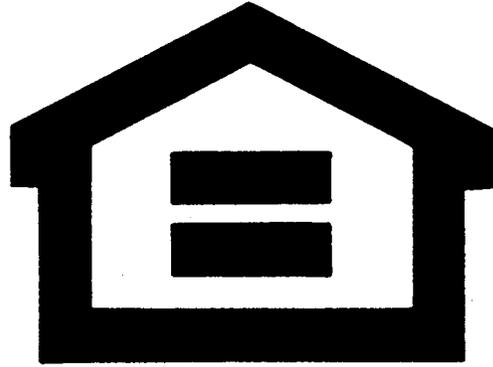
Iowa Code chapter 216 Effective July 1, 2007, the Iowa Civil Rights Act was expanded to add sexual orientation and gender identity to the list of protected classes.

NOTE: The bold print at the end of each paragraph gives you ideas on how to comply with the federal rules and regulations.

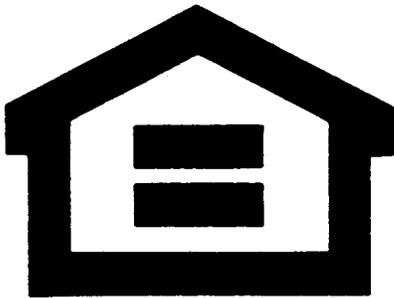
HUD Equal Housing Opportunity
Slogan and Logo



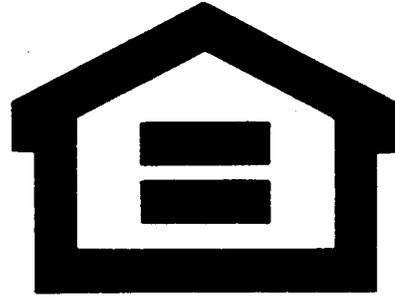
**EQUAL HOUSING
OPPORTUNITY**



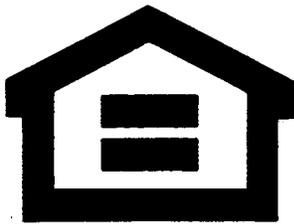
**EQUAL HOUSING
OPPORTUNITY**



**EQUAL HOUSING
OPPORTUNITY**



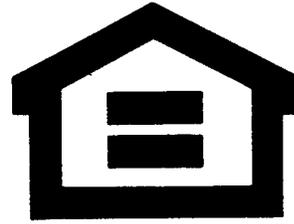
**EQUAL HOUSING
OPPORTUNITY**



**EQUAL HOUSING
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**EQUAL HOUSING
OPPORTUNITY**



**EQUAL HOUSING
OPPORTUNITY**



**EQUAL HOUSING
OPPORTUNITY**



**EQUAL HOUSING
OPPORTUNITY**

SAMPLE PUBLIC NOTICE AFFIRMATIVE FAIR HOUSING POLICY

This notice is published pursuant to the requirements of Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with federal assistance, and with Title VIII of the Civil Rights Act of 1968, as amended, which prohibits discrimination in the provision of housing because of race, color, creed, religion, sex, national origin, disability or familial status.

(Recipient Name, City and State) advises the public that it will administer its assisted programs and activities relating to housing and community development in a manner to affirmatively further fair housing in the sale or rental of housing, the financing of housing and the provision of brokerage services.

(Recipient Name) shall assist individuals who believe they have been subject to discrimination in housing through the resources of the Iowa Civil Rights Commission or the U.S. Department of Housing and Urban Development.

(Recipient Name) has designated the following (person or office) as the contact to coordinate efforts to comply with this policy. Inquiries should be directed to:

NAME: _____

OFFICE: _____

ADDRESS: _____

CITY/STATE/ZIP CODE: _____

PHONE NUMBER: _____

HOURS: _____

Insert: Equal Housing Opportunity Symbol (sample included on previous page)

CLEARINGHOUSES FOR SOLICITATION OF MINORITY OWNED AND FEMALE OWNED BUSINESSES

Small Business Administration District Office

210 Walnut Street, Room 749
Federal Building
Des Moines, IA 50309
Contact Person: Dawnelle Conley
515/284-4913
<http://www.sba.gov/ia/desmo>

Sioux City Construction League

3900 Stadium Drive
P.O. Box 3346
Sioux City, IA 51102 -3346
712/255-9730
<http://www.siouxcityconstructionleague.com>

Illinois MBDA Business Center

105 W. Adams Street
Suite 230
Chicago, IL 60603
312/755-2565

National Association of Women in Construction (NAWIC)

327 S. Adams Street
Fort Worth, TX 76104
Toll Free: 800-552-3506
Fax: 817-877-0324
Web: www.nawic.org

Iowa Chapters

#80 - Greater Des Moines
Amber Darby
515-778-6116

#160 - Cedar Rapids/Iowa City
Carol Hustad
319-848-3133

<http://www.nawic.org/chapters/iowa.htm>

CLEARINGHOUSES FOR SOLICITATION OF MINORITY OWNED AND FEMALE OWNED BUSINESSES

CONSTRUCTION UPDATE PLAN ROOMS

For more information, visit <http://www.mbsonline.com>

Master Builders of Iowa - Cedar Rapids

645 32nd Avenue SW, Suite C
Cedar Rapids, IA 52404
Phone: (319) 396-4848
Fax: (319) 396-4809

North Iowa Builders Exchange

25 West State Street
Mason City, IA 50401-3228
Phone: 641-423-5334
Fax: 641-423-5725

Master Builders of Iowa/Construction Update Plan Room

221 Park Street
PO Box 695
Des Moines, IA 50306
Phone: 515-288-8904 or 1-800-362-2578
Fax: 515-288-8718

Master Builders of Iowa - Omaha Builders Exchange Office

4255 S. 94th St.
Omaha, NE 68127-1223
Phone: (402) 593-6908
Fax: (402) 593-6912

Dubuque Builders Exchange

801 Cedar Cross Road
Dubuque, IA 52003
Phone: 563-583-8459
Fax: 563-582-6113

Master Builders of Iowa - Sioux City Office

903 6th St
Sioux City, Iowa 51101
Phone: (712) 255-9533
Fax: (712) 255-9571

Construction Update Plan Room, Fort Dodge

c/o Fort Dodge Chamber of Commerce
1406 Central Ave
Fort Dodge, IA 50501-4251
Phone: 515-955-5500
Fax: 515-955-3245

Master Builders of Iowa - Waterloo Office

612 Mulberry
Waterloo, Iowa 50703
Phone: (319) 232-3621
Fax: (319) 274-0986

Marshalltown Construction Bureau

709 South Center, PO Box 1000
Marshalltown, IA 50158-2833
Phone: 641-753-6645
Fax: 641-752-8373

Recipients should keep documentation of their efforts to solicit minority and women owned businesses

Section 3 Report

Economic Opportunities for Low- and Very Low-Income Persons

1. Recipient Name and Address:	2. Contract Number:	3. Dollar Amount of Award:
	4. Contract End Date:	5. Date Report Submitted:
	6. Contact Person:	7. Administering Agency:
8. PROGRAM: CDBG HOME ESGP	9. Signature:	10. Phone:

Part I: Employment and Training

A Job Category	B Number of New Hires for this Project/ Activity	C Number of New Hires for this Project/ Activity who are Section3 Eligible	D Number of Section 3 Employees and Trainees (new and existing)
Professionals			
Technicians			
Office/Clerical			
Construction by Trade:*			
Carpenters			
Concrete Finishers			
Electricians			
Ironworkers			
Laborers			
Power Equipment Operators			
Truck Drivers			
Other:			

Part II: Contracts Awarded

- Construction Contracts:
 - Total dollar amounts of all contracts awarded on this project/activity: \$ _____
 - Total dollar amount of all contracts awarded to Section 3 businesses: \$ _____
 - Total Number of Section 3 business receiving contracts: _____
- Non-construction Contracts:
 - Total dollar amount of all non-construction contracts awarded on this project/activity: \$ _____
 - Total dollar amount of non-construction contracts awarded to Section 3 businesses: \$ _____
 - Total number of Section 3 businesses receiving non-construction contracts: _____

Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

Attempted to recruit low-income persons through: local advertising media, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the metropolitan area (or non-metropolitan county) in which the Section 3 covered program or project is located, or similar methods.

Participated in a HUD program or other program that promotes the training or employment of Section 3 persons.

Participated in a HUD program or other program that promotes the award of contracts to business concerns that meet the definition of Section 3 business concerns.

Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.

Other; describe below.

*Trades listed are from the Davis-Bacon General Heavy/Highway Wage Determination. Use other trades as necessary. Certified Payroll Reports should indicate new hires and Section 3 employees.

IEDA USE ONLY: Recorded: __ Date: _____ By: _____

Section 3 Report: Economic Opportunities for Low- and Very Low-Income Persons.

Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any **public and Indian Housing programs** that receive:

- 1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937;
 - 2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or
 - 3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937;
- and to **recipients of housing and community development assistance in excess of \$200,000** expended for:
- 1) housing rehabilitation (including reduction and abatement of lead-based paint hazards);
 - 2) housing construction; or
 - 3) other public construction projects;
- and to **contracts and subcontracts in excess of \$100,000** awarded in connection with the Section-3-covered activity.

This form has three parts that are to be completed for all programs covered by Section 3. Part I relates to **employment and training**, Part II of the form relates to **contracting**, and Part III summarizes recipients' **efforts** to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.* A recipient of Section 3 covered assistance shall submit one copy of this report to the Iowa Economic Development Authority. The report must be received within 60 days of the contract end date.

Recipient: Enter the name and address of the recipient.

Contract Number: Enter the contract number.

Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.

Contract End Date: Enter the contract end date. This will most likely be the person responsible for contract administration.

Date Report Submitted: Enter the appropriate date.

& 7. Contact Person/Administering Agency: Enter the name and administering agency/company of the person with knowledge of the award and the Recipient's implementation of Section 3.

Program: Check appropriate program for which the report is being submitted.

Signature: Signature of person completing the report.

Contact person's phone number.

Definitions of terms:

The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. **Low-income persons** mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing

Part I: Employment and Training Opportunities

1. **Column A:** Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e., supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through D for each trade where persons were employed. For your convenience, a listing of trades from the Davis-Bacon Heavy/Highway General Decision (the wage rate most commonly used) has been provided. List other trades as necessary. The category of "Other" includes occupations such as service workers.
2. **Column B:** Enter the number of new hires for each category of workers identified in **Column A** in connection with this award. New Hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.
3. **Column C:** Enter the number of Section 3 new hires for each category of worker identified in **Column A** in connection with this award. Section 3 new hire refers to a person who qualifies under Section 3 income guidelines who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.
4. **Column D:** Enter the number of all Section 3 persons that were employed and trained in connection with this award.

Part II: Contract Opportunities

1. Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/activity.

Item B: Enter the total dollar amount of contracts connected with this project/activity that were awarded to Section 3 businesses.

Item C: Enter the number of Section 3 businesses receiving awards.

2. Non-Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/activity.

Item B: Enter the total dollar amount of contracts connected with this project/activity that were awarded to Section 3 businesses.

Item C: Enter the number of Section 3 businesses receiving awards.

Part III: Summary of Efforts

Self-explanatory

levels of construction costs or unusually high- or low-income families. **Very low-income persons** mean low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Section 3 Business Certification

- To be completed by the business claiming Section 3 business status.

All contract and subcontracts awarded on Section 3 covered projects must be reported in aggregate on the Section 3 Summary Report. For all businesses reported as being Section 3 businesses, documentation of their status must be retained in the project files. IEDA considers this form adequate documentation of Section 3 status.

HUD contracts awarded to the State of Iowa and/or a recipient (City/County) with more than \$200,000 in HUD funds are "Section 3 covered projects". Any contractors, with which they contract for more than \$100,000 on these projects, are required to report on all contracts they make both with Section 3 business concerns and with businesses that are not Section 3 business concerns.

This form is a tool to determine and document the Section 3 business status. Documentation of the status of Section 3 Businesses should be retained in the project files.

Business being certified:

Company: _____

Address: _____

Project information:

Project Name: _____

Project Address: _____

Section 3 determination

1. Is your business owned (51% or more) by individuals whose household incomes are NO GREATER THAN 80% of Area Median Income (AMI)*?

*Please reference <http://iowaeconomicdevelopment/community/community/default.aspx> (under recipient income and census information) to determine if employee is less than 80% of the current area median income.

() Yes () No

2. Do 30% (or more) of your full time, permanent employees have household incomes that are NO GREATER THAN 80% of Area Median Income (AMI), or within three years of the date of first employment with the business concern were Section 3 residents?

() Yes () No

3. Will you subcontract more than 25% of this contract with a qualified business that is either 51% owned by Section 3 residents or 30% or more of its employees are Section 3 residents?

() Yes () No

If any of the questions above are marked "yes", the business qualifies as a Section 3 business. I certify that the above statements are true, complete, and correct to the best of my knowledge and belief.

Signature: _____

Print Name: _____ Date: _____

SECTION 3 NEW HIRE COMPLIANCE REPORT

The US Department of Housing & Urban Development (“HUD”) requires the recipient to collect information on every person hired in connection with Section 3 projects to ensure compliance with Federal regulations.

As part of (enter your community here)’s Section 3 program your firm is required to report the number of employees hired in connection with a Section 3 Project who are Section 3 Eligible. Complete this form by entering the names and addresses of all new hires and by indicating whether they are Section 3 eligible. A Section 3 resident is:

1. A public housing resident;
2. An individual who lives within the _____ and whose income falls within the guidelines for low or very low income. **See attached table.**

This form must be completed by all subcontractors working on a Section 3 project, defined as a contract that exceeds \$100,000, even if the subcontractor is not a “Section 3 Business.”

INSTRUCTIONS FOR EMPLOYERS:

1. Enter the name and address of every new employee hired in connection with the Section 3 Project on the following list. (Add additional sheets if necessary).
2. For new Employees **HIRED** , determine whether each new hire is Section 3 eligible by asking the employee the following questions upon hiring:
 - a. **Are you a resident of public housing?**
 - YES**
 - NO**

If the answer is “YES,” please skip question “b” and proceed directly to question “c”.
If the answer is “NO,” please follow up by asking question “b”.

- b. **Are you a resident of _____**
 - YES**
 - NO**

If the answer is “NO,” this person is not a Section 3-eligible resident. Therefore, there is not a need to ask question “c”.

- c. **In the last 12 months, was your household income (meaning the total for everyone in your family earning income) NOT GREATER THAN the amount listed based on your household size?**
 - YES**
 - NO**

If YES, have the employee complete the certification form (Exhibit 1) and attach this to your submission.

SECTION 3 NEW HIRE COMPLIANCE REPORT

3. Indicate whether each new hire is Section 3 eligible by checking the appropriate box next to their name and address on Section 3 New Hire Report. Indicate “Y” for Yes and “N” for No
4. Indicate the Job Category using the following codes:
 - Professionals P
 - Technicians T
 - Office and Clerical OC
 - Sales S
 - Trades T
 - Labor L
 - Service Workers SW
 - Other Other
5. An authorized representative of the firm must certify the accuracy and completeness of the information provided by signing this form where indicated.
6. Subcontractors who have direct agreements with _____ regarding a Section 3 covered project are responsible for collecting the Section 3 New Hire Report from all applicable contractors and sub-contractors performing on a Section 3 covered project.
7. If there were NO new hires for the report period, please document by checking the box and providing an authorized signature for your company.

SECTION 3
NEW HIRE COMPLIANCE REPORT

Project Name: _____

Project Address: _____

Developer Name (if applicable): _____

General Contractor Name: _____

Name of Firm Completing This Form: _____

This Firm is a (check one): _____

- Subcontractor
Contract Amount: \$ _____

- Professional Services Consultant
Contract Amount: \$ _____

Contracts and subcontracts made with vendors to solely provide supplies and/or materials are not subject to the HUD Section 3 requirements. However, where such vendors also install such supplies and materials, said contracts and subcontracts above \$100,000 shall be subject to the HUD Section 3 requirements.

SECTION 3 NEW HIRE COMPLIANCE REPORT

	NAME OF NEW HIRE	ADDRESS (include Suite/Apt #)	Section 3 Eligible?	Labor Category
			YES OR NO	See Instructions
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				

If there were NO new hires for the report period, please document by checking the box and providing an authorized signature for your company.

I certify that there were no new hires during the reporting period
 ___ / ___ / ____ to ___ / ___ / ____
 mm / dd / yyyy mm / dd / yyyy

Name: _____
 (please print)

Date: _____

Title: _____
 (please print)

Signature: _____

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief.

Sample Format for Section 3 Employee Interviews

Date:

Dear Employee:

Please provide the information requested on this form that we can verify to the Iowa Economic Development Authority that your employment here is achieving the goals of Section 3 of the Housing and Urban Development Act of 1968. This information will be placed in your confidential personnel file and will be available only to a limited number of authorized persons. For assistance or further information, please see _____ . Thank you.
(Company Official)

Sincerely,

(Company Official)

NOTE: Median Income Limits Table is on the reverse side of this form.

Step 1: On the Median Income Limits Table, find the county in which you live and the size of your family (count yourself and all family members living at home). Use this information to arrive at the corresponding income level. For example, if you live in Carroll County and there are 5 people in your family (including yourself), the corresponding income level would be \$57,150.

Step 2: Answer this question:

Is your family's total income above or below the amount listed for your county and family size? (Check one)

_____ ABOVE _____ BELOW

Fair Housing Strategies for communities participating in the CDBG program

In order to ensure that grantees are fulfilling their requirement to affirmatively further fair housing, all units of local government applying for and receiving Community Development Block Grant (CDBG) funds from the State must document how they are meeting their fair housing obligations. A unit of local government can participate in the State's CDBG Program by agreeing to implement at least two mandatory actions and at least one elective activity appropriate to the conditions and needs in its area. The selected elective activities are of the local government's choice chosen from the list below. All grantees receiving CDBG funds through the State must complete the two mandatory strategies and at least one elective strategy regardless of whether they are using CDBG funds for housing activities.

The implementation of the mandatory strategies must be carried out each year for which the jurisdiction has received HUD funds through IEDA. This may be achieved through the posting of the information in a conspicuous public place and/or publication in a local newspaper of general circulation.

Mandatory activities to promote Fair Housing:

Communities/counties receiving CDBG funds must complete the following and implement them during the CDBG contract period:

1. Advertise, publicize and pass an affirmative fair housing policy that will certify that the local government adheres to the requirements of the federal Fair Housing Act and the Iowa Civil Rights Act of 1965 (adoption and use of the Equal Housing Opportunity logo and the Equal Housing Opportunity statement), and
2. Identify and publish the name and contact information of a Discrimination Complaint Officer within the agency or jurisdiction for any housing-related bias or discrimination complaint, and
3. Refer housing discrimination complaints and assist in filing complaints with the Iowa Civil Rights Commission, the U.S. Department of Housing & Urban Development, or a local civil rights commission.

Elective activities to promote Fair Housing:

Communities/counties receiving CDBG funds must also complete one of the following activities and implement it during the contract period:

1. Advertise the availability of housing and related assistance to population groups that are least likely to apply through various forms of media (i.e. radio stations, posters, flyers, newspapers) in English and other languages spoken by eligible families within the project service area
2. Include a flyer about fair housing in a local utility or tax bill and send it to every household in the municipality
3. Have the Responsible Entity staff attend a fair housing training or conference.
4. Organize a local letter writing campaign to local legislators and/or local government about the need to fund and support fair housing programs
5. Sponsor trainings for realtors, bankers, landlords, homebuyers, tenants, public housing authority and other city/town employees to educate them on their fair housing rights and responsibilities. This activity **MUST** be done in collaboration with the Iowa Civil Rights Commission or a local civil rights commission.

6. Provide training/educational programs about fair housing for financial, real estate, and property-management professionals at local firms, including their obligations to comply with the federal Fair Housing Act and the Iowa Civil Rights Act of 1965 (this can be done by partnering with a bank, board of realtors association, or other local group and helping to sponsor a program taught by a qualified entity such as ICRC)
7. Conduct meetings with advocacy groups for members of the protected classes (i.e. persons with disabilities, immigrants, refugees, etc.) on the availability of affordable and accessible housing and determine housing needs to plan future projects
8. Establish and/or fund fair housing organizations in areas where there are no such organizations
9. Conduct fair housing testing to ensure that local housing providers and/or lenders do not discriminate (fair housing testing must be conducted by a HUD-certified fair housing agency)
10. Assist Housing Choice Voucher program participants to help locate and secure housing outside of racially concentrated areas of poverty (RCAPs) or near-RCAPs
11. Conduct outreach to housing providers and housing developers to discuss affordable and accessible housing needs in RCAPs and near-RCAPs
12. Evaluate the local zoning ordinance against the fair housing benchmarks identified in this AI, using the Zoning Risk Assessment Tool. Evaluate the need for amendments to the zoning ordinance and make them.
13. Organize a tester recruitment event in collaboration with the Iowa Civil Rights Commission to help document instances of housing discrimination

Labor Standards



REQUEST FOR WAGE DETERMINATION: Use this form for projects prior to 2012

E-MAIL or FAX

TO: Dan Narber

Iowa Economic Development Authority

Phone: 515-725-3072

Fax: 515-725-3010

EMAIL: dan.narber@iowa.gov

Date: _____ Pages _____

FROM _____

COMPANY _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE _____ FAX _____

EMAIL _____

CONTRACT:

Recipient _____

Contract Number _____

County where work will be performed _____

Construction Contract Value \$ _____

ESTIMATED DATES:

Advertising _____

Bid Opening _____

Contract Award _____

Construction Start _____

LABOR PACKET NEEDED? (Posters, payroll forms, etc.) YES NO IS THIS AN UPDATE? YES NO

OTHERS TO RECEIVE DECISION:

1. CEO* Name _____

Address _____

City, State, Zip _____

E-mail: _____

2. Name _____

Company _____

Address _____

City, State, Zip _____

E-mail: _____

**CEO refers to the Mayor, Board of Supervisors Chairperson, President, Agency Director, or other official*

BRIEF WORK DESCRIPTION (From Attachment A of the Contract):

Activity Number: _____ Description: _____

TYPE OF CONSTRUCTION (Final determination of construction type will be made by IEDA)

BUILDING: Includes the construction, rehabilitation and repair of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies.

RESIDENTIAL: Includes the construction, rehabilitation and repair of single-family houses, townhouses, and apartment buildings of no more than four (4) stories in height.

HIGHWAY: Includes the construction, alteration, and repair of roads, streets, highways, runways, parking areas and most other paving work not incidental to building or nearby construction.

HEAVY: A "catch-all" category which includes those projects which cannot be classified as Building, Residential, Highway or Treatment. Heavy construction is often further distinguished on the basis of the characteristics of particular projects such as dredging, water and sewer lines, dams, major bridges and flood control projects.

TREATMENT: Construction of, or improvements to, water and sewage treatment facilities.

IEDA USE ONLY

Determination Number: _____

Date: _____

Issued by: _____

10-Day Update: _____

Previous editions are obsolete

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 REPORT OF ADDITIONAL CLASSIFICATION AND RATE

HUD FORM 4230A

OMB Approval Number 2501-0011
 (Exp. 01/31/2010)

1. FROM (name and address of requesting agency) Labor Standards Compliance Officer Iowa Economic Development Authority 200 East Grand Avenue Des Moines, IA 50309	2. PROJECT NAME AND NUMBER 3. LOCATION OF PROJECT (City, County and State)
--	---

4. BRIEF DESCRIPTION OF PROJECT	5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway
--	--

6. WAGE DECISION NO. (include modification number, if any) <input type="checkbox"/> COPY ATTACHED	7. WAGE DECISION EFFECTIVE DATE
---	--

8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES	
	BASIC WAGE	FRINGE BENEFIT(S) (if any)

9. PRIME CONTRACTOR (name, address)	10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)
--	--

Check All That Apply:

The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision.

The proposed classification is utilized in the area by the construction industry.

The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision.

The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s).

Supporting documentation attached, including applicable wage decision.

Check One:

Approved, meets all criteria. DOL confirmation requested.

One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.

Dan Narber <hr/> Agency Representative <i>(Typed name and signature)</i>	<hr/> <i>Date</i>	FOR HUD USE ONLY LR2000: Log in: Log out:
<hr/> 515-725-3072 <i>Phone Number</i>		

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Employers engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged on the construction work. On occasion, the applicable Davis-Bacon wage decision does not contain all of the work classifications and wage rates needed to complete the construction work. This information collection facilitates the addition of needed work classifications and wage rates for the construction work involved. This form is used by HUD and local agencies administering HUD programs to report employer request(s) for additional classification and wage rates so that an appropriate wage rate can be approved by the Department of Labor for the construction work. This information collection is required by Department of Labor regulations at 29 CFR 5.5. While no assurances of confidentiality are pledged to respondents, HUD generally discloses these data only in response to a Freedom of Information request.

Instructions

General:

Contractors/Employers: Do not need to complete this form. Submit a written, signed request to the responsible contracting agency naming the work classifications and the wage rates, including any fringe benefits, that are proposed.

Local Agency Staff: Complete items 2 through 10. Submit one copy of this form to the responsible HUD Labor Relations Office with a copy of the applicable Davis-Bacon wage decision and the written request from the employer naming the work classifications and wage rates that are proposed. (The employer’s request must be made in writing and must be signed.)

1. For HUD or State CDBG Office use. Enter the name and address of HUD Office (or State CDBG office) submitting the report and to which the DOL reply should be sent.
2. Enter the name and number of the project or contract involved.
3. Enter the location of the project involved: city, county and state.
4. Describe the construction involved, e.g., new construction or rehabilitation, number and type of buildings, number of stories, number of units (as applicable). For example, new construction: 3 – 4-story buildings; 120 units.
5. Enter the character of construction as defined by DOL for Davis-Bacon prevailing wage rate purposes.
6. Enter the number of the Davis-Bacon wage decision applicable to the construction work. Include the number of wage decision modifications (if any) applicable to the work.
7. Enter the effective date of the wage decision for the project. (See DOL regulations at 29 CFR 1.6.)
8. Enter the work classifications and corresponding hourly basic wage rates and fringe benefit rates (if any) requested.
9. Self-explanatory.
10. If the requesting employer is not the prime contractor, enter the name and address of the subcontractor/employer making the request.
11. Send form to address in Box #1.

Remainder of Form: HUD Labor Relations/State CDBG use.

HUD Labor Relations/State CDBG Staff: Evaluate the employer’s request against the criteria for approval (see DOL Regulations, 29 CFR Part 5, and related contract labor standards provisions). The criteria are reflected in “checklist” form to ensure that each factor is considered and to ensure that supporting documentation, including a copy of the applicable wage decision, is attached. Check the box next to each criterion that is met; do not check the box next to any criterion that is not met.

If the request meets all criteria, check the appropriate box, enter the name and telephone number of the HUD/State CDBG agency representative, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision and the written request from the employer involved.

If the request fails to pass all criteria, check the appropriate box, enter agency contact information, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision, the written request from the employer involved, *and* a cover letter explaining how the employer’s request failed to meet one or more of the criteria.

Submission of Report

Completed forms shall be sent to: Branch of Construction Wage Determinations
U.S. Department of Labor
200 Constitution Avenue, NW
Room S-3014
Washington, DC 20210

Previous editions are obsolete.

REQUEST FOR CONTRACTOR ELIGIBILITY Use this form for projects prior to 2012

E-mail completed form to:
barb.harvey@iowa.gov
 Phone: 515.725.3062

Requested by: _____
 Address: _____

 Phone: _____ Fax: _____
 Email: _____

Recipient: _____
 Project Address (For Housing Projects Only): _____

Contract Number: _____
 IEDA Project Manager: _____

Contractor/Sub-Contractor Name & Address: _____

Type: Prime Sub

MBE: Yes No

WBE: Yes No

- If a MBE/WBE provide Tax ID #: _____

- If MBE/WBE is a Subcontractor, Include Prime

Owner: _____

Contractor's

Iowa Contractor Registration #: _____

Tax ID #: _____

Contract \$ Value: _____

Section 3 (see below): Yes No

Type of Trade (see below): _____

Racial Ethnic Code (see below): _____

If Hispanic Origin, check here:

Number of employees anticipated to be employed on the project: _____

Number of new employees hired (if any) for this project: _____

Contractor/Sub-Contractor Name & Address: _____

Type: Prime Sub

MBE: Yes No

WBE: Yes No

- If a MBE/WBE, provide Tax ID #: _____

- If MBE/WBE is a Subcontractor, Include Prime

Owner: _____

Contractor's

Iowa Contractor Registration #: _____

Tax ID #: _____

Contract \$ Value: _____

Section 3 (see below): Yes No

Type of Trade (see below): _____

Racial Ethnic Code (see below): _____

If Hispanic Origin, check here:

Number of employees anticipated to be employed on the project: _____

Number of new employees hired (if any) for this project: _____

IEDA USE ONLY

This verification of eligibility consists only of a check against the current list of debarred, suspended and ineligible contractors. It is important that other factors be considered in determining overall acceptability of a contractor. See 24 CFR, Part 85.36.

Verified: Yes No Signature _____ Date _____

Type of Trade:

- | | | | | |
|------------------------|-------------|------------------------|------------------------|------------------------|
| 1 – New Construction | 3 – Repair | 5 – Project Management | 7 – Tenant Services | 9 – Arch/Eng Appraisal |
| 2 – Substantial Rehab. | 4 – Service | 6 – Professional | 8 – Education/Training | 0 – Other |

Section 3:

A Section 3 contractor/subcontractor is a business concern that provides economic opportunities to low- and very-low income residents, employs a substantial number of low- or very-low income residents, or subcontracts with businesses owned by low- or very low-income residents. Refer to the CDBG and Housing Management Guide for additional information.

Racial/Ethnic Codes:

- | | | | |
|-----------------------------|---|--|-------------------------|
| 11 = White | 14 = American Indian/Alaskan Native | 17 = Asian & White | 20 = Other Multi-Racial |
| 12 = Black/African American | 15 = Native Hawaiian/Other Pacific Islander | 18 = Black/African American & White | |
| 13 = Asian | 16 = American Indian/Alaskan Native & White | 19 = American Indian/Alaskan Native & Black African American | |

Previous editions are obsolete



PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)

U.S. Department of Labor
Wage and Hour Division

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rev. Dec. 2008

NAME OF CONTRACTOR OR SUBCONTRACTOR ADDRESS OMB No.: 1235-0008
Expires: 02/28/2018

PAYROLL NO. FOR WEEK ENDING PROJECT AND LOCATION PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF HOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
			O										/						
			S																
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish a weekly statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5 (a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that the employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

Date _____

I, _____, _____
 (Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of persons employed by

_____ on the
 (Contractor or Subcontractor)

_____ ; that during the period commencing on the
 (Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____
 all persons employed on said project have been paid the full weekly wages earned, that no rebates have been made or will be made either directly or indirectly on behalf of said

_____ from the full
 (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers and mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide Apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

___ in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

___ Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4 (c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS

NAME AND TITLE	SIGNATURE
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

U.S. Department of Labor
Wage and Hour Division
Instructions for Completing Payroll Form, WH-347

General: Form WH-347 has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: Self-explanatory.

Project or Contract No.: Self-explanatory.

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown of hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. If more than five deductions are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1 and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

Public Burden Statement: We estimate that it will take an average of 55 minutes to complete this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Record of Employee Interview

U.S. Department of Housing and Urban Development Office of Labor Relations

OMB Approval No. 2501-0009
(exp. 09/30/2017)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential.**

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
				Medical Yes <input type="checkbox"/> No <input type="checkbox"/>	
				Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary					
6. Your duties					
7. Tools or equipment used					
8. Are you an apprentice or trainee? Y <input type="checkbox"/> N <input type="checkbox"/>					
9. Are you paid for all hours worked? Y <input type="checkbox"/> N <input type="checkbox"/>					
10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week? Y <input type="checkbox"/> N <input type="checkbox"/>					
11. Have you ever been threatened or coerced into giving up any part of your pay? Y <input type="checkbox"/> N <input type="checkbox"/>					
12a. Employee Signature			12b. Date		
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks					
15a. Interviewer name (please print)		15b. Signature of Interviewer		15c. Date of interview	

Payroll Examination

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

Previous editions are obsolete

Form HUD-11 (08/2004)

Record of Employee Interview	U.S. Department of Housing and Urban Development Office of Labor Relations	OMB Approval No. 2501-0009 (exp. 12/31/2013)
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Instructions:

General:

This form is to be used by HUD and local agency staff for recording information gathered during on-site interviews with laborers and mechanics employed on projects subject to Federal prevailing wage requirements. Typically, the staff that will conduct on-site interviews and use this form are HUD staff and fee construction inspectors, HUD Labor Relations staff, and local agency labor standards contract monitors.

Information recorded on the form HUD-11 is evaluated for general compliance and compared to certified payroll reports submitted by the respective employer. The comparison tests the veracity of the payroll reports and may be critical to the successful conclusion of enforcement actions in the event of labor standards violations. The thoroughness and accuracy of the information gathered during interviews is crucial.

Note that the interview itself and the information collected on the form HUD-11 are considered confidential. Interviews should be conducted individually and privately. All laborers and mechanics employed on the job site must be made available for interview at the interviewer's request. The employee's participation, however, is voluntary. Interviews shall be conducted in a manner and place that are conducive to the purposes of the interview and that cause the least inconvenience to the employer(s) and the employee(s).

Completing the form HUD-11

Items 1a - 1c: Self-explanatory

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available. Ask the employee for a form of identification (e.g., driver's license) to verify their name.

Items 3a – 4c: Enter the employee's responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 – 7: Be certain that the employee's responses are specific. For example, job classification (#5) must identify the trade involved (e.g., Carpenter, Electrician, Plumber) – responses such as "journeyman" or "mechanic" are not helpful for our purposes.

Items 8 – 12b: Self-explanatory

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? Was the employee evasive?

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 – 17b: The information on the form HUD-11 may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

Once the corresponding certified payroll reports are received, the information on the HUD-11 shall be compared to the payroll reports. Any discrepancies noted between the HUD-11 information and that on the payroll report shall be noted in Item 16, Remarks. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.

Form HUD-11 (08/2004)

Historial de Entrevista del Empleado

**Departamento de Vivienda y Desarrollo Urbano de EE.UU.
Oficina de Relaciones Laborales**

Aprobación de OMB No. 2501-0009
(exp. 09/30/2017)

Se estima que la tarea de recolección de esta información pública es de aproximadamente 15 minutos por respuesta, incluso el tiempo para examinar instrucciones, buscar fuentes de datos existentes, recopilar y mantener datos necesarios, y completar y examinar la recopilación de la información. Esta agencia no puede recopilar esta información y no se requiere que usted llene este formulario, a menos que éste exhiba un número de control válido de la Oficina de Administración y Presupuesto (OMB, por sus siglas en inglés). La información que se recopila tiene la finalidad de garantizar la conformidad a las normas laborales Federales mediante entrevistas con obreros de construcción. La información recopilada asistirá a HUD a conducir el monitoreo de conformidad; la información se usará para examinar la veracidad de los informes de nómina certificados presentados por el patrón. **Información confidencial.** La información recopilada en este formulario es considerada confidencial y está protegida por la Ley de Privacidad. La Ley de Privacidad requiere que estos archivos se mantengan con salvaguardas administrativas, técnicas, y físicas apropiadas para garantizar su seguridad y confidencialidad. Además, estos archivos deberán ser protegidos contra cualquier amenaza anticipada o riesgos a su seguridad o integridad, que podría causar daño sustancial, vergüenza, inconveniencias, o injusticias a cualquier individuo de quien se mantiene la información. **La información recopilada aquí es voluntaria y cualquier información proporcionada será mantenida como confidencial.**

1a. Nombre del proyecto			2a. Nombre del empleado		
1b. Número del proyecto			2b. Número de teléfono del empleado (incluso prefijo local)		
1c. Contratista o subcontratista (Patrón)			2c. Dirección residencial del empleado y código postal		
			2d. ¿Verificación de identificación? Sí <input type="checkbox"/> No <input type="checkbox"/>		
3a. ¿Cuánto tiempo en este trabajo?	3b. ¿Último día en este trabajo antes de hoy?	3c. ¿No. de horas en su ultimo día en este trabajo?	4a. ¿Salario por hora?	4b. ¿Beneficios complementarios? Vacaciones Sí <input type="checkbox"/> No <input type="checkbox"/> Médicos Sí <input type="checkbox"/> No <input type="checkbox"/> Pensión Sí <input type="checkbox"/> No <input type="checkbox"/>	
4c. ¿Talonario de paga? Sí <input type="checkbox"/> No <input type="checkbox"/>					
5. Clasificación(es) de su trabajo(s) (enumere todas) --- continúe en una página separada si es necesario					
6. Sus deberes					
7. Herramientas o equipo usado					
8. ¿Es aprendiz? S <input type="checkbox"/> N <input type="checkbox"/>					
9. ¿Le pagan todas las horas trabajadas? S <input type="checkbox"/> N <input type="checkbox"/>					
10. ¿Le pagan al menos tiempo y medio por todas las horas trabajadas superior a 40 horas semanales? S <input type="checkbox"/> N <input type="checkbox"/>					
11. ¿Alguna vez ha sido amenazado o coaccionado a entregar parte de su paga? S <input type="checkbox"/> N <input type="checkbox"/>					
12a. Firma del empleado			12b. Fecha		
13. Deberes observados por el entrevistador (Por favor sea específico.)					
14. Comentarios					
15a. Nombre del entrevistador (use letra de imprenta)		15b. Firma del entrevistador		15c. Fecha de la entrevista	

Examinación de Nómina

16. Comentarios	
17a. Firma del examinador de nómina	17b. Fecha

Instrucciones

Generalidades:

Este formulario será utilizado por personal de HUD y agencias locales a fin de anotar toda información recopilada durante las entrevistas en sitio con obreros y mecánicos empleados en proyectos sujetos a requisitos de pago de salario vigente federal. Por lo general, el personal que efectúe entrevistas en sitio y use este formulario será personal de HUD e inspectores de construcción con comisión, personal de la Oficina de Relaciones Laborales de HUD, e inspectores de contratos de la agencia de normas laborales local.

La información recopilada en este formulario HUD-11 es evaluada para su conformidad general y comparada con informes de nóminas certificados presentados por el empleador correspondiente. La comparación examina la veracidad de los informes de nómina y puede ser crítica para la exitosa conclusión de gestiones de cumplimiento en caso de existir violaciones a las normas laborales. La meticulosidad y exactitud de de la información recopilada durante las entrevistas es trascendental.

Tenga en cuenta que tanto la entrevista misma y la información recopilada en el formulario HUD-11 se consideran ser de carácter confidencial. Las entrevistas se deberán efectuar en forma individual y en privado. Todos los trabajadores y mecánicos empleados en el sitio de trabajo deben ser puestos a disposición para las entrevista a petición del entrevistador. Sin embargo, la participación del empleado es voluntaria. Las entrevistas serán conducidas en una manera y lugar que sean conducentes a los objetivos de la entrevista y ocasionen el menor inconveniente al patrón(nes) y empleado(s).

Instrucciones para rellenar el formulario HUD-11

Líneas 1a - 1c: Auto aclaratorio

Líneas 2a – 2d: Anote el nombre completo del empleado, un número telefónico donde se le pueda contactar, y su dirección residencial. Muchos trabajadores de construcción usan una dirección temporal en la localidad del proyecto y tienen una dirección más permanente en algún otro lugar a donde se les puede enviar correspondencia. Si puede, obtenga una dirección más permanente. Pida al empleado algún tipo de identificación (por ej., licencia de conducir) para verificar su nombre.

Líneas 3a – 4c: Anote las respuestas del empleado. Pregunte a los empleados si tienen un talonario de paga con ellos; si no, determine si el talonario de paga concuerda con la información provista por el empleado.

Líneas 5 – 7: Asegúrese de que las respuestas del empleado sean específicas. Por ejemplo, la clasificación de trabajo (#5) debe identificar el tipo de oficio que desempeña (por ej., carpintero, electricista, plomero) – respuestas tales como “jornalero” o “mecánico” no ayudan para nuestros propósitos.

Líneas 8 – 12b: Auto explicatorio

Líneas 13 – 15c: Estos asuntos representan alguna de la información más importante que se puede recopilar durante una entrevista en sitio. Por favor sea específico en cuanto a los deberes que según su observación desempeñó el empleado. Quizás sea más fácil hacer estas observaciones antes de iniciar la entrevista. Por favor anote cualquier comentario que pueda ser de importancia. Por ejemplo, si el empleado entrevistado estaba trabajando con un equipo, ¿cuántos trabajadores tenía el equipo? ¿Se mostraba el empleado evasivo?

El nivel de precisión garantizado está directamente relacionado al grado que la(s) entrevista(s) u otras observaciones pueden indicar que existen posibles violaciones. Si las entrevistas indican que puede haber paga de salario insuficiente relacionado a algún particular oficio (s), se recomienda al entrevistador conducir entrevistas con tantos trabajadores en ese oficio(s) estén disponibles.

