

Emergency Shelter Grants (ESG) Program Desk Guide

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**U.S. Department of Housing and Urban Development
Office of Community Planning and Development**

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Introduction

What is the Emergency Shelter Grants Program?

The Emergency Shelter Grants (ESG) program is designed to be the *first step* in a continuum of assistance to prevent homelessness and to enable homeless individuals and families to move toward independent living.

The Emergency Shelter Grants program was originally established by the Homeless Housing Act of 1986, in response to the growing issue of homelessness among men, women, and children in the United States. In 1987, the ESG program was incorporated into subtitle B of title IV of the Stewart B. McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378).



ESG is a formula-funded program that uses the Community Development Block Grant (CBDG) formula as the basis for allocating funds to eligible jurisdictions, including States, territories, and qualified metropolitan cities and urban counties for:

- rehabilitation or conversion of buildings into homeless shelters;
- operating expenses;
- essential services; and
- homeless prevention activities.

The Emergency Shelter Grants program is one of four homeless assistance programs operated by the Department of Housing and Urban Development's Office of Special Needs Assistance Programs. The other three are the Supportive Housing Program (SHP), Shelter Plus Care (SPC) program, and Section 8 Single Room Occupancy (SRO) program.

Descriptions of all of these programs can be found on HUD's web site at <http://www.hud.gov/cpd/homeless.html>.

Why Do You Need This Guide?

This Guide provides an overview of the Emergency Shelter Grants program, describes the funding process, and covers topics including the initial application, grant administration, project implementation, and performance monitoring. Where possible, the Guide includes concrete examples of promising administrative practices from ESG programs around the country. This Guide is not a substitute for the ESG regulations, but provides a practical resource that addresses many of the common questions and issues that arise in the implementation of a local ESG project. It should be used in conjunction with the federal rules and regulations.

For easy reference, this Guide provides various sections of the laws and implementing regulations pertaining to the Emergency Shelter Grants program, namely Title 42 of the U.S. Code (e.g., 42 U.S.C. 11375), as well as parts of Title 24 of the Code of Federal Regulations (e.g., 24 CFR 576). There is also a Glossary at the end of this Guide that defines the key terms cited in the pertinent laws and regulations.

Guide Sections

The ESG Guide is divided into ten major sections. These are:

Section One: Program Overview

Section Two: Allocation of Funding

Section Three: Eligible Activities Under the ESG Program

Section Four: Program Requirements and Responsibilities

Section Five: Integrated Disbursement and Information System (IDIS)

Section Six: Performance Monitoring and Reporting

Section Seven: Financial Management

Section Eight: Other Federal Requirements

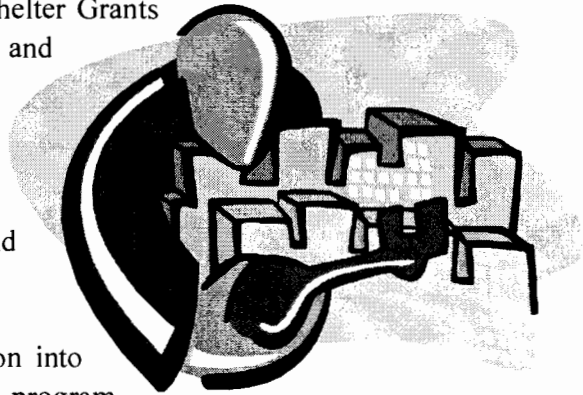
Appendix: Additional Resources

Glossary

Section One: Program Overview

1.1 ESG Program Objectives

The objectives of the Emergency Shelter Grants program are to increase the number and quality of emergency shelters and transitional housing facilities for homeless individuals and families, to operate these facilities and provide essential social services, and to help prevent homelessness.



Since its inception and incorporation into the McKinney-Vento Act, the ESG program has helped States and localities provide facilities and services to meet the needs of homeless people. ESG funds assist in providing shelter for the homeless, but also aid in the transition of this population to permanent homes.

1.2 ESG Program Activities

Shelters and other service providers use Emergency Shelter Grants funding for five main categories of eligible activities:

Eligible ESG Activities

1. Renovation, rehabilitation, and conversion of buildings for use as emergency shelters or transitional housing for the homeless;
2. Essential services;
3. Operating costs such as maintenance, insurance, rent, etc.;
4. Homeless prevention; and
5. Administration.

1.3 ESG and the Continuum of Care

The ESG program is designed as the *first step* in a continuum of assistance to prevent homelessness and to enable the homeless population to move steadily toward independent living. The Continuum of Care model is based on the understanding that homelessness is not caused by simply a lack of shelter, but involves a variety of underlying needs. HUD believes the best approach for alleviating homelessness is through a community-based process that provides a comprehensive response to the diverse needs of homeless persons. The fundamental components of a Continuum of Care system are:

- Outreach and assessment to identify a homeless person's needs;
- Immediate (emergency) shelter as a safe, decent alternative to the streets;
- Transitional housing with appropriate supportive services to help people reach independent living; and
- Permanent housing or permanent supportive housing for the disabled homeless.

1.4 How is ESG Funding Allocated?

The Emergency Shelter Grants program is a formula-funded program that uses the Community Development Block Grant (CBDG) formula as the basis for allocating funds to eligible jurisdictions, including States, territories, and qualified metropolitan cities and urban counties.

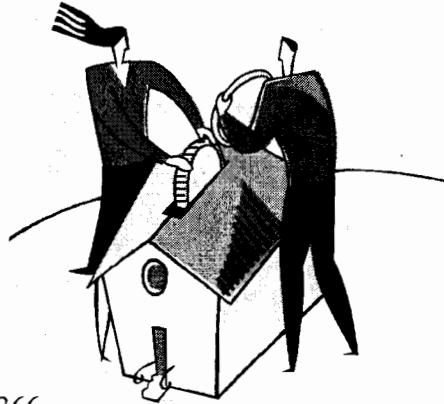
To receive funds from the Emergency Shelter Grants program (and other formula-funded programs), the lead agency of an eligible jurisdiction must submit and obtain approval of a *Consolidated Plan*. This 3- to 5-year Plan provides the framework for a process used by States and local areas to identify housing, homeless, community and economic development needs and resources and to develop a strategic plan to meet those needs. During this planning process, citizens have an opportunity to provide input and to help shape the community's priorities.

The ESG grantee is the direct recipient of the HUD award. A grantee administers projects through sub-grantees, called "recipients". A local government grantee also may implement projects itself.

State ESG grantees are required to distribute their entire grant for projects operated by local government agencies or private non-profit organizations (if the local government in which the project is located certifies approval). Local governments receiving funds may distribute all or a portion of their ESG funds to nonprofit homeless provider organizations.

Section Two: Allocation of Funding

This section explores various aspects of funding allocation in the Emergency Shelter Grants program. The ESG program is a formula grant program that allocates monies to eligible jurisdictions. The formula grant mechanism of the ESG program gives grantees the authority to allot ESG funds among their public and private recipients for eligible activities.



For FY 2001, HUD allocated \$149.67 million to 366 eligible grantees in the ESG program. The minimum ESG grant in FY 2001 was \$75,000, and the maximum grant was \$7,792,000. For more information on the Community Planning and Development (CPD) Program formula allocations, please see <http://www.hud.gov/cpd/cpdalloc.html>. The current level of funding is based on the yearly homeless assistance appropriation, as well as the demand of HUD's other McKinney-Vento Act programs.

There are a number of steps that each eligible jurisdiction must go through in order to secure and use ESG funding:

ESG Program Funding Cycle

Step	Activity
Step 1	HUD notifies eligible jurisdictions of funding availability.
Step 2	Eligible jurisdictions prepare Consolidated Plan.
Step 3	Consolidated Plan is approved.
Step 4	Grant agreement is executed between HUD and the grantee (eligible jurisdiction).
Step 5	If applicable, grantee further allocates funding to local units of government and/or nonprofit organizations.
Step 6	Grantee executes grant agreement with each recipient of ESG funding.

Step 7	Recipient requests ESG funding from grantee (usually for costs already incurred).
Step 8	Grantee draws down ESG funds and reimburses recipient.

The following questions will be addressed in the remainder of this section:

- What is the formula funding mechanism?
- What entities are eligible for an ESG award?
- How is the Consolidated Plan related to ESG funding?
- What is the required funding match, and how is it met?
- Who are the ultimate recipients of ESG funding?
- What are the respective roles of the ESG grantees and recipients?
- Why and how does reallocation of ESG funding occur?

2.1 What is the Formula Funding Mechanism?

The Emergency Shelter Grants program is a formula grant program that uses data from the Community Development Block Grants (CDBG) program as the basis for allocating funds to eligible jurisdictions. The CDBG formula uses several objective measures of community need: poverty, population, housing overcrowding, age of housing and growth lag.

Eligible entities for ESG include:

- **States:** meaning each of the 50 States, the Commonwealth of Puerto Rico, and the District of Columbia.
- **Territories:** the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.
- **Metropolitan cities**
- **Urban counties**

[N.B.: Since October 1, 1998, Indian Tribes are not eligible for ESG funds: they may carry out homeless assistance activities using the Native American Housing Block Grant.]

Definition of metropolitan city 42 United States Code (U.S.C.) 5302(a)

The term "metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more . . .

Definition of urban county 42 U.S.C. 5302(a)

The term "urban county" means any county within which— (i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government; and (ii) either-- (I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government . . . or (II) has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

Territorial Set-Aside

Regulations require HUD to set aside 0.2 percent of the total ESG allocation to be given to the territories, with the remainder to be allocated to States, metropolitan cities, and urban counties.

Allocation of Grant Amounts 24 Code of Federal Regulations (CFR) 576.5

- (a) *Territories.* HUD will set aside for allocation to the territories an amount equal to 0.2 percent of the total amount of each appropriation under this part in any fiscal year. HUD will allocate this set-aside amount to each territory based upon its proportionate share of the total population of all territories.
- (b) *States, metropolitan cities, and urban counties.* HUD will allocate the amounts that remain after the set-aside to territories under paragraph (a) of this section, to States, metropolitan cities, and urban counties, as provided in 42 U.S.C. 11373.

CDBG Formula

The regulations also state that the percentage allocated to States, metropolitan cities, and urban counties will be equal to the percentage of the total amount available for Community Development Block Grant for the prior fiscal year. In other words, if a particular jurisdiction received one percent of the total CDBG allocation in FY 2000, then it would receive one percent of the total ESG allocation for FY 2001. As a result, each State and eligible city and county will have the same proportionate share of funding in the ESG program that it has in the CDBG program.

Allocation and distribution of assistance 42 U.S.C. 11373

(a) In General – The Secretary shall allocate assistance under this part to metropolitan cities, urban counties, and States (for distribution to local governments and private nonprofit organizations in the States), in a manner that ensures that the percentage of the total amount available under this part for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for [CDBG]...for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

Minimum Grant

Where the ESG allocation to a metropolitan city or urban county is relatively small (i.e., less than 0.05 percent of the total funds), the amount is instead added to the allocation for the State in which the jurisdiction is located. Because the ESG program's national allocation amount (\$150 million) is so much smaller than that of CDBG (\$4.5 billion), the ESG allocation for many CDBG cities and counties is less than the 0.05 percent and is therefore added to the State's allocation.

Minimum Allocation Requirement 42 U.S.C. 11373 (b)

If, under the allocation provisions applicable under this part, any metropolitan city or urban county would receive a grant of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallocated to the State. . .

For example, the following table depicts a set of hypothetical preliminary and final ESG allocations for several metropolitan cities and urban counties in a particular state.

	Preliminary Allocation	Adjustment to Allocation	Final ESG Allocation
Lincoln County	\$200,000	\$0	\$200,000
Lincoln Heights City	\$100,000	\$0	\$100,000
Washington County	\$60,000	-\$60,000	\$0
Washington Crossing City	\$50,000	-\$50,000	\$0
State	\$300,000	+\$110,000	\$410,000

As shown above, the preliminary allocations for Washington County and Washington Crossing City were less than 0.05 percent of the total ESG allocation (\$150 million). Therefore, these amounts were instead added to the State’s allocation.

2.2 The Consolidated Plan: Applying for ESG Funds

HUD will notify each ESG-eligible State, metropolitan city, urban county, and territory of the amount of its allocation. To receive ESG funds, a jurisdiction needs to submit its Consolidated Plan at least 45 days before the start of its program year (24 CFR 91.15(a)).

The Consolidated Plan serves as the application for ESG funds (as well as for three other formula-funded programs – CDBG, HOME, and HOPWA). The formula grant program statutes describe three basic goals against which HUD will evaluate the Consolidated Plan and the jurisdiction’s performance under the plan. Each jurisdiction’s Consolidated Plan must state how it will pursue these goals for all community development and housing programs. The goals are:

- decent housing;
- a suitable living environment; and
- expanded economic opportunities.