Líneas 16 – 17b: Inicialmente, la información en el formulario HUD-11 puede ser examinada para conformidad general. Por ejemplo, ¿está la clasificación de trabajo y el salario declarado por el empleado compatible con las clasificaciones y tasas de salario en la decisión de salario aplicable? ¿Concuerdan los deberes observados por el entrevistador con la clasificación de trabajo?

Una vez se reciben los informes de nómina certificados correspondientes, se hará una comparación de la información anotada en el formulario HUD-11 con los informes de nómina. Cualquier discrepancia entre la información del formulario HUD-11 y la del informe de nómina será anotada en la línea 16, Comentaríos. Si se hacen observaciones de discrepancias se deberán tomar pasos de seguimiento para resolver las discrepancias.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
FEDERAL LABOR STANDARDS QUESTIONNAIRE

HUD FORM 4730
OMB Approval Number 2501-0018
(Exp. 11/30/2016)

We are conducting a review of federal labor standards compliance on the project named below. We are asking for certain information regarding your employment on this project. Sending this questionnaire to you does not imply that your employer has violated any law.

Please respond to all of the questions listed below. Your responses will be considered confidential and will not be released to anyone without your permission. Your answers should refer only to the time during which you worked on this project. Please return the completed form as soon as possible, using the envelope provided, which needs no postage.

If you have any questions, please call:

Employer		Project name, number and location	
1. Your Name		2. Your Job title	
3. When did you work on this project? From: _____ To: _____		4. Where did you work (job site, shop, etc)?	
5. What duties did you perform on this project?			
6. What tools did you use (if any) to perform your duties on the project?			
7. How were you paid? (hourly wage, salary, piece work, etc.)		8. If your wage was based on piece work, how was your pay determined (i.e., \$ per board, per unit, etc.)?	
9. What was your hourly wage on this project? \$	10a. Did you receive fringe benefits? Yes <input type="checkbox"/> No <input type="checkbox"/>	10b. If yes, which fringe benefits did you receive? Vacation <input type="checkbox"/> Medical <input type="checkbox"/> Pension <input type="checkbox"/> Other <input type="checkbox"/> Specify:	
11. On average, how many hours did you work each week?	12. Did you ever work over 40 hours in a single week? Yes <input type="checkbox"/> No <input type="checkbox"/>	13. If you worked over 40 hours per week, did you receive overtime pay (at least 1½ times your regular rate of pay)? Yes <input type="checkbox"/> No <input type="checkbox"/>	14. If you did <u>not</u> receive overtime pay for overtime hours worked, identify the number of weeks in which overtime was worked and/or total overtime hours
15. Attach copies of check stubs or a record of your hours and pay received <input type="checkbox"/> CHECK IF ATTACHED		16. Attach any other comments or statements on separate sheet <input type="checkbox"/> CHECK IF ATTACHED	

HUD-4730 (06/2004) PREVIOUS EDITION IS OBSOLETE

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 Office of Labor Relations
 FEDERAL LABOR STANDARDS QUESTIONNAIRE

HUD FORM 4730
 OMB Approval Number 2501-0018
 (Exp. 11/30/2016)

17. Identify other employees (name, address, phone) who worked with you and who could confirm the type of work you performed

18. Identify employees (name, address, phone) you supervised

I affirm that the information provided herein is accurate to the best of my knowledge.

Employee Name (Please print clearly)	Home Phone Number (including area code)
Current address (Include apartment number, if any) (Street/City/State/Zip Code)	Alternate Phone Number(s) (including area code)
Permanent/Alternate Address (if current address is temporary)	Email address
Signature	Date

Disclosure Authorization

I authorize the HUD representative to disclose my name and the information I have submitted to the extent necessary to enforce my rights under the Acts administered by the U.S. Department of Housing and Urban Development.

Signature:	Date:
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Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered sensitive and will not be released without your approval. Provision of this is voluntary. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include contacting laborers and mechanics and requesting information about their employment on covered projects.

HUD-4730 (06/2004) PREVIOUS EDITION IS OBSOLETE

Estamos llevando a cabo una revisión del cumplimiento con los estándares federales de trabajo en el proyecto mencionado a continuación. Estamos solicitando cierta información concerniente a su empleo en este proyecto. El envío de este cuestionario no implica que su empleador haya violado alguna ley.

Por favor responda a todas las preguntas mencionadas abajo. Sus respuestas se considerarán confidenciales y no se revelarán a nadie sin su permiso. Sus respuestas se deben referir únicamente al tiempo durante el cual usted trabajó en este proyecto. Por favor devuelva el formulario debidamente llenado lo más pronto posible, usando el sobre proporcionado con franqueo pagado.

Si tiene preguntas, por favor llame:

Empleador		Nombre del proyecto, número y ubicación	
1. Su nombre		2. El título de su trabajo	
3. ¿Cuándo trabajó en este proyecto? Desde: Hasta:		4. ¿Dónde trabajó usted (lugar del trabajo, taller, etc.)?	
5. ¿Qué tareas desempeñó en este proyecto?			
6. ¿Qué herramientas usó (si usó alguna) para desempeñar sus tareas en el proyecto?			
7. ¿Cómo se le pagó? (salario por hora, sueldo, trabajo a destajo, etc.)		8. Si su salario era en base a trabajo a destajo, ¿cómo se determinó su pago (esto es, por tabla, por unidad, etc.)?	
9. ¿Cuál era su salario por hora en este proyecto? \$	10a. Recibió usted beneficios adicionales? Sí <input type="checkbox"/> No <input type="checkbox"/>	10b. Si la respuesta es sí, ¿Cuáles beneficios adicionales recibió? Vacaciones <input type="checkbox"/> Seguro médico <input type="checkbox"/> Jubilación <input type="checkbox"/> Otra <input type="checkbox"/> Especifique	
11. En promedio, ¿cuántas horas trabajó usted cada semana?	12. ¿Trabajó usted más de 40 horas en una sola semana? Sí <input type="checkbox"/> No <input type="checkbox"/>	13. Si usted trabajó más de 40 horas por semana, ¿recibió pago por horas extra (por lo menos 1½ veces su tarifa de pago regular)? Sí <input type="checkbox"/> No <input type="checkbox"/>	14. Si usted <u>no</u> recibió pago de sobre tiempo por las horas extra de trabajo, identifique el número de semanas que trabajó horas extra y/o las horas extra
15. Adjunte copias de los talones de cheques o planillas de sus horas y del pago recibido <input type="checkbox"/> MARQUE SI ESTÁN INCLUIDOS		16. Incluya cualquier otro comentario o declaración en una hoja separada <input type="checkbox"/> MARQUE SI ESTÁN INCLUIDOS	

CUESTIONARIO DE ESTÁNDARES FEDERALES DE TRABAJO

17. Identifique a otros empleados (nombre, dirección, teléfono) que trabajaron con usted y que podrían confirmar el trabajo que usted desempeñó

18. Identifique a los empleados (nombre, dirección, teléfono) que usted supervisó

Afirmo que la información proporcionada aquí es exacta a mi mejor conocimiento.

Nombre del empleado (Por favor escriba claramente en letra de molde)	Número de teléfono de su domicilio (incluya el código de área)
Dirección actual (Incluya el número de apartamento, si se aplica (Calle/Ciudad/Estado/Código Postal)	Número(s) de teléfono alternativos(s) (incluya el código de área)
Dirección permanente/alternativa (si la dirección actual es temporal)	Dirección de correo electrónico
Firma	Fecha

Autorización de Revelación

Autorizo al representante de HUD revelar mi nombre y la información que he presentado, en la medida necesaria para hacer valer mis derechos bajo las Leyes administradas por el Departamento de Vivienda y Desarrollo Urbano de los EE.UU.

Firma:	Fecha:
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La responsabilidad de informar al público para esta recopilación de información se estima a un promedio de 30 minutos por respuesta, incluyendo el tiempo para revisar las instrucciones, buscar las fuentes de datos existentes, recopilar y mantener los datos necesarios, así como completar y revisar la información recopilada. La información se considera confidencial y no se revelará sin su aprobación. El proporcionarla es voluntario. Esta agencia no puede recopilar información y usted no está obligado a llenar este formulario, a menos que se muestre un número de control actual válido de la Oficina de Administración y Presupuesto (OMB).

HUD y las agencias locales que administran los programas asistidos por HUD deben hacer cumplir los requisitos federales de información y salario en los trabajos de construcción y mantenimiento cubiertos, asistidos por HUD. Las actividades de cumplimiento incluyen contratar obreros y mecánicos y solicitar información sobre sus empleos en proyectos cubiertos.

Many construction projects assisted by the Department of Housing and Urban Development (HUD) are covered by federal labor standards. These standards include the payment of prevailing wage rates as determined by the Secretary of Labor, otherwise known as Davis-Bacon wage rates. In addition, many projects are covered by overtime rules that require the payment of one and one-half times the regular rate of pay for hours worked over 40 in a workweek. Construction workers who are paid less than prevailing wages for the work they perform or who do not receive time and one-half for overtime hours worked may be entitled to wage restitution (back wages). Also, maintenance workers employed at many public and Indian housing projects are covered by prevailing wage rates determined by HUD. Maintenance workers that do not receive prevailing wages or, in some cases, overtime pay, may also be entitled to wage restitution.

If you think that you may not have been paid correctly for construction or maintenance work that you performed on a HUD-assisted project, you can complete this questionnaire and submit it to HUD electronically by clicking on the "Submit" button at the end of the form. Or you can print your completed form and mail it to HUD at the following address:

U.S. Department of HUD
 Office of Labor Relations
 451 7th Street, SW, Room 2102
 Washington, DC 20410

We will review the information you provide and will let you know if you have been underpaid and, if so, we will work to ensure that you receive any additional wages that you may have earned. Please note that if we believe you have been underpaid, we will probably need to contact you for more information.

Please respond to all of the questions listed below. Your responses will be considered confidential and will not be released to anyone without your permission. Your answers should refer only to the time during which you worked on the HUD-assisted project.

If you have any questions, please contact a HUD Labor Relations Specialist. A list of contact names, addresses, telephone numbers, email addresses and the geographic areas they cover can be found at: www.hud.gov/offices/olr

Employer	Project name, number and location
1. Your Name	2. Your Job title
3. When did you work on this project? From: To:	4. Where did you work (job site, shop, etc.)?
5. What duties did you perform on this project?	
6. What tools (if any) did you use to perform your duties on the project?	
7. How was your wage determined? (hourly wage, salary, piece work, etc.)	8. If your wage was based on piece work, describe how pay was determined (i.e., \$ per board, per unit, etc.)?

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
ON-LINE EMPLOYEE QUESTIONNAIRE

HUD FORM 4730E
OMB Approval No. 2501-0018
(Exp. 09/30/2013)

9a. What was your hourly wage rate on the project? \$		10a. Did you receive fringe benefits? Yes <input type="checkbox"/> No <input type="checkbox"/>		10b. If yes, which fringe benefits? Vacation <input type="checkbox"/> Medical <input type="checkbox"/> Pension <input type="checkbox"/> Specify: Other	
9b. If you know, what was the required prevailing wage for this project? \$					
11. On average, how many hours did you work each week?	12. Did you ever work over 40 hours in a single week? Yes <input type="checkbox"/> No <input type="checkbox"/>	13. If you worked over 40 hours per week, did you receive overtime pay (1½ times your regular rate of pay)? Yes <input type="checkbox"/> No <input type="checkbox"/>	14. If you did not receive overtime pay for overtime hours worked, identify the number of weeks in which overtime was worked and/or total overtime hours		
15. Identify other employees (name, address, phone) who worked with you and who could confirm the type of work you performed					
16. Identify employees (name, address, phone) you supervised					
How may we contact you?					
Current address (Include apartment number, if any) (Street/City/State/Zip Code)			Home Phone Number (including area code)		
Permanent/Alternate Address (if current address is temporary)			Alternate Phone Number(s) (including area code)		
Email address			Cell Phone		
			Date		

Disclosure Authorization

I authorize the HUD representative to disclose my name and the information I have submitted to the extent necessary to enforce my rights under the Acts administered by the U.S. Department of Housing and Urban Development.

Yes No

SUBMIT

PRINT

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered sensitive and will not be released without your approval. Provision of this information is voluntary. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include contacting laborers and mechanics and requesting information about their employment on covered projects.

HUD-4730E (6/2004) PREVIOUS EDITION IS OBSOLETE

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 Office of Labor Relations
 FEDERAL LABOR STANDARDS COMPLAINT INTAKE FORM

HUD FORM
4731
 OMB Approval No. 2501-0018
 (Exp. 08/31/2010)

Name of complainant	Social Security Number
Current address of complainant (Street/City/State/Zip Code)	Permanent address, if different from current address
Telephone (including area code) (Home/Cell/Other)	E-Mail address
Project name, location and contract/project number	Prime contractor company name
Employer (company) name	Employer: name of owner/responsible party
Employer address	Employer: contact information (Telephone/Cell/Other)

Check one: Current employee
 Former employee
 Other (specify)

Period employed on the project
 From: _____ To: _____

Occupation/job title:

Duties performed (be specific)

Tools used and/or equipment operated

Wage Rate: \$ _____ per Hour Day Week Piece Other (specify): _____

Hours usually worked on the project

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

Usual start and stop times

Start work time: _____

End work time: _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
 Office of Labor Relations
 FEDERAL LABOR STANDARDS COMPLAINT INTAKE FORM

HUD FORM
4731
 OMB Approval No. 2501-0018
 (Exp. 08/31/2010)

Name of complainant	Social Security Number
---------------------	------------------------

	No			Yes No	
Were meal breaks taken? If yes, how long were the breaks? _____	<input type="checkbox"/>	<input type="checkbox"/>	Did the employer keep time records?	<input type="checkbox"/>	<input type="checkbox"/>
Paid Overtime (time and ½) after 40 hours?	<input type="checkbox"/>	<input type="checkbox"/>	Did the complainant keep time records?	<input type="checkbox"/>	<input type="checkbox"/>
Paid for all hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	Does complainant have other personal records (pay stubs, log books, etc.) he/she can provide?	<input type="checkbox"/>	<input type="checkbox"/>
Was/is the complainant an Apprentice?	<input type="checkbox"/>	<input type="checkbox"/>	Were fringe benefits paid?	<input type="checkbox"/>	<input type="checkbox"/>

If fringe benefits were paid, check all that apply:

- Cash in lieu of fringe benefits
 Life insurance
 Pension
 Health insurance
 Dental insurance
 Holiday/Sick/Vacation

Identify other fringe benefits paid

Names of others affected by the alleged violation(s)

Names of others who can verify/attest to the complainant's allegations

- Continuation sheets attached
 Complainant's personal interview attached

Complaint taken by:

Name (print clearly)	Phone number (including area code) and E-mail address
Title	Agency, office
Signature	Date

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered sensitive and will not be released without your approval. Provision of this information is voluntary. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number. HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include collecting information from laborers and mechanics and other interested parties regarding information about their employment on covered projects.

JOB SITE POSTERS

Actual job site posters will be sent to you along with the wage determination, payroll forms and other labor materials. These copies are provided only for your reference.

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

1-866-4-USWAGE
(1-866-487-9243) TTY: 1-877-889-5627



WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division

WH 1321 (Revised April 2009)

Job Safety and Health

It's the law!



EMPLOYEES:

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in that inspection.
- You can file a complaint with OSHA within 30 days of retaliation or discrimination by your employer for making safety and health complaints or for exercising your rights under the *OSH Act*.
- You have the right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violations.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records and records of your exposures to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.
- You must comply with all occupational safety and health standards issued under the *OSH Act* that apply to your own actions and conduct on the job.

EMPLOYERS:

- You must furnish your employees a place of employment free from recognized hazards.
- You must comply with the occupational safety and health standards issued under the *OSH Act*.

This free poster available from OSHA –
The Best Resource for Safety and Health



Free assistance in identifying and correcting hazards or complying with standards is available to employers, without citation or penalty, through OSHA-supported consultation programs in each state.

1-800-321-OSHA (6742)
www.osha.gov

OSHA 3165-02 2012R



Seguridad y Salud en el Trabajo

¡Es la Ley!



Administración de Seguridad y Salud Ocupacional

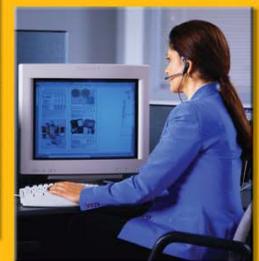
Departamento de Trabajo de los EE. UU.

EMPLEADOS:

- Usted tiene el derecho de notificar a su empleador o a la OSHA sobre peligros en el lugar de trabajo. Usted también puede pedir que la OSHA no revele su nombre.
- Usted tiene el derecho de pedir a la OSHA que realice una inspección si usted piensa que en su trabajo existen condiciones peligrosas o poco saludables. Usted o su representante pueden participar en esa inspección.
- Usted tiene 30 días para presentar una queja ante la OSHA si su empleador llega a tomar represalias o discriminar en su contra por haber denunciado la condición de seguridad o salud o por ejercer los derechos consagrados bajo la Ley OSH.
- Usted tiene el derecho de ver las citaciones enviadas por la OSHA a su empleador. Su empleador debe colocar las citaciones en el lugar donde se encontraron las supuestas infracciones o cerca del mismo.
- Su empleador debe corregir los peligros en el lugar de trabajo para la fecha indicada en la citación y debe certificar que dichos peligros se hayan reducido o desaparecido.
- Usted tiene derecho de recibir copias de su historial o registro médico y el registro de su exposición a sustancias o condiciones tóxicas o dañinas.
- Su empleador debe colocar este aviso en su lugar de trabajo.
- Usted debe cumplir con todas las normas de seguridad y salud ocupacionales expedidas conforme a la Ley OSH que sean aplicables a sus propias acciones y conducta en el trabajo.

EMPLEADORES:

- Usted debe proporcionar a sus empleados un lugar de empleo libre de peligros conocidos.
- Usted debe cumplir con las normas de seguridad y salud ocupacionales expedidas conforme a la Ley OSH.



Los empleadores pueden obtener ayuda gratis para identificar y corregir las fuentes de peligro y para cumplir con las normas, sin citación ni multa, por medio de programas de consulta respaldados por la OSHA en cada estado del país.

1-800-321-OSHA (6742)

www.osha.gov

OSHA 3167-01-07R



OFCCP Equal Employment Opportunity Posters

Every employer covered by the non-discrimination and EEO laws is required to post on its premises the poster, "**Equal Employment Opportunity is the Law.**" The notice must be posted prominently, where it can be readily seen by employees and applicants for employment. The notice provides information concerning the laws and procedures for filing complaints of violations of the laws with the Office of Federal Contract Compliance Programs (OFCCP).

The following posters can be downloaded from the U.S. Department of Labor website:

EEO Is The Law (English)- <http://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf>

EEO Is The Law (Spanish)- <http://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeosp.pdf>



**EQUAL HOUSING
OPPORTUNITY**

**We Do Business in Accordance With the Federal Fair
Housing Law**

(The Fair Housing Amendments Act of 1988)

**It is Illegal to Discriminate Against Any Person
Because of Race, Color, Religion, Sex,
Handicap, Familial Status, or National Origin**

In the sale or rental of housing or
residential lots

In the provision of real estate
brokerage services

In advertising the sale or rental
of housing

In the appraisal of housing

In the financing of housing

Blockbusting is also illegal

Anyone who feels he or she has been
discriminated against may file a complaint of
housing discrimination:

1-800-669-9777 (Toll Free)

1-800-927-9275 (TTY)

www.hud.gov/fairhousing

U.S. Department of Housing and
Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410



IGUALDAD DE OPORTUNIDAD EN LA VIVIENDA

Conducimos nuestros negocios de acuerdo a la Ley Federal de Vivienda Justa

(Acta de enmiendas de 1988 de la Ley Federal de Vivienda Justa)

Es ilegal discriminar contra cualquier persona por razon de su raza, color, religion, sexo, incapacidad fisica o mental, la presencia de niños menores de 18 años o de mujer embarazada en su familia o su origen nacional

- En la venta o renta de vivienda y terrenos residenciales
 - En los anuncios de venta o renta de vivienda
 - En la financiamiento de vivienda
 - Amenazar o interferir con la persona para que no registre su queja
- En los servicios de corretaje que prestan vendedores de vivienda
 - En la valoracion de vivienda
 - Tambien es ilegal forzarle a vender o rentar su vivienda diciendole que gente de otra raza, religion o grupo etnico se estan mudando en su vecindario

Cualquier persona que sienta que fue discriminada debe de enviar su queja de discriminacion:

1-800-669-9777 (llamada gratis)
1-800-927-9275 (TDD llamada gratis)

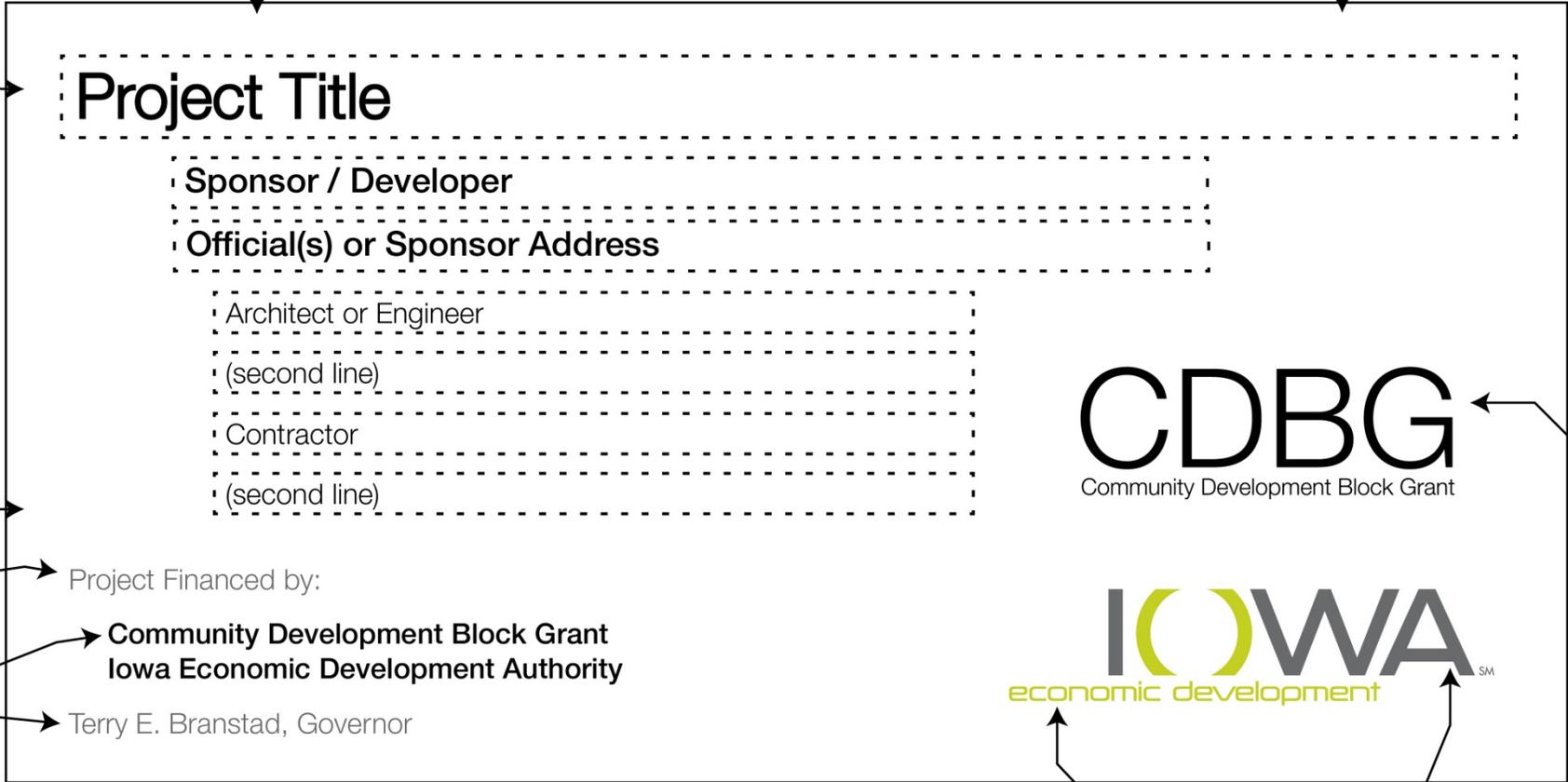
U.S.Department of Housing
and Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410

Previous editions are obsolete

form HUD-928.1A (2/2003)

Project Construction Sign: Specifications

White Background



Black Lettering

Black

Pantone 7540
(CMYK: 0/0/0/72)

Black Lettering

economic development

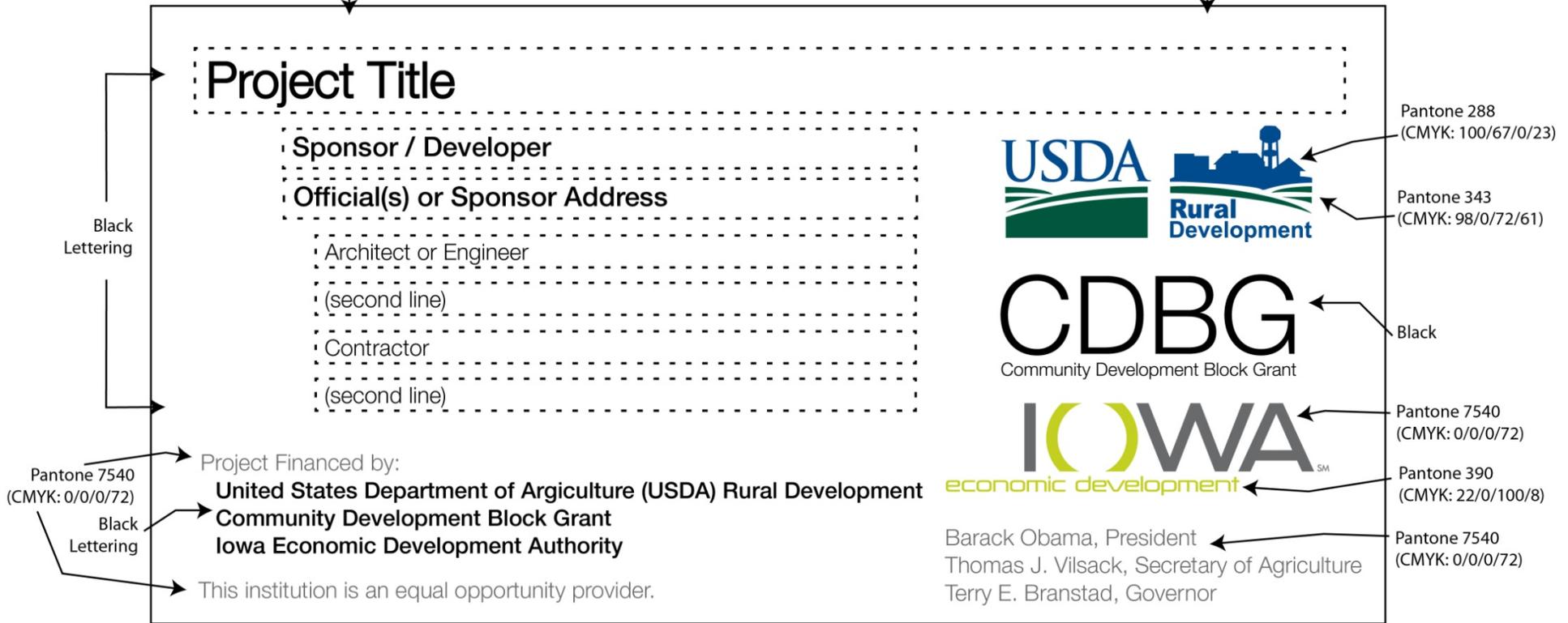
Pantone 390
(CMYK: 22/0/100/8)

Pantone 7540
(CMYK: 0/0/0/72)

Sign Dimensions: 1200mm x 2400mm (approx. 4'x8'x3/4")
Plywood Panel (APA Rated A-B Grade - Exterior)

Temporary Construction Sign for Jointly-Funded Projects

White Background



Sign Dimensions: 1200mm x 2400mm (approx. 4'x8'x3/4")
Plywood Panel (APA Rated A-B Grade - Exterior)

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A.1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii)(a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1)The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2)The classification is utilized in the area by the construction industry; and

(3)The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b)If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives,

and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c)In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d)The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii)Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv)If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor

the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD

or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of

probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under

the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any

trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of... influencing in any way the action of such Administration... makes, utters or publishes any statement

knowing the same to be false... shall be fined not more than \$5,000 or imprisoned not more than two years, or both.”

11. Complaints, Proceedings, or Testimony by Employees.

No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms “laborers” and “mechanics” include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages.

In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages.

HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

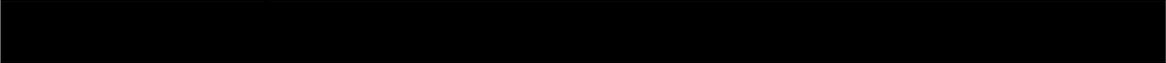
C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Required Contract Provisions



REQUIRED CONTRACT LANGUAGE

All project contracts shall contain at a minimum the following provisions, as appropriate.

ALL CONTRACTS

1. Access and Maintenance of Records

The contractor must maintain all required records for five years after final payments are made and all other pending matters are closed.

At any time during normal business hours and as frequently as is deemed necessary, the contractor shall make available to the Iowa Economic Development Authority, the State Auditor, the General Accounting Office, and the Department of Housing and Urban Development, for their examination, all of its records pertaining to all matters covered by this contract and permit these agencies to audit, examine, make excerpts or transcripts from such records, contract, invoices, payrolls, personnel records, conditions of employment, and all other matters covered by this contract.

2. Civil Rights

The Contractor must comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (P.L. 88-352).
States that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color, or national origin.
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended.
- Iowa Civil Rights Act of 1965.
This Act mirrors the Federal Civil Rights Act.
- Section 109 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309).
Provides that no person shall be excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of race, color, national origin, sex, age, or handicap under any program or activity funded in part or in whole under Title I of the Act.
- The Age Discrimination Act of 1975, as amended (42 U.S.C. 1601 et seq.)
Provides that no person on the basis of age, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- Section 504 of the Rehabilitation Act of 1973, as amended (P.L. 93-112, 29 U.S.C. 794).
Provides that no otherwise qualified individual shall solely by reason of his/her handicap be excluded from participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance.
- Americans with Disabilities Act (P.L. 101-336, 42 U.S.C. 12101-12213)
Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

- Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u). *Provides to the greatest extent feasible, that training and employment opportunities be made available to lower-income residents of project areas and that contracts be awarded to small businesses located within the project area or owned in substantial part by project area residents.*
- Federal Executive Order 11246, as amended by Executive Order 11375. *Provides that no one be discriminated in employment.*
- Federal Executive Order 11063, as amended by Executive Order 12259.

3. Termination Clause

All contracts utilizing CDBG funds must contain a termination clause that specifies the following:

- Under what conditions the clause may be imposed.
- The form the termination notice must take (e.g., certified letter).
- The time frame required between the notice of termination and its effective date.
- The method used to compute the final payment(s) to the contractor.

4. Certification regarding government-wide restriction on lobbying.

All contracts utilizing CDBG funds must contain the following certification concerning restriction of lobbying:

"The Recipient certifies, to the best of his or her knowledge and belief, that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee, or an employee of a Member of congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Federal Lobbying" in accordance with its instruction.
- The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure."

5. Lead-Safe Housing Regulations (As applicable)

24 CFR Part 35 et. al.

Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Properties and Housing Receiving Federal Assistance, Final Rule

6. Standards and Policies Relating to Energy Efficiency

Pub. L. 94-163, 89 Stat. 871

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

7. Notice of Awarding Agency Requirements and Regulations Pertaining to Reporting

The Contractor must provide information as necessary and as requested by the Iowa Economic Development Authority for the purpose of fulfilling all reporting requirements related to the CDBG program.

ALL CONTRACTS IN EXCESS OF \$10,000

In addition to the preceding provisions, all contracts in excess of \$10,000 must include the following language, pursuant to Federal Executive Orders 11246 and 11375:

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of the Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so

that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ALL CONTRACTS IN EXCESS OF \$100,000

In addition to the preceding provisions, contracts in excess of \$100,000 shall require compliance with the following laws and regulations:

Section 306 of the Clean Air Acts (42 U.S.C. 1857(h)).

Section 508 of the Clean Water Act (33 U.S.C. 1368).

Executive Order 11738.

EPA Regulations - 40 CFR, Part 15.

Clean Air and Water Acts - required clauses:

This clause is required in all third party contracts involving projects subject to the Clean Air Act (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations of the Environmental Protection Agency with respect to 40 CFR Part 15, as amended. It should also be mentioned in the bid document.

During the performance of this contract, the CONTRACTOR agrees as follows:

- (1) The CONTRACTOR will certify that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the Excluded Party Listing System pursuant to 40 CFR 32.
- (2) The CONTRACTOR agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- (3) The CONTRACTOR agrees that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the Excluded Party Listing System.
- (4) The CONTRACTOR agrees that it will include or cause to be included the criteria and requirements in Paragraph (1) through (4) of this section in every nonexempt subcontract and require every subcontractor to take such action as the Government may direct as a means of enforcing such provisions.

ALL CONSTRUCTION CONTRACTS IN EXCESS OF \$2,000

In addition to the preceding provisions, all construction contracts in excess of \$2,000 must include the Federal Labor Standards Provisions (verbatim) found in Appendix 2 under Required Contract Provisions. (Housing rehabilitation contracts of less than 8 units are excluded from this requirement.)

HOUSING AND URBAN DEVELOPMENT ACT OF 1968
SAMPLE SECTION 3 CLAUSE

A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Section 3, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding if any, a notice advising said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this Section 3 clause in every subcontract; for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the Subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Section 3. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Section 3 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Section 3, and all applicable rules and orders of the Department issued there under prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through Federal assistance is provided, and to such sanctions as are specified by 24 CFR Section 135.135.

Acquisition



WHEN A PUBLIC AGENCY ACQUIRES YOUR PROPERTY

**U.S. Department of Housing
And Urban Development**
Office of Community Planning and Development

www.hud.gov/relocation

Introduction

This booklet describes important features of the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, as amended (URA) and provides general information about public acquisition of real property (real estate) that should be useful to you.

Most acquisitions of real property by a public agency for a Federal project or a project in which Federal funds are used are covered by the URA. If you are notified that your property will be acquired for such a project, it is important that you learn your rights under this important law.

This booklet may not answer all of your questions. If you have more questions about the acquisition of your property, contact the Agency responsible for the project. (Check the back of this booklet for the name of the person to contact at the Agency.) Ask your questions before you sell your property. Afterwards, it may be too late.

General Questions

What Right Has Any Public Agency To Acquire My Property?

The Federal Government and every State government have certain powers which are necessary for them to operate effectively. For example, they have the power to levy taxes and the power to maintain order. Another government power is the power to acquire private property for public purposes. This is known as the power of eminent domain.

The rights of each of us are protected, however, by the Fifth and Fourteenth Amendments of the U.S. Constitution and by State constitutions and eminent domain laws which guarantee that if a public agency takes private property it must pay "just compensation" to the owner. The URA provides additional protections, as explained in this booklet.

Who Made The Decision To Buy My Property?

The decision to acquire a property for a public project usually involves many persons and many determinations. The final determination to proceed with the project is made only after a thorough review which may include public hearings to obtain the views of interested citizens.

If you have any questions about the project or the selection of your property for acquisition, you should ask a representative of the Agency which is responsible for the project.

How Will The Agency Determine How Much To Offer Me For My Property?

Before making you an offer, the Agency will obtain at least one appraisal of your property by a competent real property appraiser who is familiar with local property values. The appraiser will inspect your property and prepare a report that includes his or her professional opinion of its current fair market value. After the appraiser has completed his work, a review appraiser will examine the appraisal report to assure that the estimate is fair and the work conforms with professional appraisal standards.

The Agency must offer you "just compensation" for your property. This amount cannot be less than the appraised fair market value of the property. "Just compensation" for your property does not take into account your relocation needs. If you are eligible for relocation assistance, it will be additional.

What Is Fair Market Value?

Fair market value is sometimes defined as that amount of money which would probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy. In some areas a different term or definition may be used.

The fair market value of a property is generally considered to be "just compensation." Fair market value does not take into account intangible elements such as sentimental value, good will, business profits, or any special value that your property may have for you or for the Agency.

How Does An Appraiser Determine The Fair Market Value Of My Property?

Each parcel of real property is different and therefore no single formula can be devised to appraise all properties. Among the factors an appraiser typically considers in estimating the value of real property are:

- How it compares with similar properties in the area that have been sold recently.
- How much rental income it could produce.
- How much it would cost to reproduce the buildings and other structures, less any depreciation.

Will I Have A Chance To Talk To The Appraiser?

Yes. You will be contacted and given the opportunity to accompany the appraiser on his or her inspection of your property. You may then inform the appraiser of any special features which you believe may add to the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to insure that nothing of allowable value will be overlooked. If you are unable to meet with the appraiser, you may wish to have a person who is familiar with your property represent you.

How Soon Will I Receive A Written Purchase Offer?

Generally, this will depend on the amount of work required to appraise your property. In the case of a typical single-family house, it is usually possible to make a written purchase offer within 45 to 60 days of the date an appraiser is selected to appraise the property.

Promptly after the appraisal has been reviewed (and any necessary corrections obtained), the Agency will determine just compensation and give you a written purchase offer in that amount along with a "summary statement," explaining the basis for the offer. No negotiations are to take place before you receive the written purchase offer and summary statement.

What Is In The Summary Statement Of The Basis For The Offer Of Just Compensation?

The summary statement of the basis for the offer of just compensation will include:

- An accurate description of the property and the interest in the property to be acquired.
- A statement of the amount offered as just compensation. (If only part of the property is to be acquired, the compensation for the part to be acquired and the compensation for damages, if any, to the remaining part will be separately stated.)
- A list of the buildings and other improvements covered by the offer. (If there is a separately held interest in the property not owned by you and not covered by the offer (e.g., a tenant-owned improvement), it will be so identified.)

Must I Accept The Agency's Offer?

No. You are entitled to present your evidence as to the amount you believe is the fair market value of your property and to make suggestions for changing the terms and conditions of the offer. The Agency will consider your evidence and suggestions. When fully justified by the available evidence of value, the offer price will be increased.

May Someone Represent Me During Negotiations?

Yes. If you would like an attorney or anyone else to represent you during negotiations, please inform the Agency. However, the URA does not require the Agency to pay the costs of such representation.

If I Reach Agreement With The Agency, How Soon Will I Be Paid?

If you reach a satisfactory agreement to sell your property and your ownership (title to the property) is clear, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after you sign a purchase contract. If the title evidence obtained by the Agency indicates that further action is necessary to show that your ownership is clear, you may be able to hasten the payment by helping the Agency obtain the necessary proof. (Title evidence is basically a legal record of the ownership of the property. It identifies the owners of record and lists the restrictive deed covenants and recorded mortgages, liens, and other instruments affecting your ownership of the property.)

What Happens If I Don't Agree To The Agency's Purchase Offer?

If you are unable to reach an agreement through negotiations, the Agency may file a suit in court to acquire your property through an eminent domain proceeding. Eminent domain proceedings are often called condemnations. If your property is to be acquired by condemnation, the Agency will file the condemnation suit without unreasonable delay.

An Agency may also decide not to buy your property, if it cannot reach agreement on a price, and find another property to buy instead.

What Happens After The Agency Condemns My Property?

You will be notified of the action. Condemnation procedures vary, and the Agency will explain the procedures which apply in your case.

Generally, when an Agency files a condemnation suit, it must deposit with the court (or in an escrow account) an amount not less than its appraisal of the fair market value of the property. You should be able to withdraw this amount, less any amounts necessary to pay off any mortgage or other liens on the property and to resolve any special ownership problems. Withdrawal of your share of the money will not affect your right to seek additional compensation for your property.

During the condemnation proceeding, you will be provided an opportunity to introduce your evidence as to the value of your property. Of course, the Agency will have the same right. After hearing the evidence of all parties, the court will determine the amount of just compensation. If that amount exceeds the amount deposited by the Agency, you will be paid the difference, plus any interest that may be provided by law.

To help you in presenting your case in a condemnation proceeding, you may wish to employ an attorney and an appraiser. However, in most cases the costs of these professional services and other costs which an owner incurs in presenting his or her case to the court must be paid by the owner.

What Can I Do If I Am Not Satisfied With The Court's Determination?

If you are not satisfied with the court judgment, you may file an appeal with the appropriate appellate court for the area in which your property is located. If you are considering an appeal, you should check on the applicable time limit for filing the appeal and consult with your attorney on whether you have a basis for the appeal. The Agency may also file an appeal if it believes the amount of the judgment is too high.

Will I Have To Pay Any Closing Costs?

You will be responsible for the payment of the balance on any mortgage and other liens on your property. Also, if your ownership is not clear, you may have to pay the cost of clearing it. But the Agency is responsible for all reasonable and necessary costs for:

- Typical legal and other services required to complete the sale, recording fees, revenue stamps, transfer taxes and any similar expenses which are incidental to transferring ownership to the Agency.
- Penalty costs and other charges related to prepayment of any recorded mortgage on the property that was entered into in good faith.
- Real property taxes covering the period beginning on the date the Agency acquires your property.

Whenever possible, the Agency will make arrangements to pay these costs directly. If you must incur any of these expenses yourself, you will be repaid--usually at the time of closing. If you later discover other costs for which you should be repaid, you should request repayment from the Agency immediately. The Agency will assist you in filing a claim. Finally, if you believe that you were not properly repaid, you may appeal the decision to the Agency.

May I Keep Any Of The Buildings Or Other Improvements On My Property?

Very often, many or all of the improvements on the property are not required by the Agency. This might include such items as a fireplace mantel, your favorite shrubbery, or even an entire house. If you wish to keep any improvements, please let the Agency know as soon as possible.

If you do arrange to keep any improvement, the Agency will deduct only its salvage value from the purchase price you would otherwise receive. (The salvage value of an item is its probable selling price if offered for sale on the condition that the buyer will remove it at his or her own expense.) Of course, if you arrange to keep any real property improvement, you will not be eligible to receive a relocation payment for the cost of moving it to a new location.

Can The Agency Take Only A Part Of My Property?

Yes. But if the purchase of only a part of your property reduces the value of the remaining part(s), you will be paid for the loss in value. Also, if any remaining part would have little or no utility or value to you, the Agency will offer to buy that remaining part from you.

Occasionally, a public project will increase the value of the part which is not acquired by the Agency. Under some eminent domain laws, the amount of such increase in value is deducted from the purchase payment the owner would otherwise receive.

Will I Have To Pay Rent To The Agency After My Property Is Acquired?

If you remain on the property after the acquisition, you may be required to pay a fair rent to the Agency. Such rent will not exceed that charged for the use of comparable properties in the area.

How Soon Must I Move?

If possible, a mutually agreeable date for the move will be worked out. Unless there is an urgent need for your property (e.g., your occupancy would present a health or safety emergency), you will not be required to move without at least 90 days advance written notice.

If you reach a voluntary agreement to sell your property, you will not be required to move before you receive the agreed purchase price. If the property is acquired by condemnation, you cannot be required to move before the estimated fair market value of the property has been deposited with the court so that you can withdraw your share.

If you are being displaced from your home, you will not be required to move before a comparable replacement home is available to you.

Will I Receive Relocation Assistance?

Title II of the URA requires that certain relocation payments and other assistance must be provided to families, individuals, businesses, farms, and nonprofit organizations when they are displaced or their personal property must be moved as a result of a project that is covered by the URA.

The Agency will furnish you a full explanation of any relocation assistance to which you may be entitled. If you have any questions about such assistance, please contact the Agency. In order for the Agency to fulfill its relocation obligations to you, you must keep the Agency informed of your plans.

My Property Is Worth More Now. Must I Pay Capital Gains Tax On The Increase?

Internal Revenue Service (IRS) Publication 544 explains how the Federal income tax would apply to a gain or loss resulting from the sale or condemnation of real property, or its sale under the threat of condemnation, for public purposes. If you have any questions about the IRS rules, you should discuss your particular circumstances with your personal tax advisor or your local IRS office.

I'm A Veteran. How About My VA Loan?

After your VA home mortgage loan has been repaid, you will be permitted to obtain another VA loan to purchase another property. Check on such arrangements with your nearest Veterans Administration Office.

Is It Possible To Donate Property?

Yes. You may donate your property or sell it to the Agency for less than its fair market value. The Agency must obtain an appraisal of the property and offer just compensation for it, unless you release the Agency from these obligations.

Additional Information

If you have any questions after reading this booklet, contact the Agency and discuss your concerns with the Agency representative.

Agency:

Address:

Office Hours:

Telephone Number:

Person to Contact:

GENERAL URA ACQUISITION PROCESS

(Refer to 49 CFR 24 Subpart B for detailed acquisition requirements)

49 CFR 24.101(b)(1)-(5)	49 CFR 24.101(a) & (b)
<i>Determine if proposed acquisition satisfies criteria and requirements of 24.101(b)(1)-(5). If acquisition does not meet criteria (e.g., is subject to threat or use of eminent domain), refer to involuntary acquisition process and comply with 49 CFR 24 Subpart B requirements.</i>	<i>Determine if proposed acquisition is subject to threat or use of eminent domain. If not subject to eminent domain, refer to voluntary acquisition process and comply with applicable requirements of 49 CFR 24.101(b)(1)-(5). Involuntary Process</i>
24.101(b)(1) - Agencies with eminent domain authority but will not use: must meet all conditions of 24.101(b)(1)(i) – (iv). (see esp. 24.101(b)(1)(i) & (ii))	* Notify owner of agency's interest in acquiring property and protections under the Uniform Act (see 24.102(b)) (Optional: issue Notice of Intent to Acquire (see 24.203(d)))
* Agency will not acquire property if negotiations fail, and owner is so informed in writing (see 24.101(b)(1)(iii))	* Appraise property and invite owner to accompany appraiser (see 24.102(c))
* Agency informs owner in writing of property's estimated market value (see 24.101(b)(iv))	* Review the appraisal (see 24.104)
* Owner/s & owner occupants not eligible for relocation assistance / displaced tenants may be eligible (see 24.2(a)(9)(ii))	* Establish estimate of just compensation for property (see 24.102(d))
24.101(b)(2) – Agencies or persons without eminent domain authority:	* Provide owner with written offer and summary statement for property (see 24.102(e))
* Prior to offer, inform owner unable to acquire if negotiations fail (see 24.101(b)(2)(i))	* Negotiate with owner for purchase of property (see 24.102(f))
* Inform owner of property's estimated market value (see 24.101(b)(2)(ii))	* If negotiations successful, complete sale and reimburse property owner for related incidental expenses (see 24.106)
* Owner/s & owner occupants not eligible for relocation assistance / displaced tenants are eligible (see 24.2(a)(9)(ii))	* If negotiations unsuccessful, consider an administrative settlement (see 24.102(i))
24.101(b)(3) – Acquisition from a Federal agency, State, or State agency, if acquiring agency without eminent domain authority:	* If negotiations still unsuccessful, consider acquiring property through eminent domain.
* Owner/s & owner occupants not eligible for relocation assistance / displaced tenants are eligible (see 24.2(a)(9)(ii))	* Displaced persons eligible for relocation assistance (see 24.2(a)(9)(i))

Helpful Acquisition Information

Appraisal Standards: Appraisals conducted for the acquisition of property for federal funded projects must follow nationally recognized appraisal standards, including the Uniform Appraisal Standards for Federal Land Acquisition. These standards can be found at www.usdoj.gov/enrd/land-ack. At a minimum a detailed appraisal shall contain the following items:

1. The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.
2. An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.
3. All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the Agency, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.
4. A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
5. A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.
6. The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

Summary Statement of the Basis of Just Compensation: Along with the written purchase offer, a statement of just compensation shall be sent to the property owner. This written explanation of the purchase offer shall include:

1. A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.
2. A description and location identification of the real property and the interest in the real property to be acquired.
3. An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.

Expenses Paid by the Recipient to Transfer the Title: Whenever feasible, the Agency shall pay costs associated with transfer of title directly so that the owner will not have to pay such costs and then seek reimbursement. The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

1. Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property; and
2. Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and the pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

GUIDEFORM NOTICE TO OWNER
- INVOLUNTARY ACQUISITION -
(Threat/Use Of Eminent Domain)

Grantee or Agency Letterhead

(date)

Dear _____:

(City, County, State, Tribe, other) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

The purpose of this notice is to inform you of your rights under a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). Enclosed is a HUD brochure entitled "When A Public Agency Acquires Your Property". This brochure provides useful information about the public acquisition of real property (real estate) under the URA. At this stage, your property is only under consideration for acquisition. This notice is not a contractual offer or commitment to purchase your property.

If your property is selected for acquisition, under the URA, you will have the right to receive just compensation for your property. In order to determine the amount of just compensation to be offered to you, an appraisal of your property would be required. In such a case, an appraiser will contact you to provide you an opportunity to accompany him or her on the inspection of your property. It would be in your best interest to accompany the appraiser during the property inspection so that you can point out any unique features of your property which should be considered in the valuation process and so that you can also answer any questions the appraiser may have.

For your information, (City, County, State, Tribe, other) _____ possesses eminent domain authority to acquire the property needed for this project, however, our goal is to attempt to negotiate amicable agreements for all property acquisitions prior to its use. If negotiations fail, acquisition under eminent domain may be considered.

If you have any questions about this notice or the proposed project, please contact (name) _____, (title) _____, (address) _____, (phone) _____.

Sincerely,
(name and title) _____

Enclosure

NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.
2. This is a guideform. It should be revised to reflect the circumstances.

GUIDEFORM
- VOLUNTARY ACQUISITION –
Informational Notice
(Agencies Without Eminent Domain Authority)

Grantee or Agency Letterhead

(date)

Dear _____:

(Name of Agency/Person) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD).

Please be advised that (Name of Agency/Person) _____ does not have authority to acquire your property by eminent domain. In the event we cannot reach an amicable agreement for the purchase of your property, we will not pursue this proposed acquisition.

We are prepared to offer you (\$) _____ to purchase your property. We believe this amount represents the current market value of your property. Please contact us at your convenience if you are interested in selling your property.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance.

If you have any questions about this notice or the proposed project, please contact (name) _____, (title) _____, (address) _____, (phone) _____.

Sincerely,

(name and title) _____

NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiations of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
3. URA does not require that the amount of the offer equal the fair market value.
4. This is a guideform. It should be revised to reflect the circumstances.

Examples of suggested wording:

“The sale is voluntary. If you do not wish to sell, the {CDBG Recipient or Subrecipient} will not acquire the property.”

“The {CDBG RECIPIENT} will not use the power of eminent domain to acquire the property.”

“The {Subrecipient} does not have the power to acquire your property by condemnation.”

“We estimate the fair market value of the property to be \${Dollar Amount}.”

GUIDEFORM
-VOLUNTARY ACQUISITION -
- Informational Notice -
(Agencies With Eminent Domain Authority)

Grantee or Agency Letterhead

(date)

Dear _____:

(City, County, State, other) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

Please be advised that, (City, County, State, other) _____ possesses eminent domain authority to acquire property, however, in the event you are not interested in selling your property, or if we cannot reach an amicable agreement for the purchase of your property, we will not pursue its acquisition under eminent domain.

Your property is not a necessary part of the proposed project and is not part of an intended, planned, or designated project area where substantially all of the property within the area is to be acquired.

We are prepared to offer you (\$) _____ to purchase your property. We believe this amount represents the current market value of your property. Please contact us at your convenience if you are interested in selling your property.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance.

If you have any questions about this notice or the proposed project, please contact (name) _____, (title) _____, (address) _____, (phone) _____.

Sincerely,

(name and title) _____

NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiations of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
3. This guideform may only be used if all of the requirements of 49 CFR 24.101(b)(1)(i)-(iv) are met.
4. URA does not require that the amount of the offer equal the estimated Fair Market Value.
5. This is a guideform. It should be revised to reflect the circumstances.

Examples of suggested wording:

"The sale is voluntary. If you do not wish to sell, the {CDBG Recipient} will not acquire your property."

"The {CDBG Recipient} will not use the power of eminent domain to acquire your property."

"We estimate the fair market value of the property to be \${Dollar Amount}."

In the Appendix to Chapter 3

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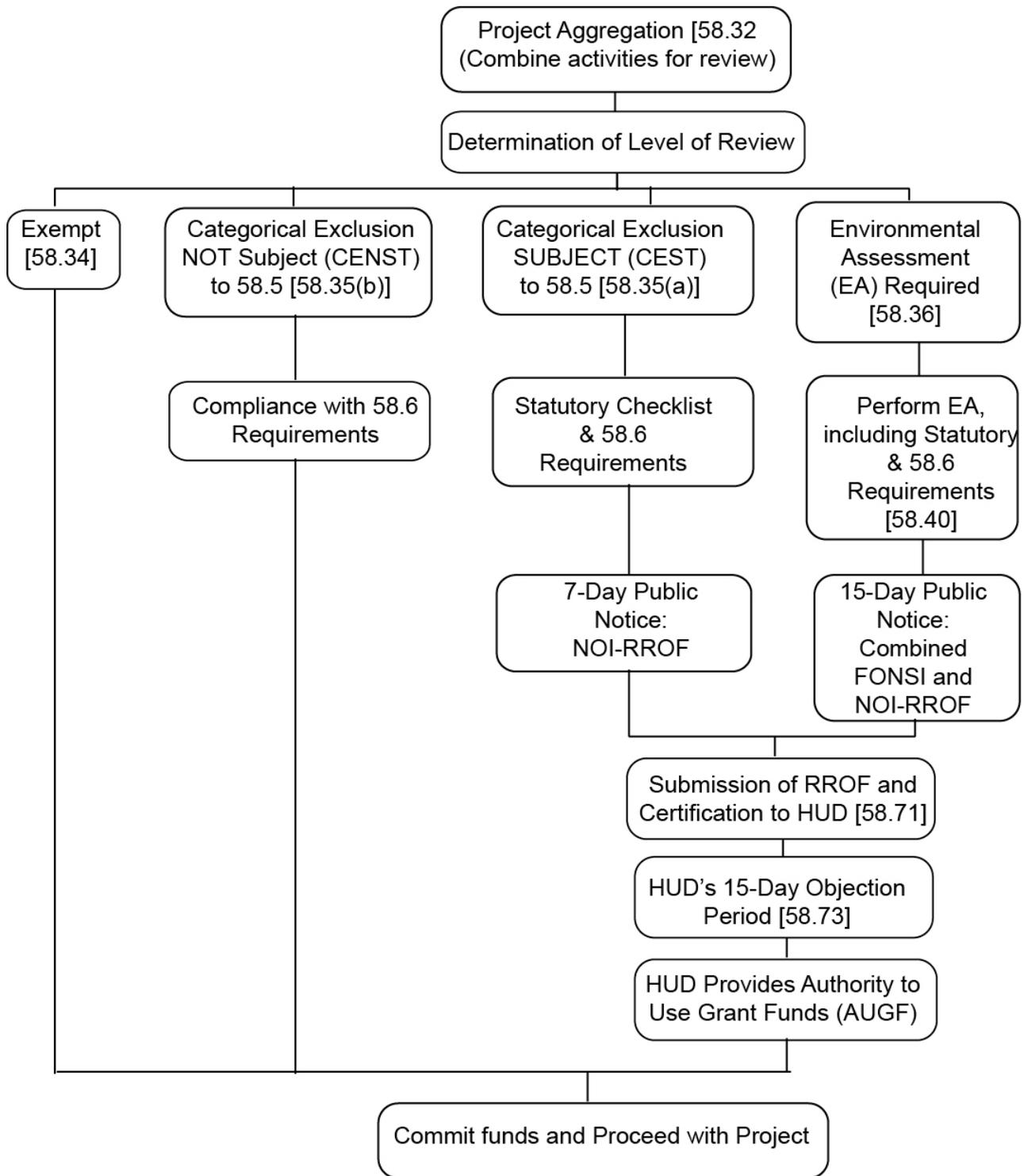
Environmental Review

COMMONLY USED ENVIRONMENTAL ACRONYMS

ACHP – Advisory Council on Historic Preservation
ACM – Asbestos Containing Material
ADT – Average Daily Traffic
AICUZ – Air Installation Compatible Use Zone
APCP – Air Protection Control Program
APE – Area of Potential Effect
APZ – Accident Potential Zones
ASD – Acceptable Separation Distance
AST – Aboveground Storage Tanks
ASTDR – Agency for Toxic Substances and Disease Registry
ASTM – American Society for Testing and Materials
BMP – Best Management Practices
CAA – Clean Air Act
CAFO – Confined Animal Feeding Operation
CDBG – Community Development Block Grant
CDC – Center for Disease Control
CENST – Categorically Excluded Not Subject To
CEST – Categorically Excluded Subject To
CERCLA – Comprehensive Environmental Response, Compensation and Liability Act
CFR – Code of Federal Regulations
CEQ – Council on Environmental Quality
CLG – Certified Local Government
COG – Council of Government
CWA – Clean Water Act
DNL – Day Night (average sound) Level
DNR – Department of Natural Resources
DOE – United States Department of Energy
EA – Environmental Assessment
EIS – Environmental Impact Statement
EJ – Environmental Justice
EO – Executive Order
ERR – Environmental Review Record
EPA – United States Environmental Protection Agency
ESA – Endangered Species Act
FAA – Federal Aviation Administration
FEMA – Federal Emergency Management Agency
FHBM – Flood Hazard Boundary Map
FHWA – Federal Highways Administration
FIRM – Flood Insurance Rate Map
FONSI – Finding of No Significant Impact
FOSI – Finding of Significant Impact
FPPA – Farmland Protection Policy Act
FR – Federal Register
HAP – Hazardous Air Pollutant
HUD – United States Department of Housing and Urban Development
IEDA – Iowa Economic Development Authority
LBP – Lead Based Paint
LESA – Land Evaluation and Site Assessment
MOA – Memorandum of Agreement
DOT – Department of Transportation
MOU – Memorandum of Understanding
NAAQS – National Ambient Air Quality Standards

NAL – Noise Assessment Location
NBC – National Building Code
NEPA – National Environmental Policy Act
NESHAP – National Emission Standards for Hazardous Air Pollutants
NFIP – National Flood Insurance Program
NFPA – National Fire Protection Association
NHPA – National Historic Preservation Act
NIOSH – National Institute for Occupational Safety and Health
NOAA – National Oceanic Atmospheric Administration
NOI/RROF – Notice of Intent to Request Release of Funds
NPDES – National Pollutant Discharge Elimination System
NPL – National Priority List
NPS – National Park Service
NRCS – National Resources Conservation Service, USDA
NRI – National Rivers Inventory
NWI – National Wetlands Inventory
OSHA – Occupational Safety and Health Act
ORV – Outstandingly Remarkable Values
PA – Programmatic Agreement
PAR – Preliminary Architectural Report
PER – Preliminary Engineering Report
PZ – Protection Zones
RAP – Remedial Action Plan
RCRA – Resource Conservation and Recovery Act
RCZ – Runway Clear Zones (also known as Runway Protection Zones)
RE – Responsible Entity (CDBG applicant or grantee)
REC – Recognized Environmental Condition
RPC – Regional Planning Commission
RPZ – Runway Protection Zones (also known as Runway Clear Zones)
RROF/C – Request for Release of Funds and Certification
SBC – Standard Building Code
SDWA – Safe Drinking Water Act
SFHA – Special Flood Hazard Area
SHPO – State Historic Preservation Office
SIP – State Implementation Plan
SWD – Storm Water Discharge
SWPPP – Storm Water Pollution Prevention Plan
THPO - Tribal Historic Preservation Officer
TMDL – Total Maximum Daily Loads
TRI – Toxic Release Inventory
UBC – Uniform Building Code
UST – Underground Storage Tank
USACE – United States Army Corps of Engineers
USDA – United States Department of Agriculture
USDA RD – Rural Development - United States Department of Agriculture
USFWS – United States Fish and Wildlife Service
USGS – United States Geological Survey
WSR – Wild and Scenic River

Environmental Review Process – Typical Flow (24 CFR Part 58)



All projects will need to submit the ERR to IEDA prior to a release of funds being issued.

The Most Up to Date Forms Are Available from the
IEDA Website

[http://www.iowaeconomicdevelopment.com/CommunityDevelopment/C
DBG](http://www.iowaeconomicdevelopment.com/CommunityDevelopment/CDBG)

CDBG Recipient Guide to Lead Federal Agency Designation To Complete a Portion of the Environmental Review

This guide is to be used for larger scale projects that require preparation of an Environmental Assessment and where the CDBG project is jointly funded with another agency using federal assistance such as DNR SRF or USDA-RD. If the project is jointly funded, the CDBG recipient may either be the Lead Federal Agency or designate a Lead Federal Agency for the project. This will allow one agency to complete the **environmental review and/or historical** review for the project. As the CDBG recipient, you are not required to work with the other agency, but it is strongly encouraged in order to reduce duplication of effort. There are several choices to make when selecting who will be the Lead Federal Agency and for determining what portion of the review the Lead Federal Agency will be responsible for completing. **Note** that the CDBG Recipient remains responsible for ensuring the project fully complies with 24 CFR Part 58 even where another agency has prepared the environmental assessment.

If the CDBG recipient would like to enter into a Lead Agency Agreement, first determine the co-funding agency and then use the following list to contact them:

- **Iowa DNR's State Revolving Loan Fund** – Contact: Jean Krewson, (515) 725-0487
- **USDA –RD** – Contact the Environmental Representative at each district field office. Visit <http://www.rurdev.usda.gov/ia/> to determine the district office.

Complete the following steps if you or the participating funding agency will be the Lead Federal Agency:

1. 36 CFR part 800, Section 106 review:

The USDA-RD, the DNR or the CDBG recipient may be the lead federal agency and conduct the “Section 106” historical review under the requirements of 36 CFR part 800, including tribal consultation.

2. Environmental Assessment excluding 36 CFR part 800, Section 106 review:

The USDA-RD or the CDBG recipient may be the lead federal agency to conduct the Environmental Assessment excluding 36 CFR part 800, Section 106 review. Whoever takes on this responsibility must conduct the environmental assessment in accordance with 24 CFR Part 58 and 51. Fill out the appropriate form to designate a lead federal agency for completing the Environmental Review.

- **USDA-RD** – If the USDA-RD is designated as the lead federal agency for the **Environmental Assessment** excluding 36 CFR part 800, Section 106 review, they will use the same assessment as CDBG recipients so their review will cover all environmental regulations listed in 24 CFR Part 51.

Note: IEDA will accept USDA's floodplain notices.

3. Make a Finding of No Significant Impact (FONSI) after the environmental assessment has been completed. For your convenience please complete Section IV the conclusion section of the *Environmental Assessment Worksheet* located in this Appendix. Make sure the page is signed by the CDBG recipient Chief Elected Official

4. Publish the combined notice to the public of Finding of No Significant Impact on the Environment (FONSI) and Notice of Intent to Request Release of Funds (FONSI/NOI-RROF notice) found in this appendix. You must comply with local and state comment periods. You must have all environmental paperwork in the project file before you publish the CDBG notice. Remember, even if the designated lead agency published a FONSI notice you must still publish one, too.

The Notice must also be sent to individuals, groups, and agencies known to be interested in the project. A list of agencies can be found in this appendix.

5. Submit the Request for Release of Funds and Certification found in this appendix. After the local comment period has ended, submit this form to IEDA with a copy of the public notice.

Once received, the state comment period will begin. After 15 days IEDA can release funds.

DNR & CDBG Recipient
Lead Federal Agency Designation for
36 CFR Part 800, Section 106 Compliance

CDBG Recipient: _____ CDBG Contract Number: _____

Iowa Department of Natural Resources Recipient: _____

Iowa Department of Natural Resources Project Number: _____

Type of Project: _____ Location of Project: _____

For projects jointly funded by the Iowa Economic Development Authority (IEDA) through the Community Development Block Grant (CDBG) program and the Iowa Department of Natural Resources (IDNR), the (please check one):

CDBG Recipient

IDNR

will act as the lead federal agency in fulfilling the Collective responsibilities under 36 CFR Part 800, Section 106 for the CDBG and IDNR Recipient listed above. All submittals to the State Historic Preservation Office (SHPO) will be made by the selected lead federal agency.

This is agreed to by the following parties:

<i>IDNR SRF Environmental Review Specialist</i>	Print Name	Date
401 SW 7TH STE I, Des Moines, IA 50309 / (Phone)		

<i>CDBG Recipient Chief Elected Official and Title</i>	Print Name	Date
(Address), (City), (State) (Zip) / (Phone)		

<i>IEDA CDBG Environmental Officer</i>	Print Name	Date
200 East Grand Avenue, Des Moines, IA 50309		

<i>CDBG Grant Administrator</i>	Print Name	Date
(Address), (City), (State) (Zip) / (Phone)		

cc: All parties listed above
Iowa SHPO Office – Attention: Section 106 Coordinator

The designated Lead Federal Agency must send this signed form to the Iowa State Historic Preservation Officer (SHPO) with the *Request for SHPO Comment on a Project* form.

USDA-RD and CDBG Recipient
 Lead Federal Agency Designation for
 36 CFR Part 800, Section 106 Compliance
 (USDA-RD Lead Agency Statement for Environmental Review Requirements)

CDBG Recipient: _____ CDBG Contract Number: _____

Applicant: _____

Type of project: _____

Location of project: _____

For projects jointly funded by the Iowa Economic Development Authority through the Community Development Block Grant (CDBG) program, and USDA RD:

1. _____ shall act as lead Federal Agency in fulfilling the collective responsibilities under 36 CFR Part 800 Section 106 for the three parties below.
2. All submittals to the State Historic Preservation Office (SHPO) will be made by _____.
3. _____ shall complete the appropriate environmental review document pursuant to the National Environmental Policy Act for the above project.
4. A copy of the appropriate environmental review document will be provided by _____ to the CDBG grant administrator and the USDA RD applicant. A copy will also be provided to the CDBG Recipient (if different from the USDA RD applicant), if so requested.

This is agreed to by the following parties:

<i>USDA-RD Representative and Title</i> (Address), (City), (State) (Zip) / (Phone)	Print Name	Date
---	------------	------

<i>CDBG Recipient Representative and Title</i> (Address), (City), (State) (Zip) / (Phone)	Print Name	Date
--	------------	------

<i>Applicant's Representative and Title</i> (Address), (City), (State) (Zip) / (Phone)	Print Name	Date
---	------------	------

<i>IEDA Representative and Title</i> 200 East Grand Avenue, Des Moines, IA 50309	Print Name	Date
---	------------	------

<i>CDBG Grant Administrator Rep and Title</i> (Address), (City), (State) (Zip) / (Phone)	Print Name	Date
---	------------	------

cc: All parties listed above
 Iowa SHPO Office – Attention: Section 106 Coordinator

USDA-RD, DNR, & CDBG Recipient Lead Federal Agency Designation for Environmental Assessment Compliance

CDBG Recipient: _____ **CDBG Contract Number:** _____

USDA-Rural Development Recipient: _____

Iowa Department of Natural Resources Recipient: _____

Type of Project: _____ **Location of Project:** _____

For projects jointly funded by the Iowa Economic Development Authority (IEDA) through the Community Development Block Grant (CDBG) program and USDA-Rural Development (USDA -RD) the (please check one):

USDA – RD
 IDNR
 CDBG Recipient

shall complete an Environmental Assessment *excluding* the review requirements under 36 CFR Part 800, Section 106. Once the Environmental Assessment is complete, give a copy of all relevant paperwork to each agency.

This is agreed to by the following parties:

<i>IDNR SRF Environmental Review Specialist</i> (Address), (City), (State) (Zip) / (Phone)	Print Name	Date
---	------------	------

<i>CDBG Recipient Chief Elected Official and Title</i> (Address), (City), (State) (Zip) / (Phone)	Print Name	Date
--	------------	------

<i>IEDA CDBG Environmental Officer</i> 200 East Grand Avenue, Des Moines, IA 50309	Print Name	Date
---	------------	------

<i>CDBG Grant Administrator</i> (Address), (City), (State) (Zip) / (Phone)	Print Name	Date
---	------------	------

<i>USDA-RD Representative and Title</i> (Address), (City), (State) (Zip) / (Phone)	Print Name	Date
---	------------	------

cc: All parties listed above
 Iowa SHPO Office – Attention: Section 106 Coordinator

DETERMINATION OF LEVEL OF REVIEW ENVIRONMENTAL REVIEW RECORD

Project Name:

CDBG Contract Number:

Project Location:

Project Description (Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.):

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58 "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:

- Exempt** from NEPA review requirements per 24 CFR 58.34(a)()
- Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)()
- Categorically Exclusion Subject** to §58.5 authorities per 24 CFR 58.35(a)()
(A Statutory Checklist for the §58.5 authorities is attached.)
- An **Environmental Assessment** (EA) is required to be performed in accordance with subpart E of 24 CFR Part 58 is attached.
- An **Environmental Impact Statement** (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

Chief Elected Official:	
_____	_____
Print Name	Signature
_____	_____
Title	Date

Updated 3/8/2012

All projects will need to submit the ERR to IEDA prior to a release of funds being issued.



PROJECT NAME: _____

ERR FILE #: _____ Retain this form in the ERR of the subject project.

REQUIREMENTS listed at 24 CFR 58.6

1. AIRPORT RUNWAY PROTECTION ZONE / CLEAR ZONE NOTIFICATION

[24 C.F.R. Part 51.303(a)(3)]

Does the project involve the sale or acquisition of property located within a Civil Airport’s Runway Protection Zone or a Military Airfield’s Clear Zone?

() No. Cite or attach Source Document: _____
(Project complies with 24 CFR 51.303(a)(3).)

() Yes. **Notice must be provided to buyer.** The notice must advise the buyer that the property is in a Runway Protection Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in this ERR.

2. COASTAL BARRIERS RESOURCES ACT

[Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501)]

Is the project located in a coastal barrier resource area?

(X) No. Cite or attach Source Document: No CBRA in MO/KS/NE/IA <http://www.fema.gov/nfip/cobra.shtml>
(Proceed with project.)

() Yes. Federal assistance may not be used in such an area.

3. FLOOD DISASTER PROTECTION ACT

[Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128)]

Does the project involve acquisition, construction or rehabilitation of structures located in a FEMA-identified Special Flood Hazard Area?

() No. Cite or attach Source Document: _____
(Proceed with project.)

() Yes. Cite or attach Source Document: _____

Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

() Yes. **Flood Insurance under the National Flood Insurance Program must be obtained.** If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.

() No. **Federal assistance may not be used in the Special Flood Hazards Area.**

Responsible Entity Official: Signature / Name / Title /Date

Use for Categorically Excluded Projects §58.35 (a) Subject to §58.5 and (b) Not subject to §58.5.

STATUTORY CHECKLIST

Use this worksheet for projects that are Categorically Excluded subject to § 58.5 under 24 CFR § 58.35(a).

Recipient Name:

CDBG Contract Number:

An “**ERR Determination**” form should be provided as a cover to this checklist.

This checklist is a component of the Environmental Review Record (ERR) [§58.38]. Supplement the ERR, as appropriate, with photographs, site plans, maps, narrative and other information that describe the project.

24 CFR §58.5 – NEPA-Related Federal Statutes and Authorities

DIRECTIONS – For each authority, check one of the appropriate boxes under “Status.”

“A box” The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to **WHY the authority is not implicated, or HOW compliance is met:** *OR*

“B box” The project requires an additional compliance step or action, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

IMPORTANT: Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order, Regulation or Policy cited at 24 CFR §58.5	STATUS A B		Compliance Documentation
1. Air Quality [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	<input type="checkbox"/>	<input type="checkbox"/>	
2. Airport Hazards (Clear Zones and Accident Potential Zones) [24 CFR 51D]	<input type="checkbox"/>	<input type="checkbox"/>	
3. Coastal Zone Management [Coastal Zone Management Act sections 307(c) & (d)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No coastal zone management programs exist in the states of HUD Region VII, as established by Nat’l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management http://coastalmanagement.noaa.gov/mystate/welcome.html
4. Contamination and Toxic Substances [24 CFR 58.5(i)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	
5. Endangered Species [50 CFR 402]	<input type="checkbox"/>	<input type="checkbox"/>	
6. Environmental Justice [Executive Order 12898]	<input type="checkbox"/>	<input type="checkbox"/>	

7. Explosive and Flammable Operations [24 CFR 51C]	<input type="checkbox"/>	<input type="checkbox"/>	
8. Farmland Protection [7 CFR 658]	<input type="checkbox"/>	<input type="checkbox"/>	
9. Floodplain Management [24 CFR 55, Executive Order 11988]	<input type="checkbox"/>	<input type="checkbox"/>	
10. Historic Preservation [36 CFR 800]	<input type="checkbox"/>	<input type="checkbox"/>	
11. Noise Control [24 CFR 51B]	<input type="checkbox"/>	<input type="checkbox"/>	
12. Water Quality (Sole Source Aquifers) [40 CFR 149]	<input type="checkbox"/>	<input type="checkbox"/>	
13. Wetland Protection [24 CFR 55, Executive Order 11990]	<input type="checkbox"/>	<input type="checkbox"/>	
14. Wild and Scenic Rivers [36 CFR 297]	<input type="checkbox"/>	<input type="checkbox"/>	

DETERMINATION (check one):

COMPLIANCE IS MET. The project is in compliance with aforementioned authorities and regulations, as documented above.

ACTION REQUIRED. The project will be compliant with the aforementioned authorities and regulations, provided further action is taken. The action is a condition of the environmental review and is described below. (An additional compliance action may include obtaining a license or permit from a state, federal, or local agency, or completing a certain remediation or mitigation measure.)

Required Condition(s):

PREPARER

PREPARER SIGNATURE: _____ DATE: _____

PREPARER NAME & TITLE: _____

RESPONSIBLE ENTITY APPROVING OFFICIAL

SIGNATURE: _____ DATE: _____

APPROVING OFFICIAL NAME & TITLE: _____

Sample Notice of Intent to Request a Release of Funds

The language below is HUD's recommended wording of the Notice of Intent to Request a Release of Funds. This Notice is used to request the environmental release of funds for Categorically Excluded projects (24 CFR Part 58, Section 58.35(a) or for projects for which a Notice of Finding of No Significant Impact was previously issued. Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity.

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Publication: *[date published]*

Name of Responsible Entity (RE)
Address (e.g., Street No. or P.O. Box)
City, State, Zip Code
Telephone Number of RE

On or after *at least one day after the end of the comment period* **the name of RE will submit a request to the State of Iowa, Iowa Economic Development Authority for the release of Community Development Block Grant funds under Title 1 of the HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 as amended (P.L. 97-35), to undertake the following project:**

Project Title: *project name*

Purpose: *nature/scope of project*

Location: *project location*

Estimated Cost: *both estimated HUD funding & total project cost, as applicable*

The activities proposed *alternative #1: are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements or alternative #2: comprise a project for which a Finding of No Significant Impact on the environment was [published/posted] on [date of Finding publication/posting]. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays __A.M to __P.M.*

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by *if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days* **will be considered by the name of RE prior to authorizing submission of a request for release of funds.**

RELEASE OF FUNDS

The name of RE certifies to the Iowa Economic Development Authority that name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. The Iowa Economic Development Authority approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use HUD program funds.

OBJECTIONS TO RELEASE OF FUNDS

The Iowa Economic Development Authority will accept objections to its release of funds and the *RE's* certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the *name of RE*; (b) the *RE* has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the Iowa Economic Development Authority; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to Iowa Economic Development Authority at 200 East Grand Avenue, Des Moines, IA 50309. Potential objectors should contact the Iowa Economic Development Authority to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer

Note: The seven or ten-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of funds and Certification (form HUD-7015.15 to HUD/State. The Responsible Entity may choose to allow a longer comment period. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later



**U.S. Department of Housing
and Urban Development**
Great Plains Office – Region VII
400 State Avenue
Kansas City, Kansas 66101-2406

Environmental Assessment for HUD-funded Projects

[HUD recommended format per 24 CFR 58.40]

Project Name: _____

Responsible Entity: _____
[24 CFR 58.2(a)(7)]

Certifying Officer Name & Title: _____
[24 CFR 58.2(a)(2)]

Environmental Review Record (ERR) File # _____

Environmental Assessment

Project Location: _____

Estimated Total Project Cost (all sources): _____

Amount of HUD Assistance: _____ **HUD Grant Program:** _____

Grant Recipient (if different from Responsible Entity):

[24 CFR 58.2(a)(5)]

Recipient Address & Phone: _____

RE Project Contact Name & Phone: _____

Conditions for Approval: (List all mitigation and project modification measures adopted by the responsible entity to eliminate or minimize adverse environmental impacts. These conditions must be included in project contracts and other relevant documents as requirements.) [24 CFR 58.40(d), 40 CFR 1505.2(c)]

FINDING: [58.40(g)]

- Finding of No Significant Impact (FONSI)**
(The project will not result in a significant impact on the quality of the human environment.)

- Finding of Significant Impact**
(The project may significantly affect the quality of the human environment.)

PREPARER SIGNATURE: _____ **DATE:** _____

PREPARER NAME & TITLE: _____

PREPARER'S AGENCY (If Different from RE): _____

RE APPROVING OFFICIAL SIGNATURE: _____ **DATE:** _____

RE APPROVING OFFICIAL NAME & TITLE: _____

Purpose of the Project: ["Statement of Purpose and Need for the Proposal" - 40 CFR 1508.9(b)]

Description of the Project: Include all contemplated actions that are logically either geographically or functionally a composite part of the project, regardless of the source of funding. [24 CFR 58.32, 40 CFR 1508.25] As appropriate, attach maps, site plans, renderings, photographs, budgets and other descriptive information.

Existing Conditions and Trends: Describe the existing conditions of the project area and its surroundings, and the trends likely to continue in the absence of the project. [24 CFR 58.40(a)]

Part I: Statutory Checklist [24CFR §58.5]

DIRECTIONS – For each authority, check one of the appropriate boxes under “Status.”

“A box” The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to **WHY the authority is not implicated, or HOW compliance is met;** OR

“B box” The project requires an additional compliance step or action, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

IMPORTANT: Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

Statute, Authority, Executive Order Regulation or Policy cited at 24 CFR §58.5	STATUS		Compliance Documentation
	A	B	
1. Air Quality [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]	<input type="checkbox"/>	<input type="checkbox"/>	
2. Airport Hazards (Clear Zones and Accident Potential Zones) [24 CFR 51D]	<input type="checkbox"/>	<input type="checkbox"/>	
3. Coastal Zone Management [Coastal Zone Management Act sections 307(c) & (d)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No coastal zone management programs are in the states of HUD Region VII, per Nat'l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management. http://coastalmanagement.noaa.gov/mystate/welcome.html
4. Contamination and Toxic Substances [24 CFR 58.5(i)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	
5. Endangered Species [50 CFR 402]	<input type="checkbox"/>	<input type="checkbox"/>	
6. Environmental Justice [Executive Order 12898]	<input type="checkbox"/>	<input type="checkbox"/>	
7. Explosive and Flammable Operations [24 CFR 51C]	<input type="checkbox"/>	<input type="checkbox"/>	
8. Farmland Protection [7 CFR 658]	<input type="checkbox"/>	<input type="checkbox"/>	
9. Floodplain Management [24 CFR 55, Executive Order 11988]	<input type="checkbox"/>	<input type="checkbox"/>	
10. Historic Preservation [36 CFR 800]	<input type="checkbox"/>	<input type="checkbox"/>	
11. Noise Control [24 CFR 51B]	<input type="checkbox"/>	<input type="checkbox"/>	

12. Water Quality (Sole Source Aquifers) [40 CFR 149]	<input type="checkbox"/>	<input type="checkbox"/>	
13. Wetland Protection [24 CFR 55, Executive Order 11990]	<input type="checkbox"/>	<input type="checkbox"/>	
14. Wild and Scenic Rivers [36 CFR 297]	<input type="checkbox"/>	<input type="checkbox"/>	

Part II: Environmental Assessment Checklist

[Environmental Review Guide HUD CPD-782, 24 CFR 58.40; 40 CFR 1508.8 & 1508.27]

For each impact category, evaluate the significance of the effects of the proposal on the character, features and resources of the project area. Enter relevant base data and credible, verifiable source documentation to support the finding. Note names, dates of contact, telephone numbers and page references. Then enter the appropriate determination of impact: None Anticipated, Potentially Adverse or Potentially Beneficial. Attach additional material as appropriate. Note conditions or mitigation measures required.

Impact Categories	Anticipated or Potential Impact <ul style="list-style-type: none"> • Adverse • Beneficial • No Impact 	Source Documentation and Mitigation or Modification Required
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Land Development

Conformance with Comprehensive and Neighborhood Plans		
Land Use Compatibility and Conformance with Zoning		
Urban Design - Visual Quality and Scale		
Slope		
Erosion		
Soil Suitability		
Hazards and Nuisances, including Site Safety		
Noise - Effects of Ambient Noise on Project & Contribution to Community Noise Levels		

Air Quality - Effects of Ambient Air Quality on Project & Contribution to Community Pollution Levels		
Energy Conservation		

Socioeconomic Factors

Demographic Character Changes		
Displacement		
Employment and Income Patterns		

Community Facilities and Services

Educational Facilities		
Commercial Facilities		
Health Care		
Social Services		
Solid Waste		
Waste Water		
Storm Water		
Water Supply		
Public Safety <ul style="list-style-type: none"> • Police 		
<ul style="list-style-type: none"> • Fire 		

<ul style="list-style-type: none"> Emergency Medical 		
Open Space and Recreation <ul style="list-style-type: none"> Open Space 		
<ul style="list-style-type: none"> Recreation 		
<ul style="list-style-type: none"> Cultural Facilities 		
Transportation		

Natural Features

Water Resources		
Surface Water		
Unique Natural Features and Agricultural Lands		
Vegetation and Wildlife		

Part III: Other Requirements [24 CFR §58.6]

Complete the following table or attach a separate §58.6 Checklist.