Federal regulations regarding the submission of a Consolidated Plan are as follows:

Application Requirements 24 CFR 576.31

(b) *States, territories, and formula cities and counties.* To receive emergency shelter grant amounts, a State, territory, or formula city or county must:

- (1) Submit documentation required under this part, part 5 of this title, or any other applicable provisions of Federal law; and
- (2) Submit and obtain approval of a consolidated plan that includes activities to be funded under this part. This consolidated plan serves as the jurisdiction's application for funding under this part.

The Consolidated Plan describes needs, resources, priorities and proposed activities to be undertaken to address the jurisdiction's homeless assistance needs. When applying for ESG program funds, the jurisdiction must describe the process and criteria for awarding its grant funds along with the proposed source and amount of matching funds.

The Consolidated Plan is designed to be a collaborative process that offers local jurisdictions the opportunity to shape the diverse housing and community development programs into effective, coordinated neighborhood and community development strategies. It also fosters strategic planning and citizen participation in a comprehensive context, and provides an opportunity to reduce duplication of effort at the local level.

A grant agreement between HUD and the grantee forms the basis of the ESG award. Funds will not be available for use until both parties sign the grant agreement.

Review and approval of applications 24 CFR 576.33

(b) Grant agreement. The grant will be made by means of a grant agreement executed by HUD and the grantee. HUD will not disburse funds before the grant agreement is fully executed.

2.3 The Funding Match

Metropolitan Cities/Urban Counties

Each local government grantee, other than a territory, must match dollar-for-dollar the ESG funding provided by HUD with funds from other public or private sources. A grantee may comply with this requirement by:

- providing matching funds itself, or
- through matching funds or voluntary efforts provided by any recipient or project sponsor.

Matching funds must be provided *after* the date of the grant award to the grantee. Funds used to match a previous ESG grant may not be used to match a subsequent grant award.

States

By law, the first \$100,000 of any assistance provided to a State grantee is not required to be matched, but can be, at the State grantee's discretion. In other words, a State grantee awarded \$500,000 is required to secure matching funds of \$400,000. In some cases, ESG recipients contribute the required funding match. However, if a State grantee takes advantage of the \$100,000 exemption, and the match requirement is met by the recipients, then the benefit of the unmatched amount must be shared with those recipients least capable of providing the matching funds. In other words, recipients for whom the match contribution would present the greatest hardship should be exempt from that requirement.

What Counts as Match?

Grantees/recipients may use any of the following in calculating the amount of matching funds provided:

- cash;
- the value or fair rental value of any donated material or building;
- the value of any lease on a building;
- any salary paid to staff to carry out the program of the recipient; and

- the value of the time and services contributed by volunteers to carry out the program of the recipient at a current rate of \$5 per hour. [Note: Volunteers providing professional services such as medical or legal services are valued at the reasonable and customary rate in the community.]

Matching Amounts 42 U.S.C. 11375

(a) (1) Except as provided in paragraph (2), each recipient under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this part. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(a) (2) Each recipient under this part that is a State shall be required to supplement the assistance provided under this part with an amount of funds from sources other than this part equal to the difference between the amount received under this part and \$100,000. If the amount received by the State is \$100,000 or less, the State may not be required to supplement the assistance provided under this part.

(a) (3) In calculating the amount of supplemental funds provided by a recipient under this part, a recipient may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

(c) (4) In the case of a recipient that is a State, it will obtain any matching amounts required under subsection (a) of this section in a manner so that local governments, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the \$100,000 subtrahend under subsection (a)(2) of this section.

2.4 Who are the ESG Recipients?

Metropolitan Cities/Urban Counties

Metropolitan city and urban county “grantees” receive funding directly from HUD. Each grantee administers one or more ESG projects through making awards to what are called “recipients” in the ESG statute.

Recipients may be either private nonprofit organizations or the grantees' own government agencies.

Distributions to nonprofit organizations 42 U.S.C. 11373 (c)

Any local government receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals. Any State receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.

States

A State grantee, which for ESG includes Puerto Rico and the District of Columbia, receives funds directly from HUD. Its allocation, except for a portion of the administrative costs, *must* be made available to the following recipients:

- Local governments in the State (any city, county, town, township, parish, village, or other general purpose political subdivision of a state), which may include cities and counties that are ESG grantees; or
- Private nonprofit organizations (defined as tax-exempt secular or religious organizations described in section 501(c) of the Internal Revenue Code), if the local government where the project is located certifies its approval of the project.

While local government grantees can fund ESG projects operated by their own government agencies, State grantees are prohibited from funding projects operated by the agencies of the State government.

2.5 Allocation of Funding to Recipients

HUD allows ESG grantees the flexibility to determine how best to apportion funds to recipients. Many grantees undertake a competitive process that begins with a Request for Proposal (RFP). Proposals are reviewed and assessed against desired program criteria, and awards are

made to individual organizations or units of local government. Other grantees may offer repeat funding directly to organizations or agencies that have demonstrated success with ongoing homeless assistance programs funded by the ESG program in the previous year. Still another group of grantees may elect to alternate funding each year among several agencies with ongoing homeless assistance programs.

Grantees that allocate ESG funds to recipients through a formal RFP process often do so because of existing State or local requirements. This competitive process may include the review of proposals and recommendations for funding by a diverse group of stakeholders. This group could include:

- Grantee staff;
- Other State and/or local government representatives;
- Continuum of Care groups;
- Homeless service providers;
- Other service providers;
- Community members.

In addition to allocating ESG funds among eligible activities and among local providers, grantee agencies also play an important role in the planning and coordination of resources and programs addressing the problem of homelessness.

Promising Practice: Funding of Recipients

ESG grantees allocate funding to recipients who carry out the day-to-day activities in support of homeless persons. An essential step in this process is to identify those agencies or nonprofit organizations that can best achieve ESG program goals. An ESG grantee in Missouri utilizes a RFP and comprehensive review process to award funding to local homeless service providers. The application review team consists of grantee staff, non-profit social service agency representatives, and a formerly homeless person. Each application is assessed on the basis of completeness, program mission vs. agency mission, capacity of the organization to implement the program, prior performance (if applicable), the agency's involvement in the Homeless Services Coalition (a 60-member provider network that steers the city's Continuum of Care) and priority of need. Reviewers assign points for each element that an application successfully meets, and overall scores are used to make funding decisions. For example, in assessing overall *capacity*, a reviewer may award points if, among other things:

- ◆ operating costs are partially supplemented by other funds;
- ◆ the agency demonstrates partnerships within the community; and
- ◆ the proposed staffing level is consistent with the proposed level of service.

This thorough evaluation of applications helps to ensure that the recipients selected for ESG funding have the maximum potential for success in addressing the community's homeless assistance needs.