§58.6 Requirements	Compliance Status (Y/N)	Source Documentation
Flood Disaster Protection Act [Flood Insurance] [§58.6(a)]		
Coastal Barrier Resources Act/Coastal Barrier Improvement Act [§58.6(c)]	YES	No Coastal Barrier Resource Areas in MO/KS/NE/IA. http://coastalmanagement.noaa.gov/mystate/welcome.html
Airport Runway Clear Zone Disclosure & Notification [§58.6(d)]		

Summary of Findings and Conclusions

Project Alternatives Considered [24 CFR 58.40(e), Ref. 40 CFR 1508.9] (As appropriate, identify other reasonable courses of action that were considered and not selected, such as other sites, design modifications, or other uses of the subject site. Describe the benefits and adverse impacts to the human environment of each alternative and the reasons for rejecting it. Include consideration of the No Action Alternative, that is, not implementing the preferred alternative).

Mitigation and Project Modification Measures Recommended

[24 CFR 58.40(d), 40 CFR 1508.20]

(Recommend feasible ways in which the proposal or its external factors should be modified in order to minimize adverse environmental impacts and restore or enhance environmental quality.)

Additional Studies Performed

(List the reports, studies or analyses performed for this assessment, and attach studies or summaries.)

List of Agencies and Persons Consulted [40 CFR 1508.9(b)]

(List agencies and persons consulted for this assessment.)

Sample Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds

The language below is HUD's recommended wording of the combined Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds. This notice is used for projects requiring an Environmental Assessment (24 CFR Part 58, Section 58.36). Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity.

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Date of Publication: *[date published]*

Name of Responsible Entity (RE)
Address (e.g., Street No. or P.O. Box)
City, State, Zip Code
Telephone Number of RE

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the *name of RE*.

REQUEST FOR RELEASE OF FUNDS

On or after *at least one day after the end of the comment period the name of RE* will submit a request to the State of Iowa, Iowa Economic Development Authority for the release of Community Development Block Grant funds under TITLE 1 of the HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, as amended (P.L. 97-35) to undertake the following project:

Project Title: *project name*

Purpose: *nature/scope of project*

Location: *project location*

Estimated Cost: *both estimated HUD funding & total project cost, as applicable*

FINDING OF NO SIGNIFICANT IMPACT

The *name of RE* has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at *name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays __A.M to __P.M.*

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the *RE designated office responsible for receiving and responding to comments*. All comments received by *if notice is published: publication date plus fifteen days; if notice is mailed and posted: mailing and posting date plus eighteen days* will be considered by the *name of RE* prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

RELEASE OF FUNDS

The *name of RE* certifies to Iowa Economic Development Authority that *name of Certifying Officer in his/her capacity as Official Title* consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. Iowa Economic Development Authority's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the *name of grant recipient* to use HUD program funds.

OBJECTIONS TO RELEASE OF FUNDS

The Iowa Economic Development Authority will accept objections to its release of funds and the RE's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the *name of RE*; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the Iowa Economic Development Authority; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to **Iowa Economic Development Authority at 200 East Grand Avenue, Des Moines, IA 50309**. Potential objectors should contact the Iowa Economic Development Authority to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer

Note: The fifteen or eighteen-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of Funds and Certification (form HUD-7015.15) to HUD/State. The Responsible Entity may choose to allow a longer comment period. 24 CFR Part 58 requires, at Section 58.46, "Time delays for exceptional circumstances," a 30-day comment period for controversial or unique projects or those similar to projects normally requiring preparation of an Environmental Impact Statement. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

LIST OF AGENCIES TO WHOM THE FINDING OF NO SIGNIFICANT IMPACT (FONSI) SHOULD BE DISTRIBUTED

If after following the Environmental Clearance Worksheet a Finding of No Significant Impact was reached, mail a copy of the FONSI notice to the following Agencies:

U.S. Department of Interior
Fish and Wildlife Service
1511 47th Ave.
Moline, IL 61265

DNR Contact for **Water** Projects:
Jennifer Bunton
Department of Natural Resources
401 SW 7th Street, Suite I
Des Moines, IA 50309

DNR Contact for **Sewer** Projects:
Satya Chennupati, P.E., Section Supervisor
Department of Natural Resources
Henry A. Wallace Building
502 East 9th Street
Des Moines, IA 50319-0034

Environmental Protection Agency (EPA)**
Environmental Protection Agency
Region VII
901 North 5th St.
Kansas City, KS 66101

**HUD regulations 24 CFR Part 58, Subpart E, require EPA to receive copies of FONSI notices. However, the EPA does not want to receive FONSI notices for the following categories:

- Replacement or upgrade of existing water supply or wastewater infrastructure which does not expand capacity by more than 30%
- Improvements to existing facilities to meet ADA or public safety requirements (fire, medical, etc.)
- Funds for administrative purposes, training, or to maintain existing programs (meals-on-wheels, homebuyers, etc.)

*Additional Information for Environmental Assessments
and Categorically Excluded Projects Section*

ADDITIONAL INFORMATION FOR EA AND CEST PROJECTS – SHEET A

HUD Guide to Environmental Compliance: NEPA-Related Statutes, Authorities and Requirements

24 CFR Part 58.5 – NEPA-Related Federal laws and authorities

Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
<p>1. Air Quality</p> <p>Clean Air Act of 1970, as amended (42 U.S.C. 7401 et seq.), particularly 7506 (c) & (d).</p> <p>40 CFR parts 6, 51, and 93 (EPA)</p> <p>CAA of 1990, Sec. 112; 40 CFR Part 61 (NESHAP)</p> <p>http://www.epa.gov/air/caa/title1.html</p>	<ul style="list-style-type: none"> ▪ Acquisition of undeveloped land ▪ Change of land use ▪ Demolition ▪ Major rehabilitation ▪ New construction 	<p>Project is located in an EPA-designated non-attainment area or maintenance area for one or more of six "criteria pollutants," called National Ambient Air Quality Standards (NAAQS).</p> <p>Criteria pollutants (NAAQS): http://www.epa.gov/air/criteria.html</p>	<p>Designated non-attainment and maintenance areas are listed on EPA web site:</p> <p>http://www.epa.gov/oar/oaqps/greenbk/</p> <p>County-level air quality data: http://www.epa.gov/oar/oaqps/greenbk/multipol.html</p> <p>Maps of non-attainment areas: http://www.epa.gov/oar/data/</p>	<p>A determination of conformity with the State Implementation Plan (SIP) is required with respect to the proposed activity and the specific pollutant for which the area was designated a non-attainment or maintenance area.</p> <p>Document that the activity does/does not require SIP compliance. Contact the MPO or EPA to determine if the proposed activity is one that requires a permit under the SIP. If yes, obtain letter of consistency showing that the project is consistent with the SIP.</p>	<p>Conformity to SIP is made by:</p> <ul style="list-style-type: none"> ▪ Regional or Metropolitan Planning Organization (MPO); or ▪ EPA Regional Office. <p>Status of non-attainment areas and EPA policy questions are addressed by EPA Regional Office.</p> <p>EPA Region 7 SIPs, State and local AQ contacts: http://www.epa.gov/region07/air/index.htm</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/airpollution.cfm</p>
<p>2. Airport Hazards (Clear Zones & APZ)</p> <p>24 CFR Part 51-D "Siting of HUD-Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields" (HUD)</p>	<ul style="list-style-type: none"> ▪ Acquisition for construction ▪ Change in land use ▪ Increase in density ▪ Major ('substantial') rehabilitation ▪ New construction <p><u>Where airport is:</u></p> <ul style="list-style-type: none"> ▪ Civil airport designated in Nat'l Plan of Integrated Airport System (NPIAS): http://www.faa.gov/airports/planning_capacity/npias/reports/ ▪ All military air installations <p>(Note: See also Clear Zone notification requirement, page 12.)</p>	<p>Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway.</p> <p>HUD policy is to promote compatible land uses in RCZ/CZ/APZ.</p>	<p>Airport clear zone and accident potential zone (APZ) maps are available from airport operations authority.</p> <ul style="list-style-type: none"> ▪ Civil airport: The Airport Layout Plan shows the Runway Clear Zone (RCZ), [a.k.a. Runway Protection Zone]. ▪ Military airfield: The AICUZ Study shows the CZ and APZ. 	<p>RCZ/CZ: New construction, major rehabilitation, and activities that significantly prolong physical or economic life of the property are prohibited.</p> <p>APZ: HUD assistance in APZ is discouraged, and project must be compatible with DOD land use guidelines for APZs.</p>	<p>Contact airport operator or nearest FAA District office.</p> <p>Airport locations: Civil NPIAS http://www.faa.gov/airports/planning_capacity/npias/report/s/ and http://www.airnav.com/airports/</p> <p>Military Bases: http://www.globalsecurity.org/military/facility/conus.htm and http://www.globemaster.de/bases.html</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/airport.cfm</p>
<p>3. Coastal Zone</p>	<ul style="list-style-type: none"> ▪ Acquisition of undeveloped 	<p>Project is located in a state</p>	<p>CZM maps are on NOAA (Nat'l</p>	<p>State CZM agency (or its approved</p>	<p>NOAA:</p>

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
<p>Management</p> <p>Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et. seq., particularly section 1424(e)).</p>	<ul style="list-style-type: none"> ▪ land ▪ Change of land use ▪ Major rehabilitation ▪ New construction 	<p>having a Coastal Zone Management (CZM) Program.</p>	<p>Oceanic & Atmospheric Administration) web site: http://coastalmanagement.noaa.gov/mystate/welcome.html</p>	<p>local designee) must concur with a finding (or issue permit) in evidence that project is consistent with approved State CZM plan.</p>	<p>http://coastalmanagement.noaa.gov/welcome.html</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/coastal.cfm</p>
<p>4. Contamination and Toxic Substances</p> <p>24 CFR Part 58.5 (i) (2) (HUD).</p>	<ul style="list-style-type: none"> ▪ Acquisition ▪ Conversion from non-residential to residential. ▪ Demolition ▪ Leasing ▪ New construction ▪ Rehabilitation 	<p>Project is located on or near site that contains hazardous materials or contaminants that could affect the health and safety of occupants or that conflict with the intended utilization of the property.</p> <p>Particular attention to be given to any site located on or in general proximity to landfills, dumps, industrial sites, gas stations or other locations that contain hazardous wastes or materials.</p> <p>HUD policy is to ensure that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.</p>	<p>Documentation may consist of Phase I environmental site assessment (ASTM standard E1527-05, as amended) and, if applicable, Phase II assessment.</p> <p>Additional/alternative documentation may include:</p> <ul style="list-style-type: none"> ▪ Site inspection(s) by knowledgeable professional(s). ▪ Search of EPA and other databases for sites and facilities posing real or potential contamination concerns (including NPL (Superfund), TRI, RCRA sites and facilities). ▪ Analysis of past uses of the site and adjacent properties as documented by Sanborn Fire Insurance Rate Maps (or equivalent historic maps). <p>ASTM Phase I and Phase II protocols are available at: http://www.astm.org/cgi-bin/SoftCart.exe/index.shtml?E+mystore</p> <p>Current ASTM Phase I standard (E1527-05): http://www.astm.org/cgi-bin/SoftCart.exe/DATABASE.CART/PAGES/E1527.htm?L+mystore+iweh6695+1022889987</p> <p>NOTE: A person may purchase property with the knowledge that the property is contaminated without being held potentially liable for the cleanup of the contamination. Conducting "all appropriate inquiries" (AAI) into the previous ownership and uses of a property is one of the requirements for claiming CERCLA liability protection.</p> <p>The federal (USEPA) standard for</p>	<p>Due diligence must be exercised to ascertain the presence of contamination.</p> <p>In many cases, a Phase I environmental site assessment (ASTM standard E1527-05, as amended) must be performed. If the Phase I assessment identifies recognized environmental conditions or if the results are inconclusive, a Phase II environmental site assessment will be required.</p> <p>Based upon the Phase II results, remediation, mitigation and monitoring measures may be required.</p> <p>Such measures must be consistent with Federal, State and local laws and regulations, and must be implemented by qualified professionals.</p> <p>Specific forms of remediation are not prescribed by HUD and may vary depending on the nature of the hazard.</p>	<p>EPA Envirofacts Data: http://www.epa.gov/enviro/</p> <p>EPA Toxic Release Inventory (TRI): http://www.epa.gov/enviro/html/toxic_releases.html</p> <p>EPA Maps: http://www.epa.gov/emefdata/em4ef.home</p> <p>EPA CERCLIS/NPL – Superfund database http://www.epa.gov/superfund/sites/query/basic.htm</p> <p>ATSDR "ToxFAQs" summaries about hazardous substances: http://www.atsdr.cdc.gov/toxfaqs/index.asp</p> <p>Right-To-Know Network: <ul style="list-style-type: none"> ▪ EPA databases, including TRI (Toxic Release Inventory); NPL & CERCLIS; RCRA: http://www.rtknet.org/ </p> <p>Scorecard.Org: <ul style="list-style-type: none"> ▪ Releases of toxic chemicals ▪ Cancer risks from hazardous air pollutants ▪ Superfund sites ▪ Facilities emitting criteria air pollutants http://www.scorecard.org/community/ei-index.tcl</p> <p>State voluntary cleanup programs: <ul style="list-style-type: none"> ▪ Kansas Dept. Health & Environ't (KDHE) http://www.kdheks.gov/medial/index.html ▪ Missouri Dept. Natural </p>

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
			<p>performing AAI was effective 11/01/06. The AAI final rule is found at 40 CFR 312. http://www.epa.gov/swerosps/bf/aa/index.htm</p> <p>The ASTM E1527-05 Phase I standard is consistent and complaint with EPA's final rule for AAI and may be used to comply with the provisions of AAI.</p>		<p>Resources (DNR) http://www.dnr.mo.gov/en/hwp/index.html</p> <ul style="list-style-type: none"> ▪ Nebraska Dept. Environmental Quality (NDEQ) http://www.deq.state.ne.us/ ▪ Iowa Dept. Natural Resources (DNR) http://www.iowadnr.com/and/consites/index.html <p>FAQs about USTs: http://www.epa.gov/swerust1/faqs/index.htm</p> <p>EPA Cleanup Guidance: http://clu-in.org/</p>
<p>5. Endangered Species</p> <p>Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), particularly section 7 (16 U.S.C. 1536)</p> <p>50 CFR Part 402 "Endangered Species Act" (DOI & Commerce)</p>	<ul style="list-style-type: none"> ▪ Acquisition of undeveloped land ▪ Conversion of land use ▪ Demolition ▪ Major rehabilitation ▪ New construction 	<p>Project is likely to affect, or may affect, any Federally listed endangered or threatened species or habitat.</p>	<p>Contact the US Fish and Wildlife Service (USFWS) to determine if a listed species or habitat is present in the project action area or may be affected by the project.</p> <p>General information on listed species and habitats: http://www.fws.gov/endangered/species/index.html</p> <p>USFWS Critical Habitat online mapper: http://crithab.fws.gov/</p> <p>Kansas listed species: http://ecos.fws.gov/tess_public/servlet/gov.doi.tess_public.servlets.RegionLists?lead_region=6#KS</p> <p>Missouri listed species: http://mdcgis.mdc.mo.gov/heritage/ (USFWS & state Natural Heritage Database)</p> <p>Missouri species, by county: http://midwest.fws.gov/endangered/lists/missouri-cty.html</p> <p>Nebraska listed species: http://ecos.fws.gov/tess_public/servlet/gov.doi.tess_public.servlets.RegionLists?lead_region=6#NE</p>	<p>If a listed species or habitat is present, consultation is required under Section 7 of the Endangered Species Act to determine if the proposed activity will adversely affect the subject species or habitat.</p> <p>Step-by-step consultation: http://www.fws.gov/midwest/endanger/section7/index.html</p> <p>When required, a biological assessment must be prepared by a qualified professional (e.g., biologist or botanist) explaining the likely effect on the species or habitat.</p>	<p>Section 7 consultation: http://www.fws.gov/midwest/endangered/section7/index.html</p> <p>U.S. Fish & Wildlife Ecological Services Field offices:</p> <p style="text-align: center;">Kansas</p> <ul style="list-style-type: none"> ▪ 315 Houston St, Rm E; Manhattan, KS 66502-6172 (785-539-3474) <p style="text-align: center;">Missouri</p> <ul style="list-style-type: none"> ▪ 101 Park DeVille Dr. Suite A Columbia, MO 65203-0057 (573-234-2132) <p style="text-align: center;">Nebraska</p> <ul style="list-style-type: none"> ▪ 203 West 2nd St. Second Floor Grand Island, NE 68801 (308-382-6468) <p style="text-align: center;">Iowa</p> <ul style="list-style-type: none"> ▪ 4469 48th Ave Court Rock Island, IL 61201 (309-793-5800)

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
			<p>Iowa species, by county: http://www.fws.gov/Midwest/Endangered/LISTS/iowa_cty.html</p>		<p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/endangered/species.cfm</p>
<p>6. Environmental Justice</p> <p>E.O. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"</p>	<p>Applies when an adverse impact or condition occurs with respect to an environmental issue;</p> <p><i>and,</i></p> <p>When the activity is:</p> <ul style="list-style-type: none"> ▪ Acquisition ▪ Change of land use ▪ Demolition ▪ Major rehabilitation ▪ New construction 	<p>Project site or neighborhood suffers from adverse health or environmental effects which disproportionately impact a minority or low-income population relative to the community at large.</p> <p>The potential for new or continued adverse health or environmental effects must be considered.</p>	<p>EPA's "EJ View" Tool provides information relevant to EJ assessments: http://epamap14.epa.gov/eimap/entry.html</p> <p>Census and geospatial data from local and regional planning agencies. Census data and maps also available at: http://factfinder.census.gov/home/saff/main.html</p> <p>and: http://www.census.gov/</p> <p>Tract-level data on race & income: http://www.ffiec.gov/geocode</p>	<p>Perform an EJ analysis using census, geographic and other data to determine if a low-income/minority population is disproportionately impacted.</p> <p>If susceptible populations are impacted:</p> <ul style="list-style-type: none"> • Mitigation or avoidance of adverse impacts must be considered to the extent practicable; and, • Public participation processes must involve the affected population(s) in the decision-making process. 	<p>EJ maps & analysis, by location: http://www.scorecard.org/community/ej-index.tcl</p> <p>EPA Maps: http://epamap14.epa.gov/eimap/entry.html</p> <p>CEQ guide to NEPA & EJ http://ceq.hss.doe.gov/nepa/regs/ej/justice.pdf</p> <p>Human Health & Toxicology:</p> <ul style="list-style-type: none"> • CDC (NIOSH) http://www.cdc.gov/niosh/topics/chemical.html • ATSDR http://www.atsdr.cdc.gov/ • EPA (IRIS) http://cfpub.epa.gov/ncea/iris/index.cfm <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/environmentaljustice.cfm</p>
<p>7. Explosive and Flammable Operations</p> <p>Housing and Community Development Act of 1974, as amended.</p> <p>24 CFR Part 51 Subpart C "Siting of HUD-Assisted Projects Near Hazardous Operations Handling Petroleum Products or Chemicals of an Explosive or Flammable Nature"</p>	<p>Residential project when the activity is:</p> <ul style="list-style-type: none"> ▪ New construction ▪ Rehabilitation, where unit density increased ▪ Conversion of land use from non-residential to residential use ▪ Vacant building made habitable <p>or</p> <p>Any project for industrial, commercial, institutional, or</p>	<p>Project is located within sight of or in proximity to a stationary hazardous facility that stores, handles or processes chemicals or petrochemicals of an explosive or flammable nature, such as liquid propane, gasoline or other above-ground storage tanks.</p> <p>Mobile tanks (including railroad cars), buried tanks, residential tanks for 1-4 unit housing, and tanks with less than 100-gallon</p>	<p>Site inspection, aerial photo analysis and/or contact local fire protection or emergency management agencies as to presence of hazardous industrial operations in vicinity of project.</p> <p>Contact local operator of such facility to determine the type and volume of fuels and chemicals of an explosive or flammable nature.</p>	<p>Calculate the acceptable separation distance (ASD) per guidebook HUD-1060-CPD (1996), "Siting of HUD-Assisted Projects Near Hazardous Facilities," and apply appropriate mitigation measures or reject the site.</p> <p>Electronic calculator of ASD: http://www.hud.gov/offices/cpd/environment/asdcalculator.cfm</p> <p>Mitigation may include construction of a barrier of adequate size and strength to protect the building and</p>	<p>Contact HUD Field Environmental Officer for tanks having over 1 million-gallon capacity.</p> <p>HUD explosive/ flammable hazard guidebook: http://www.hud.gov/offices/cpd/environment/training/guidebooks/hazfacilities/</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/explosive</p>

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(HUD)	recreational use when the activity is: <ul style="list-style-type: none"> ▪ New construction ▪ Conversion of land use 	capacity and having common fuels are excluded.		occupants.	ve.cfm and http://www.hud.gov/offices/cpd/environment/review/qa/hazardfacilities.cfm
8. Farmland Protection Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.), particularly sections 1504(b) & 1541 7 CFR Part 658, "Farmland Protection Policy" (USDA)	<ul style="list-style-type: none"> ▪ Acquisition of undeveloped land ▪ Conversion of undeveloped land ▪ New construction ▪ Site clearance 	Project is located in area that includes prime farmland, unique farmland, or land of statewide or local importance. Can include forest land, pastureland or cropland, but not water or urbanized land. Urban land is exempt if the land is "already in" or "committed" to urban development per 7 CFR 658.2(a).	NRCS soil maps (95% of nation's counties): http://websoilsurvey.nrcs.usda.gov/ap/ Alternatively, contact local Natural Resources Conservation Service (NRCS) office to determine the potential presence of protected farmland.	Site assessment by NRCS is required to determine impact of the farmland conversion. Form #AD-1006 rates 12 criteria. Sponsor must submit form to NRCS, which has 45 days to make a determination. Form AD-1006 and instructions: http://www.nrcs.usda.gov/programs/fpa/pdf_files/AD1006.pdf http://www.nrcs.usda.gov/programs/fpa/pdf_files/AD_1026_Instruct.pdf	County offices for Natural Resources Conservation Services (NRCS) listed at: http://offices.sc.egov.usda.gov/vlocator/app NRCS and FPPA: http://www.nrcs.usda.gov/programs/fppa/ HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/farmlandprotection.cfm
9. Floodplain Management E.O. 11988, "Floodplain Management", particularly section 2(a). 24 CFR Part 55 "Floodplain Management" (HUD)	<ul style="list-style-type: none"> ▪ Acquisition for construction or for existing bldg >4 units ▪ Disposition >4 units ▪ Financing >4 units ▪ Leasing >4 units ▪ New construction ▪ Substantial Rehabilitation >4 units housing (total rehab cost >50% pre-rehab value or >20% density increase) 	Project is located within a Special Flood Hazard Area (100-year floodplain), or, if a critical action (e.g., nursing home; hospital; fire station) is located in a 500-year floodplain.	FEMA Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Map (FHBM). FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: http://www.store.msc.fema.gov For unmapped areas, FEMA Community Status Book can provide information on flood hazards: www.fema.gov/fema/csb.shtm	Avoid direct or indirect support of floodplain development wherever there is a practicable alternative. Approval of project requires compliance with the decision-making provisions of §55.20, i.e., the "eight-step" process. Project may be approved only if there is no practicable alternative outside the floodplain. Project must apply appropriate mitigation.	FEMA: http://www.fema.gov/business/nfip/fmapinfo.shtm State Floodplain Managers: http://www.floods.org/StatePOCs/map.asp HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm
10. Historic Preservation National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), particularly sections 106 & 110. 36 CFR Part 800 "Protection of Historic Properties" (ACHP)	Any undertaking having the potential to cause effect, such as: <ul style="list-style-type: none"> ▪ Acquisition ▪ Demolition ▪ Disposition ▪ Ground disturbance ▪ New construction ▪ Rehabilitation 	<i>Project's area of potential effects [see §800.16(d)] contains:</i> <ul style="list-style-type: none"> ▪ A property listed in, or eligible for listing in, the National Register of Historic Places; or, ▪ An historic district listed in, or eligible for listing in, the National Register of Historic Places; or, ▪ Compelling evidence of the high probability of archeological resources eligible for listing in the National Register of Historic Places. 	Information on historic resources available from National, State, Tribal and local registers/sources: <ul style="list-style-type: none"> ▪ National Register http://nrhp.focus.nps.gov/natreg/home.do?searchtype=natreghome ▪ State Historic Preservation Office (SHPO) http://ncshpo.org ▪ Tribal Historic Preservation Office (THPO) http://www.nathpo.org ▪ Certified Local Government (CLG) preservation staff. 	Afford the Advisory Council on Historic Preservation a reasonable opportunity to comment, consistent with the procedures of 36 CFR Part 800 implementing the Section 106 process. Consultation with the SHPO is required. Consultation with THPO and interested parties and public participation may be required. The Section 106 process includes initiation of the process [§800.3], identification of historic properties [§800.4], assessment of adverse effects [§800.5], and resolution of adverse effects [§800.6]. A Memorandum of Agreement (MOA)	Advisory Council: http://www.achp.gov State Historic Preservation Officers (SHPOs): http://www.ncshpo.org Tribal Historic Preservation Officers (THPOs): http://www.nathpo.org Federally-recognized Indian tribes: http://home.nps.gov/nacd/ and http://www.bia.gov/WhoWeAre/BIA/OIS/TribalGovernmentServices/TribalDirectory/index.htm

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		<p>Criteria: http://www.achp.gov/nrcriteria.html</p> <p>HUD tribal database: www.hud.gov/offices/cpd/environment/tribal/</p>		<p>stipulates how adverse effects will be resolved. Guidance on writing MOAs: http://www.npi.org/tools.html</p> <p>HUD database of Section 106 agreements (MOA & PA): http://www.hud.gov/offices/cpd/environment/section106/index.cfm</p>	<p>National Register database: http://www.nr.nps.gov/</p> <p>National Register: http://nrhp.focus.nps.gov/natreghome.do?searchtype=natreghome</p> <p>Preservation staff of a CLG (Certified Local Govern't) – contact the local government.</p> <p>NPS technical info: http://www.cr.nps.gov/hps/tps/index.htm</p> <p>Other resource links: http://www.nal.usda.gov/ric/ripcubs/preserve.html</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/historicproperties.cfm</p>

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<p>11. Noise Abatement & Control</p> <p>Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978.</p> <p>24 CFR Part 51 Subpart B "Noise Abatement and Control" (HUD)</p>	<p>Residential and other noise-sensitive developments (e.g., hospitals, nursing homes, day care, community center, etc.)</p> <p>Required:</p> <ul style="list-style-type: none"> ▪ Acquisition for residential or noise-sensitive use ▪ Conversion of land use from non-residential to residential ▪ New construction <p>Encouraged:</p> <ul style="list-style-type: none"> ▪ Rehabilitation 	<p>Project is located within:</p> <ul style="list-style-type: none"> ▪ 1,000 feet of major/busy road, ▪ 3,000 feet of railway, ▪ 15 miles of airport (civil or military). <p>HUD interior noise goal is 45 decibels (DNL) or lower.</p> <p>HUD exterior noise goal is 55 decibels (DNL) or lower, although 65 DNL is considered acceptable.</p>	<p>Noise assessment data sources include: local or state highway departments; local or regional planning departments; public works departments; railroad dispatch offices; and airport operators.</p> <p>Airport noise contour maps are shown on Airport Layout Plan (civil airport) or AICUZ Study (military airfield).</p> <p>Civil airports subject to HUD noise requirements are those designated in the FAA's "National Plan of Integrated Airport System" (NPIAS):</p> <p>http://www.faa.gov/airports/planning_capacity/npias/reports/</p> <ul style="list-style-type: none"> • Both Commercial Service (CS) and Primary (P) airports have noise contours maps available • General Aviation (GA) airports with less than 9000 enplanements may be assumed to not present a community noise concern; otherwise, consult airport operator 	<p>Perform noise assessment in accordance with the Noise Assessment Guidelines (NAG) in guidebook HUD-953-CPD(1). For airports, use the airport's noise contour maps to determine noise levels (the contour lines are expressed in DNL noise levels).</p> <p>Noise level calculator: http://www.hud.gov/offices/cpd/environment/dnlcalculator.cfm</p> <p>Projected noise levels:</p> <ul style="list-style-type: none"> ▪ 65-75 DNL "Normally Unacceptable;" requires mitigation or attenuation. ▪ >75 DNL "Unacceptable;" requires rejection in most cases unless mitigated. <p>Noise barrier calculator: http://www.hud.gov/offices/cpd/environment/mitigation.cfm</p> <p>Building wall mitigation calculator - Sound Transmission Classification Assessment Tool (STraCAT): http://portal.hud.gov/hudstracat/noiseCalcEntry.jsp</p>	<p>Traffic volumes - Road:</p> <p>Iowa http://www.iowadotmaps.com/msp/traffic/index.html</p> <p>Kansas http://www.ksdot.org/burTranSPan/prodinfo/trafdata.asp</p> <p>Missouri http://www.modot.mo.gov/safetv/trafficvolumemaps.htm</p> <p>Nebraska http://www.nebraskatransportation.org/maps/#traffvol</p> <p>Rail information:</p> <p>Fed Rail Admin crossing inventory http://safetydata.dot.gov/officeofSafety/publicsite/loc.aspx</p> <p>Iowa http://www.iowadotmaps.com/msp/pdf/Rail_Base.pdf</p> <p>Kansas http://www.ksdot.org/burRail/rail/default.asp</p> <p>Missouri http://www.modot.org/othertransportation/rail/documents/rail_freight_061809.pdf</p> <p>Nebraska http://www.nebraskatransportation.org/rpt/rail.htm</p> <p>Barrier guidance (FHWA): http://www.fhwa.dot.gov/environment/keepdown.htm</p> <p>HUD noise guidebook: http://www.hud.gov/offices/cpd/environment/review/noise.cfm</p>

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<p>12. Water Quality (Sole Source Aquifers)</p> <p>Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) <i>et seq.</i>, and 21 U.S.C. 349), particularly section 1424(e)</p> <p>40 CFR Part 149 “Sole Source Aquifers” (EPA)</p>	<ul style="list-style-type: none"> ▪ Acquisition of undeveloped land ▪ Change of land use ▪ New construction 	<p>Project is located within area of an EPA-designated sole source aquifer, unless project utilizes municipal water and sewer and has appropriate local drainage.</p>	<p>Designated sole source aquifers are listed on EPA web site: http://www.epa.gov/safewater/sourcewater/pubs/grq_ssamap_req7.pdf</p>	<p>Review of project by Regional EPA Office of Ground Water is required if activity is of a type and size specified in an agreement between EPA and HUD.</p> <p>Project may require memorandum of understanding (MOU) with EPA describing compliance to be followed.</p>	<p>EPA – ground water & drinking water: http://www.epa.gov/safewater/ssanp.html</p> <p>EPA – source water protection: http://water.epa.gov/infrastructure/drinkingwater/sourcewater/protection/index.cfm</p> <p>EPA – TDML maps: http://www.epa.gov/OWOW/mdl/index.html</p> <p>EPA – Septic Systems: http://water.epa.gov/infrastructure/drinkingwater/sourcewaterprotection_septicssystemscfm</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/aquifer.cfm</p>
<p>13. Wetland Protection</p> <p>E.O. 11990, “Protection of Wetlands,” particularly sections 2 & 5.</p> <p>Draft 24 CFR Part 55 “Floodplain Management” (42 FR 26961 – 5/25/97)</p>	<ul style="list-style-type: none"> ▪ Acquisition of undeveloped land ▪ Change of land use ▪ New construction ▪ Expansion of bldg footprint 	<p>Project is located within, or has impact upon, a wetland.</p>	<p>National Wetlands Inventory maps are listed on FWS site: http://www.fws.gov/wetlands/data/index.html</p> <p>NWI maps are useful as a preliminary screen. Where site inspection or other information indicates potential for a wetland, delineation of a wetland by a qualified professional should occur.</p> <p>For wetlands delineations, contact USACOE, USFWS, USDA- NRCS, USEPA and/or private consultants.</p>	<p>Avoid adverse impacts upon wetlands and direct or indirect support of new construction in wetlands wherever there is practicable alternative.</p> <p>Approval of project requires compliance with the decision-making provisions of §55.20, i.e., the “eight-step” process. Project may be approved only if there is no practicable alternative outside the wetland.</p>	<p>U.S. Army Corp of Engineers: http://www.usace.army.mil/CECW/Pages/reg_faqs.aspx and http://www.usace.army.mil/CECW/Pages/cecwo_reg.aspx</p> <p>U.S. Fish and Wildlife Service: http://wetlands.fws.gov/</p> <p>EPA: http://www.epa.gov/owow/wetlands/</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/wetland.cfm</p>
<p>14. Wild & Scenic Rivers</p>	<ul style="list-style-type: none"> ▪ Acquisition of undeveloped land ▪ Change of land use 	<p>Project is located within one (1) mile of a designated Wild & Scenic</p>	<p>Designated wild and scenic rivers are listed on the National Park Service:</p>	<p>For a Designated River or Study River, determination from the National Park</p>	<p>National Park Service: http://www.nps.gov/rivers/ and</p>

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<p>Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 <i>et seq.</i>), particularly sections 5(d), 7(a), 7(b) & (c).</p> <p>36 CFR Part 297 “Wild and Scenic Rivers” (USDA)</p>	<ul style="list-style-type: none"> ▪ Major rehabilitation ▪ New construction 	<p>River, or river being studied as a potential component of the Wild & Scenic River system.</p> <p>Project is located upstream, downstream, or on a tributary of river that is designated, studied or has potential for listing on the system.</p> <p>Protected rivers are: Designated, Study and National River Inventory (NRI) rivers. NRI rivers may be eligible for listing as a Wild & Scenic River.</p>	<p>http://www.rivers.gov/wildriverslist.html</p> <p>GIS shape files (maps) can also be downloaded from this site.</p> <p>Study Rivers (potential wild and scenic rivers): http://www.rivers.gov/study.html</p> <p>National River Inventory (NRI) listed rivers: http://www.nps.gov/nrcr/programs/rca/nri/</p>	<p>Service (NPS) must be obtained, with finding that the project will not have a direct and adverse effect on the river nor invade or diminish values associated with such rivers.</p> <p>For NRI rivers, consultation with NPS is recommended to identify and eliminate direct and adverse effects.</p>	<p>http://www.nps.gov/nrcr/programs/rca/nri/auth.html</p> <p>NEPA /CEQ Guidance: http://www.nps.gov/nrcr/programs/rca/nri/hist.html</p> <p>Publications: http://www.rivers.gov/publications.html#guidelines</p>

24 CFR Part 58.6 – Other Requirements

Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
<p>1. Airport Clear Zones</p> <p>24 CFR Part 51 Subpart D “Siting of HUD-Assisted Projects in Clear Zones and Accident Potential Zones” (HUD)</p>	<ul style="list-style-type: none"> ▪ Purchase or sale of real property 	<p>Project is located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway.</p>	<p>Airport clear zone maps available from airport operations authority.</p>	<p>Purchase or sale of a property in a CZ requires notification to buyer per 24 CFR Part 58.6(d).</p> <p>The notice informs the prospective buyer of potential hazards from airplane accidents and the potential by airport or airfield operators who may wish to purchase the property at some point in the future.</p>	<p>Contact airport operator or nearest FAA District office.</p> <p>Sample notice and HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/airport.cfm</p>
<p>2. Coastal Barriers</p> <p>Coastal Barrier</p>	<ul style="list-style-type: none"> ▪ All activities having a physical impact 	<p>Project is located in a community listed in the Coastal Barrier Resources System (CBRS).</p>	<p>CBRS maps on USFWS and FEMA websites: http://www.fws.gov/habitatconservation/coastal_barrier.html</p>	<p>Federal funding is prohibited for projects located within a designated coastal barrier.</p>	<p>FEMA: http://www.fema.gov/pdf/nfip/manual200505/18cbrs.pdf</p> <p>HUD Q&A:</p>

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Environmental Issue/Impact (Statute, Authority &/or Regulation)	Applicable Activities	Threshold for Action (Analysis/Evaluation/ Consultation)	Source Documentation (Map/On-line Listing/ Agency Contacts)	Action Required	Further Information
Resources Act, as amended (16 U.S.C. 3501)			http://coastalmanagement.noaa.gov/mystate/welcome.html Coastal barriers also displayed on FEMA Flood Insurance Rate Map (FIRM)		http://www.hud.gov/offices/cpd/environment/review/qa/coastal.cfm
<p>3. Flood Insurance</p> <p>Flood Disaster Protection Act of 1973, as amended. National Flood Insurance Reform Act of 1994 (42 U.S.C. sec 4001f)</p> <p>44 CFR Parts 59-77 “Regulations of the National Flood Insurance Program” (FEMA)</p>	<p>All HUD programs that provide assistance to buildings.</p> <p><u>Exceptions:</u></p> <ul style="list-style-type: none"> ▪ Leasing without rehab, acquisition or improvements ▪ Loans < \$5,000 repaid within 1 year ▪ Maintenance ▪ State-administered formula grants (i.e., CDBG, HOME & ESG programs) <p><u>Inapplicable:</u></p> <ul style="list-style-type: none"> ▪ Improvements or repairs costing less than the deductible of a standard flood insurance policy on a building (current FEMA deductible is \$500). 	<p>Project is located within Special Flood Hazard Area (SFHA is the 100-year floodplain).</p>	<p>FEMA Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM).</p> <p>FIRMETTE maps, which cover small areas (approx. 1 sq. mile), can be obtained at no charge on-line: http://www.store.msc.fema.gov</p>	<p>Property owner must purchase and maintain flood insurance protection.</p> <p>Coverage is limited to the building and improvements only. No coverage is available for land.</p> <p>Coverage requirements:</p> <ul style="list-style-type: none"> ▪ Grants – Term is for life of the building, regardless of transfer of ownership; and coverage amount is equal to total project cost (up to maximum coverage limit). ▪ Loans – Term equal to that of the loan; coverage amount equal to that of the loan (up to maximum coverage limit). 	<p><i>FEMA “Mandatory Purchase of Flood Insurance” Guidelines:</i> http://www.fema.gov/library/viewRecord.do?id=2954</p> <p>FEMA Nat’l Flood Insurance Program (NFIP): http://www.fema.gov/business/nfip/index.shtml and FEMA “FloodSmart”: http://www.floodsmart.gov/floodsmart/pages/index.jsp</p> <p>Community status of participation in National Flood Insurance Program: www.fema.gov/fema/csb.shtml</p> <p>HUD Q&A: http://www.hud.gov/offices/cpd/environment/review/qa/floodinsurance.cfm http://www.hud.gov/offices/cpd/environment/review/qa/floodplainmgmt.cfm</p>

- **ATEC** – HUD Assessment Tools for Environmental Compliance: <http://www.hud.gov/offices/cpd/environment/atec.cfm>
- **Glossary** of Environmental Terms: www.epa.gov/OCEPAterms

Important: (1) Information contained herein is for general guidance only. Applicable authorities and regulations take precedence over guidance material and should be consulted as necessary to achieve full compliance. (2) HUD cannot attest to the accuracy of information provided by web sites external to HUD, and access to these sites does not constitute an endorsement by HUD, or any of its employees, of the sponsors of the site or the products presented on the site. (3) Contact the HUD Environmental Officer in your area [www.hud.gov/offices/cpd/environment/contact/localcontacts/index.cfm] for information or assistance related to compliance with HUD environmental requirements. MOHR_HUD_REG-VII_2.14.11_v10

IEDA Guide to Environmental Compliance: NEPA-Related Statutes, Authorities and Requirements (v1)

Environmental Issue/Impact (Statute, Authority &/or Regulation)	State of Iowa Information
<p>1. Air Quality</p> <p>Clean Air Act of 1970, as amended (42 U.S.C. 7401 <i>et seq.</i>), particularly 7506 (c) & (d).</p> <p>40 CFR parts 6, 51, and 93 (EPA)</p> <p>CAA of 1990, Sec. 112; 40 CFR Part 61 (NESHAP)</p> <p>http://www.epa.gov/air/caa/title1.html</p>	<p>Iowa DNR Air Quality: http://www.iowadnr.gov/InsideDNR/RegulatoryAir</p>
<p>2. Airport Hazards (Clear Zones & APZ)</p> <p>24 CFR Part 51-D “Siting of HUD-Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields” (HUD)</p>	<p>Civil/military airports listed by state: http://www.aircraft-charter-world.com/airports/northamerica/iowa.htm#K</p>
<p>4. Contamination and Toxic Substances</p> <p>24 CFR Part 58.5 (i) (2) (HUD).</p>	<p>Underground Storage Tanks (UST): http://www.iowadnr.gov/InsideDNR/RegulatoryLand/UndergroundStorageTanks.aspx</p> <p>Leaking Underground Storage Tanks: https://facilityexplorer.iowadnr.gov/facilityexplorer/</p> <p>Anaerobic Digester Map: http://programs.iowadnr.gov/ims/website/digester/viewer.htm</p> <p>Hazardous Chemical Storage Reporting: http://www.iowadnr.gov/InsideDNR/RegulatoryLand/EmergencyPlanningEPCRA/ChemicalInventoryReporting.aspx</p> <p>Household Hazardous Materials : http://www.iowadnr.gov/Environment/HouseholdHazardousMaterials.aspx</p>
<p>5. Endangered Species</p> <p>Endangered Species Act of 1973 (16 U.S.C. 1531 <i>et seq.</i>), particularly section 7 (16 U.S.C. 1536)</p> <p>50 CFR Part 402 “Endangered Species Act” (DOI & Commerce)</p>	<p>U.S. Fish & Wildlife Ecological Services Rock Island Field Office Ecological Services: www.fws.gov/midwest/rockisland</p> <p>State and County Lists: http://www.fws.gov/midwest/endangered/lists/iowa_spp.htm</p> <p>Iowa's Threatened and Endangered Species Program: http://www.iowadnr.gov/Environment/ThreatenedEndangered.aspx</p>

Important: (1) Information contained herein is for general guidance only. Applicable authorities and regulations take precedence over guidance material and should be consulted as necessary to achieve full compliance. (2) IEDA cannot attest to the accuracy of information provided by web sites external to IEDA, and access to these sites does not constitute an endorsement by IEDA, or any of its employees, of the sponsors of the site or the products presented on the site. (3) Contact the IEDA Environmental Officer for information or assistance related to compliance with HUD environmental requirements.