2.6 Grantee-Recipient Agreements

The grantee signs separate grant agreements with each recipient of ESG funding. HUD does not prescribe the specific content of these contracts or agreements. In general, these agreements define:

- key program components or activities (including benchmarks for success);
- the level of ESG funding;
- the anticipated source and amount of matching funds contributed by the agency/organization; and
- documentation or reporting requirements.

Many grantees find it useful to include along with the grant agreement a copy of the ESG program regulations (24 CFR Part 576). This is a valuable source of regulatory information available to recipients of ESG funding.

The recipients of ESG funding implement, deliver, and document the day-to-day services to the homeless participants as per the terms of their grant agreements. ESG recipients make requests to the grantee for program funds to meet project costs – usually on a cost-reimbursement basis – and submit performance reports, payment vouchers, and any waiver requests. It is the responsibility of the ESG grantee to process fund requests in a timely way. The grantee has the contractual responsibility for ensuring that the stated goals and objectives for each of their recipients’ projects are successfully carried out and documented according to the applicable federal regulations. This contractual responsibility encompasses oversight on each of the recipients that includes compliance with the grant agreement, regulations, sound financial record keeping, reporting, etc.

2.7 Reallocation of Funding

Occasionally, emergency shelter grant amounts are returned or unused, and HUD reallocates these funds.

- ESG amounts are considered “returned” when a jurisdiction does not apply for or execute a grant agreement with HUD.
- ESG amounts are considered “unused” *after* a grantee has executed a grant agreement with HUD and those funds are not spent for an eligible ESG activity or are not spent in a timely manner.

Reallocation of Unused Grant Funds

Unused ESG amounts are added to the next fiscal year’s total allocation, and disbursed according to the general allocation guidelines for the ESG program (not as a “reallocation”).

Reallocation – Unused Grant Amounts 24 CFR 576.45 (d)

Unused grant amounts will be added to the appropriation for the fiscal year immediately following the fiscal year in which the amounts become available to HUD for reallocation in accordance with the provisions of CFR 576.5 of this part.

Reallocation of Returned Grant Funds

HUD endeavors to keep the allocated ESG funds as close as possible to the local area, State, or territory initially awarded the grant. This is accomplished through a clear order of priorities for reallocation. For example, *returned* grant amounts that were allocated to a formula city or county will be made available first for use in the city or county, to authorized local governments; then to the State in which the city or county is located; and so on. Likewise, returned grant amounts that were allocated to a territory will be made available, first, to other territories and, if grant amounts remain, then to States.

The regulations governing the use of returned ESG funds may be found at 24 CFR 576.45(c). They are as follows:

Reallocation – Returned Grant Amounts 24 CFR 576.45 (c)

(1) *States and formula cities and counties.* HUD will endeavor to reallocate returned emergency shelter grant amounts that were initially allocated under CFR 576.5 to a State or a formula city or county, for use within the same jurisdiction. Reallocation of these grant amounts is subject to the following requirements:

- (i) Returned grant amounts that were allocated to a State will be made available:
 - (A) first, to units of general local government within the State, and
 - (B) if grant amounts remain, then to other States.

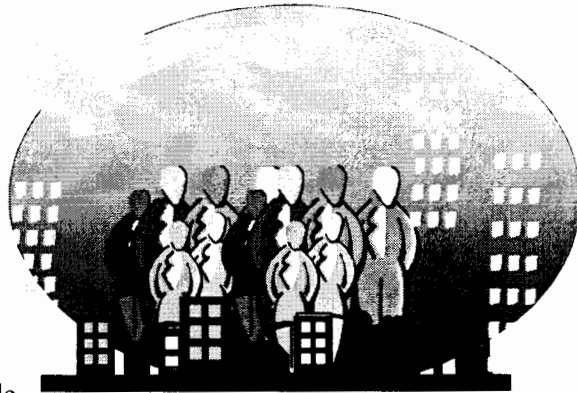
- (ii) Returned grant amounts that were allocated to a formula city or county will be made available:
 - (A) First for use in the city or county, to authorized units of general local government that are authorized under applicable law to carry out activities serving the homeless in the jurisdiction;
 - (B) If grant amounts remain, then to the State in which the city or county is located;
 - (C) If grant amounts remain, to units of general local government in the State; and
 - (D) If grant amounts remain, to other States.

In order to receive reallocation amounts, the jurisdiction must do two things:

- execute a grant agreement with HUD for the fiscal year for which the funding was initially made available; and
- submit any necessary amendments to the original application (Consolidated Plan) for the fiscal year for which the funding was initially made available.

Section Three: Eligible Activities under the ESG Program

As described in Section One of this Guide, the ESG program aims to supplement State, local, and private efforts to improve the quality and number of emergency shelters and transitional facilities for homeless people. More specifically, States and local governments use ESG funds to help operate these facilities, to provide essential support services to residents, and to help prevent at-risk families or individuals from becoming homeless.



Designed as a *first step* in a continuum of care plan of assistance, the ESG program strives to address the immediate needs of persons residing on the street and needing emergency shelter and transitional housing, as well as assisting their movement to independent living.

ESG serves a variety of homeless persons and families, with no restrictions or further targeting. Any targeting of ESG funds results from local service and shelter providers design of programs to address the specific needs of various homeless subpopulations, such as victims of domestic violence, youth, mentally ill, veterans, families with children, or others. A portion of ESG funds may be used to serve persons at imminent risk of losing their permanent housing and becoming homeless.

While flexible in terms of serving all homeless subpopulations and preventing persons from becoming homeless, the ESG program legislation and implementing regulations do limit the types of activities and amounts of funds that can be spent on different activities. The following five major categories of eligible activities and applicable limitations are discussed in this section of the Guide:

- Rehabilitation
- Essential Services
- Operational Costs
- Homeless Prevention Activities
- Administrative Costs

3.1 Emergency Shelter Renovation, Rehabilitation or Conversion

The quality and quantity of emergency shelters and transitional housing may be increased with ESG funds through conversion or major rehabilitation or renovation of existing buildings.

Legislation and Regulation

The legislation mentions three types of shelter improvement activities.

Eligible Activities 42 U.S.C. 11374

- (a) In General. Assistance provided under this subtitle may be used for the following activities relating to emergency shelter for homeless individuals:
- (1) the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

Definitions

The regulation differentiates the three types of improvements and bases continued use restrictions for the shelter on the level of improvement.

Renovation, Rehabilitation and Conversion 24 CFR 576.3

Conversion means a change in the use of building to an emergency shelter for the homeless under this part, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building after conversion.