Environmental Issue/Impact (Statute, Authority &/or Regulation)	State of Iowa Information
<p>6. Environmental Justice</p> <p>E.O. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”</p>	<p>Rural Development Environmental Justice (EJ) and Civil Rights Impact Analysis (CRIA) Certification: http://www.rurdev.usda.gov/de/2006-38.pdf</p>
<p>8. Farmland Protection</p> <p>Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 <i>et seq.</i>), particularly sections 1504(b) & 1541</p> <p>7 CFR Part 658, “Farmland Protection Policy” (USDA)</p>	<p>Iowa NRCS: http://www.ia.nrcs.usda.gov/contact/ USDA-NRCS: http://websoilsurvey.nrcs.usda.gov/app/</p>
<p>9. Floodplain Management</p> <p>E.O. 11988, “Floodplain Management”, particularly section 2(a).</p> <p>24 CFR Part 55 “Floodplain Management” (HUD)</p>	<p>Additional Information for EA and CEST Projects Section - F – Procedures for Making Determination on Floodplain and Wetland Management (Eight-Step Decision Making Process, Appendix 3 of CDBG Management Guide)</p> <p>State Floodplain Managers: http://www.floods.org/StatePOCs/map.asp USDA-NRCS: http://websoilsurvey.nrcs.usda.gov/app/</p>
<p>10. Historic Preservation</p> <p>National Historic Preservation Act of 1966 (16 U.S.C. 470 <i>et seq.</i>), particularly sections 106 & 110.</p> <p>36 CFR Part 800 “Protection of Historic Properties” (AHP)</p>	<p>Tim Weitzel Historic Preservation Specialist, IEDA Phone: 515-559-4401 tim.weitzel@iowa.gov</p> <p>Iowa State Historic Preservation Office: http://www.iowahistory.org/historic-preservation/</p> <p>PMOU between IDED and SHPO: http://www.iowahistory.org/historic-preservation/assets/ided-pmou-2004.pdf</p> <p>SHPO R&C Web Site: http://www.iowahistory.org/historic-preservation/review-and-compliance/hud-review-process.html</p> <p>SHPO User Manual: http://www.iowahistory.org/historic-preservation/assets/user-manual-section-1-introduction.pdf</p> <p>SHPO Architectural &Historical Resources: http://www.iowahistory.org/historic-preservation/assets/user-manual-section-2-architecture.pdf</p> <p>SHPO Archaeology: http://www.iowahistory.org/historic-preservation/assets/user-manual-section-3-archeology.pdf</p> <p>Request for SHPO Comment on HUD Project Form: http://www.iowahistory.org/historic-preservation/assets/HUD-Request-SHPO-Comment-03-01-05.doc</p> <p>Authorization for Alternate Signatories Form: http://www.iowahistory.org/historic-preservation/assets/Authorization-for-Alternative-Signatories.doc</p> <p>Exempt from SHPO Review Form: http://www.iowahistory.org/historic-preservation/assets/Exempt-from-SHPO-Review-Form-IDED.doc</p> <p>Iowa Site Inventory Form: http://www.iowahistory.org/historic-preservation/statewide-inventory-and-collections/iowa-site-inventory-form.html</p> <p>Iowa Site Inventory Form Instructions: http://www.iowahistory.org/historic-preservation/assets/ISIF-Instructions-HUD-DNR-March-2005.doc</p> <p>I-Sites Public Data: http://ags.gis.iastate.edu/IsitesPublicAccess</p>

Environmental Issue/Impact (Statute, Authority &/or Regulation)	State of Iowa Information
	County Assessor and GIS: http://www.iowaassessors.com/ State Library of Iowa Sanborn Maps: http://www.statelibraryofiowa.org/about HUD Section 106 Guidance: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/historic
<p align="center">11. Noise Abatement & Control</p> Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978. 24 CFR Part 51 Subpart B “Noise Abatement and Control” (HUD)	<p align="center">Additional Information for EA and CEST Projects Section</p> <ul style="list-style-type: none"> - C – Noise Assessment Guidelines, Appendix 3 of CDBG Management Guide
<p align="center">12. Water Quality (Sole Source Aquifers)</p> <p align="center">Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349), particularly section 1424(e)</p> <p align="center">40 CFR Part 149 “Sole Source Aquifers” (EPA)</p>	<p align="center">Iowa Water Web: http://programs.iowadnr.gov/iowawaterweb</p> <p align="center">Source Water Mapping: https://programs.iowadnr.gov/sourcewater/maps/index.html</p> <p align="center">Water Monitoring Atlas: http://programs.iowadnr.gov/ims/website/water_monitoring/viewer.htm</p> <p align="center">Watershed Atlas: http://programs.iowadnr.gov/ims/website/water_monitoring/viewer.htm?Layers=00000000000000001111111111001111111100</p> <p align="center">National Watershed Network: http://www.ctic.purdue.edu/Know%20Your%20Watershed/National%20Watershed%20Network/</p>
<p align="center">14. Wild & Scenic Rivers</p> <p align="center">Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.), particularly sections 5(d), 7(a), 7(b) & (c).</p> <p align="center">36 CFR Part 297 “Wild and Scenic Rivers” (USDA)</p>	<p align="center">Additional Information for EA and CEST Projects Section</p> <ul style="list-style-type: none"> - G – Iowa Protected Water Area Designation, Appendix 3 of CDBG Management Guide <p align="center">Natural Areas Inventory: http://programs.iowadnr.gov/naturalareasinventory/pages/Query.aspx</p> <p align="center">Recreation Map: http://programs.iowadnr.gov/ims/website/recreation/</p>

Environmental Checklist

ADDITIONAL INFORMATION FOR EA AND CEST PROJECTS - SHEET C

Noise Assessment Guidelines

Noise: The Quiet Communities Act (24 CFR Part 51, Subpart B):

The Act establishes specific noise control requirements for CDBG-funded projects. Grant Recipients must take into consideration the noise criteria and standards in the environmental review process and consider ameliorative actions when noise sensitive land development is proposed in noise exposed areas.

The prime concern of a CDBG environmental impact assessment for noise should be the effect of existing and projected noise levels on the proposed activities and facilities. **An assessment will be needed if housing and other noise sensitive uses are proposed. If your project is not noise sensitive (e.g., water & sewer projects) then you can skip this assessment and note in the environmental review that the nature of the project, as described, is not noise sensitive. However, if a noise sensitive project is proposed and any of the following conditions are present:**

- Existing or proposed commercial or military airports within 15 miles of the site.
- Roadways within 1,000 feet of the site with such characteristics (e.g., high traffic levels, high speed, heavy truck/bus usage, slope gradients, etc.) that would indicate high ambient vehicular noise levels.
- Railroads within 3,000 feet of the site.
- Other significant noise sources (e.g., industrial/manufacturing facilities, power generating stations, firing ranges) in proximity to the site.

Then, please contact IEDA for further information and instructions.

Environmental Checklist

ADDITIONAL INFORMATION FOR EA AND CEST PROJECTS - SHEET D

Historic Preservation

Protection of Historic Properties: National Historic Preservation Act (36 CFR Part 800):

Introduction: Federally funded activities are subject to the review requirements of Section 106 of the National Historic Preservation Act. The review process involves consultation with various agencies, groups and individuals. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. Historic Properties are those properties that are listed on the National Register or are eligible for listing. A property is considered eligible when it meets specific criteria established by the National Park Service (36 CFR Part 63).

Lead Federal Agency: When more than one Federal agency is involved in a project, a lead agency can be identified to serve as the agency official who shall act on the others behalf to fulfill their collective responsibilities under Section 106. Please reference the *CDBG Recipient Guide to Lead Federal Agency Designation to Complete a Portion of the Environmental Review* found in the beginning of this appendix.

Excluded from SHPO Review: Some CDBG projects are excluded from SHPO review. To determine if your project fits the criteria, reference the *Programmatic Memorandum of Understanding (PMOU) between the Iowa Economic Development Authority and the State Historical Preservation Office*. A link is provided on page 3. Be sure to reference the correct Exhibit A. One pertains to those projects that involve ground disturbance and one involves Architectural/Historical resources. Follow the procedures outlined in the PMOU. USDA-RD has a Programmatic Agreement instead of a PMOU. USDA-RD offices should follow their User's Manual to discover SHPO procedures.

SHPO Consultation: If your project activity is not excluded from SHPO review, you must consult with the SHPO. The SHPO has established forms and instruction to help the recipient through the Section 106 process. These forms and instructions are included in this appendix or can be found at <http://www.iowahistory.org/historic-preservation/review-and-compliance/hud-review-process.html>. This website also has a list of Prehistoric and Historical Archaeological Consultants (Historic Preservation, review & compliance, 106 consultants) that meet the Secretary of the Interior's Professional Qualification Standards for archaeology and historical investigation. Surveys completed for Section 106 review must meet the Department of Interior Standards, Section 110 or the equivalent. If you have any questions about historic preservation requirements contact **Ann Schmid**, Historic Preservation Specialist, at Iowa Economic Development Authority, 515.725.3078. Under the National Historic Preservation Act (NHPA) the Advisory Council on Historic Preservation (ACHP) was established. This Federal agency oversees the Section 106 process. Recipients can learn more about the council's role, get copies of 36 CFR 800, and obtain other information about the Section 106 process on the Council's web site at <http://www.achp.gov/>

Tribal Consultation: For a list of Projects that would require you to contact the tribal authorities reference Appendix A *When To Consult With Tribes Under Section 106*. If your project type is not on the list you do not need to consult with the tribes.

A list of tribal authorities who would like to be contacted can be found preceding this document (Appendix B *Tribal Authorities List: Contacts For Section 106 Consultation - HUD Tribal Directory Assessment Tool*). Each tribe listed responded to a letter and stated that they would like to be consulted during the Section 106 review for projects. For further tribal consultation instructions please refer to ACHP's CONSULTATION WITH INDIAN TRIBES IN THE SECTION 106 REVIEW PROCESS: A HANDBOOK located at <http://www.achp.gov/regs-tribes2008.pdf>. We have also included the latest information on consultation from HUD referenced in Appendix C: Process for Tribal Consultation in Projects that are Reviewed Under 24 CFR part 58.

Environmental Checklist

(Continued)

Below is a simplified documentation process to meet the Section 106 requirements. Use the below steps to determine if your project is an undertaking that has the potential to cause effects to historic properties.

- Step 1 **Determine the Area of Potential Effects (APE) (36 CFR Section 800.16(d))**
The APE is the surface and subsurface geographic area within which the undertaking may cause effects to historic properties if they exist. Usually it encompasses the project area including all easements borrow areas, equipment and material storage; and staging areas. Also take into account the excavation and other earthmoving activities including 3-dimensional parameters (length, width, and depth) of the intended subsurface impacts. This information is normally included in the engineering plans and schematics for the project.
- Step 2 **Identify historic properties within the APE (36 CFR Section 800.4)**
The recipient shall make a reasonable and good faith effort to carry out appropriate identification efforts. These include: Conduct background research: consult SHPO and Indian tribes, take oral history reviews: interview local historians, complete field surveys, initiate a phase 1 archeological survey. Remember only professionally qualified individuals can conduct an evaluation and identification of historic properties. Reference past planning, research and studies: Gather information on the types and number of recorded archaeological sites with a 1-mile radius of the project APE. This can be done by contacting the office of the State Archaeologist using the *Request for Iowa Site File Search*.
- Step 3 **Results of Identification and Evaluation (36 CFR 800.4(d))**
After evaluation, the recipient must determine if the project will affect historic properties. Based upon the evaluation one of the following findings must be made:

_____ **No historic properties effected.** This means that either there are no historic properties present or there will be no effect upon the historic properties by the undertaking. If this finding applies to your project do the following:

1. Complete and send the *Request for SHPO Comment on a Project* to SHPO along with all required documentation to help explain the finding. These documents may also be provided to Tribes as appropriate. Make certain that Section III: Applicant Certification is marked appropriately and the form is signed by the Agency Official or Responsible Entity.
2. 30 days after notification if SHPO or the Indian Tribes have not objected to the finding the recipients responsibilities under Section 106 are fulfilled

_____ **Historic properties effected.** This means there are historic properties present and they will be effected by the undertaking or that SHPO or the Indian Tribes have objected to the agency's finding of No historic properties effected. You must now determine if the undertaking will have an adverse effect on the historic property (36 CFR Section 800.5).

- **Adverse Effect:** an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. If your project meets this criterion you need to contact SHPO immediately (36 CFR Section 800.6).
- **No Adverse Effect:** if your project does not meet the above definition of an adverse effect, complete and send the *Request for SHPO Comment on a HUD Project form*. Make certain that Section III: Applicant Certification is marked appropriately and the form is signed by the Agency Official or Responsible Entity.

CDBG Recipients Remember: You must receive SHPO Concurrence or complete the section 106 process before you publish the FONSI or the Request for Release of Funds Notice for a project. For Housing and Downtown Revitalization projects, SHPO documents must be uploaded to lowagrants.gov before any project activity can commence. All other projects must have SHPO document included in their ERR.

Environmental Checklist

Programmatic Memorandum of Understanding (PMOU)

IEDA and Iowa SHPO are working on a Statewide Programmatic Agreement (PA) to cover Section 106 for IEDA's Community Development Block Grant Program. In the meantime use the PMOU from IEDA's website at: <http://www.iowaeconomicdevelopment.com/userdocs/documents/ieda/pmou2011.doc>

Additional Environmental Resources > Programmatic Memorandum of Understanding.

Once the Statewide Programmatic Agreement (PA) becomes effective it will be made available on IEDA's website. You will be notified of the change in the CDBG requirements.

Environmental Checklist

Appendix A

When To Consult With Tribes Under Section 106

Section 106 requires consultation with federally-recognized Indian tribes when a project may affect a historic property of religious and cultural significance to the tribe. Historic properties of religious and cultural significance include: archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association. The types of activities that may affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building with significant tribal association, and transfer, lease or sale of properties of the types listed above.

If a project includes any of the types of activities below, invite tribes to consult:

significant ground disturbance (digging)

Examples: new sewer lines, utility lines (above and below ground), foundations, footings, grading, access roads

new construction in undeveloped natural areas

Examples: industrial-scale energy facilities, transmission lines, pipelines, or new recreational facilities, in undeveloped natural areas like mountaintops, canyons, islands, forests, native grasslands, etc., and housing, commercial, and industrial facilities in such areas

incongruent visual changes

Examples: construction of a focal point that is out of character with the surrounding natural area, impairment of the vista or viewshed from an observation point in the natural landscape, or impairment of the recognized historic scenic qualities of an area

incongruent audible changes

Examples: increase in noise levels above an acceptable standard in areas known for their quiet, contemplative experience

incongruent atmospheric changes

Examples: introduction of lights that create skyglow in an area with a dark night sky

work on a building with significant tribal association

Examples: rehabilitation, demolition or removal of a surviving ancient tribal structure or village, or a building or structure that there is reason to believe was the location of a significant tribal event, home of an important person, or that served as a tribal school or community hall

transfer, lease or sale of a historic property of religious and cultural significance

Example: transfer, lease or sale of properties that contain archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, plant and animal communities, or buildings and structures with significant tribal association

Project/Contract # _____

Reviewed By _____

Date _____

Environmental Checklist

Appendix B

Tribal Authorities List: Contacts for Section 106 Consultation

HUD Tribal Directory Assessment Tool (TDAT):

<http://egis.hud.gov/tdat/Tribal.aspx>

Environmental Checklist

Procedures for Making Determinations on Floodplain and Wetland Management (Sheet E)

Floodplain and Wetland Management: Executive Order 11988 & Executive Order 11990 (24 CFR Part 55):

Recipients are required to protect the values and benefits of floodplains and wetlands. Recipients should reduce flood losses and wetlands destruction by not conducting, supporting or allowing projects to be located in floodplains or wetlands unless it is the only practicable alternative.

The HUD "8-step" decision-making process is utilized to determine if flood-free alternatives are available to meet the purpose and need of the project. If, through the 8-step process, it is determined that the proposed project must be located in the floodplain or wetland, then certain measures must be undertaken. These measures, identified in step 5 of the process, should minimize potential harm to beneficial floodplain and wetland values, reduce the hazard and the risk of flood loss; and minimize the impact of floods on human safety, health and welfare.

Prior to proceeding with a project in or effecting a floodplain or wetland a recipient must comply with the requirements of Executive Order 11988 and 11990. The recipient must complete an 8-step decision-making process outlined in 24 CFR Part 55, Subpart C, Section 55.20. A summary of the 8-step process is:

1. Determine if the proposed action is in a wetland or the 100-year floodplain (or in the 500-year floodplain for a critical action i.e., actions for which even a slight chance of flooding would be too great). If the proposed action would not be conducted in these areas, then no further compliance with this part is required.
2. Notify the public of the intent to locate the proposed action in the floodplain or wetland. The notice must be published at least once in a local newspaper of general circulation (in cities where there is no newspaper of general circulation, notices must be displayed in the local post office and its substations). The public must be given at least fifteen days to comment. The notice is titled *Notice of Proposed Project to be Located in a Floodplain or Wetland*. This Notice can be found in the following pages. The recipient must use this form, or its equivalent, to meet federal requirements.
3. Identify and evaluate practicable alternatives to locating in the floodplain. This determination requires the recipient to consider whether the floodplain or wetland can be avoided either through selecting alternative sites, choosing alternative actions to serve the identical project objective, or taking no action. Note that specific, actual alternative site must be identified and evaluated.
4. Identify indirect or direct impacts associated with the occupancy or modification of the floodplain or wetland.
5. Identify methods to minimize the potential adverse impacts within the floodplain or wetland and to restore and preserve its natural and beneficial values.
6. Reevaluate the alternatives, taking into account the identified impacts, the steps necessary to minimize these impacts and the opportunities to restore and preserve floodplain values.
7. If the recipient determines the only practicable alternative is locating in the floodplain or wetland, a final public notice shall be published. This public notice MUST be published at least 8 days before the Notice of Intent to Request Release of Funds (NOI/RROF) or Concurrent Notice whichever is applicable. A sample notice that is titled *Notice of a Decision Regarding Project to be Located in a Floodplain or Wetland* can be found on the following pages. The notice will include the reason for locating the project in a floodplain or wetland, the alternatives that were considered, and any mitigation measures that are planned.
8. The proposed action can be implemented after steps 1 through 7 have been completed and all other requirements are met.

Environmental Checklist

(continued)

If the project will impact a floodplain or wetland mitigation measures are required. The following are examples of mitigation measures:

Floodplains:

In compliance with Executive Order 11988, Floodplain Management Guidelines, a floodplain has been identified and the following mitigation measures shall be followed. (State the mitigation requirements)

This is an example for a water or sewer project with the utility line in a floodplain.

All existing buildings in the floodplain will be served by the water/sewer project. For new construction in the floodplain the city shall identify and evaluate practicable alternatives to locating the new construction in the floodplain using E.O. 11988, Part II, Step 3. Water/Sewer service shall be denied to any and all new construction in the floodplain if a practicable alternative location outside the floodplain exists.

For other types of projects determine appropriate mitigation measures.

Wetlands:

In compliance with Executive Order 11990, Protection of wetlands, a wetland (or potential wetland) has been identified and the following mitigation measures shall be followed. (State the mitigation requirements).

This is an example for a water or sewer project with the utility line in a wetland.

1. *All existing buildings in the wetland will be served by the water/sewer project. For new construction in the wetland the city shall deny water/sewer service unless the conversion of the wetland is authorized by a Clean Water Act Section 404 Permit.*

OR

2. *If the area was determined to be a potential wetland and no official wetland determination has been made on the parcel then the city shall request the parcel owner to complete an official wetland determination. If the parcel is determined to be a wetland the city shall deny water/sewer service unless the conversion of the wetland is authorized by a Clean Water Act Section 404 Permit.*

Environmental Checklist

ADDITIONAL INFORMATION FOR EA AND CEST PROJECTS - SHEET F

IOWA PROTECTED WATER AREA DESIGNATION

BOONE RIVER	- from Webster City to Des Moines River 25.0 miles
LITTLE SIOUX RIVER	- from Spencer to Linn Grove 34.5 miles 1,548 sq. mi. drainage area
MIDDLE RACCOON RIVER	- from Panora to Redfield 14.6 miles 609 sq. mi. drainage area
UPPER IOWA RIVER	- from Kendallville to Hwy 76 64.2 miles total 770 sq. mi. drainage area
WAPSIPINICON RIVER	- from Sweet Marsh in Bremer County to the Mouth 177.0 miles 2,540 sq. mi. drainage area

From the 1995 Nationwide Rivers Inventory

Boone River	From Webster City to confluence with Des Moines River.	25.0 miles
Cedar River	Iowa River to Highway 6.	26.0 miles
Maquoketa River	Mississippi River to US 151 Bridge (omit small reservoir northwest of Maquoketa).	68.0 miles
Middle Raccoon River	City of Panora to the City of Redfield dam.	14.6 miles
Turkey River	Mississippi River to Vernon Springs.	110.0 miles
Upper Iowa River	City of Kendallville to Highway 76 crossing.	64.2 miles
Wapsipinicon River	Mississippi River to State Highway 334 at Frederika (omit reservoir northwest of Independence).	195.0 miles
Yellow River	Mississippi River to Highway W60 near Myron.	34.0 miles
Yellow River	Entire segment within Effigy Mounds National Monument.	1.2 miles

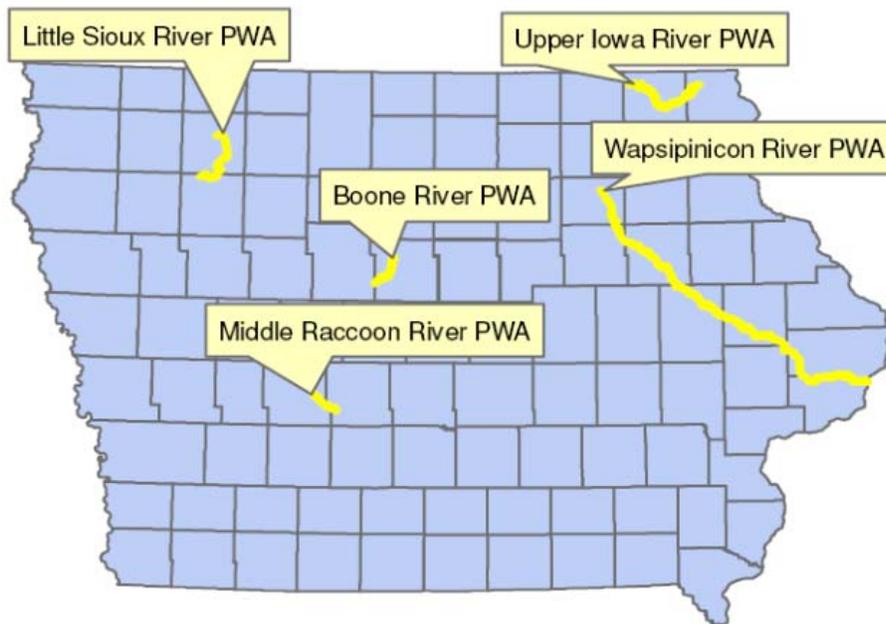
Environmental Checklist

(continued)

FIVE PROTECTED WATER AREAS

(With PWA designation in parenthesis)

- Wapsipinicon River (Sweets Marsh to Mississippi)
- Middle Raccoon River (Panora to Redfield)
- Upper Iowa River (Kendallville to Highway 76)
- Little Sioux River (Spencer to Linn Grove)
- Boone River (Brewers Creek to Des Moines River)



Environmental Checklist

Early Notice and Public Review of a Proposed Activity in a 100-Year Floodplain or Wetland

Publication Date: _____

This is to give notice that **[Responsible Entity]** has conducted an evaluation as required by Executive Order 11988 and/or 11990, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management, to determine the potential affect that its activity in the floodplain and wetland will have on the human environment for **[Program Name]** under **[contract number]**. **[Describe the activity, e.g. purpose, type of assistance, the size of the site, proposed number of units, size of footprint, type of floodplain, natural values]**. **[State the total number of acres of floodplains]**. The proposed project(s) is located **[at addresses]** in **[Name of City]**, **[Name of County]**.

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Second, an adequate public notice program can be an important public educational tool. The dissemination of information about floodplains can facilitate and enhance Federal efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in floodplains, it must inform those who may be put at greater or continued risk.

Written comments must be received by **[Responsible Entity]** at the following address on or before **[Date]***: **[Responsible Entity]**, **[Address]** and **[phone number]**, Attention: **[Name of Certifying Officer]**, **[Title]**. Comments may also be submitted or further information can be requested via email at **[email address]**. A full description of the project may also be reviewed from **[enter available office hours]** at **[enter address or state that the address is the same as the office address above]**.

** Day 15 - This date should be 15 days after the date of publication (note: first day of comment is always the day after the date of publication. Therefore, really 16 days from date of publication to end of local comment period)*

Environmental Checklist

Final Notice and Public Explanation of a Proposed Activity in a 100-Year Floodplain or Wetland

Publication Date: _____

This is to give notice that the **[Responsible Entity]** has conducted an evaluation as required by Executive Order 11988 and/or 11990, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management, to determine the potential affect that its activity in the floodplain and wetland will have on the human environment for **[Program Name]** under **[contract number]**. The proposed project(s) is located **[at addresses]** in **[Name of City]**, **[Name of County]**. **[Describe the activity, e.g. purpose, type of assistance, the size of the site, proposed number of units, size of footprint, type of floodplain, natural values]**. **[State the total number of acres of floodplains involved]**.

[Responsible Entity] has considered the following alternatives and mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values: **[List (i) ALL of the reasons why the action must take place in a floodplain, (ii) alternatives considered and reasons for non-selection, (iii) all mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values]** **[Cite the date of any final or conditional LOMR's or LOMA's from FEMA where applicable]** **[Acknowledge compliance with state and local floodplain protection procedures]**

[Responsible Entity] has reevaluated the alternatives to building in the floodplain and has determined that it has no practicable alternative. Environmental files that document compliance with steps 3 through 6 of Executive Order 11988 and/or 11990, are available for public inspection, review and copying upon request at the times and location delineated in the last paragraph of this notice for receipt of comments. This activity will have no significant impact on the environment for the following reasons:

[Give reasons why there is no significant impact]

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Second, an adequate public notice program can be an important public educational tool. The dissemination of information about floodplains can facilitate and enhance Federal efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in floodplains, it must inform those who may be put at greater or continued risk.

Written comments must be received by the **[Responsible Entity]** at the following address on or before **[Name of Administrator]**, **[Address]** and **[phone number]**, Attention: **[Name of Certifying Officer]**, **[Comments may also be submitted or further information can be requested via email at [email address]** description of the project may also be reviewed from **[enter available office hours]** at **[enter address or state that the address is the same as the office address above]**.

You may combine this comment section with the other floodplain/wetland comment sections if you are publishing them together.

** Day 7 - This date should be 7 days after the date of publication (note: first day of comment is always the day after the date of publication. Therefore, really 8 days from date of publication to end of local comment period)*

Note: You can combine this notice with your Notice of Intent to Request Release of Funds or your Notice of Intent to Request Release of Funds /Finding of No Significant Impact. The 7 day comment would run concurrently with the 7 or 15 day local comment in those notices.

Environmental Checklist

IEDA CDBG Request for Release of Funds and Certification Instructions

* After you have completed your appropriate level of review, published proper notices, and publication you can request release of funds from IEDA. Visit the IEDA website for the form.

Part 1. Program Description and Request for Release of Funds

- 1) **Program Title(s)** – There are seven options for the programs related to Iowa’s CDBG yearly allocation. Use State of Iowa CDBG – (*insert program title*) – pick from the following:
 - a. Community Facilities
 - b. Water / Sewer
 - c. Housing
 - d. Opportunities and Threats
 - e. Downtown Revitalization
 - f. Economic Development Set-Aside (EDSA)
 - g. Public Facilities Set-Aside (PFSA)

- 2) **HUD/State Identification Number** – This number is related to the year your project was funded. The following are the HUD/State Identification Numbers for the last couple of years.
 - a. 2012-B-11-DC-19-0001
 - b. 2011-B-11-DC-19-0001
 - c. 2010-B-10-DC-19-0001
 - d. 2009-B-09-DC-19-0001

- 3) **Recipient Identification Number** – This is your project’s contract number with IEDA.

- 4) **OMB Catalog Number(s)** – This stays constant, **always use 14.228**

- 5) **Name and address of responsible entity** – Enter: Recipient’s name (City or County)
Recipient’s Address
Recipient’s City, IA Zip Code

- 6) **For Information about this request, contact (name & phone number)** – Enter the Project Administrator’s name and phone number (person responsible for authoring the ER).

- 7) **Name and address of recipient (if different than responsible entity)** – *Leave Blank*

- 8) **HUD or State Agency and office unit to receive request** – Enter: Iowa Economic Development Authority
200 East Grand Avenue, Des Moines, IA
50309

- 9) **Program Activity(ies)/Project Name(s)** – Enter the project’s name.

- 10) **Location (Street address, city, county, State)** – If the project has an exact location provide the correct information. If the project is city-wide or does not have a dedicated address provide a description of the location (i.e. The Northwest Quadrant of East 4th Street and Grand Avenue, *along with city, county, State*).

- 11) **Program Activity/Project Description** – Enter a clear, complete and concise description of the activity/project to which this form pertains. Include all project activities, including non-HUD funded actions. Provide the performance targets, budget amounts and people served from the Attachment A of your contract with IEDA.

Environmental Checklist

Part 2. Environmental Certification

Part 2 is a very important step for the Responsible Entity/Recipient. Please have the CEO of the Recipient review clauses 1-8.

- **3)** Select that the ER did not require an EIS (select the second box or the box to the right), if in fact an EIS is not required.
- **Signature of Certifying Officer of the Responsible Entity:**

After the end of the required public comment period, the Certifying Officer signs his/her name, title, and the date. The Certifying Official is the chief elected official of the government (local, tribal, or state). The chief elected official or legislative body of the responsible entity may authorize the Certifying Officer's legal responsibility to reside with another official of the RE if the other official is acceptable. For purposes of being authorized to carry out this responsibility, HUD requires that the substituted official provide evidence, in the form of a formal delegation by the chief elected official or resolution by the legislative body of the RE, that the substituted official has the authority to consent on behalf of the chief elected official to federal court jurisdiction and to bind the RE to satisfy any judgment entered in federal court relating to the RE's performance of environmental responsibilities under 24 CFR Part 58 and as set forth in Items 1 through 8 in Part 2 of the RROF.

- **Signature of Certifying Officer of the Responsible Entity** – Either Mayor or County Chairperson's Signature
- **Title of Certifying Officer**
- **Date Signed**
- **Address of Certifying Officer** – Enter the Recipient's Address

Part 3. To be completed when the Recipient is not the Responsible Entity

DO NOT FILL OUT – NOT APPLICABLE

Here are some key tips that will help you avoid submission errors that could delay the release of funds (aka, environmental approval):

- *Only use this current official OMB-approved form, HUD-7015.15, and follow the attached instructions for its completion.*
- *The form should be printed and certified (signed) using one sheet of paper; that is, duplex-copied, having the first and second page on a single sheet.*
- *Pay particular attention to describing the location of the project (Box 10) and provide a complete yet concise project description (Box 11). Include in the description all non-HUD funded activities that comprise the project.*
- *Do not use attachments for the project location or description. Rather, describe the project in the space provided on the form. If the project location will not fit in Box 10, include the location in project description (Box 11).*
- *Ensure that the Certifying Official does not sign the RROF until after the expiration of the public comment period and after any comments, as appropriate, have been addressed.*

Environmental Checklist

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB No. 2506-0087
(exp. 10/31/2014)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)	7. Name and address of recipient (if different than responsible entity)	
8. HUD or State Agency and office unit to receive request		

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)
--	--

11. Program Activity/Project Description

Reference only, updated version online:
<http://www.iowaeconomicdevelopment.com/CommunityDevelopment/CDBG>

Environmental Checklist

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did did not require the preparation and dissemination of an environmental impact statement.
4. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
5. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
6. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

7. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
8. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

Title of Certifying Officer

X

Date signed

Address of Certifying Officer

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

X

Date signed

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Reference only, updated version online:

<http://www.iowaeconomicdevelopment.com/CommunityDevelopment/CDBG>

Environmental Checklist

Contract Number: _____ Recipient: _____ Date Reviewed: _____

Correct Level of Review: YES NO
 All documents signed? YES NO
 Local comment timeframe ok? YES NO
 RROF signed after end of local comment? YES NO
 Date submitted to IEDA in publication one day after end of local comment? YES NO

<p>Air Quality [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93]</p>	<p>Description in Checklist: Project <u>is</u> or is <u>not</u> located in an EPA-designated non-attainment area or maintenance area for one or more of six “criteria pollutants,” called National Ambient Air Quality Standards (NAAQS).</p> <p>Review Criteria: Project located in a non-attainment or maintenance area: Y N If yes, will project contribute to contamination: Y N</p> <p>Documentation: - Map of non-attainment areas: http://www.epa.gov/oaqps001/greenbk/mapnmpoll.html -conformance to SIP (if required)</p>
<p>Airport Hazards (Clear Zones Accident Potential Zones) [24 CFR 51D]</p>	<p>Description in Checklist: Project <u>is</u> or is <u>not</u> located within 2,500 feet of the end of a civil airport runway or 15,000 feet of the end of a military airfield runway.</p> <p>Review Criteria: Is the project located within 2,500 feet of the end of a civil runway or 15,000 feet of the end of a military airfield? Y N If yes, is the project within the RCZ/RPZ for civil airport or CZ/APZ of military airfield Y N</p> <p>Documentation: - Map showing project in relation to airports - If within 2,500 ft of civilian airport = layout plan showing project not in RCZ/RPZ - If within 15,000 ft of military airport = AICUZ study showing project not in CZ/APZ</p>
<p>Coastal Zone Management</p>	<p>Description in Checklist: No coastal zone management programs exist in the states of HUD Region VII, as established by Nat’l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management No coastal zone management areas in Iowa.</p> <p>Documentation: none necessary</p>

Environmental Checklist

<p>Contamination and Toxic Substance [24 CFR 58.5(i)(2)]</p>	<p>Description in Checklist: Project location <u>will</u> or <u>will not</u> be affected by any contaminated or Toxic substances. A field inspection, land use search, and review of environmental compliance were conducted.</p> <p>Review Criteria: Project location affected by contamination or toxic substances Y N If yes, what mitigation is planned If the project is a HSG they need to mention Radon and Lead testing If the project is a non-infrastructure/non-housing need to discuss Asbestos testing Documentation: - Environmapper results: http://www.epa.gov/emefdata/em4ef.home or ECHO or other - DNR contaminated sites database results https://programs.iowadnr.gov/contaminatedsites/pages/search.aspx - DNR LUST database results https://programs.iowadnr.gov/tanks/pages/advanced.aspx.</p>
<p>Endangered Species [50 CFR 402]</p>	<p>Description in Checklist: Project will have <u>no effect</u> or <u>May Effect, Not Likely to Affect</u> or <u>May Effect, Likely to adversely Affect</u> a Federally listed endangered or threatened species or its habitat.</p> <p>Review Criteria: Determination made (circle one): - No Effect - May Effect, Not Likely to Affect – evidence of informal consultation with fish & wildlife - May Effect, Likely to adversely Affect - evidence of formal consultation with fish & wildlife and mitigation strategy Documentation: - Species & habitat list: http://www.fws.gov/Midwest/Endangered/LISTS/iowa_cty.html. - Surveys & evidence of consultation (if required)</p>
<p>Environmental Justice [Executive Order 12898]</p>	<p>Description in Checklist: Project site or neighborhood <u>does</u> or <u>does not</u> suffer from adverse health or environmental effects which disproportionately impact a minority or low-income population relative to the community at large. Project will assist low to moderate income persons for a better quality of life.</p> <p>Review Criteria: Does the project site or neighborhood suffer from adverse health or environmental effects which disproportionately impact a minority or low-income population relative to the community at large? Y N If yes, will the project add to this issue? Y N Documentation: - census information http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml</p>

Environmental Checklist

<p>Explosive and Flammable Operations</p> <p>[24 CFR 51C]</p>	<p>Description in Checklist: HSG, WS, CF rehabilitation and DTR = The project is not an applicable activity. Therefore, a visual search of the area around the project was not conducted to determine if explosive or flammable operations were present. CF new construction: A visual search of the area revealed that the project <u>is</u> or <u>is not</u> located within sight of or in proximity to an above ground storage tanks or facilities that stores, handles or processes chemicals or petrochemicals of an explosive or flammable nature, such as liquid propane, gasoline or other above-ground storage tanks. Review Criteria: Is the project an applicable activity? Y N If applicable, any above ground storage tanks within 1 mile of project? Y N If yes, are they within the Acceptable Separation Distance? Y N If no, review mitigation strategies Documentation - none if not applicable - communication with city/county officials</p>
<p>Farmland Protection</p> <p>[7 CFR 658]</p>	<p>Description in Checklist: WS (water storage only): The project is a water storage project. Therefore, it is not an applicable activity and prime farmland, unique farmland, or land of statewide or local importance was not investigated on the project site. HSG, DTR, and CF rehabilitation: Project location already has a structure on it, which will be rehabilitated as part of the funded project activity. Therefore, it is not an applicable activity and prime farmland, unique farmland, or land of statewide or local importance was not investigated on the project site. WS and CF new construction: Project <u>is</u> or <u>is not</u> located in area that includes prime farmland, unique farmland, or land of statewide or local importance. OR WS: project is located in town, in an urbanized area, and in City right of way. CF new construction: project is located in town, in an urbanized area, and on an infill lot. Review Criteria: Is project a water storage project? Y N</p>

Environmental Checklist

	<p>If no, does the project location involve rehabilitation of an existing structure? Y N</p> <p>If No, is project located in an area that includes prime farmland, unique farmland, or land of statewide or local importance. Y N</p> <p>If yes, AD-1006 form must be below 160</p> <p>Documentation:</p> <ul style="list-style-type: none"> - none if not applicable - map of soils: http://websoilsurvey.nrcs.usda.gov/app/ - AD-1006 (if necessary)
<p>Floodplain Management [24 CFR 55, Executive Order 11988]</p>	<p>Description in Checklist: Project location <u>is</u> or <u>is not</u> on the 100 or 500 year floodplain. Map panel number: #####</p> <p>Review Criteria:</p> <p>Are floodplains present? N Y</p> <p>If yes, 8 steps followed? Y N</p> <p>Documentation:</p> <ul style="list-style-type: none"> - FEMA map https://msc.fema.gov/portal - 8 step process (if appropriate) with publications
<p>Historic Preservation [36 CFR Part 800]</p>	<p>Description in Checklist: Project submitted SHPO comment form on X with a finding of X. SHPO consultation concluded on X. Tribes were consulted on X or Tribes were not consulted because the activity is not one that would have an effect on an area that is significant to tribes.</p> <p>Review Criteria:</p> <p>Date SHPO consultation concluded: _____</p> <p>Date letters to tribes sent: _____</p> <p>Or</p> <p>“signed when to consult tribes” memo</p> <p>Documentation:</p> <ul style="list-style-type: none"> - SHPO consultation documentation - Tribal letters <p>Or</p> <ul style="list-style-type: none"> - “signed when to consult tribes” memo [MS Word: 57k]

Environmental Checklist

<p>Noise Control [24 CFR 51B]</p>	<p>Description in Checklist: HSG and CF: Project location <u>is</u> or <u>is not</u> within 1,000 feet of major/busy road, 3,000 feet of railway, or 15 miles of airport (civil or military). DTR and WS: Project activity is not residential in nature nor a noise sensitive use (housing, day care center, hospital, or community center). Review Criteria: Is project noise sensitive: Y N If noise sensitive, is the project located within 1,000 ft of a major road, 3,000 ft of a railroad, 15 miles of a civil or military airfield Y N If yes, what is the noise level: If above 65dB what are the attenuation plans (HSG and CF rehabilitation attenuation strongly encouraged, new construction mandatory). Documentation – if noise sensitive: - map showing distances from railroad, airfield, major roads - Noise calculator outputs (if within separation distances) - discussion of attenuation plans (if necessary)</p>
<p>Water Quality (Sole Source Aquifers)[40 CFR 149]</p>	<p>Description in Checklist: Project is not located within area of an EPA-designated sole source aquifer. Documentation: map from http://www.epa.gov/safewater/sourcewater/pubs/qrg_ssamap_reg7.pdf</p>
<p>Wetland Protection [24 CFR 55, Executive Order 11990]</p>	<p>Description in Checklist: Project <u>is</u> or <u>is not</u> located within, or has impact upon, a wetland. Are wetlands present? Y N If yes, 8 steps followed? Y N Documentation: - Wetland Mapper map http://www.fws.gov/wetlands/data/Mapper.html - 8 step process (if appropriate) with publications</p>
<p>Wild and Scenic Rivers Act [36 CFR 297]</p>	<p>Project located <u>is</u> or <u>is not</u> within one (1) mile of a designated Wild & Scenic River, or river being studied as a potential component of the Wild & Scenic River system. Documentation: Project near a designated, studied or potential river? Y N If yes, will project have an effect on the river? Y N</p>

Environmental Checklist

	<p>If yes, mitigation strategy discussed and evidence of consultation with NPS Documentation: - List of protected rivers: http://www.nps.gov/ncrc/programs/rtea/nri/states/ia.html</p>
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In the Appendix to Chapter 4

The Appendix to Chapter 4 contains the following:

When Documents are Due to IEDA	2
Request for GAX payment form and instructions	3
Direct Deposit Authorization Form.....	5

When Documents are Due to IEDA

In order for IEDA to process requests for payment (draws) in a timely manner, certain documents must be received. The following table will show when documents are due into IEDA. If these documents are not received, your draw will be held until they are submitted.

Starting in 2013, each activity funded including administration will be required to submit a draw **ATLEAST** every 6 months after the first draw is submitted. Failure to submit a draw every 6 months after the first draw is submitted may result in termination of your 2013 contract with IEDA. Once your contract is signed, draws can be submitted to IEDA in amounts of \$500 and greater at ANY time for expenses incurred as part of your funded project.

Draws	Documents
With/prior to 1st Draw	
	Contract signed
	RARA signed
	Excessive Force signed
	Contract Condition Clearances: (Check Main Data to see if required)
	<ul style="list-style-type: none"> • 6.7(b) Sub-recipient agreement (CF/ED/DTR/CRL/HSG – ONLY Region XII & SICOG)
	<ul style="list-style-type: none"> • 6.7(b) Promisorry Note (ED ONLY)
	<ul style="list-style-type: none"> • 6.7(b) Documenation of Collateral (ED ONLY)
	<ul style="list-style-type: none"> • 6.7(a) Match funding award/loan approval letter (WS/CF)
	<ul style="list-style-type: none"> • 6.7(d) Long term lease agreement (CF ONLY)
	Administration Plan (Housing /DTR)
Prior to 1st construction draw (many prior to bid letting)	
	Section 106 completed (DTR or HSG ONLY – all others occur prior to release of funds)
	Release of Funds
	Contractor Clearances
	Contract Condition Clearances: (Check Main Data to see if required)
	<ul style="list-style-type: none"> • 6.6(a) DNR construction permit (WS/OT)
	<ul style="list-style-type: none"> • 6.6(b) Review of handicap accessibility (CF ONLY – non-stormwater)
	<ul style="list-style-type: none"> • 6.6(h) Façade easements (DTR ONLY)
	<ul style="list-style-type: none"> • 6.6(d)(e)(f) Rural Water Information (WS ONLY)
	<ul style="list-style-type: none"> • 6.6(g) State Building Code Approval (CF ONLY – non-stormwater)
	<ul style="list-style-type: none"> • 6.6(i) Storm water design - final documents (CF ONLY - stormwater)
	<ul style="list-style-type: none"> • 6.6(j) Construction documents for Iowa Green Streets Criteria (CF ONLY – non-stormwater)
	Signed Appendix C for Iowa Green Streets Criteria (DTR/CF – non-stormwater)
With 1st construction draw	
	Section 3 form (can be updated if status changes on final close-out documents)
With/prior to final draw	
	3D form (CF ONLY)
	Final housing QPR (2011 and previous contracts – 2012 and beyond with information with the draw form in IowaGrants for each house when completed)
	Follow up documentation required as part of a monitoring
	Final audit documentation
	Community facilities: signed Appendix D, E, or F for Iowa Green Streets Criteria and Energy report

BUDGET FY		General Accounting Expenditure						DOCUMENT NUMBER								
		DATE 3/19/2012			ACCTG PERIOD (mm/yy)											
VENDOR CODE				AGENCY NAME												
VENDOR NAME AND ADDRESS				BILL TO ADDRESS (ORDERING AGENCY) Iowa Economic Development Authority 200 E. Grand Ave. Des Moines, Iowa 50309				SHIP TO ADDRESS								
TERMS		JOB		ORDER APPROVED BY				GOODS RECEIVED/SERVICES PERFORMED								
								DATE		INITIALS						
QUANTITY				VENDOR'S INVOICE NUMBER												
ORDERED	RECEIVED	UNIT OF MEASURE						UNIT PRICE		TOTAL PRICE						
				Request for Payment under CDBG Contract Number: _____ Report 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 SHOULD 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) GAX	DOC NUMBER		DOC DATE		ACCTG PRD	BUDGET FY	ACTION NEW/MOD	PO SHIP INSTR	GAX TYPE 1	INT IND	INT SELLER FUND	INT SELLER AGCY				
VENDOR CODE		ADDR OVERRIDE		F/A INDICATOR	LEFT IND	TEXT -po's only (Y/N)			TEXT (po's only)							
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	QUANTITY / UNITS	I/D	DESCRIPTION	AMOUNT	I/D	P/F
01	0340	269	4610				4125									
02																
03																
04																
05																
06																
07																

GAX

WARRANT # _____

AUDITED BY _____

DOCUMENT TOTAL

PAID DATE _____

Instructions for Completing Request for Payment/Activity Status Form Community Development Block Grant (CDBG) Program

BACK SIDE OF FORM

- 1 **Date Form Complete**
- 2 **Accounting Period** (Date from Number 4 above)
- 3 **Vendor:** Name and address of recipient as they appear on the contract.
- 4 **Description of Item:** Fill in contract number, report number, and amount of request in the space provided.
- 5 **Claimant's Certification:** Type in title, and have it signed and dated by contract signatory **in ink other than black.**

Submit online at iowagrants.gov.

STATE OF IOWA										GAX	
BUDGET FY								General Accounting Expenditure		DOCUMENT NUMBER	
1				2							
3				Iowa Department of Economic Development 200 E. Grand Ave. Des Moines, Iowa 50300							
QUALITY				WORKSHEET				INITIALS			
				Report Number: _____							
CREDIT	DEBIT	DATE	DESCRIPTION	AMOUNT	UNIT	TOTAL					
			Request for Payment under CDBG Contract Number: _____ Report Number: _____				4				
						DOCUMENT TOTAL		4			
CLAIMANT'S CERTIFICATION						AGENCY CERTIFICATION					
I CERTIFY THAT THE FUND INFORMATION IS CORRECT AND THAT THE CLAIMANT IS RESPONSIBLE FOR THE PROPER AND CORRECT AND NO DUPLICATION OF THIS CLAIMANT'S SIGNATURE.						I CERTIFY THAT THE FUND INFORMATION IS CORRECT AND THAT THE CLAIMANT IS RESPONSIBLE FOR THE PROPER AND CORRECT AND NO DUPLICATION OF THIS CLAIMANT'S SIGNATURE.					
DATE						TITLE					
5						SIGNATURE					
GAX											
WARRANT#											
AUDITED BY											
DATE											
DOCUMENT TOTAL										0.00	

Direct Deposit Authorization Form
Iowa Economic Development Authority

SECTION 1 – TRANSACTION TYPE

ARE YOU ADDING, CHANGING or CANCELING THIS AGREEMENT? ADD CHANGE CANCEL

The agreement represented by this authorization remains in effect until canceled by the payee and until such time. Payments made by the State of Iowa to you will be deposited into the account at the financial institution designated below. You will be required to submit a new form for any change in banking designation or to cancel this authorization and revert to a state warrant. It is your responsibility to notify the State of Iowa any time an account is closed.

An add or change in EFT status will be effective ten business days after entry into the State's accounting system. A cancellation will become effective immediately after entry into the State's accounting system.

PLEASE NOTE THAT THIS FORM NEEDS TO BE COMPLETED ONLY IF A NEW BANK ACCOUNT IS BEING SET UP FOR DIRECT DEPOSIT. IF FUNDS ARE ALREADY RECEIVED FROM THE STATE OF IOWA VIA EFT INTO THE BANK ACCOUNT A NEW FORM DOES NOT NEED TO BE COMPLETED FOR FUNDS TO BE RECEIVED FROM THE IOWA DEPARTMENT OF ECONOMIC DEVELOPMENT.

SECTION 2 – BUSINESS/INDIVIDUAL IDENTIFICATION INFORMATION

BUSINESS/INDIVIDUAL LEGAL NAME: _____
(NAME TAX ID IS ASSIGNED TO AND USED FOR TAX REPORTING PURPOSES)

BUSINESS NAME: _____
(DBA-DOING BUSINESS AS NAME IF DIFFERENT FROM LEGAL NAME)

GRANT/PROJECT NUMBER: _____
(EXAMPLE: 10-WS-013, 08-DRMH-004, 10-HSG-083, 08-DRB-203)

SSN |__|__|__| - |__|__| - |__|__|__| OR FEIN (Fed. Empl. ID Number) |__|__| - |__|__|__|__|__|__|

MAILING ADDRESS: _____
(ADDRESS TO BE USED IN CASE OF DEFAULT TO CHECK)

CITY: _____ STATE: _____ ZIP _____

SECTION 3 – FINANCIAL INSTITUTION – TO BE COMPLETED BY FINANCIAL INSTITUTION

(NOT REQUIRED IF FOR CHECKING ACCOUNT **ONLY** AND A COPY OF **VOIDED** CHECK IS ATTACHED – **DO NOT** ATTACH DEPOSIT SLIP)

FINANCIAL INSTITUTION NAME: _____

FINANCIAL INSTITUTION ADDRESS: _____

CITY: _____ STATE: _____ ZIP _____

NAME ON ACCOUNT: _____

ROUTING TRANSIT NUMBER: |__|__|__|__|__|__|__| ACCOUNT TYPE: SAVINGS

CUSTOMER ACCOUNT NUMBER: _____ CHECKING

I have verified the signature(s) and account numbers above. The Financial Institution is ACH capable and will comply with NACHA rules.

REPRESENTATIVE NAME: _____ SIGNATURE: _____

REPRESENTATIVE TITLE: _____

TELEPHONE NUMBER: (____) _____ - _____ DATE: _____

SECTION 4 – VENDOR AUTHORIZATION FOR ADD, CHANGE, OR CANCELLATION

I hereby authorize the Department of Administrative Services to deposit payments from the State of Iowa to the account designated on this form and to initiate any adjustments or debit entries to this account for any erroneous deposits in the amount of the error only. I also understand that the State of Iowa can only deposit funds into one financial institution and account.

AUTHORIZED NAME: _____ TITLE: _____ DATE: _____

AUTHORIZED SIGNATURE: _____ TELEPHONE NUMBER: (____) - _____ - _____

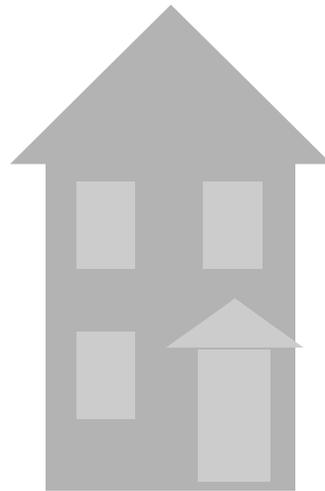
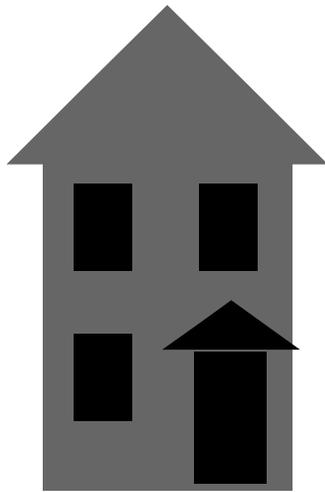
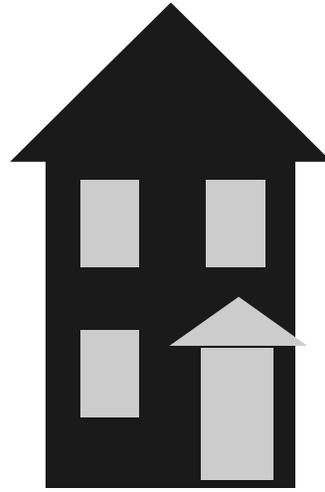
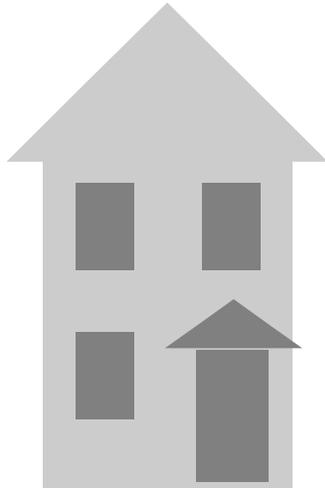
Mail, Fax, or Email the completed form to: Katie Caggiano – Iowa Economic Development Authority
200 East Grand Avenue, Des Moines, IA 50309
Fax: (515) 725-3010 Email: katie.caggiano@iowa.gov

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IOWA'S MINIMUM HOUSING REHABILITATION STANDARDS

Revised March 2011



Iowa's Minimum Housing Rehabilitation Standards

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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 Economic Development Authority's (IEDA'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).

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.

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 homebuyer, 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.

- B.** 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 1.28 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 1.5 GPM flow restricting faucet aerator will be installed.
- C.** 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 showerheads must be equal to or less than 1.75 (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.
- D.** 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.
- E.** 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 .67 or higher and meet Energy Star requirements at the time of installation. Electric water heaters shall have an EF rating of .93 or higher.
 6. Where feasible, Energy star rated tankless water heaters with an EF rating of .82 or higher 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.

F. 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 than 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 window 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.

G. 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.

H. 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:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes, and
3. 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.

I. 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.

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.

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 bulb equivalent or better shall be installed in all new fixture installations.
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 bulb equivalent or higher.

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.

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 ductwork 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 90% 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 14.5 SEER or the lowest SEER rating that is available at the time of installation but not less than 14.5 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 + R-2.5 form (or greater)
 - 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-2.5 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.

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 manufacturer.

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, or directly to a storm sewer system.
 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 windowpanes 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.

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.

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 kitchen faucets shall have aerators that restrict water flow to 2 GPM or less and 1.5 GPM or less for bathroom lavatories. Toilets, when installed, shall only use 1.28 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.

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.

Minimum Standards for Connection to Sanitary Sewer

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

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:

OLA	X	Net proceeds = Recapture Amount payable to Lender

OLA + GI		

<p>GI</p> <p>_____ X Net Proceeds = Proceeds payable to Grantor</p> <p>OLA + GI</p>

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 Economic Development Authority 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 IEDA-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 Economic Development Authority 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:

SAMPLE HOMEOWNERSHIP ASSISTANCE ACTIVITY

FORGIVABLE LOAN PROMISSORY NOTE PURCHASE MONEY MORTGAGE

Borrower: [Name of Borrowers]

Lender: [Name of IEDA 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:

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

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

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

4. Refinancing. If the Borrower refinances the first lien on the Mortgaged Property with a lender approved by the Iowa Economic Development Authority (IEDA) 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 IEDA-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 IEDA, 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 IEDA 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:

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

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 Economic Development Authority 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 IEDA-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:

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

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 Economic Development Authority 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 IEDA-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.

“IEDA” means the Iowa department of economic development.

“Iowa green communities criteria” means a set of rating factors, some optional and some mandatory, prepared by IEDA 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 IEDA to receive housing funds and undertake the funded housing activity.

“Repayment” means housing fund moneys which the recipient must repay to IEDA 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.

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.
2. Eligible forms of IEDA assistance to its recipients include grants or other forms of assistance as may be approved by IEDA.
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. IEDA 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, IEDA will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IEDA.

[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:

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.
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. IEDA 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 IEDA. 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.
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.
4. The application shall demonstrate local support for the proposed activity.
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. IEDA 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.

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.
2. IEDA 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.

1. IEDA 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.
2. IEDA reserves the right to limit the amount of funds that shall be awarded.
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.
4. Recipients shall identify general administrative costs in the housing fund application. IEDA 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.
5. IEDA 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 IEDA director.

1. A contract shall be executed between the recipient and IEDA. 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 IEDA within 45 days of transmittal of the final contract from IEDA. Failure to do so may be cause for IEDA 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 IEDA's receipt of an administrative plan for the funded activity.
 - e. Release of funds shall be conditioned upon IEDA's receipt and approval of documentation of environmental clearance.
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.
 3. Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IEDA. 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.
 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 IEDA, 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.
 5. Performance reports and reviews. Recipients shall submit performance reports to IEDA in the manner and on forms prescribed by IEDA. Reports shall assess the use of funds and progress of activities. IEDA may perform reviews or field inspections necessary to ensure recipient performance.
 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 IEDA following the procedure specified in the contract between the recipient and IEDA.
 7. Contract closeout. Upon the contract expiration date or work completion date, as applicable, IEDA shall initiate closeout procedures. Recipients shall comply with applicable audit requirements described in the housing fund application and management guide.
 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.

9. Remedies for noncompliance. At any time, IEDA may, for cause, find that a recipient is not in compliance with the requirements of this program. At IEDA's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IEDA. 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.
10. Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IEDA staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IEDA. Appeals should be addressed to the division administrator of the division of community development. Appeals shall be in writing and submitted to IEDA within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The IEDA 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 non-entitled 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 non-entitlement 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 heating 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 IEDA Community Development website for current MFI numbers and updates.

COST PRINCIPLES FOR STATE, LOCAL AND INDIAN TRIBAL GOVERNMENTS

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ATTACHMENT A

Circular No. A-87

GENERAL PRINCIPLES FOR DETERMINING ALLOWABLE 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.

SELECTED ITEMS OF COST

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1. Advertising and public relations costs
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3. Alcoholic beverages
4. Audit costs and related services
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7. Communication costs
8. Compensation for personal services
9. Contingency provisions
10. Defense and prosecution of criminal and civil proceedings, and claims
11. Depreciation and use allowances
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19. General government expenses
20. Goods or services for personal use
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31. Pre-award costs
32. Professional service costs
33. Proposal costs
34. Publication and printing costs
35. Rearrangement and alteration costs
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37. Rental costs of building and equipment
38. Royalties and other costs for the use of patents
39. Selling and marketing
40. Taxes
41. Termination costs applicable to sponsored agreements
42. Training costs

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 reimbursements and the governmental unit's contributions to the
- 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 policies 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 firsthand 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) These 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 is 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. IEDA 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. Documents submitted to IEDA should be done through lowagrants.gov with recipients maintaining original documents in their project file.

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 IEDA

- 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
- 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
- IEDA 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 IEDA 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 IEDA 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 IEDA (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 IEDA 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 2015

Template REVISED 2015

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Exhibit A: Sample Relocation Policy Guide

Owner-Occupied Rehabilitation Administrative Plan –
Program Year 2014

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 Iowa Economic Development Authority. 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 IEDA’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 IEDA 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 Economic Development Authority's (IEDA'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 7.3 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 IEDA'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., windowsills, 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 doorframes.

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 Economic Development Authority (IEDA): The IEDA 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 greater 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 temporarily reduces exposure by the occupants of the dwelling to lead-based paint hazards. Lead hazard reduction activity does not result in the assisted property being permanently 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 IEDA’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 March 2011 (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 IEDA's Housing Fund.

2.33 "Worksite" or "work area" means an interior or exterior area where lead-based paint hazard reduction activity or renovation takes place. There may be more than one worksite in a dwelling unit

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 Economic Development Authority (IEDA).*

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 only 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 only 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 are 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 (March 2011), as applicable.*** (Refer to Section 7.8 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 fourth 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 fourth 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 IEDA 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 IEDA'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 cannot 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 IEDA'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 annual gross household income 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 "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools" 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 7.10 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 IEDA 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 Target Housing—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 specified 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 IEDA 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 7.11 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 IEDA 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 7.11 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, limited access to living areas, and coordination of household schedule with lead-based paint work activity issues, as applicable (i.e., conveyance of the details of the community's temporary relocation offering and options, 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 Target Housing—Occupancy

Scheduling the Lead-Based Paint 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 prior to 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).

Worksite Restricted Entry and Security

No Occupants at Worksite: Occupants shall not be permitted to enter the worksite during lead hazard reduction activities until after hazard reduction work has been completed and clearance has been achieved.

Protection of Occupants' Belongings: The dwelling and worksite shall be secured against unauthorized entry and occupants' belongings shall be protected from contamination during hazard reduction activities by relocating or covering and sealing all belongings.

Occupant Protection Measures

All households will be provided the option of temporary relocation.

Households with children under six years of age and/or a pregnant woman (if known) must be temporarily relocated as described below in the Temporary Relocation section.

Households that will not have safe access to sleeping areas, bathroom, and kitchen facilities outside the sealed work area must be temporarily relocated as described below in the Temporary Relocation section.

Households that live in houses that will require more than five calendar days to complete the lead hazard reduction activity for the interior of the house must be temporarily relocated as described below in the Temporary Relocation section.

Households that are not required to temporarily relocate and do not choose temporary relocation will be required to vacate the house during the work hours and have no access to the worksite when in the house after work hours except for households where all occupants of the house are at least 62 years old. The requirements that apply to projects where the households do not temporarily relocate (except for households where all occupants are at least 62 years old) are described in the “Eight Daytime Hours or Five Calendar Days” section.

Households that do not include any person under 62 years old and that have received complete disclosure of the nature of the work are not required to leave the house if there will be safe access to sleeping areas, bathroom, and kitchen facilities outside the sealed work area (worksite) and if each occupant of the house signs an “Elderly Waiver for Relocation.” A sample “Elderly Waiver for Relocation” is included with Lead Safe Housing Regulations and Forms in Appendix to Chapter 4.

7.16 Eight Daytime Hours or Five Calendar Days: Eight Daytime Hours: 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 on-site disposal of hazardous waste).

Or

Five Calendar Days: 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.

Prior to the start of the lead hazard reduction work the worksite shall be sealed to prevent the release of leaded dust, and to contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted.

For either Eight Daytime Hours or for Five Calendar Days, the work area will be sealed and no occupant will enter the work area until all such work has been completed AND successful clearance testing and final visual assessment results meeting IDPH standards has been achieved.

7.17 Temporary Relocation: Temporary relocation is required for the following households during interior work in target housing that disturbs areas that have or are presumed to have lead-based paint:

- **all households with children under six and/or a pregnant woman (if known)**
- **for projects where there will not be safe access to sleeping areas, bathroom, and kitchen facilities during the lead hazard reduction work**
- **for projects that will require more than five days to complete the lead hazard reduction work**
- **any household that requests temporary relocation**

The relocated households 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. 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 household will be relocated to a suitable, safe / decent / sanitary living arrangement that is free of any lead-based paint hazards (post-1978 unit or clearance examination). 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 the relocated household until all such work has been completed and successful clearance testing and final visual assessment results meeting IDPH standards has been achieved.

Some, if not all, of the relocated household's belongings must also be temporarily relocated (or adequately protected), 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.

7.18 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.

7.19 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.

7.20 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 ten percent (10%) from all partial payment requests received from contractors. This ten percent (10%) 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.

7.21 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.

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.

As an alternative, reverse work sequencing will be allowed if it better fits the work schedule of the contractor and/or the occupant. If reverse work sequencing is implemented, all interior rehabilitation work that does not disturb painted surfaces and/or does not involve interior lead hazard reduction activity needs to be completed and accepted initially. Temporary relocation will then occur, at which time the interior rehabilitation that disturbs known or presumed lead-based paint and/or interior lead hazard reduction activity can then commence. Upon completion of this work, clearance testing – including a final visual risk assessment – will be conducted on the interior of the dwelling. In effect, this is a partial final visual risk assessment (interior of the dwelling only). After successful clearance testing, the community will authorize re-occupancy of the assisted property. Subsequent to re-occupancy, all exterior rehabilitation work items and all exterior lead hazard reduction items will then commence. Upon completion of this work the community will conduct a final inspection of all rehabilitation work and lead hazard reduction activity accomplished on the project. At or prior to the final inspection clearance testing and a visual risk assessment will be completed, if applicable, on all of the exterior work accomplished.

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 only 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 borne 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 all 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 Economic Development Authority (IEDA), 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 IEDA.

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 IEDA 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.

9.1 Written Relocation Policy Guide: The community's written relocation policy must be submitted to IEDA as Exhibit A to the Administrative Plan as a condition of the contract with IEDA. The policy at a minimum must include the following information:

- ***When relocation is required under the program and how long temporary relocation will typically last***
- ***How much notice will be provided to move and return***
- ***What constitutes an appropriate relocation unit (must be post-1978 or documented as lead-safe by a clearance examination)***
- ***Whose responsibility it is to identify a temporary unit***
- ***What costs may be covered such as a unit provided, units at selected lodging paid directly, meal allowance if there are no cooking facilities, etc.***
- ***How payments will be made***

- Lead Safe Housing Regulations - 24 CFR Part 35, Lead-Based Paint Poisoning Prevention in Certain Residential Structures 107
- Interpretive Guidance - The HUD Regulation on Controlling Lead-Based Paint Hazards in Housing Receiving Federal Assistance and Federally Owned Housing Being Sold 139
 - EPA Pamphlet - “Protect Your Family From Lead in Your Home”
Available on the web at:
<http://www.epa.gov/lead/pubs/leadpdf.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)
- EPA Pamphlet - “Acknowledgement of Receipt” Form 163
- IDPH Pamphlet - "Acknowledgment of Receipt" Form 164
- “Notification of Lead-Based Paint Inspection and Risk Assessment” Form 165
- “Notification That Lead-Based Paint or Lead-Based Paint Hazards are Presumed to be Present and Notification of Visual Risk Assessment” Form 166
- “Notification of On-Going Maintenance Inspection” Form 167
- “Notification of Lead-Based Paint Hazard Reduction Completion and Final Visual Risk Assessment and Clearance Testing Results” Form 168
- Home Purchase – Disclosure of information on Lead-Based Paint and/or Lead-Based Paint Hazards 169
- Home Rental – disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards 173
- Iowa Department of Public Health Information on Pre-Renovation Notification 174
Available on the web at
http://www.idph.state.ia.us/eh/common/pdf/lead_poisoning_prevention/prenotify_flyer_english.pdf and
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
 - Form #1** - Work Done in a Dwelling Unit 175
 - Form #2** - Notice to Owner for Work Done in Common Areas of Multi-Family Housing 176
 - Form# 3** - Notice of Residents for Work Done in Common Areas of Multi-Family Housing..... 177
 - Form# 4** - Record of Tenant Notification Procedures for Work Done in Common Areas of Multi-Family Housing 178
 - Form# 5** - Emergency Renovation, Remodeling and Repainting Work Done in a Dwelling Unit 179
 - Form# 6** - Emergency Renovation, Remodeling and Repainting Notice to Owner for Work Done in Common Areas of Multi-Family Housing 180
 - Form# 7** - Emergency Renovation, Remodeling and Repainting Notice to Residents for Work Done in Common Areas of Multi-Family Housing 181
 - Form# 8** - Emergency Renovation, Remodeling and Repainting Record of Tenant Notification Procedures for Work Done in Common Areas of Multi-Family Housing 182

PART 35 - LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

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- 35.510 Required procedures.

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- 35.605 Definitions and other general requirements.
- 35.610 Exemption.
- 35.615 Notices and pamphlet.
- 35.620 Multifamily insured property constructed before 1960.
- 35.625 Multifamily Insured Property constructed after 1959 and before 1978.
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- 35.715 Multifamily properties receiving more than \$5,000 per unit.
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- 35.1310 References.
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- 35.1330 Interim controls.
- 35.1335 Standard treatments.
- 35.1340 Clearance.
- 35.1345 Occupant protection and worksite preparation
- 35.1350 Safe work practices.
- 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, 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 windowsill, a baseboard in a living room, a kitchen floor, an interior windowsill 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 Farmers 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 5350 mortgagee-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 surfaces = Number of federally assisted units = Total number of units

(2) The average Federal assistance per assisted dwelling unit is calculated using the following formula: Per unit Federal assistance = e/c.

Where: e = Total Federal assistance for the project, c = 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 tenant based 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

Evaluation method	Surface		
	Floors, g/ft ² (mg/m ²)	Interior window sills, g/ft ² (mg/m ²)	Window troughs, g/ft ² (mg/m ²)
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 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 shall be performed only for a single-family property or individual 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 windowsills 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 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 µg/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 windowsills, 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 windowsill.

(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 windowsills, 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
- Zero 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	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> All properties covered by the Lead Safe Housing Rule.⁴
C	Disposition by Federal Agency Other Than HUD	Pre-1960	<ul style="list-style-type: none"> LBP inspection and risk assessment. Abatement of LBP hazards. Notice to occupants.
		1960-1977	<ul style="list-style-type: none"> LBP inspection and risk assessment. Notice to occupants of results.
D	Project-Based Assistance by Federal Agency Other Than HUD	Pre-1978	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Visual assessment. Paint stabilization. Notice to occupants of clearance.
G	Multifamily Mortgage Insurance:		
	1. For properties that are currently residential	Pre-1960	<ul style="list-style-type: none"> Provision of pamphlet. Risk assessment. Interim controls. Notice to occupants. Ongoing LBP maintenance.
		1960-1977	<ul style="list-style-type: none"> Provision of pamphlet. Ongoing LBP maintenance.
	2. For conversions and major renovations.	Pre-1978	<ul style="list-style-type: none"> Provision of pamphlet. LBP inspection. Abatement of LBP. Notice to occupants.
H	Project-Based Assistance by HUD		
	For all properties	Pre-1978	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Visual assessment. Paint stabilization.
I	HUD-Owned Multifamily Property	Pre-1978	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Risk assessment. Interim controls.
	3. Property receiving more than \$25,000 per unit	Pre-1978	<ul style="list-style-type: none"> Risk assessment. Abatement of LBP hazards. Interim controls allowed for exterior.
K	Acquisition, Leasing, Support Services, or Operation	Pre-1978	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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 re-cleaned.) 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 on 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 grantee uses 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.

<u>Source of Funding for Activity:</u>	<u>Subject to LSH Rule?</u>
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:

$$\$250,000/10 \text{ units} + \$150,000/20 \text{ units} = \$25,000 + \$7,500 = \$32,500 \text{ per unit.}$$

(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.

$$\text{Total Federal Assistance/Number of dwelling units} = \text{Average Federal Assistance/Unit}$$

$$\$40,000/1 = \$40,000$$

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.

$$\text{Total Rehabilitation Hard costs for project/Total number of units} = \text{Average rehabilitation cost per unit}$$

$$\$35,000/1 = \$35,000$$

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, not including the additional costs of complying with this rule” (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 notice of hazard reduction activity 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 and 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 hazards 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 be 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 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 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. REVIEW 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 than 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/cm² 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 cannot 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 $40 \mu\text{g}/\text{ft}^2 / (4 / 2) = 40 \mu\text{g}/\text{ft}^2 / 2 = 20 \mu\text{g}/\text{ft}^2$. (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, $2 \times 40 \mu\text{g}/\text{ft}^2 / 4 = 80 \mu\text{g}/\text{ft}^2 / 4 = 20 \mu\text{g}/\text{ft}^2$.)

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 recleaned 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 (a 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#: _____

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).

<u>Name of Document(s)</u>	<u>Inspector/Author</u>	<u>Date of Document</u>

(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

Appendix A

Green Development Plan and Checklist

Green Development Plan

Developer Name:

Project Name:

Address (Street/City/State):

Description of Process

A description of the process that was used to select the green building strategies, systems and materials that will be incorporated into the project. (500 word maximum)

Project Team Members

A listing of the team members who participated in the integrated design charrette. Please include name, affiliation/company, and discipline.

Goals

Bullet points of the overall green development goals of the project and the expected intended outcomes from addressing those goals.

-
-
-
-
-
-
-
-

Appendix A

Green Development Plan and Checklist

Mandatory

Optional

Item		Intended Method of Satisfying Green Criteria	Yes, No or NA	Points	Champion (name and profession/role)
Section 1: Integrated Design					
1-1a	Green Development Plan: Integrative Design Meeting(s)				
1-1b	Green Development Plan: Criteria Documentation				
1-2	Applicant/Recipient, Architect/Project Designer, Contractor Certification				
1-3	Accessibility Rehabilitation (Optional, <i>see full criteria</i>)				
Section 1 Subtotal					
Section 2: Site, Location and Neighborhood Fabric					
2-1	Downtown Design Standards (Optional 15 points)				
2-2	Passive Solar Heating / Cooling (Optional 4 points) (Site map must demonstrate that project satisfies this item)				
2-3a	Grayfield or Brownfield (Optional 15 points)				
2-3b	Adaptive Reuse Site (Optional 12 points)				
2.4	Previous Historic Efforts (Optional 12 points)				
2.5	Historic District Listing (Optional 30 points)				
2.6	Individual Listings (Optional 5 points per building)				
Section 2 Subtotal					
Section 3: Site Improvements					
3-1	Erosion and Sedimentation Control				
3-2	Surface Water Management				
Section 3 Subtotal					
Section 4: Water Conservation					
4-1	Water Reuse (Optional, <i>see full criteria</i>)				
Section 4 Subtotal					

Item		Intended Method of Satisfying Green Criteria	Yes, No or NA	Points	Champion (name and profession/role)
Section 5: Energy Efficiency					
5-1	Efficient Lighting - Exterior				
Section 5 Subtotal					
Section 6: Materials Beneficial to the Environment					
6-1a	Construction Waste Management				
6-1b	Construction Waste Management: Additional Diversion (Optional 5 to 15 points)				
6-2	Durable & Low Maintenance Exteriors				
6-3	Recycled Content Material (Optional, <i>see full criteria</i>)				
6-4	Certified, Salvaged and Engineered Wood (Optional 5 points)				
6-5	Reducing Heat-Island Effect – Roofing (Optional 5 points)				
Section 6 Subtotal					
Section 7: Healthy Living Environment					
7-1	Low/No VOC Paints and Primers				
7-2	Low/No VOC Adhesives and Sealants				
7-3	Composite Wood Products that Emit Low/ No Formaldehyde				
7-4	Lead Paint and Asbestos Abatement				
7-5	Ventilation: Moderate Rehab (Optional 10 points)				
7-6	Basements and Concrete Slabs - Vapor Barrier				
7-7	Water Drainage				
7-8	Integrated Pest Management				
7-9	Smoke-free Building (Optional 2 points)				
Section 7 Subtotal					
Section 8: Operations and Maintenance					
8-1	Building Maintenance Manual				
8-2	Occupant Manual				
8-3	Homeowner /Tenant Orientation				
8-4	Project Data Collection and Monitoring System (Optional 35 points)				
Section 8 Subtotal					
Grand Total					

Appendix B

Certification of Intent to Comply

Required: Submit this certification at time of application.

The project applicant and project architect/project designer are required to sign the certification below at the time of application submittal to the Iowa Economic Development Authority. By signing this certification, the project applicant and project architect/project designer are certifying their intent to comply with all of the **MANDATORY** Iowa Green Streets Criteria applicable to the project as determined by the Iowa Economic Development Authority. This certification also certifies the intent to complete the optional Iowa Green Streets Criteria proposed in the applicant's proposal.

To be Completed by Applicant	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (if applicable)	
Date:	

To be Completed by Project Architect/Project Designer	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/ licensing body)	
Date:	

Appendix C

Certification of Construction Contract Document Compliance

Required: Submit this certification prior to starting construction.

The project applicant/recipient and project architect/project designer are required to sign the certification below prior to commencement of construction. By signing this certification, the project applicant and project architect/project designer are certifying that the construction documents comply with all of the **MANDATORY** Iowa Green Streets Criteria applicable to the project as determined by the Iowa Economic Development Authority. This certification also certifies that the construction documents comply with all optional Iowa Green Streets Criteria in the applicant's project proposal.

To be Completed by Applicant/Recipient	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (if applicable)	
Date:	

To be Completed by Project Architect/Project Designer	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/ licensing body)	
Date:	

Appendix D

Certification of Compliance at End of Construction

Required: Submit this certification at time of construction completion.

The project applicant/recipient, project architect/project designer, general contractor and HVAC contractor are required to sign the certification below at time of construction completion. By signing this certification, all signing parties are certifying that the project as constructed complies with all of the **MANDATORY** Iowa Green Streets Criteria applicable to the project as determined by the Iowa Economic Development Authority. This certification also certifies that the project as constructed complies with all of the optional Iowa Green Streets Criteria in the applicant's project proposal.

To be Completed by Applicant/Recipient	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (if applicable)	
Date:	

To be Completed by Project Architect/Project Designer	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/licensing body)	
Date:	

To be Completed by General Contractor	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/licensing body)	
Date:	

To be Completed by HVAC Contractor	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/licensing body)	
Date:	

Appendix E

Energy Performance Certification

NOTE: Appendix E only applies to new construction and gut rehabilitation projects.

Required:

Residential Projects (<4 stories) – Energy Rater submits Home Energy Rating System (HERS) certificate, Code Certificate, SAVE Reports and signs certification below for submittal by project applicant/recipient.

Commercial or Residential (>3 stories) – Energy Rater / Energy Professional submits Code Certificate and energy modeling information and completes and signs certification below for submittal by project applicant/recipient.

The project's independent, third-party energy rater or energy professional for non-residential projects is required to sign the certification below at time of construction completion. By signing this certification, the Energy Rater is certifying that the project, as constructed, complies with all of the **MANDATORY** Iowa Green Streets Criteria energy related criteria applicable to the project as determined by the Iowa Economic Development Authority including the following criteria:

- **5.1a, Building Performance Standard – Single-Family and Multifamily ≤ 3 stories**
 - Energy performance requirements in Energy Performance Table for 5-1a were met
 - HERS Index of 70 or better
 - HVAC SAVE total system performance score of 85 percent or better
 - For all equipment installed, meet or exceed the minimum performance requirements in the energy performance table in Criterion 5-1a
- **5.1b, Building Performance Standard – Multifamily ≥ 4 stories**
 - Exceeded the performance of ASHRAE 90.1-2010 Appendix G by 15 percent
 - HVAC SAVE total system performance score of 85 percent or better
 - Passed a pre-drywall thermal enclosure inspection
 - Installed equipment and insulation complying with Iowa Green Streets Criterion 5-1a
 - Submitted completed reports to the Iowa Economic Development Authority, including the following: energy modeling information showing adherence to exceeding ASHRAE 90.1-2010 Appendix G by 15 percent, code certificate, SAVE scores, and thermal bypass checklist
- **5.1c, Building Performance Standard – Mixed Use with Residential**
 - Exceeded the performance of ASHRAE 90.1-2010 Appendix G by 15 percent
 - HERS Index of 70 or better
 - HVAC SAVE total system performance score of 85 percent or better
 - Passed a pre-drywall thermal enclosure inspection
 - Installed equipment and insulation complying with Iowa Green Streets Criterion 5-1a
 - Submitted completed reports to the Iowa Economic Development Authority, including the following: energy modeling information showing adherence to exceeding ASHRAE 90.1-2010 Appendix G by 15 percent, code certificate, HERS Rating Certificate, SAVE scores, and thermal bypass checklist
- **5.1d, Building Performance Standard – Commercial**
 - Exceeded the performance of ASHRAE 90.1-2010 Appendix G by 15 percent
 - Passed a pre-drywall thermal enclosure inspection
 - Installed equipment and insulation complying with Iowa Green Streets Criterion 5-1a
 - Submitted completed reports to the Iowa Economic Development Authority, including the following: energy modeling information showing adherence to exceeding ASHRAE 90.1-2010 Appendix G by 15 percent, code certificate, and thermal bypass checklist

- 5.2, ENERGY STAR and Energy Efficient Appliances (if providing appliances)
- 5.3a, Efficient Lighting: Interior
- 5.4, HVAC Sizing, Installation and Duct Systems
 - Heating and cooling equipment sized in accordance with the Air Conditioning Contractors of America (ACCA) Manual, Parts D, J and S, ASHRAE handbooks, or equivalent software

To be Completed by Energy Rater/Energy Professional	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/ licensing body)	
Date:	

Appendix F

Energy Performance Certification - Rehabilitation

Required:

Residential Projects (<4 stories) – Energy Rater submits HERS rating, SAVE score and Code Certificate and signs certification below for submittal by project applicant/recipient.

Commercial or Residential (>3 stories) – Energy Rate submits Code Certificate and energy modeling information, SAVE score and signs certification below for submittal by project applicant/recipient.

Commercial – Energy Rate submits Code Certificate and energy modeling information, SAVE score and signs certification below for submittal by project applicant/recipient.