Major rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

Renovation means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

Value of the building means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or the State recipient.

Use Restrictions on Renovation, Major Rehabilitation, and Conversion

The statute and regulation require certain continued use standards for shelters receiving ESG funds for improvement based upon the amount of the improvement.

Certifications on Use of Assistance 42 U.S.C. 11375 (c)

Each recipient shall certify to the Secretary that

- (1) it will –
 - (a) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 10-year period; or
 - (b) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 3-year period;
- (2) any renovation carried out with assistance under this subtitle shall be sufficient to ensure that the building involved is safe and sanitary.

- Major rehabilitation and conversion are defined as the costs of improvement that are *more than 75 percent* of the value of the building before rehabilitation. A shelter receiving this level of improvement must be used as a shelter for at least *10 years*.
- Renovation is defined as the costs of improvements that are *less than 75 percent* of the value of the building before rehabilitation. A shelter receiving this level of improvement must be used as a shelter for at least *3 years*.

Timing of Three or Ten Year Use Requirement

The regulation specifies the dates for determining when the 3- and 10-year use requirements begin.

Use as an Emergency Shelter 24 CFR 576.63

- (b) Calculating the applicable period. The 3- and 10-year periods applicable under paragraph (a) of this section begin to run:
- (1) In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant amounts under this part, on the date of initial occupancy as an emergency shelter for the homeless.
 - (2) In the case of a building that was operated as an emergency shelter before receipt of grant amounts under this part, on the date that grant amounts are first obligated for the shelter.

Thus, for either the 3- or 10-year period of use, the use requirement starts on the *date of initial occupancy* for a building that had not previously been operated as a shelter. The *date the ESG funds are obligated to a shelter* starts the applicable use requirement where the building was previously operated as a shelter.

Ineligible Activities

Ineligible **rehabilitation** or **renovation** costs include:

- Acquisition of real property
- New construction
- Property clearance or demolition

- Rehabilitation administration
- Staff training or fund raising activities associated with rehabilitation
- Building maintenance and repairs (See Operations)

[Please note that acquisition and new construction **are not** eligible ESG-funded activities, and Davis-Bacon requirements **do not apply** to ESG-funded renovation, major rehabilitation or conversion activities.]

Lead-Based Paint Requirements

The application of lead-based paint regulations to facilities receiving ESG funds is discussed in detail in Section Eight.

3.2 Essential Services

ESG funds can be used to provide essential services to address the needs of homeless persons living on the street, in emergency shelter or in transitional housing. Essential services can address the immediate needs of the homeless, and can help enable homeless persons become more independent and to secure permanent housing.

Legislation and Regulation

The legislation describes several types of essential service activities:

Eligible Activities 42 U.S.C. 11374

- (a) In General. Assistance provided under this subtitle may be used for the following activities relating to emergency shelter for homeless individuals:
- (2) The provision of essential services, including services concerned with employment, health, drug abuse or education.

The law specifies a broad array of services available to serve homeless persons who are residing in emergency and transitional shelters. In addition, essential services for homeless persons may be funded in day shelters or soup kitchens that are designed to serve predominantly

homeless persons. Finally, services provided by shelters or day shelters that address the needs of persons residing on the street may be funded by ESG.

Definitions

Essential Services 24 CFR 576.3

Essential services includes services concerned with employment, health, drug abuse, and education and may include (but are not limited to):

- (1) Assistance in obtaining permanent housing;
- (2) Medical and psychological counseling and supervision;
- (3) Employment counseling;
- (4) Nutritional counseling;
- (5) Substance abuse treatment and counseling;
- (6) Assistance in obtaining other Federal, State and local assistance including mental health benefits; employment counseling; medical assistance; Veteran's benefits; and income support assistance such as supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps;
- (7) Other services such as child care, transportation, job placement and job training; and
- (8) Staff salaries necessary to provide the above services.

Limitations on Funding Essential Services

The legislation and the regulations both limit the amount of ESG funds that may be spent on essential services (30 percent subject to waiver) and restrict funding to new services or a quantifiable increase in services above the level previously funded.

Eligible Activities 42 U.S.C. 11374 (a) (2)

- (2) The provision of essential services, including services concerned with employment, health, drug abuse, or education, if –
- (A) such services have not been provided by the local government during any part of the immediately preceding 12-month period; or the use of assistance under this subtitle would complement those services; and
 - (B) not more than 30 percent of the aggregate amount of all assistance to a State or local government under this subtitle is used for activities under this paragraph.

Limitation on provision of essential services 24 CFR 576.21 (b)

- (1) Grant amounts provided by HUD to units of general local government, or territories and grant amounts provided by a State to State recipients, may be used to provide an essential service...only if the service is a new service, or is a quantifiable increase in the level of a service above that which the unit of general local government (or, in the case of a nonprofit organization, the unit of general local government in which the proposed activities are to be located), or territory as applicable, provided with local funds during the 12 calendar months immediately before the grantee or State recipient received initial grant amounts.
- (2) Limits on the use of assistance for essential services...are applicable even when the unit of local government, or territory provides some or all of its grant funds to a nonprofit recipient. This limitation may be waived in accordance with 42 U.S.C. 11374.

New Service or Quantifiable Increase in Service

ESG funds can be used by grantees or their recipients for a *new service* or a *quantifiable increase in the level of service* above that provided during the immediately previous 12-month period. This provision in the legislation prohibits using ESG funds to replace existing government or non-profit funding of services. However, once a new or increased level of service meets the above standards, then ESG funds may be used to continue funding that service in subsequent years. Examples of essential services meeting these standards are:

- A city grantee funded a recipient organization for outreach to the Hispanic homeless population in the community. Funds were used to support Spanish-speaking service staff, and translation of written materials into Spanish. This was a *new* service as this population had not been directly provided these services before and no other organization was providing these services at the time.
- A city grantee funded a local food rescue/soup kitchen organization to purchase an additional vehicle to be used to transport rescued foods from restaurants to area shelters and feeding programs. This activity represented a *quantifiable increase* in the level of service as it increased the organizations' transport fleet by one additional vehicle and allowed for a substantial increase in the number of organizations served by the program. In this case, no other area organization was providing this service.
- A city grantee funded a new staff position to provide housing search services for transitional shelter residents. The services provided by this new position were *new*, and enhanced (or increased) the ability of local shelters to assist residents to move from temporary shelter to permanent housing.

The examples provided above are in no way exhaustive, but simply provide three illustrations of how ESG funding was used in the essential services category. As is demonstrated, salaries for supportive services provider staff are an eligible cost under this category.