The project's independent, third-party Energy Rater is required to sign the certification below at time of construction completion. By signing this certification, the Energy Rater is certifying that the project, as constructed, complies with all of the **MANDATORY** Iowa Green Streets Criteria energy related criteria applicable to the project as determined by the Iowa Economic Development Authority including the following:

- **5-1e, Building Performance Standard – Single-Family and Multifamily ≤ 3 stories**
 - HERS Index of 85 or better
 - HVAC SAVE performance test of 85 percent or better
 - Thermal imaging report provided
 - Passed pre-drywall thermal enclosure inspection
 - Passed combustion safety test, if applicable
 - Passed blower door and duct blaster test
 - Installed equipment and insulation complying with Iowa Green Streets Criterion 5-1a
- OR**
- **5-1f, Building Performance Standard – Multifamily ≥ 3 stories**
 - Energy performance meets or exceeds ASHRAE 90.1-2010 without renewable energy
 - HVAC SAVE performance test of 85 percent or better
 - Thermal imaging report provided
 - Passed a pre-drywall thermal enclosure inspection
 - Passed combustion safety test, if applicable
 - Installed equipment and insulation complying with Iowa Green Streets Criterion 5-1a
- OR**
- **5-1g, Building Performance Standard – Commercial**
 - Energy performance meets or exceeds ASHRAE 90.1-2010 without renewable energy
 - HVAC SAVE performance test of 85 percent or better
 - Thermal imaging report provided
 - Passed a pre-drywall thermal enclosure inspection
 - Passed combustion safety test, if applicable
 - Installed equipment and insulation complying with Iowa Green Streets Criterion 5-1a
- AND**
- **5-2, ENERGY STAR Appliances** (if providing appliances)
- **5-3a, Efficient Lighting: Interior**
- **5-4, HVAC Sizing, Installation and Duct Systems** (residential projects)

To be Completed by Architect, Designer, Engineer, or Energy Professional	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (if applicable)	
Date:	

Appendix G

Project Plan and Spec Book Checklist

CRITERION	PROJECT PLANS	SPEC BOOK	Architect/Designer Initials
1.1a-b Green Development Plan			
1.3a-b Universal Design	X	X	
2.1a-c Smart Site Location	X		
2.3 Walkable Neighborhoods: Sidewalks and Pathways	X		
2.4 Walkable Neighborhoods: Connections to Surrounding Neighborhoods	X		
2.5a Smart Site Location: Passive Solar Heating/Cooling	X	X	
2.5b Smart Site Location: Greyfield, Brownfield or Adaptive Reuse Site	X		
2.6 Transportation Choices	X		
3.1 Environmental Remediation		X	
3.2 Erosion and Sedimentation Control	X	X	
3.3 Landscaping	X	X	
3.4 Surface Water Management	X	X	
3.5 Storm Drain Labels		X	
4.1 Water Conserving Appliances and Fixtures	X	X	
4.3 Water Reuse	X	X	
5.1a-g Building Performance Standards	X	X	
5.1a-g Building Performance Standards-exterior rigid insulation requirement	X	X	
5.2 ENERGY STAR and Energy Efficient Appliances		X	
5.3a-b Efficient Lighting		X	
5.4 HVAC Sizing, Installation and Duct Systems	X	X	
5.5 Optimum Value Engineering (Advanced Framing)	X	X	
5.6 Project Data Collection and Monitoring System	X	X	
5.7 Additional Reductions in Energy Use	X	X	
5.7a Renewable Energy	X	X	
5.7b Photovoltaic / Solar Hot Water Ready	X	X	
5.8 Advanced Metering Infrastructure	X	X	
5.9 ENERGY STAR Version 3.0	X	X	
6.1a-b Construction Waste Management		X	
6.2 Durable and Low-Maintenance Exteriors	X	X	
6.3 Recycled Content Material		X	
6.4 Certified, Salvaged, and Engineered Wood Products		X	
6.5a-c Reducing Heat Island Effect		X	
7.1 Low/No VOC Paints and Primers		X	
7.2 Low/No VOC Adhesives and Sealants		X	
7.3 Composite Wood Products that Emit Low/No Formaldehyde		X	
7.4a-b Environmentally Preferable Flooring	X	X	
7.5a Exhaust Fans: Bathroom	X	X	
7.5b Exhaust Fans: Kitchen	X	X	
7.6 Ventilation	X	X	
7.7 Water Heaters: Mold Prevention	X	X	
7.8 Cold and Hot Water Pipe Insulation	X	X	
7.9a-b Materials in Wet Areas	X	X	
7.10a Basements and Concrete Slabs: Vapor Barrier	X	X	
7.10b Basements and Concrete Slabs: Radon	X	X	
7.11 Water Drainage	X	X	
7.12 Garage Isolation	X		
7.13 Clothes Dryer Exhaust	X	X	
7.14 Integrated Pest Management	X	X	
7.15 Smoke Free Building		X	
7.16 Combustion Equipment	X	X	
8.1-8.3 Maintenance Manuals & Orientation - Residents & Property Manager			

Administration Plan Content Guidelines CDBG Downtown Revitalization Projects

Overview

The Iowa Economic Development Authority (IEDA) is requiring all recipients of CDBG Downtown Revitalization grants to submit an Administration Plan at the beginning of their project. This plan is subject to IEDA review and approval, and any changes to the plan are also subject to IEDA review and approval. The plan must be uploaded and submitted in IowaGrants.gov and approved by IEDA prior to the first draw for the project.

IEDA has provided a sample Admin Plan to assist recipients in finalizing their own. This includes roles for the city, grant administrator, architect, general contractor, and property owners. The sample also includes a project manager designated by the city, which is not required and those tasks could be absorbed by another entity listed in the Admin Plan.

This does not cover every task or responsibility in administering this project, especially those tasks that are typical to any CDBG grant funded project. This addresses areas where there has been confusion in the past about roles and responsibilities or challenging coordination in DTR projects. Please add other responsibilities that would be helpful for you to have documented. This is intended to ensure that in the midst of many moving parts, the city can better:

- Oversee compliance with the city's contract with IEDA and CDBG regulations.
- Avoid delays due to responsibilities being shared by too many individuals and resulting confusion on who executes what step. Equally avoid delays due to a responsibility not clearly identified with a particular role.
- Keep the right people informed on matters pertaining to their responsibilities.

Instructions

The following is a list of roles that will exist for your community's CDBG Downtown Revitalization project. Editing options include but are not limited to:

- Move responsibilities to another entity represented on the Admin Plan;
- Add responsibilities that would be helpful to have in this documented plan; or
- Replace some responsibilities with more specific steps that are delegated to more than one party (for example, change orders during construction and the steps of communication involved).

You may send your edited draft Admin Plan to your IEDA project manager for review prior to securing the Mayor's signature.

This Admin Plan should be a useful tool that can be referred back to as the project progresses, as a local to-do list or reference. The city must ensure that any expectations outlined and approved by IEDA in this Admin Plan do not conflict with the terms of their contract with their grant administrator, architect, etc. Contact IEDA with any questions about consistency with other contracts.

Fill in the blanks on the sample Admin Plan below to list the designated person and firm, as applicable.

Administrative Plan for the City of _____

Contract # _____

For submittal to the Iowa Economic Development Authority
(IEDA)

City: _____

- ✓ Assume ultimate responsibility for the overall grant project, as the HUD designated Responsible Entity in accordance with 24 CFR 58.
- ✓ Monitoring of project timeliness to ensure project goes out to bid within a year of contract start date.
- ✓ Monitor and provide guidance on deletion/substitution of properties, with the exception of property owners dropping out of the project which may be out of the city's control. In the event of the contract performance measure changing (total number of buildings) an amendment must be requested to IEDA.
- ✓ Ensure property owners are refraining from other work on their building that is not otherwise a part of the CDBG façade project.
- ✓ Review sample Easement Agreement and Construction Terms Agreements with city legal counsel. Once executed, oversee to ensure compliance.
- ✓ Communication with property owners of any proposed change orders during construction, including how it may impact property owner financial contribution, as well as timing changes resulting from the potential to re-open consultation with SHPO.
- ✓ Review/ approval of change orders as contract with general contractor specifies.
- ✓ Collection of property owner's financial participation share.
- ✓ Council review and approval of invoices prior to submitting claim to IEDA, or having a Council-approved written policy outlining an alternative process for approving bills.

Grant Administrator: _____

- ✓ Act as liaison with IEDA staff.
- ✓ Determine if initial survey work is required for the evaluation of properties in the project area for listing on the National Register of Historic Places. If such services are needed, work with the City to procure a consultant who meets the Secretary of the Interiors Professional Qualification Standards for Historian and/or Architectural Historian to

survey the project area and generate Iowa Site Inventory Forms for participating properties.

- ✓ Contact IEDA Historic Preservationist on Section 106 related questions. Compile Section 106 Submittals including cover letters, Request for SHPO Comment on HUD Project forms, Iowa Site Inventory Forms, etc. Submit construction documents to IEDA Historic Preservationist for review prior to SHPO.
- ✓ Ensuring that procurement, bidding and contracting, all follow federal provision/requirements.
- ✓ Monitoring of compliance with federal labor standards, including but not limited to: wage rate determination request to IEDA, completing contractor clearance forms for all contractors/subcontractors as soon as contractor is selected, and contractor interviews.
- ✓ Maintain an up-to-date project budget with contingency, including pre-construction estimates and reviewing any post-construction change orders as they may impact budget.
- ✓ Monitoring of project timeliness.
- ✓ Maintain list of property addresses and owners on IowaGrants.gov
- ✓ Coordinate all amendment requests to IEDA
- ✓ Submit Appendix C and construction documents on IowaGrants.gov for Green Streets Criteria compliance review, ideally within 2 weeks or more within going out to bid.
- ✓ Review and approval of contractor pay requests prior to submittal to the city and sending to IEDA for claim.

Architect: _____

- ✓ Maintain services contract pricing in accordance with CDBG requirements. Use a lump sum or up to amount for all expenses, not based on a percentage of construction cost, not adding percentage onto expenses.
- ✓ Have the documentation to know if properties in the project area are listed on or eligible for listing in the National Register of Historic Places, and adhere to work specifications and historic preservation guidelines when applicable.
- ✓ Receiving input from property owners about the design for their building, including their priorities for improvements.
- ✓ Provide updates on cost estimates and property owner general priorities / feedback on designs to grant administrator and/ or city.

- ✓ Completing designs in a timely manner to ensure project goes out to bid within one year of the contract start date.
- ✓ Adherence to Green Streets Criteria, including mandatory and optional criteria in application. Completion of Appendix C with mayor signature. Submit Appendix C and construction documents to grant administrator.
- ✓ Provide designs and construction documents to grant administrator for submittal to IEDA and SHPO.
- ✓ Review / preliminary approval of contractor pay requests.
- ✓ Review/ preliminary approval of change orders.
- ✓ On-site construction supervision (a certain number of visits for this purpose assigned in their contract).
- ✓ Provide any design and construction documents to grant administrator for submittal to IEDA and SHPO for any significant changes in scope of work that occur at any point after initial SHPO Submittal.
- ✓ Final inspection and sign-off on properties prior to payment.

Property Owners: List maintained in IowaGrants.gov

- ✓ Respond to city or their designee regarding status of participation in the program, as well as timely responsiveness with architects and others.
- ✓ Review and Sign Easement Agreement and Construction Terms Agreement prior to construction.
- ✓ Avoid conducting any other work on their building that is not otherwise a part of the CDBG façade project.
- ✓ Review/ approval of change orders pertaining to their financial commitment.

General Contractor: To Be Determined as a result of procurement

- ✓ Oversee all subcontractors' compliance with labor standards.
- ✓ Gather and submit information for Contractor Clearance forms as soon as contract is awarded.
- ✓ Submit weekly wage reports to grant administrator along with other required documentation to comply with labor standards.
- ✓ Communication with grant administrator regarding schedule and subcontractors for the purposes of on-site contractor interviews.

- ✓ Coordination with City in regards to any parking, vehicle traffic or bicycle or pedestrian disruptions.

Project Manager designated by the City: _____

- ✓ Communications to all property owners on the status of design, timeframes, and accomplishments; both to those with buildings being worked on and the target area as a whole.
- ✓ Communication with property owners about whether or not they are participating in the project.
- ✓ Resolution of complaints involving property owner, contractor, architect, etc.
- ✓ Liaison with local organizations such as city council; main street board; historic preservation commission; chamber of commerce; downtown merchants, etc.

On behalf of the city of _____, I certify that this Administration Plan for the City's Downtown Revitalization CDBG grant will be our method of operating throughout the course of our project. Any amendments to the plan will be submitted to IEDA for review and approval.

Chief Elected Official/ Mayor Name Printed Here

Signature

Date

This is a template Easement Agreement, provided by the Iowa Economic Development Authority (IEDA). Any legally-binding document that the city is using to comply with federal regulations should be reviewed and changed, as necessary, by legal counsel. This template should not take the place of legal counsel or review. **The final version for local use should be reviewed by local legal counsel.**

IEDA's requirements for the easement:

- Seven year easement
- Protect the federal investment in that timeframe
- Signed by property owner (deed holder) and the easement holder (city) Note: Both signatures must be notarized prior to recording
- Recorded at the county assessor, then submitted to IEDA

Flexibility of template:

- This document includes language that other communities' legal counsel has recommended to those communities.
- Specify in the applicable blank, before the "exterior facing 24 inches of the structure" whether the easement is on just the front, or both the front and side. If there is a side façade included, the city should specify which side.
- The city may want to spell out its own process, as provided in a sample #4, regarding how the property owner may go about requesting to make changes to their façade in the easement period.
- Communities may adjust, remove or add language in this agreement, if those changes do not conflict with IEDA's requirements.
- Additional language that solely applies to the duration of the city's CDBG grant and construction timeframe and activities should be incorporated into another document, titled in IEDA's template, Property Owner Acknowledgement of Terms for Construction.

Façade Easement Agreement

This Easement Agreement is made ___(date)_____, between _____(owner's name)_____
"Property Owner" and the ___city of (), Iowa "Easement Holder", a (municipality organized under the laws of
the State of Iowa),

WITNESSETH

WHEREAS, the Property Owner's Property, located in (name of county) County, Iowa, legally described as:

SEE ATTACHED EXHIBIT "A" (legal description) **Parcel ID**

And locally known as (Address), (city) Iowa (zip code); and.

WHEREAS, this property is located in the Downtown Business District; and

WHEREAS, the property owner desires to participate in the (city) Façade Improvement Project and the property is hereafter referred to as "the Easement Property" or "the Property Owner's property"; and

WHEREAS, the Property Owner has been thoroughly acquainted and advised of the terms, conditions and provisions of the (city) Façade Improvement Project;

WHEREAS, the Easement Holder, the city of _____ is carrying out a program to revitalize the Downtown Business District; and

WHEREAS, the grant of this easement will assist in protecting and preserving the quality of the area in which the property is located.

NOW THEREFORE, in consideration of the mutual covenants and promises in this Easement Agreement and for the benefit of all parties, Property Owner hereby grants, conveys and transfers to the Easement Holder, a Façade Easement for a term lasting seven years from the date of the signing of this document, in and over, that portion of the herein described property consisting of the _____ exterior-facing 24 inches of the structure. This includes all architectural and construction features visible from any point on the public way outside of the building, including without limitation structural materials, facing materials, windows, doors, trim, sills, steps, railings, cornices, moldings, fences and other associated features, in addition to connected interior features that necessitate modification or maintenance in order to rehabilitate and maintain the publically visible features.

For the seven year easement period, the following restrictions are imposed upon the use of the Easement Property, in accordance with the policy of the City and Property Owner, its successors and assigns covenant to do and not to do the following acts and things in and upon the Easement Property which Easement Holder is entitled to enforce as follows:

1. For the easement period, Property Owner will retain and maintain the façade on the building(s) now located on the property and will at all times maintain the same in good condition and repair. In the event of the total destruction beyond the control of the Property Owner, the easement shall become null and void.
2. The Easement Holder, in order to insure the effective enforcement of this Easement, shall have, and the Property Owner hereby grants the following rights:
 - a. If Property Owner knowingly or willfully violates or allows the violation of this easement, upon reasonable notice to the Property Owner, Easement Holder may enter upon the Easement Property and correct such violations and hold Property Owner responsible for the corrective costs, and
3. Property Owner shall seek no reimbursement from Easement Holder for any taxes, mortgages, liens, deeds to secure debt, or other obligations attaching to or constituting a lien on the property. Property Owner agrees to indemnify and hold Easement Holder harmless from any claims of third persons, including court costs and attorney's fees, arising out of Easement Holder's acceptance and holding of this easement. Easement Holder shall not be liable to contribute to the maintenance of the Premises. If Easement Holder have to file suit or take any other action to enforce this agreement, Property Owner shall pay Easement Holder's reasonable attorneys fees and all other costs associated with any such required action.
4. At any time during the duration of the seven (7) year construction easement, any alterations, modifications, destruction or additions made to the facade improvements funded in part by CDBG funds shall be subject to the prior written approval of the city of _____. Such written approval, or disapproval, shall be issued by the city within not more than thirty (30) days of the owner's submittal of a written request or the request shall be considered approved. Provided however that nothing in this paragraph shall be construed to prevent ordinary maintenance, repair, cleaning, repainting, refinishing, etc so long as it does not change the appearance, or detrimentally affect the condition of the facades as they exist at the time of completion of the improvements hereunder.

This agreement is binding on the Property Owner, their heirs, assigns or successors in interest to the property and shall run with the land on the Easement Property until expiration.

Signed this ____ day of _____, (year).

PROPERTY OWNER(S) - _____ (Print name)

_____ (Signature)

EASEMENT HOLDER – (NAME OF CITY)

Easement Holder Representative Name and Title Printed Here

_____ (Signature)

State of Iowa
(_____) County

SUBSCRIBED and sworn to before me by the said _____ on this ____ day of _____, (year).

Notary Public in and for the State of Iowa.

STATE OF IOWA, COUNTY OF (____):

On this ____ day of _____ 2012, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared (*names of easement holder representatives*), to me personally known, who, being by me duly sworn, did say that they are the (*easement holder title*), respectively, of (*the City of (____), Iowa; a municipal corporation*); that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its (*City Council AND/OR Board of Directors*), and (*Easement Holder's representatives' names*) acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Notary Public in and for the State of Iowa.

This is a template for a Terms of Construction Agreement, provided by the Iowa Economic Development Authority, for a signature by property owners participating in the Downtown Revitalization Program, local façade improvement project funded in part by Community Development Block Grant funds. Any document that the city is using to comply with federal regulations should be reviewed and changed, as necessary, by city legal counsel. This template should not take the place of legal counsel or review. **The final version for local use should be reviewed by local legal counsel.** This document is a separate agreement from the Easement Agreement and should be executed as such.

- Timeframe of acknowledgement form: This is the same as the city's CDBG grant contract duration and this is not part of the recorded easement. IEDA advises signature of an agreement similar to this prior to the city entering into any construction contract.
- Flexibility of this template: Communities may adjust, remove or add language in this form, with the exception of the "Acknowledgement of limitations and requirements on other work to this property," which must remain as is for grant compliance purposes. The other sections cover topics that have been or may be necessary or helpful for owners to acknowledge prior to construction. For example, a section on change orders has been added which acknowledges property owner's financial commitment. That can be modified or removed completely depending on local preferences.
- Signatures needed: This template only requires signature by the property owner. This approach can be changed locally to add language and other signatures, such as one by the city. That is a local decision.

Construction Terms Agreement

Definitions, for the purposes of this document:

- "This property" refers to _____(address), owned by _____(one or more persons or entity).
- "Construction timeframe" is considered to be occurring to the end date of the city's Community Development Block Grant, contract # _____, as well as the duration of my agreement to the terms outlined in this document.
- "Façade" refers to that portion of the herein described property consisting of the _____) exterior facing 24 inches of the structure. This includes all architectural and construction features visible from any point on the public way outside of the building, including without limitation structural materials, facing materials, windows, doors, trim, sills, steps, railings, cornices, moldings, fences and other associated features. Additionally, facade includes connected interior features that necessitate modification or maintenance in order to rehabilitate and maintain the publically visible features.

Acknowledgement of scope of work, cost and payment arrangement

I concur with the (final scope of work description, bid specifications, and/ or renderings) as it relates to my building's façade, reviewed on __ (date)____ and attached as Exhibit A to this document. I understand that as a condition of being included in the project, I will be required to contribute __% of the cost of the project. I understand that the cost for the scope of work to this facade is \$____ and the __% owner contribution will be \$____.

I agree, as my contribution for the façade improvements, to invest in the project a sum of \$____. I agree to deposit these funds with __ (city of __) _____ on or before __ (date)____. (Or alternative amounts and dates for a series of payments).

I understand that the (*city of _____*) has the right to place a lien against this property to secure my payment.

Construction expectations

I understand that the city or other duly authorized agents will be responsible for supervision and coordination of the performance of the contract for implementation of the façade renovation to this property.

I further understand that, in the event that a change order to the original scope of work is deemed necessary by the contractor with the concurrence of the city, I will be expected to pay a proportion of any increased cost due to implementation of such change order in the same percentage as the owner contribution as noted above.

The city or other duly authorized agents or contractors may enter upon this property to perform any required work after first giving me reasonable notice. For the terms of this document, "reasonable notice" shall include forty-eight (48) hours' notice via telephone, or person to person, or proof of my receipt of notice via certified U.S. Mail delivery.

Acknowledgement of limitations and requirements on other work to this property

I have been informed that any other work, besides this façade project, on my entire building, including construction, rehabilitation and changes of materials, is not permitted until after the city's grant with the Iowa Economic Development Authority is closed. If I have questions about that timeframe or status of contract closeout, I will contact the city.

Signed this _____ day of _____, 201_____

_____ (Print Name)

_____ (Signature)



Iowa Green Streets Criteria



Version 3.0

For Downtown Revitalization Projects Awarded in 2015

www.iowaeconomicdevelopment.com

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Overview

The Iowa Green Streets Criteria promote public health, energy efficiency, water conservation, smart locations, operational savings, and sustainable building practices. These Iowa Green Streets Criteria apply directly to Community Development Block Grant Downtown Revitalization Façade Master Plan Projects. As a result, the strategies in the following pages enhance community facilities, town centers, and communities as a whole.

In addition to increasing resource efficiency and reducing environmental impacts, green building strategies can yield cost savings through long-term reduction in operating expenses. The benefits include improved energy performance and comfort, a healthier indoor environment, increased durability of building components, and simplified maintenance requirements that can lead to financial efficiencies for property managers and owners. Green building practices improve the economics of managing community facilities and downtown businesses while enhancing quality of life for residents, visitors, and employees. When green building practices inform the design of our buildings – utilizing community facilities and businesses near community amenities such as public transportation to create walkable, livable neighborhoods – the benefits for citizens and communities expand.

Guiding principles behind the Iowa Green Streets Criteria ensure that buildings must be cost effective to build, and durable and practical to maintain. In addition, the principles work together to help produce green buildings that:

- ▶ Result in a high-quality, healthy living and working environment
- ▶ Lower utility costs
- ▶ Enhance connections to nature
- ▶ Protect the environment by conserving energy, water, materials and other resources
- ▶ Advance the health of local and regional ecosystems

How to Use This Document

The Iowa Green Streets Criteria is based on the national Green Communities Criteria available online at <http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities/criteria>. The Iowa Economic Development Authority thanks Enterprise and its partners for development of the national Green Communities Criteria and the use of those criteria in development of the Iowa Green Streets Criteria.

Please be aware that this Iowa Green Streets Criteria document is subject to periodic revision and update. Refer to the Iowa Economic Development Authority's Community Development Division Web site, <http://www.iowaeconomicdevelopment.com/CommunityDevelopment/green> for the most current version.

(Note: The criteria referenced in this document are based on the national Green Communities Criteria as of February 2011. Any revisions to the national Green Communities Criteria will not apply to Iowa Economic Development Authority projects unless adopted by the Iowa Economic Development Authority and specifically addressed in the Iowa Green Streets Criteria.)

Activities and Projects Covered by the Iowa Green Streets Criteria

The Iowa Green Streets Criteria include mandatory and optional components in the criteria for the following types of activities or projects.

- Community Development Block Grant Program projects, including disaster recovery projects

¹ Gut Rehabilitation – Gut rehabilitation is defined as an activity or project that involves extensive (substantial) rehabilitation in terms of total removal and replacement of all interior (non-structural) systems, equipment, components or features of the existing structure to be rehabilitated or converted, whereby the existing structure will be reduced (as part of the rehabilitation or conversion of the structure) down to the basic structure or exterior building shell (e.g., the foundation system; exterior walls; roofs; and interior structural components such as columns, beams, floors and structural bearing walls). Gut rehabilitation may also include structural and non-structural modifications to the exterior of the structure.

² Rehabilitation – Rehabilitation is defined as a project designed to retain some of the fixtures and finishes including existing walls, trim, doors, etc., and completing upgrades or modifications that are less extensive than the gut rehabilitation definition above. Rehabilitation is often used when historic fixtures and finishes are present and need to be retained while updating the space for future use.

Additional Requirements

In addition to the Iowa Green Streets Criteria, the following requirements, as applicable, apply to all activities and projects covered by the Iowa Green Streets Criteria.

- ▶ All newly constructed projects or activities, including Community Development Block Grant Projects, shall be professionally designed, complete with a detailed set of construction plans and specifications that incorporate all applicable requirements of the Iowa Green Streets Criteria.
- ▶ All new construction including IEDA's Community Development Block Grant funds are subject to the requirements of the International Energy Conservation Code (the most current version as adopted by the State Building Code).
- ▶ All rehabilitation activities or projects must meet the requirements of any and all locally adopted and enforced building codes, standards, and ordinances. In the absence of locally adopted and enforced building codes, the building code requirements of the State Building Code shall apply.
- ▶ Applicants must provide evidence of site control with their application (proposed lease, warranty deed, purchase agreement option).

Optional Points

A significant number of optional criteria are also included in the green criteria for increasing the overall sustainability and energy performance of buildings.

Depending on the program, the optional criteria account for up to approximately ten percent of the total project "score" during the application review and selection processes of the Iowa Economic Development Authority Community Development Block Grant Program.

Applications achieving the following ranges of optional criteria points will be considered to achieve a low, moderate, or high level of additional green performance during application review and selection.

Optional Green Criteria Point Range	Level of Additional Green Performance
2 – 15 points	Low
16 - 70 points	Moderate
71 - 254 points	High

Other Resources

Here are some additional resources to assist you with your green project:

- ▶ American Institute of Architects, Iowa Chapter – www.aiaiowa.org
- ▶ Building Green, LLC/Environmental Building News - www.buildinggreen.com/
- ▶ Center on Sustainable Communities - www.icosc.com/
- ▶ Energy Star - www.energystar.gov
- ▶ Green Communities - <http://www.greencommunitiesonline.org/tools/resources/>
- ▶ Green Home Guide - www.greenhomeguide.org/
- ▶ Iowa Department of Cultural Affairs – www.culturalaffairs.org
- ▶ Iowa Department of Public Health – www.idph.state.ia.us
- ▶ Iowa Energy Center - www.energy.iastate.edu/
- ▶ Iowa State University Extension - www.extension.iastate.edu/
- ▶ National Association of Homebuilders Model Green Home Building Guidelines - <http://www.nahb.org/generic.aspx?genericContentID=194088>
- ▶ Partnership for Advanced Technologies in Housing - www.pathnet.org/
- ▶ U.S. Green Building Council - www.usgbc.org/
- ▶ University of Minnesota Center for Sustainable Building Research - www.csbr.umn.edu/index.html
- ▶ University of Washington Universal Design of Instruction - <http://www.washington.edu/doit/Brochures/Academics/instruction.html>

For even more resources, visit the Iowa Economic Development Authority's Community Development Division web site www.iowaeconomicdevelopment.com/CommunityDevelopment/green

For additional information about the Iowa Green Streets Criteria, please call:

515-725-3069

Visit the website:

<http://iowaeconomicdevelopment.com/CommunityDevelopment/green>

Section 1: Integrated Design

An integrated design process incorporates sustainability up-front, uses a holistic and total-systems approach to the development process, and promotes good health and livability through the building's life cycle. The goal is to establish a written commitment that informs the project's objectives through the building's life cycle.

Sustainable building strategies should be considered from the moment the developer initiates the project. The professional development team should include a developer, architect, engineer, landscape architect, LEED™ Accredited Professional or experienced green building design specialist, contractor, and asset and property management staff. Whenever possible, the team also should include maintenance staff and occupant representatives. The team must be committed to environmentally responsive, resource conserving and healthy building principles and practices.

Section 2: Neighborhood Fabric

Investigate existing neighborhood fabric to determine extent of previous design and environmental aspects. Restoring what has been lost or improving upon what exists, along with redevelopment or reuse of existing structures and passive solar heating and cooling, is the most sustainable option available. Downtown design standards keep downtowns cohesively designed and planned. Look for a comprehensive plan that aligns historic preservation, sustainability, and existing fabric together.

Section 3: Site Improvements

Sustainable design and site planning integrate design and construction strategies to: minimize environmental site impacts; enhance human health; reduce construction costs; maximize energy, water, and natural resource conservation; and improve operational efficiencies.

Section 4: Water Conservation

Water efficiency conserves finite fresh water resources and reduces utility bills. Significant water savings can be realized by taking advantage of rainwater catchment and gray-water sources.

Section 5: Energy Efficiency

Energy efficiency helps to maximize occupant comfort and health, and reduces utility bills. Conservation measures mitigate the accumulative burdens of energy production and delivery, extraction of nonrenewable natural resources, degradation of air quality, global warming, and the increasing concentration of pollutants.

Section 6: Materials Beneficial to the Environment

Reducing, reusing and recycling building materials conserves natural resources and reduces emissions associated with manufacturing and transporting raw materials. Many techniques and building products on the market contribute to more durable, healthy, and resource-efficient buildings.

Section 7: Healthy Living Environment

The importance of a healthy living environment is a significant green building issue directly affecting occupants. Creating a healthy living environment involves the use of materials that do not cause negative health impacts for workers, especially for more sensitive groups such as children, seniors, and individuals with existing respiratory problems and compromised immune systems.

Section 8: Operations and Maintenance

Operations and maintenance (O&M) practices impact the building owner's costs and residents' health, comfort and safety. Sustainable building O&M practices enhance resident health and operational savings. The key to successful building performance is the integration of O&M plans, education and cost-effective, low-maintenance design.

Iowa Green Streets Checklist

Overall Project

Section 1: Integrated Design Process

Y	N	Item #	Item Title	Points
		1.1a	Green Development Plan: Integrative Design Meeting(s)	Mandatory
		1.1b	Green Development Plan: Criteria Documentation	Mandatory
		1.2	Applicant/Recipient, Architect/Project Designer, and/or Contractor Certification	Mandatory
		1.3	Accessibility: Rehabilitation	5 / building

Section 2: Neighborhood Fabric

Y	N	Item #	Item Title	Points
		2.1	Downtown Design Standards	5
		2.2	Passive Solar Heating/Cooling	4
		2.3a	Grayfield or Brownfield Redevelopment	15
		2.3b	Adaptive Reuse Site	12
		2.4	Previous Historic Efforts	12
		2.5	Historic District Listing	30
		2.6	Individual Listings	5 / building

Section 3: Site Improvements

Y	N	Item #	Item Title	Points
		3.1	Erosion and Sedimentation Control	Mandatory
		3.2	Surface Water Management	Mandatory

Building Specific

Section 4: Water Conservation

Y	N	Item #	Item Title	Points
		4.1	Water Reuse	Up to 10

Section 5: Energy Efficiency

Y	N	Item #	Item Title	Points
		5.1	Efficient Lighting – Exterior	Mandatory

Section 6: Materials Beneficial to the Environment

Y	N	Item #	Item Title	Points
		6.1a	Construction Waste Management	Mandatory
		6.1b	Construction Waste Management: Additional Diversion	Up to 15
		6.2	Durable & Low Maintenance Exteriors	Mandatory

		6.3	Recycled Content Material	Up to 10
		6.4	Certified, Salvaged and Engineered Wood	5
		6.5	Reduce Heat-Island Effect – Roofing	5

Section 7: Healthy Living Environment

Y	N	Item #	Item Title	Points
		7.1	Low/No VOC Paints & Primers	Mandatory
		7.2	Low/No VOC Adhesives & Sealants	Mandatory
		7.3	Composite Wood Products that Emit Low / No Formaldehyde	Mandatory
		7.4	Lead Paint and Asbestos Abatement	Mandatory
		7.5	Ventilation: Rehabilitation	10
		7.6	Basements & Concrete Slabs – Vapor Barrier	Mandatory
		7.7	Water Drainage	Mandatory
		7.8	Integrated Pest Management	Mandatory
		7.9	Smoke-Free Building	2

Section 8: Operations and Maintenance

Y	N	Item #	Item Title	Points
		8.1	Building Maintenance Manual	Mandatory
		8.2	Occupant Manual	Mandatory
		8.3	Tenant Orientation	Mandatory
		8.4	Project Data Collection and Monitoring System	35

Section 1: Integrated Design

1-1a

Green Development Plan: Integrative Design Meeting(s)

MANDATORY

How

Conduct one or more integrative design meeting(s) as appropriate for your project and submit a completed Green Development Plan from Appendix A or equivalent documentation that outlines the integrative design approach used for this development that demonstrates involvement of the entire project team throughout the design and development process.

Intent

An integrative design process facilitates the design and development team's achievement of green objectives throughout the project life cycle. The outcomes of an integrative design process can include substantially lower development costs and greater health, economic, and environmental benefits for residents, property owners, and communities.

Recommendations

- ▶ Conduct a green design charette with the full development team, including participants from the following disciplines or interests:
 - Prospective or current building occupants
 - Architecture or commercial building design
 - Mechanical or energy engineering
 - Building science or performance testing
 - Green building or sustainable design
 - Building management and maintenance
 - Environmental science
- ▶ Best practices in documenting the integrative design charette will help the project applicant in completing the Iowa Green Streets Criteria required Green Development Plan including:
 - A roster of the name and role of each member of the professional design and development team
 - A statement of the overall green development goals of the project and the expected intended outcomes from addressing those goals
 - A summary of the process that was used to select the green building strategies, systems, and materials that will be incorporated into the project
 - A description of how each of the mandatory and optional items will be included in the project
 - Identification of which members of the design and development team are responsible for implementing the green features
 - A description of follow-up measures to be taken through the completion of design, permitting, construction, and operation to ensure that the green features are included and correctly installed, and that the owners or tenants receive information about the function and operation of the features
 - Meeting minutes or other documentation that captures and summarizes components of the integrative design process
- ▶ Project performance and durability can be dramatically affected by decisions and processes established during the integrative design phase. Advanced Energy developed the following list of recommendations for project teams to consider during integrative design, based on an evaluation of Enterprise Green Communities projects:
 - Consider adding specific energy consumption thresholds or goals for each project that will be evaluated after project completion.

- Document your process for approaching and complying with the Criteria for use in your future green projects. Include specific options for complying with Criteria, contact information for useful resources (organizations, websites, product distributors, etc.), and lessons learned.
- Adjust the scopes of all of the projects in your portfolio to match the Criteria in order to avoid confusion with changing expectations.
- Consider creating incentives for your construction team based on the performance of various building components.

1-1b	Green Development Plan: Criteria Documentation
	MANDATORY

How

Create design and construction documentation (e.g., plans, details, specifications) to include information on implementation of appropriate Iowa Green Streets Criteria. The project architect/designer must initial and sign the project plan and spec book checklist in Appendix C of the Iowa Green Streets Criteria prior to issuing construction documents for bidding.

Intent

Projects that explicitly address accountability among project team members and implementation details for the Iowa Green Streets Criteria in design and construction documentation are better positioned to successfully implement the Criteria on site during the construction phase.

Recommendations

Use the Project Plan and Spec Book Checklist below to assist the project to incorporate all Iowa Green Streets Criteria mandatory and optional measures that the project intends to meet as indicated in the Green Development Plan.

= mandatory

Project Plan and Spec Book Checklist

CRITERION	PROJEC T PLANS	SPEC BOOK	ARCHITECT INITIALS
1.1a-b Green Development Plan			
1.2 Applicant/Recipient, Architect/Project Designer, and/or Contractor Certification			
1.3 Accessibility	X	X	
2.1 Downtown Design Standards			
2.2 Passive Solar Heating/Cooling	X		
2.3a-b Site Reuse	X		
2.4 Previous Historic Efforts			
2.5 Historic District Listing			
2.6 Individual Listings			
3.1 Erosion and Sedimentation Control	X	X	
3.2 Surface Water Management	X	X	
4.1 Water Reuse	X	X	
5.1 Efficient Lighting		X	
6.1a-b Construction Waste Management		X	
6.2 Durable and Low-Maintenance Exteriors	X	X	
6.3 Recycled Content Material		X	
6.4 Certified, Salvaged, and Engineered Wood Products		X	

6.5 Reducing Heat Island Effect		X	
7.1 Low/No VOC Paints and Primers		X	
7.2 Low/No VOC Adhesives and Sealants		X	
7.3 Composite Wood Products that Emit Low/No Formaldehyde		X	
7.4 Environmental Remediation	X	X	
7.5 Ventilation: Rehabilitation	X	X	
7.6 Basements and Concrete Slabs: Vapor Barrier	X	X	
7.7 Water Drainage	X	X	
7.8 Integrated Pest Management	X	X	
7.9 Smoke Free Building		X	
8.1 Maintenance Manual			
8.2 Occupant Manual			
8.3 Tenant Orientation			
8.4 Project Data Collection and Monitoring System			

1-2	Applicant/Recipient, Architect/Project Designer and/or Contractor Certification
	MANDATORY

How

The Architect/Project Designer, General Contractor, HVAC Contractor, and/or Applicant/Recipient are required to certify in writing at various stages of the development process their intention to comply, and actual compliance with all of the MANDATORY Iowa Green Streets Criteria, as follows:

- ▶ Certification of Intent to Comply at time of initial application – signed by Applicant and the Architect/Project designer. *See Appendix B for certification form.*
- ▶ Certification of Construction Contract Document Compliance prior to construction commencement signed by Recipient and Architect/Project Designer. *See Appendix C for certification form.*
- ▶ Certification of Compliance at end of construction – signed by Recipient, Architect/Project Designer, General Contractor and HVAC Contractor. *See Appendix D for certification form.*
- ▶ Energy Performance Certification (as applicable) – signed by HERS rater or energy professional, Recipient and Architect/Project Designer. *See Appendix E for certification form.*
- ▶ Energy Performance Certification: Rehabilitation (as applicable) – signed by HERS rater or energy professional, Recipient and Architect/Project Designer. *See Appendix F for certification form.*

1-3	Accessibility: Rehabilitation
	OPTIONAL (5 / Building)

How

Design, when able, entrances to be ADA accessible.

Intent

Universal design features result in a building that is sensitive to a wide range of resident needs, including those who have temporary or permanent disabilities. The creation of comfortable environments for a diverse population increases the likelihood

of dynamic, diverse communities. Universal design means the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. Universal Design has seven principles:

1. Equitable use. The design is useful and marketable to people with diverse abilities.
2. Flexibility in use. The design accommodates a wide range of individual preferences and abilities.
3. Simple and intuitive use. Use of the design is easy to understand, regardless of user's experience, knowledge, language skills, or current concentration level.
4. Perceptible information. The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities.
5. Tolerance for error. The design minimizes hazards and the adverse consequences of accidental or unintended actions.
6. Low physical effort. The design can be used efficiently, comfortable, and with minimum of fatigue.
7. Size and space for approach and use. Appropriate size and space is provided for approach, reach, manipulation, and use regardless of the user's body size, posture, or mobility.

Recommendations

Universal design features should be considered during the integrative design process, based on the sustainability goals of the project.

Section 2: Site, Location and Neighborhood Fabric

2-1	Downtown Design Standards/Guidelines
	OPTIONAL (15 points)

How

Providing a copy of design standards or guidelines as applied to downtown historic commercial district.

Intent

Communities with design standards or guidelines have more cohesive looking downtowns. The growth of that community is done within an overall plan of development.

2-2	Passive Solar Heating/Cooling
	OPTIONAL (4 Points)

How

Demonstrate a project with a passive solar design, orientation, and shading that meets the following guidelines. Documentation must include sun angles and a wall section showing compliance with the guidelines and a site plan indicating true north.

Project Type	Potential Points	Requirements
Rehabilitation	2	All new windows must comply with the window guidelines. If building is historic, window repair or replacement must follow the Secretary of Interior's Standards.
	2	All south-facing elevations must comply with shading guidelines

Guidelines

1. Glazing

The glazing area on the south-facing façade should be 30% greater than the sum of the glazing areas on the east-, west-, and north-facing façades.

2. Glazing type

Provide windows with U-values of 0.25 and a minimum solar heat gain coefficient (SHGC) of 0.50 by orientation.

3. Shading

For south-facing windows, at least 50% of the window needs to be shaded by June 21.

Intent

The utilization of passive solar energy through design minimizes reliance on mechanical heating, lowers the cooling load, and provides more residents with access to daylight.

Recommendations

- ▶ Interior spaces requiring the most lighting, heating, and cooling should be along the south face of the building.
- ▶ A narrow floor plate (less than 40 feet), single-loaded corridors, and an open floor plan optimize daylight and natural ventilation.
- ▶ Thermal Massing
 - Locate a material with high thermal mass on the southern portion of the house where sunlight hits during the heating season.
 - Materials with thermal mass include brick, concrete, stone, water, and any other material of a similar high density and specific heat capacity.
 - The thermal mass location must be shown in the schematic wall section of the southern façades.
- ▶ Additional Potential Passive Cooling Strategies
 - Plant deciduous shade trees on the south façades.
 - Maximize cross ventilation by installing operable windows at the leeward and windward sides of the building.

2-3a	Grayfield or Brownfield
	OPTIONAL (15 Points)

How

One or more buildings in the project are located on a grayfield or brownfield.

Intent

Use of previously developed sites, including those where development is complicated by real or perceived environmental contamination or physical constraints, reduces pressure on undeveloped land and the spread of pavement to new watersheds. Many such sites are otherwise prime locations for redevelopment and provide potential economic and location benefits to citizens, neighborhoods and communities. Reuse of existing structures reduces the need for new materials and utilizes embodied energy.

Definitions

- ▶ Grayfields are previously developed abandoned sites, such as parking lots, obsolete shopping centers, and dilapidated residential structures scheduled to be deconstructed or demolished.
- ▶ Brownfields require a Phase II Environmental Site Assessment and remediation plan.

2-3b	Adaptive Reuse Site
	OPTIONAL (12 Points)

How

Reuse of an existing building with new services.

Intent

Reusing existing buildings and infrastructure is a sustainable community best practice.

Definitions

- ▶ Adaptive reuse means more fully utilizing an existing building that is currently vacant or underutilized.

2-4	Previous Historic Efforts
	OPTIONAL (12 Points)

How

Provide completed Iowa Site Inventory Forms, Reconnaissance or Intensive Level Surveys, historic photographs and images to show that the applicant has completed previous historic documentation efforts.

Intent

More information collected about historic resources helps drive correct design, so that architects are not over- or under-designing for buildings. Having some historic documentation completed for each building prior to initiating design will help define what the significant features of the building are that should be retained and what may be removed or altered without adversely affecting a historic structure. This information will also be helpful in successfully completing the Section 106 of the National Historic Preservation Act consultation process, which is required for all CDBG funded projects.

2-5	Historic District Listing
	OPTIONAL (30 Points)

How

Provide documentation that the area being proposed for the Downtown Revitalization Project has been surveyed for historic resources and a historic district containing some or all of the project area has been listed in the National Register of Historic Places (NRHP).

Intent

Resources that are listed on the NRHP or have been determined eligible for listing in the NRHP within the past five (5) years will have a substantial amount of documentation and research already completed. This will assist in correct design development and will expedite the Section 106 review process, assuming that designs are developed in conformance with the Secretary of the Interior’s Standards.

The existence of a NRHP listed district demonstrates community commitment to preserving historic resources.

Definitions

National Register of Historic Places: The National Register of Historic Places is the official list of the Nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966, the National Park Service's National Register of Historic Places is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources.

.2-6	Individual Building Listings
	OPTIONAL (5 per building)

How

Provide documentation that the building(s) included in the project area is listed on the National Register of Historic Places (NRHP) or been determined eligible for listing in the NRHP through consultation with the SHPO.

Intent

Resources that are listed on the NRHP or have been determined eligible for listing in the NRHP within the past five (5) years, will have a substantial amount of documentation and research already completed, which will assist in correct design development and will expedite the Section 106 review process, assuming that designs are developed in conformance with the Secretary of the Interior’s Standards.

Section 3: Site Improvements

3-1

Erosion and Sedimentation Control

MANDATORY
(for projects disturbing ground)

How

For projects disturbing less than one acre, implement EPA's Best Management Practices for erosion and sedimentation control during construction, referring to the EPA document, Stormwater Management for Construction Activities (EPA 832-R-92-005).

Erosion control measures must include all of the following:

- ▶ Stockpile and protect disturbed topsoil from erosion (for reuse);
- ▶ Control the path and velocity of runoff with silt fencing or comparable measures;
- ▶ Protect on-site storm sewer inlets, streams, and lakes with straw bales, silt fencing, silt sacks, rock filters, or comparable measures;
- ▶ Provide swales to divert surface water from hillsides, and
- ▶ No compaction inside the drip ring of existing trees and shrubs.

Intent

Erosion and sediment control during site development keeps soils on site, reduces stormwater runoff, and prevents sediment from entering local waterways. Erosion and sediment control helps to avoid stormwater related problems that can delay construction, cause environmental degradation to creeks, streams and lakes and damage public and private properties downstream.

3-2

Surface Water Management

MANDATORY
(for projects disturbing ground)

How

Capture, retain, infiltrate, and/or harvest rainfall equivalent to up to 1.25" per rainfall event.

Intent

Stormwater quality can be improved with better site planning and development to reduce post-construction runoff volume. This can be accomplished by decreasing impervious area and increasing emphasis on infiltration practices as described by the guidelines found in the Iowa Stormwater Management Manual.

Reducing stormwater runoff through design and management techniques increases on-site filtration, prevents pollutants from entering waterways, and reduces soil erosion. Water storage and nutrient collection processes reduce the need for irrigation and contribute to forming a healthier ecological community within the landscape.

Recommendations

- ▶ Seek out contractors successfully completing Rainscaping Iowa training, with a preference for contractors that are Rainscaping Iowa certified Rainscapers or utilize your project to assist a trained Rainscaper to complete a Rainscaping project towards their certification. See www.rainscapingiowa.org for more information.

Section 4: Water Conservation

4-1	Water Reuse
	OPTIONAL (maximum 10 Points)

How

Harvest, treat, and reuse rainwater and/or gray-water to meet a portion of the project's water needs.

To achieve optional points, provide the defined percentage of the project's total water needs through rainwater and /or gray-water (using either one or a combination of both strategies). Total water needs include all exterior and interior water use.

TOTAL WATER NEEDS SUPPLIED BY RAINWATER AND/OR GRAY-WATER	NUMBER OF OPTIONAL POINTS
10%	2 points
20%	4 points
30%	6 points
40%	8 points
≥ 50%	10 points

Intent

Rainwater and gray-water reuse strategies reduce the need for municipal water supplies and sewage treatment.

Recommendations

- ▶ Seek out contractors successfully completing Rainscaping Iowa training, with a preference for contractors that are Rainscaping Iowa certified Rainscapers or utilize your project to assist a trained Rainscaper to complete a Rainscaping project towards their certification. See www.rainscapingiowa.org for more information.
- ▶ Rainwater can be harvested from impervious surfaces such as roofs and carried via gutters and downspouts to a storage tank or cistern where it can be treated or filtered for potable uses. Untreated rainwater may be used for non-potable uses.
- ▶ Gray-water may be stored and treated for non-potable uses such as toilet flushing and irrigation.
- ▶ Rainwater and gray-water systems are subject to state and local regulations and special requirements. In some jurisdictions, rainwater or gray-water systems may not be allowed. Check with your local building code officials for requirements.
- ▶ Consider striving for rainwater and gray-water utilization beyond 20%. In some cases, employing rainwater and gray-water harvesting, treatment, and reuse can provide for all of a project's water needs.

Section 5: Energy Efficiency

5-1

Efficient Lighting: Exterior

MANDATORY

How

Rehabilitation — All Buildings:

If being replaced, install ENERGY STAR compact fluorescents or LEDs with a minimum efficacy of 45 lumens / watt, equipped with daylight sensors on all outdoor lighting, including front and rear porch lights in single-family homes.

- ▶ Fixtures should include automatic switching on timers or photocell controls for all lighting not intended for 24-hour operation or required for security.
- ▶ All fixtures must be full cut-off fixtures that shield light pollution from the night sky.

Intent

Energy reductions through efficient lighting products contribute to lower utility costs and lower greenhouse gas emissions.

Recommendations

Design outdoor lighting to eliminate light trespass from the project site and to minimize impact on nocturnal environments.

Section 6: Materials Beneficial to the Environment

6-1a	Construction Waste Management
	MANDATORY

How

Reduce the amount of construction waste sent to the landfill.

- ▶ Investigate and document local options for diversion (recycling, reuse, etc.) of all anticipated major constituents of the project waste stream, including cardboard packaging and “household” recyclables (e.g., beverage containers).
- ▶ Commit to following a waste management plan that is appropriate for the site and local conditions, and that prevents, recycles, or salvages at least 25 percent of non-hazardous construction and demolition debris. Mixed used projects may base their prevention and recycling amounts on the National Association of Home Builders’ Research Center’s industry average of 4.2 pounds of waste per conditioned square foot. See table below to calculate debris prevention and recycling for home projects.

(Source: “Table 27: Waste Diversion,” *LEED for Homes Rating System*, pg. 84)

Amount to Landfills and Incinerators			
Reduced construction waste		Increased waste diversion	
Pounds/ft ²	Cubic Yards/1,000 ft ²	Percentage waste	Percentage diverted
4.0	25.5	100	0
3.5	22.3	88	12
3.0	19.1	75	25
2.5	15.9	63	37
2.0	12.8	50	50
1.5	9.6	38	62
1.0	6.4	25	75
.5	3.2	13	87

Intent

The amount of job-site waste resulting from construction of the average (2000 sq. ft.) U.S. home is 4 pounds per square foot of conditioned space, totaling about 8,000 pounds and taking up 50 cubic yards of landfill space. To the extent possible, waste should be avoided because 1) landfill space is rapidly diminishing, 2) incineration produces pollutants, and 3) waste of materials is in itself a negative environmental impact. (Source: National Association of Home Builders Research Center, 2001)

Approximately 20 percent of waste landfilled in Iowa is construction and demolition debris. An estimated 520,000 tons of construction and demolition debris are landfilled in Iowa annually.

6-1b	Construction Waste Management: Additional Diversion
	OPTIONAL
	(5 additional points for each additional 25% of debris prevented, salvaged or recycled; up to 15 points)

How

Reduce the amount of construction waste sent to the landfill by an additional 25 percent or more.

6-2

Durable and Low Maintenance Exteriors

MANDATORY

How

Specify durable siding materials such as masonry or fiber-cement to reduce or eliminate rot and reduce need for painting. Specify roofing products with ≥ 30 -year life and document how product will save energy. Use at least 25 percent reclaimed materials or recycled content materials such as brick, framing lumber, recycled concrete and aggregates, and fly ash concrete OR select long lived non-toxic materials such as brick or cement fiber siding.

Intent

The use of more durable building materials and building materials that positively impact energy use, result in lower long-term maintenance and operating costs, and improve building value is a best practice.

6-3

Recycled Content MaterialOPTIONAL
(Up to 10 points)**How**

A building material must make up at least 90% of the project component either by weight or by volume to qualify under this measure. A qualifying building material must be composed of at least 25% post-consumer recycled content or at least 50% post-industrial recycled content to achieve 2 points. The following table lists the project components and example materials that a team can incorporate for optional points. Each material that meets the requirements of this Criterion is worth 2 points.

Project Component	Building Material (Examples)
Framing	Wood, concrete, steel, aluminum
Siding or masonry	Wood, metal, masonry
Concrete / cement and aggregate	Urbanite
Roofing	Wood shingles, asphalt shingles, tile, metal
Insulation	Fiberglass batt, cellulose, rigid panel
Sheathing	Plywood, OSB

Intent

Use of building materials with recycled content reduces the negative environmental impact resulting from extraction and processing of virgin materials.

Recommendations

Consider the incorporation of recycled content building materials from the early stages of project design.

6-4

Certified, Salvaged and Engineered Wood Products

OPTIONAL
(5 Points)

How

Commit to using wood products and materials of at least 25%, by cost that are either:

- ▶ Certified in accordance with the Forest Stewardship Council
- ▶ Salvaged products
- ▶ Engineered framing materials that do not include urea formaldehyde-based binders (see Criterion 7.3)

The percentage of certified, salvaged, and engineered wood products is based on cost or value.

Intent

Less than 10% of the old growth forest remains in the United States. The use of salvaged wood and engineered wood products precludes the need to use old-growth lumber. Forest Stewardship Council-certified wood encourages forestry practices that are environmentally responsible.

Equation

Sum of the value of all certified, salvaged, or engineered wood products	÷	The value of all wood products as structural components	=	Percentage of total wood products that meet this criterion
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6-5

Reducing Heat-Island Effect – Roofing

OPTIONAL
(5 Points)

How

Option 1

Use ENERGY STAR-compliant roofing, which requires:

	Roof Slope	Initial Solar Reflectance	Maintained Solar Reflectance	Emissivity
Low slope	≤ 2:12	≥ 0.65	≥ 0.50	0.8
Steep slope	> 2: 2	≥ 0.25	≥ 0.15	0.8

Emissivity should be greater than or equal to 0.8 when tested in accordance with ASTM 408. For Option 1, 100% of the roof area must meet the requirements above to achieve optional points.

OR *Option 2*

Install a “green” (vegetated) roof for at least 50% of the roof area.

Combinations of Energy Star-compliant and vegetated roofing can be used, providing they collectively cover 75% of the roof area.

Intent

Urban heat islands increase local air temperatures due to the absorption of solar energy by the built environment. Reducing the heat island effect decreases energy consumption by decreasing loads on cooling systems.

Recommendations

Avoid PVC membrane roofing, which is manufactured using phthalates, a chemical listed on December 30, 2009 by EPA as a “chemical of concern” to human health: www.epa.gov/oppt/existingchemicals/pubs/ecactionpln.html.

Section 7: Healthy Living Environment

7-1	Low / No VOC Paints and Primers
	MANDATORY

How

Specify that all interior paints and primers must comply with current Green Seal standards for low VOC limits. Specify pre-finished products or low VOC stains, varnishes, and lacquers.

Intent

VOCs are chemicals containing carbon molecules that are volatile enough to evaporate from material surfaces into indoor air at normal temperatures. Interior paints and primers that release VOCs may pose health hazards to residents and workers. Outdoors, VOCs react with sunlight and nitrogen in the atmosphere to form ground level ozone, a chemical that has a detrimental effect on human health and ecosystems. Ozone damages lung tissue, reduces lung function, and sensitizes the lungs to other irritants. Use of low-VOC paints and primers will reduce the concentration of such airborne chemicals.

7-2	Low / No VOC Adhesives and Sealants
	MANDATORY

How

All adhesives must comply with Rule 1168 of the South Coast Air Quality Management District. All caulks and sealants must comply with Regulation 8, Rule 51, of the Bay Area Air Quality Management District (BAAQMD).

VOC Limits

South Coast Air Quality Management District (AQMD), Rule 1168, establishes VOC limits for adhesives: www.aqmd.gov/rules/reg/reg11/r1168.pdf.

AQMD Architectural Applications Current VOC Limit

Less water and less exempt compounds in grams per liter

Product Type	VOC Limit (G / L)
Indoor carpet adhesives	50
Carpet pad adhesives	50
Outdoor carpet adhesives	150
Wood flooring adhesives	100
Rubber floor adhesives	60
Subfloor adhesives	50
Ceramic tile adhesives	65
VCT and asphalt tile adhesives	50
Drywall and panel adhesives	50
Cove base adhesives	50
Multipurpose construction adhesives	70
Structural glazing adhesives	100
Single-ply roof membrane adhesives	250

Bay Area Air Quality Management District Regulation 8, Rule 51, establishes VOC limits for sealants: www.baaqmd.gov/

8-51-301 Adhesive Product, Application Limits: Except as provided in Section 8-51-305, a person shall not use in the following applications any adhesive product with a VOC content, as defined in Section 8-51-226, that exceeds the following VOC limits (expressed as grams of VOC per liter):

BAAQMD VOC Standards	VOC Limit (G / L)
Indoor floor covering installation	150
Multipurpose construction	200
Nonmembrane roof installation / repair	300
Outdoor floor covering installation	250
Single-ply roof material installation / repair	250
Structural glazing	100
Ceramic tile installation	130
Cove base installation	150
Perimeter bonded sheet vinyl flooring installation	660

More information can be found online at www.baaqmd.gov/~media/Files/Planning%20and%20Research/Rules%20and%20Regs/reg%2008/rq0851.ashx

Intent

Interior adhesives and sealants may release VOCs, particularly when wet. Exposure to individual VOCs and mixtures of VOCs can cause or aggravate health conditions, including allergies, asthma, and irritation of the eyes, nose, and airways; however, no health-based standards for indoor non-occupational exposure have been set.

Recommendations

- ▶ Many construction adhesives are not capable of adhering at temperatures below 40°F. Projects located in cold climates only (Climate Zones 6 and 7, based on IECC 2006) may be exempted from the required low-VOC adhesives and sealants if they prove problematic due to the above reason. In this instance, please identify in the project submittal documents if other adhesives and/or sealants were needed and at what stage of construction the project team was unable to use required low-VOC products.
- ▶ Avoid epoxy-based caulks and epoxy-based sealants, as these contain Bisphenol A. Bisphenol A was listed on March 29, 2010 by the EPA as a “chemical of concern.” See: www.epa.gov/oppt/existingchemicals/pubs/ecactionpln.html

7-3	Composite Wood Products that Emit Low / No Formaldehyde
	MANDATORY

How

All composite wood products (plywood, OSB, MDF, cabinetry) must be certified compliant with California 93120. If using a composite wood product that does not comply with California 93120, all exposed edges and sides must be sealed with low-VOC sealants, per Criterion 7-2.

Intent

Composite wood products using formaldehyde-based binders will emit formaldehyde, which is a volatile organic compound. Symptoms of exposure vary widely and include a host of bodily reactions. Avoiding products that emit formaldehyde will reduce the quantity of harmful indoor air contaminants.

Recommendations

- ▶ Make this requirement part of the specifications for sub-contractor submittals. Obtain the manufacturer's specifications to determine whether materials meet this requirement. Seek composite wood products compliant with California 93120. California 93120 is a regulation issued by the California Air Resources Board (CARB) limiting allowable formaldehyde emissions from composite wood products.
- ▶ Seek composite wood products with no added formaldehyde-based compounds in the contents. Seek composite wood products with CARB No Added Formaldehyde (NAF) certification. Also, Scientific Certification Systems offers a Formaldehyde Free certification, and product listings are available at www.scs-certified.com/products/index.php
- ▶ If feasible, specify formaldehyde-free hardwood, plywood, particleboard, or medium density fiberboard.

Things to Consider

- ▶ In July 2010, the U.S. Congress passed Public Law No: 111–199, the S. 1660: Formaldehyde Standards for Composite Wood Products Act, which updates the Toxic Substances Control Act of 1976 to align with the recent California legislation 93120. More information on Public Law No: 111–199 S.1660 can be found online at www.govtrack.us/congress/bill.xpd?bill=s111-1660.
- ▶ A summary of the Toxic Substances Control Act of 1976 can be found online at the EPA's website at www.epa.gov/lawsregs/laws/tsca.html
- ▶ The California Air Resources Board approved an Airborne Toxic Control Measure in April 2007 to reduce formaldehyde emissions from composite wood products including hardwood plywood, medium-density fiberboard, and particleboard (Title 17, California Code of Regulations 93120-93120.12). California 93120. More information can be found at: www.arb.ca.gov/regact/2007/compwood07/fro-final.pdf

7.4

Lead Paint & Asbestos Abatement

MANDATORY

How

Follow all applicable state requirements and federal requirements related to asbestos inspection, identification, notice, disturbance, removal and handling including, but not limited to, 40 CFR Section 61.145. For properties built before 1978, use lead-safe work practices consistent with the EPA's Renovation, Repair, and Painting Regulation (RRP) (40 CFR 745) and applicable HUD requirements at 24 CFR 35.

Intent

Effects on the lungs are a major health concern from asbestos. Asbestos is a hazardous air pollutant that has been used in building materials, paper products, plastics and other products and is still used generally in the construction industry. Any activity that disturbs painted surfaces or project components in pre-1978 dwellings that contain lead-based paint may generate and spread lead dust and debris, increasing the risk of lead poisoning for exposed children and families. Controlling lead dust and debris helps minimize lead in the environment.

Recommendations

- ▶ Undertake a lead inspection to determine if the property or surfaces to be disturbed contain lead-based paint.
- ▶ Undertake the appropriate training and certification for staff and ensure that contractors are meeting the lead RRP requirements.

Things to Consider

- ▶ Iowa Department of Natural Resources asbestos website, <http://www.iowadnr.gov/Environment/AirQuality/HazardousAirPollutants/Asbestos.aspx>

- ▶ U.S. Environmental Protection Agency: www.epa.gov/lead/pubs/traincert.htm and U.S. Department of Housing and Urban Development: www.hud.gov/offices/lead/training/index.cfm
Information about lead-safe work practices
- ▶ U.S. Environmental Protection Agency, Small Entity Compliance Guide to Renovate Right EPA’s Lead-Based Paint Renovation, Repair, and Painting Program: www.epa.gov/lead/pubs/sbcomplianceguide.pdf and www.epa.gov/lead/pubs/renovation.htm
General information on compliance with these requirements

7-5	Ventilation: Rehabilitation
	OPTIONAL (10 points)

How

Meet or exceed the current ASHRAE ventilation standard 62.1-2010 for commercial and institutional buildings but not less than the values required by local code unless approved by the authority with jurisdiction.

Intent

Optimal ventilation improves indoor air quality and the flow of fresh air throughout the home, contributing to a healthier living environment.

Recommendations

- ▶ With continuous, demand-controlled, or other centralized ventilation systems, the project team (specifically, the designer, installer, and maintenance staff) should ensure that the systems are balanced from unit to unit to meet the requirements of ASHRAE 62.2-2010.
- ▶ Also, consider the following guidance:
 - For fans designed to exhaust more than 250 cfm, consider using ECM with speed controllers mounted near the fan for ease of balancing.
 - For fans designed to exhaust less than 250 cfm, consider using direct drive with speed controller mounted near the fan for ease of balancing.
- ▶ For climate-specific strategies, project teams should consult ASHRAE 62.2-2010.
- ▶ For projects located in hot and humid climates, systems should be designed to be capable of ASHRAE 62.2 ventilation levels. Supplemental dehumidification is likely necessary for compliance in these climates to maintain comfort during times of high ambient relative humidity. Additionally, the goal should be to design a system to meet ASHRAE requirements and then provide for additional accommodations to adjust the amount of outside airflow being introduced.
- ▶ Consider the following controls for introducing outside air:
 - Flow control / butterfly damper to allow for control over the amount of air being introduced through the outside air intake.
 - Shut-off damper (electronic or barometric) to close off the outside air intake when the HVAC system is not calling for air.
 - Fan timer /cycler on the system that allows for control over how many minutes of a “system run cycle” that the outside air intake remains open.
 - Per ASHRAE ventilation requirements, reliance on operable windows is not permitted as a strategy to meet ASHRAE 62.2 whole-building ventilation requirements.

Basements and Concrete Slabs – Vapor Barrier

MANDATORY

(If basement floor/slab is affected)

How

Follow the specifications below.

Beneath concrete slabs, including basements:

- ▶ Provide vapor barriers under all slabs.
- ▶ For concrete floors either in basements or the on-grade slab, install a capillary break of 4 inches of clean or washed gravel (0.5 inch diameter or greater) placed over soil.
- ▶ Cover all gravel with a 6-millimeter polyethylene sheeting moisture barrier, with joints lapped 1 foot or more to prevent moisture from migrating from the soil through the slab to a living or storage area.
- ▶ Install at least 1" extruded polystyrene below the slab in addition to the vapor barrier to control mold growth.
- ▶ Place a capillary break on top of footing between footing and foundation wall to stop capillary action.
- ▶ On interior below-grade walls, avoid using separate vapor barrier or a below-grade vertical insulation (such as polyethylene sheeting, vinyl wallpaper or foil faced), which can trap moisture inside wall systems. Semi-vapor permeable rigid insulation is not considered a vapor barrier.

Beneath Crawl Spaces

- ▶ Install 8-mil minimum thickness cross-laminated polyethylene on the crawl floor, extended at least 12 inches up on piers and foundation walls, and with joints overlapping at least 12 inches. (The 8-mil polyethylene and the cross-lamination ensure longevity of the poly.)
- ▶ Line the likely "high-traffic" areas of the crawl space with foam board, so the polyethylene beneath will not be disturbed.

Intent

Water can migrate through concrete and most other masonry materials. Proper foundation drainage prevents water from saturated soils from being pushed by hydrostatic pressure through small cracks. Vapor barriers and waterproofing materials can greatly reduce the migration of moisture that can occur even in non-saturated soils. Installation of radon-resistant features will reduce concentrations of radon, a cancer-causing soil gas that can leak into homes through cracks in the slab and foundation.

Recommendations

- ▶ Ensure that other trades' work does not puncture the vapor barrier.

How

Provide drainage of water to the lowest level of concrete away from windows, walls, and foundations by implementing the following techniques:

- ▶ Water management – Walls
 - Provide a weather resistive barrier with sheets lapped, shingle style, especially over windows, doors and other penetrations to prevent rain water that penetrates the finished exterior cladding system, from entering the wall assembly or being introduced into window or door openings;
 - Provide a pathway for liquid water that has penetrated the cladding system or accumulates due to daily or seasonal changes in thermal and humidity levels behind the cladding system to safely exit the exterior wall assembly;
 - Flashing and/or weather-resistive barriers installed in rough window and door openings must integrate with window and door unit flashings, particularly at the sill and head; OR install pan flashing, side flashing that extends over pan flashing, and Head Flashing (top flashing) that extends over side flashing on windows and exterior door openings. Apply window pan flashing over building paper at sill and corner patches; and
 - Flashings at roof wall intersections and at penetrations through the wall (i.e. plumbing, electrical, vents, HVAC refrigerant lines, etc.) must be integrated with the drainage plane to keep water from entering the wall assembly.
- ▶ Water Management - Roof Systems
 - Installation of drip edge at entire perimeter of roof;
 - Flashing where sloped roofs meet gable wall end/all vertical wall integrated into building drainage plane;
 - Use of kick-out flashings at all wall eave intersections integrated into drainage plane; and
 - At wall/roof intersections maintain ≥ 2 " clearance between wall cladding and roofing materials.
- ▶ Integrity and Continuity of the Thermal Barrier
 - The drainage plane, when properly sealed, can also reduce airflow through the wall assembly, which improves the thermal performance of the cavity insulation.

Intent

Diverting water from the building prevents bulk water entry into foundations and basements, which can contribute to moisture-related problems such as mold and the deterioration of wood and other building materials. Flashing helps direct water away from wall cavities to the drainage plane. Careful architectural detailing of the drainage system and construction supervision ensures proper water drainage.

7-8	Integrated Pest Management
	MANDATORY

How

Seal all wall, floor, and joint penetrations with low VOC caulking to prevent pest entry. Provide rodent and corrosion proof screens (e.g., copper or stainless steel mesh) for large openings.

Intent

Sealing of cracks and penetrations will minimize entry points for pests such as rodents and cockroaches.

7-9	Smoke-free Building
	OPTIONAL (2 Points)

How

Implement and enforce a “no smoking” policy in all common and individual living areas of all buildings. Common areas include rental or sales offices, entrances, hallways, resident services areas, and laundry rooms.

Intent

Secondhand smoke is the third leading cause of preventable death in the country. Air filtration and ventilation systems do not eliminate the health hazards caused by secondhand smoke. Tobacco smoke from one unit may seep through the cracks, be circulated by a shared ventilation system, or otherwise enter the living space of another. In addition to the negative health effects, smoking significantly increases fire hazard, and increases cleaning and maintenance costs. Also, many property insurance companies offer a discount for buildings with no-smoking policies.

Section 8: Operations and Maintenance

8-1	Building Maintenance Manual
	MANDATORY OPTIONAL (for façade only projects – 10 points)

How

Provide a manual that addresses the following:

- ▶ Operations and maintenance guidance for all appliances
- ▶ HVAC operation and maintenance schedule
- ▶ Location of water-system turnoffs
- ▶ Lighting equipment
- ▶ Paving materials and landscaping
- ▶ Green cleaning products and schedule(s)
- ▶ Pest control
- ▶ Any other systems within the project, including renewable energy systems if applicable
- ▶ An occupancy turnover plan that describes the turnover process, including all materials that are frequently replaced at turnover and the process of educating the residents about proper use and maintenance of all project systems

Intent

Regular building maintenance using green methods helps minimize utility consumption and provides a healthy and durable living environment for residents.

Recommendations

- ▶ During the design process, keep a running list of how maintenance and landscaping teams and residents may need to be involved with the building in order to ensure that its lifespan is maximized and that it will perform as intended. Once the project team has completed the integrative design process (see Criterion 1.1), amend templates of the Operations and Maintenance documents with project-specific information for maintenance and residents. By working in this manner, Operations and Maintenance documents will be informed by the development process and completed at the same time the project is ready for occupancy.
- ▶ Manuals and other training materials are most effective when presented in conjunction with training sessions. These educational sessions give the project maintenance staff an opportunity to share best practices and troubleshoot project performance problems together.
- ▶ Consider developing an integrated pest management (IPM) policy and, as part of that, develop guidance related to pesticide use, housekeeping, and prompt reporting of pest problems to be included in maintenance manuals.
- ▶ If the project is utilizing gray-water, design and institute a policy that requires biodegradable soaps, cleaners, and other products that are flushed down the drains.
- ▶ Provide maintenance staff with local information for handling hazardous waste, including fluorescent and compact fluorescent lighting (CFLs).

8-2	Occupant Manual
	MANDATORY OPTIONAL (for façade only projects – 10 points)

How

Provide a guide for tenants that explains the intent, benefits, use, and maintenance of green building features. The guide also should include the location of transit stops and other neighborhood amenities, and encourage additional green activities such as recycling, gardening, use of healthy cleaning materials, alternative measures to pest control, and purchase of green power.

Intent

Education on the operations and maintenance of the building will allow tenants to fully realize the environmental, health, and economic benefits that green housing offers. This resource is intended to familiarize tenants with the green features and methods used in their building.

Recommendations

- ▶ During the design process, keep a running list of how maintenance and landscaping teams and residents may need to be involved with the building in order to ensure that its lifespan is maximized and that it will perform as intended. Once the project team has completed the integrative design process (see Criterion 1.1), amend templates of the Operations and Maintenance documents with project-specific information for maintenance and residents. By working in this manner, Operations and Maintenance documents will be informed by the development process and completed at the same time the project is ready for occupancy.
- ▶ If the project is utilizing gray-water, design and institute a policy that requires biodegradable soaps, cleaners, and other products that are flushed down the drains.
- ▶ Provide tenants with two radon test kits designed for 48-hour exposure, and include instructions for use and follow-up action, per EPA’s Indoor Air Package.
- ▶ Provide residents with local information for handling household hazardous waste, including CFLs.

8-3	Tenant Orientation
	MANDATORY OPTIONAL (for façade only projects – 10 points)

How

Provide a comprehensive walk-through and orientation to the tenant using the Occupant Manual from 8-2 above that reviews the building’s green features, operations and maintenance, along with neighborhood conveniences that may facilitate a healthy lifestyle.

Intent

A walk-through and orientation will help ensure that the Green Development Plan achieves its intended environmental and economic benefits.

8-4	Project Data Collection and Monitoring System
	35 Points

How

Collect and monitor project performance data on energy, water, and, if possible, healthy living environments for a minimum of five years. Allow Iowa Economic Development Authority access to that data.

For sub-metered projects, property owner /developer must agree to collect utility release forms from a percentage of occupants/units to track actual utility data of a sample of homes or non-residential spaces (Example: Main Street redevelopment

project with two upper-story residential units and one first-floor commercial bay would collect release forms and data from at least one residential unit and the commercial bay). The following table identifies the percentage of units for which the property owner /developer must collect and track utility data, as based on the project size in total number of units.

Number of units	Percentage of units
0 – 25 units	50%
25 – 100 units	25%
100+ units	15%

Intent

A data collection and monitoring system helps project owners, on-site staff, and residents to understand project performance issues. Once an issue is identified, appropriate actions can be taken to maximize cost savings and health benefits associated with green building features.

Recommendations

- ▶ Use EPA's Portfolio Manager to track utility data.
- ▶ Ensure that the training for residents and building maintenance staff includes information on how to effectively use the data collection, monitoring, and reporting system.
- ▶ Multifamily building data can be tracked and analyzed using EPA's Portfolio Manager Tool.
- ▶ Property owners have indicated that the best time to collect tenant utility data release forms is during tenant lease-up.
- ▶ Whole-project energy monitoring systems (also known as smart meters) are a strategy that can help a project attain optional points under Criterion 5.8

Appendix A

Green Development Plan and Checklist

Green Development Plan

Developer Name:

Project Name:

Address (Street/City/State):

Description of Process

A description of the process that was used to select the green building strategies, systems and materials that will be incorporated into the project. (500 word maximum)

Project Team Members

A listing of the team members who participated in the integrated design charrette. Please include name, affiliation/company, and discipline.

Goals

Bullet points of the overall green development goals of the project and the expected intended outcomes from addressing those goals.

-
-
-
-
-
-
-
-

Appendix A

Green Development Plan and Checklist

Mandatory

Optional

Item		Intended Method of Satisfying Green Criteria	Yes, No or NA	Points	Champion (name and profession/role)
Section 1: Integrated Design					
1-1a	Green Development Plan: Integrative Design Meeting(s)				
1-1b	Green Development Plan: Criteria Documentation				
1-2	Applicant/Recipient, Architect/Project Designer, Contractor Certification				
1-3	Accessibility Rehabilitation (Optional, <i>see full criteria</i>)				
Section 1 Subtotal					
Section 2: Site, Location and Neighborhood Fabric					
2-1	Downtown Design Standards (Optional 15 points)				
2-2	Passive Solar Heating / Cooling (Optional 4 points) (Site map must demonstrate that project satisfies this item)				
2-3a	Grayfield or Brownfield (Optional 15 points)				
2-3b	Adaptive Reuse Site (Optional 12 points)				
2.4	Previous Historic Efforts (Optional 12 points)				
2.5	Historic District Listing (Optional 30 points)				
2.6	Individual Listings (Optional 5 points per building)				
Section 2 Subtotal					
Section 3: Site Improvements					
3-1	Erosion and Sedimentation Control				
3-2	Surface Water Management				
Section 3 Subtotal					
Section 4: Water Conservation					
4-1	Water Reuse (Optional, <i>see full criteria</i>)				
Section 4 Subtotal					

Item		Intended Method of Satisfying Green Criteria	Yes, No or NA	Points	Champion (name and profession/role)
Section 5: Energy Efficiency					
5-1	Efficient Lighting - Exterior				
Section 5 Subtotal					
Section 6: Materials Beneficial to the Environment					
6-1a	Construction Waste Management				
6-1b	Construction Waste Management: Additional Diversion (Optional 5 to 15 points)				
6-2	Durable & Low Maintenance Exteriors				
6-3	Recycled Content Material (Optional, <i>see full criteria</i>)				
6-4	Certified, Salvaged and Engineered Wood (Optional 5 points)				
6-5	Reducing Heat-Island Effect – Roofing (Optional 5 points)				
Section 6 Subtotal					
Section 7: Healthy Living Environment					
7-1	Low/No VOC Paints and Primers				
7-2	Low/No VOC Adhesives and Sealants				
7-3	Composite Wood Products that Emit Low/ No Formaldehyde				
7-4	Lead Paint and Asbestos Abatement				
7-5	Ventilation: Moderate Rehab (Optional 10 points)				
7-6	Basements and Concrete Slabs - Vapor Barrier				
7-7	Water Drainage				
7-8	Integrated Pest Management				
7-9	Smoke-free Building (Optional 2 points)				
Section 7 Subtotal					
Section 8: Operations and Maintenance					
8-1	Building Maintenance Manual				
8-2	Occupant Manual				
8-3	Homeowner /Tenant Orientation				
8-4	Project Data Collection and Monitoring System (Optional 35 points)				
Section 8 Subtotal					
Grand Total					

Appendix B

Certification of Intent to Comply

Required: Submit this certification at time of application.

The project applicant and project architect/project designer are required to sign the certification below at the time of application submittal to the Iowa Economic Development Authority. By signing this certification, the project applicant and project architect/project designer are certifying their intent to comply with all of the MANDATORY Iowa Green Streets Criteria applicable to the project as determined by the Iowa Economic Development Authority. This certification also certifies the intent to complete the optional Iowa Green Streets Criteria proposed in the applicant's proposal.

To be Completed by Applicant	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (if applicable)	
Date:	

To be Completed by Project Architect/Project Designer	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/ licensing body)	
Date:	

Appendix C

Certification of Construction Contract Document Compliance

Required: Submit this certification prior to issuing construction documents for bidding.

The project architect/designer is required to initial the project plan and spec book checklist below indicating that the Iowa Green Streets Criteria have been addressed in the project plans and specifications. The project applicant/recipient and project architect/project designer are required to sign the certification below this checklist prior to issuing construction documents for bidding. By signing this certification, the project applicant and project architect/project designer are certifying that the construction documents comply with all of the MANDATORY Iowa Green Streets Criteria applicable to the project as determined by the Iowa Economic Development Authority. This certification also certifies that the construction documents comply with all optional Iowa Green Streets Criteria in the applicant's project proposal.

Project Plan and Spec Book Checklist

CRITERION	PROJECT PLANS	SPEC BOOK	ARCHITECT/DESIGNER INITIALS
1.1a-b Green Development Plan			
1.2 Applicant/Recipient, Architect/Project Designer, and/or Contractor Certification			
1.3 Accessibility	X	X	
2.1 Downtown Design Standards			
2.2 Passive Solar Heating/Cooling	X		
2.3a-b Site Reuse	X		
2.4 Previous Historic Efforts			
2.5 Historic District Listing			
2.6 Individual Listings			
3.1 Erosion and Sedimentation Control	X	X	
3.2 Surface Water Management	X	X	
4.1 Water Reuse	X	X	
5.1 Efficient Lighting		X	
6.1a-b Construction Waste Management		X	
6.2 Durable and Low-Maintenance Exteriors	X	X	
6.3 Recycled Content Material		X	
6.4 Certified, Salvaged, and Engineered Wood Products		X	
6.5 Reducing Heat Island Effect		X	
7.1 Low/No VOC Paints and Primers		X	
7.2 Low/No VOC Adhesives and Sealants		X	
7.3 Composite Wood Products that Emit Low/No Formaldehyde		X	
7.4 Environmental Remediation	X	X	
7.5 Ventilation	X	X	
7.6 Basements and Concrete Slabs: Vapor Barrier	X	X	
7.7 Water Drainage	X	X	
7.8 Integrated Pest Management	X	X	
7.9 Smoke Free Building		X	
8.1 Maintenance Manual			
8.2 Occupant Manual			
8.3 Tenant Orientation			
8.4 Project Data Collection and Monitoring System			

To be Completed by Applicant/Recipient

Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (if applicable)	
Date:	

To be Completed by Project Architect/Project Designer

Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/ licensing body)	
Date:	

Appendix D

Certification of Compliance at End of Construction

Required: Submit this certification at time of construction completion.

The project applicant/recipient, project architect/project designer, general contractor, and HVAC contractor are required to sign the certification below at time of construction completion. By signing this certification, all signing parties are certifying that the project as constructed complies with all of the MANDATORY Iowa Green Streets Criteria applicable to the project as determined by the Iowa Economic Development Authority. This certification also certifies that the project as constructed complies with all of the optional Iowa Green Streets Criteria in the applicant's project proposal.

To be Completed by Applicant/Recipient	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (if applicable)	
Date:	

To be Completed by Project Architect/Project Designer	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/licensing body)	
Date:	

To be Completed by General Contractor	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/licensing body)	
Date:	

To be Completed by HVAC Contractor	
Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (license/licensing body)	
Date:	

Appendix E

Energy Performance Certification - Rehabilitation

Required:

Commercial or Residential (>3 stories) – Energy Rater / Energy Professional submits Code Certificate and energy modeling information and completes and signs certification below for submittal by project applicant/recipient.

The project's independent, third-party energy rater, or energy professional for non-residential projects is required to sign the certification below at time of construction completion. By signing this certification, the energy rater is certifying that the project, as constructed, complies with all of the MANDATORY Iowa Green Streets Criteria energy related criteria applicable to the project as determined by the Iowa Economic Development Authority including the following criteria:

- ▶ 5.1e, Efficient Energy Use – Mid- and High-Rise Multifamily and Non-Residential
 - Energy performance of the completed building meets or exceeds ASHRAE 90.1-2007 without the addition of electric-generating renewable energy systems.

AND

- ▶ 5.2, Energy Star and Energy Efficient Appliances (if providing appliances)
- ▶ 5.3a, Efficient Lighting: Interior
- ▶ 5.4, HVAC Sizing, Installation and Duct Systems (residential projects)
 - Heating & cooling equipment sized in accordance with the Air Conditioning Contractors of America (ACCA) Manual, Parts D, J and S, ASHRAE handbooks, or equivalent software

To be Completed by Architect, Designer, Engineer, or Energy Professional

Signature:	
Name:	
Title:	
Tel. No.:	
E-mail:	
Accreditation: (if applicable)	
Date:	