Essential Services 30 Percent Limitation

Grantees may use only thirty (30) percent of the entire ESG grant for essential services. For example, a jurisdiction receiving a \$200,000 ESG grant may only use \$60,000 (or 30 percent) for essential services. The 30 percent limitation applies to the grant as a whole. Thus, individual recipients of ESG funds for essential services are each not limited to 30 percent of their grant, just as long as the overall 30 percent limit is not exceeded.

Waiver of Statutory 30 Percent Essential Services Limitation

The legislation provides for a waiver of the statutory 30 percent limitation.

Waiver Authority 42 U.S.C. 11374 (b)

The Secretary may waive the 30 percent limitation on the use of assistance for essential services contained in subsection (a)(2)(B) of this section, if the local government receiving the assistance demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.

The jurisdiction requesting a waiver of the 30 percent limitation must document to the satisfaction of HUD that other ESG-eligible activities (renovation, major rehabilitation, conversion, operational costs, and homeless prevention) are being carried out in the locality with other resources or there is no demand for those activities.

Ineligible Activities

Ineligible **essential services** costs include:

- Existing services and staff (services must be new or provided to more persons)
- Salary of case management supervisor when not working directly on participant issues
- Advocacy, planning, and organizational capacity building
- Staff recruitment/training
- Transportation costs not directly associated with service delivery

3.3 Operational Costs

ESG funds can cover a broad array of emergency shelter and transitional housing operating costs.

Legislation and Regulations

The legislation and regulations specify various eligible operating costs related to the provision of emergency and transitional housing.

Eligible Activities 42 U.S.C. 11374 (a)

(3) Maintenance, operation, insurance, utilities and furnishings, except that not more than 10 percent of the amount of any grant received under this subtitle may be used for costs of staff.

Definitions 42 U.S.C. 11371

(4) The term "operating costs" means expenses incurred by a recipient operating a facility assisted under this subtitle with respect to –
(A) the administration, maintenance, repair, and security of such housing;
and
(B) utilities, fuels, furnishings, and equipment for such housing.

Eligible Activities 24 CFR 576.21 (a) (3)

(3) Payment for shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings. Not more than 10 percent of the grant amount may be used for costs of staff.

Limitations on Funding Operational Costs

Staff salaries (including fringe benefits) paid under the operating costs category are limited to 10 percent of the grant. Maintenance and security salary costs are not subject to the 10 percent standard. For example, a grantee receiving a \$75,000 ESG grant would be able to pay only \$7,500 (or 10 percent of that amount) for operational staff costs.

Ineligible Activities

Ineligible **operating** or **maintenance** costs include:

- Recruitment or on-going training of staff
- Depreciation
- Costs associated with the organization rather than the supportive housing project (advertisements, pamphlets about organization, surveys, etc.)
- Staff training, entertainment, conferences, or retreats
- Public relations or fund raising
- Bad debts/late fees
- Mortgage payments

3.4 Homeless Prevention Activities

The legislation and the regulations specify a broad array of financial assistance and supportive services that may be provided to help prevent persons from becoming homeless.

Legislation and Regulation

Eligible Activities 42 U.S.C. 11374 (a)

(4) Efforts to prevent homelessness such as financial assistance to families who have received eviction notices or notices of termination of utility services if –

- (A) the inability of the family to make the required payments is due to a sudden reduction in income;
- (B) the assistance is necessary to avoid the eviction or termination of services;
- (C) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and
- (D) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

Not more than 30 percent of the aggregate amount of all assistance to a State or local government under this subtitle may be used for activities under this paragraph.

Definitions 24 CFR 576.3

Homeless prevention means activities or programs designed to prevent the incidence of homelessness, including (but not limited to):

- (1) Short-term subsidies to defray rent and utility arrearages for families that have received eviction or utility termination notices;
- (2) Security deposits or first month's rent to permit a homeless family to move into its own apartment;
- (3) Mediation programs for landlord-tenant disputes;
- (4) Legal services programs for the representation of indigent tenants in eviction proceedings;
- (5) Payments to prevent foreclosure on a home; and
- (6) Other innovative programs and activities designed to prevent the incidence of homelessness.

Eligible Activities 24 CFR 576.21 (a) (4)

Developing and implementing homeless prevention activities, subject to the limitations in 42 U.S.C. 11374(a)(4) and paragraph (c) of this section. Grant funds may be used under this paragraph to assist families that have received eviction notices or notices of termination of utility services only if the conditions stated in 42 U.S.C. 11374(a)(4) are met.

Limitations on Funding Homeless Prevention Activities

The grantee may not use more than thirty (30) percent of their grant amount for homeless prevention activities. The statutory limitation is not waivable. The limitation is based on the overall grant to the jurisdiction. An individual recipient's homeless prevention activities are not limited, as long as the total of all recipients' homeless prevention activities does not exceed the 30 percent standard.

Prevention Limitations 24 CFR 576.21

- (c) Limitation on homeless prevention activities. Limits on the use of assistance for homeless prevention activities established in 42 U.S.C. 11374(a)(4) are applicable even when the unit of local government or territory provides some or all of its grant funds to a nonprofit recipient.

Ineligible Activities

Ineligible **homeless prevention** costs include:

- Housing/services to homeless persons
- Direct payments to individuals
- Long-term assistance beyond several months
- Application for Federal Funds or Unprogrammed Funds

3.5 Administrative Costs

The legislation and regulations provide that up to five (5) percent of a grantee's funds may be spent for administering the grant.

Legislation and Regulation

Administrative Costs 42 U.S.C. 11378

A recipient may use up to 5 percent of any annual grant received under this part for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.

Eligible Activities 24 CFR 576.21 (a) (5)

(5) Administrative costs in accordance with 42 U.S.C. 11378.

Eligible administrative costs include staff to operate the program, preparation of progress reports, audits, and monitoring of recipients.

Sharing of Administrative Funds

The legislation directs that a State share its administrative funds with local governments who receive grants from the State.

Ineligible Activities

Ineligible **administrative** costs include:

- Preparation of Consolidated Plan and other application submissions
- Conferences or training in professional fields such as accounting and financial management
- Salary of organization's executive director (except to the extent involved in carrying out eligible administrative functions)

3.6 Summary of Eligible ESG-Funded Activities and Limits on Use

<i>Eligible Activity</i>	<i>Limitation/Restriction on Use</i>
Renovation, Major Rehabilitation and Conversion	Renovation: Continue use as shelter for 3 years Major Rehab/Conversion: Continue use as a shelter for 10 years
Essential Services	Up to 30% of ESG funding
Operational Costs	Staff costs included in this category up to 10% of ESG funding
Homeless Prevention Activities	Up to 30% of ESG funding
Administrative Costs	Up to 5% of ESG funding

While the ESG federal regulation at 24 CFR 576.21 does not list *all* of the possible eligible activity costs under the program, there is a statutory requirement that ESG funds must benefit either homeless persons, or persons at imminent risk of becoming homeless in the case of homeless prevention activities. An additional requirement exists that costs be provided at a reasonable price and be directly related to an ESG eligible expenditure category.

In addition, grantees and recipients should use ESG funds as originally planned in the Consolidated Plan. If it is necessary to make a change in planned activities, then the grantee should notify the HUD Field Office staff of the change. Based on the magnitude of the proposed changes, grantees may also need to amend their Consolidated Plan, alter their project or activities in IDIS, and modify any inaccurate report.

Section Four: Program Requirements and Responsibilities

This section describes the basic program requirements and responsibilities under the ESG program for both ESG grantees and recipients. These include:



- Program Deadlines;
- Record Keeping;
- Standards For Documentation Of Homelessness;
- Termination Of Participation;
- Participation Of Homeless Persons In Policy Making;
- Ensuring Confidentiality;
- Basic Habitability Standards; and
- Sanctions for Noncompliance

4.1 Deadlines for Obligation and Expenditure of Funds

The ESG program has a number of requirements around the timing for obligation and use of funds. These deadlines vary between grantee and recipient.

State Grantees and State Recipients

Availability and Obligation of Funds:

- State *grantees* need to make all of their ESG funds available to local government or nonprofit recipients within **65 days** of grant award, and the *recipients* have **180 days** to obligate those funds. In order to make critically needed State homeless prevention funds available as soon as possible, States may continue to make available homeless prevention

funds within **180 days** of grant award and their recipients need to obligate these funds within **30 days** and still spend them within the required **24 months** (two years).

Expenditure of Funds:

- State recipients must spend all of their grant amounts within **24 months** (two years) of the date on which the State made the ESG funds available to the State recipient.

Cities, Counties and Territories

- Formula cities, counties, or territories are required to obligate all ESG amounts within **180 days** of the date of the grant award made by HUD, and must expend all of the grant amounts within **24 months** of the date of the grant award.

4.2 Failure to Meet Deadlines

Any funds that are not made available or obligated within the timeframes described above will be *reallocated*. Reallocation is a process through which ESG funds are re-captured and then allocated again to other grantees and/or recipients. This process is more fully described in [Section Two](#).

The Federal regulation at 24 CFR 576.35 describes deadlines as follows:

Deadlines for using grant amounts 24 CFR 576.35

(a) States.

(1) Each State must make available to its State recipients all emergency shelter grant amounts that it was allocated under 576.5 within 65 days of the date of the grant award by HUD. Funds set aside by a State for homeless prevention activities under 576.21(a)(4) must be made available to State recipients within 180 days of the grant award by HUD.

(2) State recipients.

(i) Obligation of grant funds. Each State recipient must have its grant amounts obligated (as that term is defined at 576.3) within 180 days of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities under 576.21(a)(4), State recipients are required to obligate grant amounts within 30 days of the date on which the State made the grant amounts available to the State recipient.

(ii) Expenditure of grant funds. Each State recipient must spend all of its grant amounts within 24 months of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities, State recipients must spend such sums within 180 days of the date on which the State made the grant amounts available to the recipient.

(b) Formula cities and counties, and Territories.

(1) Obligations of funds. Each formula city and county, and each Territory, must have all grant amounts that it was allocated under 576.43 or 576.45 obligated within 180 days of the date of the grant award by HUD.

(2) Formula cities and counties, territories and Expenditure of grant funds. Each formula city or county, and territory, must spend all of the grant amounts it was allocated or awarded under 576.5 or 576.31 within 24 months of the date of the grant award by HUD.

(c) Failure to meet deadlines.

(1) Any emergency shelter grant amounts that are not made available or obligated within the applicable time periods specified in paragraphs (a)(1) or (b) of this section will be reallocated under 576.45.

(2) The State must recapture any grant amounts that a State recipient does not obligate and spend within the time periods specified in paragraph (a)(2) of this section. The State, at its option, must make these amounts and other amounts returned to the State (except amounts referred to in 576.22(b)(6) available as soon as practicable to other units of general local government for use within the time period specified in paragraph (a)(2) of this section or to HUD for reallocation under 576.45.

4.3 Keeping Accurate Financial and Service Delivery Records

Maintaining accurate records is an important aspect of quality management of ESG projects. As is discussed in more detail in Section Six, measurement of project performance relies on the tracking of information about services and activities. It is important, therefore, that full and precise information about program activities and services provided with ESG funds is gathered and maintained. **Grantees** should require consistent reporting by recipient organizations, not only on expenditure of funds, but also on program activities and measurable outcomes. In order to report fully on program outcomes and activities, **recipients** should consistently gather demographic information on the population being served by the program and the types of activities being provided to participants.

ESG regulations require that records are maintained for a period of at least four years after the end of the grant term.

4.4 Documentation of Homelessness

Documentation of participants' homelessness situation is an equally important aspect of ESG project management. ESG recipients are required to maintain adequate documentation of homelessness status to determine the eligibility of persons served by HUD's homeless assistance programs. The documentation is typically obtained from the participant or a third party at the time of referral, entry, intake or orientation to the ESG-funded project. A copy of the documentation should be maintained in the client file.

How is Homelessness Defined?

HUD defines homelessness using the following definition: A homeless person is someone who is living on the street or in an emergency shelter, or who would be living on the street or in an emergency shelter without HUD's homelessness assistance. A person is considered homeless only when he/she resides in one of the places described below:

- In places not meant for human habitation, such as cars, parks, sidewalks, abandoned buildings, on the street;
- In an emergency shelter;

- In transitional or supportive housing for homeless persons who *originally* came from the streets or emergency shelters;
- In any of the above places but is spending a short time (up to 30 consecutive days) in a hospital or other institution;
- Is being evicted within a week from a private dwelling unit **and** no subsequent residence has been identified **and** the person lacks the resources and support networks needed to obtain housing **or** their housing has been condemned by housing officials and is no longer considered meant for human habitation;
- Is being discharged within a week from an institution in which the person has been a resident for more than 30 consecutive days and no subsequent residence has been identified **and** the person lacks the resources and support networks needed to obtain housing; or
- Is fleeing a domestic violence housing situation and no subsequent residence has been identified **and** the person lacks the resources and support networks needed to obtain housing.

Documentation for Homeless Prevention Activities

For homeless prevention activities, the recipient organization must obtain evidence of an eviction, foreclosure, or utility termination notice(s) and evidence that the inability to pay was sudden, necessary to prevent homelessness, and resumption of payment is reasonably expected within the near future. Evidence would include, for example, notice of termination from the utility provider, court documents indicating that eviction was imminent or foreclosure documents indicating that foreclosure proceedings were pending. “Sudden” loss of income means, for example, the loss of a job, or the inability to work due to illness.

Homelessness Documentation

As described above, HUD encourages that ESG-funded recipients maintain adequate documentation to determine the eligibility of persons served by HUD’s homeless assistance programs. Below, this Guide provides recommendations on documentation of homelessness.

The degree of documentation of homelessness depends on the type of short- or long-term shelter provided. Projects providing short-term emergency shelter or support services only need a lower standard of proof of the person’s prior living situation.

Short-Term Emergency Shelter/Services

Situation	Documentation
Persons living on the street	Projects may provide short-term shelter and/or services – such as outreach, food health care, and clothing – to persons who reside on the streets or who are otherwise homeless. In these cases, it is not feasible to require documentation for each person obtaining such services offered by the project. It is sufficient for the grantee/recipient staff to confirm that the persons served, indeed, reside on the street or are otherwise homeless.

Long-Term Emergency Shelter/Transitional Housing

Situation	Documentation
Persons living on the street or in short-term emergency shelter	Information should be obtained to indicate that the participant is living on the street or in short-term emergency shelter. This may include names of organizations or outreach workers who have assisted them in the past, whether the client receives any general assistance checks and where the checks are delivered, or any other information regarding the participant's activities in the recent past that might provide documentation. If unable to verify that the person is living on the street or in short-term emergency shelter, the participant or a staff person may prepare a short written statement about the participant's previous living place. The participant should sign the statement and date it.
Persons coming from transitional housing for homeless persons	Obtain written verification from the transitional housing staff that the participant has been residing at the transitional housing facility. The verification should be signed and dated by the referring agency personnel. Also obtain written verification that the participant was living on the streets or in an emergency shelter prior to living in the transitional housing facility (see above for required documentation for emergency shelter), or was discharged from an institution or evicted from a private dwelling prior to living in the transitional housing and would have been homeless if not for the transitional housing (see below for required documentation for eviction from a private dwelling).

Situation	Documentation
Persons being evicted from a private dwelling	<p>Obtain evidence of formal eviction notice indicating that the participant was being evicted within a week before receiving homeless assistance. Also obtain information on the participant's income and efforts made to obtain housing and why, without the homeless assistance, the participant would be living on the street or in an emergency shelter.</p> <p>If the participant's family is evicting, a statement describing the reason for eviction must be signed by the family member and dated. In other cases where there is no formal eviction process, persons are considered evicted when they are forced out of the dwelling unit by circumstances beyond their control. In those instances, obtain a signed and dated statement from the participant describing the situation. The grantee/recipient must make efforts to confirm that these circumstances are true and have written verification describing the efforts and attesting to their validity. The verification should be signed and dated.</p>
Persons from a short-term stay (up to 30 consecutive days) in an institution who previously resided on the street or in an emergency shelter	Obtain written verification from the institution's staff that the participant has been residing in the institution for less than 31 days and information on the previous living situation. See above for guidance.
Persons being discharged from a longer stay in an institution	Obtain evidence from the institution's staff that the participant was being discharged within the week before receiving homeless assistance. Obtain information on the income of the participant, what efforts were made to obtain housing and why, without the homeless assistance, the participant would be living on the street or in an emergency shelter.
Persons fleeing domestic violence	Obtain written verification from the participant that he/she is fleeing a domestic violence situation. If a participant is unable to prepare verification, the grantee/recipient may prepare a written statement about the participant's previous living situation for the participant to sign and date.

4.5 Termination of Participation and Grievance Procedure

Grantees and recipients in the ESG program may terminate assistance provided by ESG-funded activities to participants who violate program requirements. The termination, however, must allow for the due process of the terminated participant's rights.

Recipients must have in place a procedure that governs the termination and grievance process. These procedures should describe the program requirements and the termination process, as well as the grievance procedure that might, for example, allow participants to request a hearing regarding the termination of their assistance.

It is important that recipient organizations effectively communicate the termination and grievance procedures to participants and ensure that the procedures are fully understood. For example, the recipient organization staff might verbally explain the procedures to participants upon entry, intake, or orientation to the ESG-funded program and make the procedures readily available to participants either with written information or by posting the policy in a public place. Posting the policy on a bulletin board in a common area within the facility is an effective way to ensure that the procedures are available for participants to access at any time.

The federal regulation at 24 CFR 576.56 (a) (3) describes the termination provision:

Termination of Assistance 24 CFR 576.56 (a) (3)

Grantees and recipients may, in accordance with 42 U.S.C. 11375 (e), terminate assistance provided under this part to an individual or family who violates program requirements.

The federal statute details termination of assistance:

Termination of Assistance 42 U.S.C 11375 (e)

If an individual or family who receives assistance under this part from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.

4.6 Participation of Homeless Persons in Policy-making and Operations

In order to involve homeless or formerly homeless persons more readily with the organizations that provide them services, the ESG program requires that recipients encourage the participation of homeless persons in projects in a number of ways.

Recipients of ESG funds (except State recipients) are required by law to provide for the participation of at least one homeless or formerly homeless person(s) in a *policy-making function* within the organization. This might include, for example, involvement of a homeless or formerly homeless person on the Board of Directors or similar entity that considers and sets policy or makes decisions for the recipient agency.

HUD may waive this requirement, however, in the case that a recipient is unable to meet it, if the recipient agrees to *consult* with homeless or formerly homeless persons in making policy or decisions. Grantees/recipients can obtain additional guidance from the HUD State or local Field Office.

All recipients (State, territory, local government or nonprofit organization) are required to involve participants in the *operation* of the ESG-funded program. This involvement includes the participants' employment or volunteering in project activities such as construction, renovation, maintenance, general operation of facilities, or provision of services. For example, a shelter might involve participants in ongoing maintenance tasks or other operations of the facility such as staffing the reception desk. This involvement can include paid and/or volunteer work.

The federal regulation at 24 CFR 576.56 (b) describes this participation as follows:

Participation 24 CFR 576.56 (b)

- (1) Each unit of local government and nonprofit recipient that receives funds under this part must provide for the participation of homeless individuals on its policymaking entity in accordance with 42 U.S.C 11375 (d).
- (2) Each State, territory, unit of local government, and nonprofit recipient that receives funds under this part must involve homeless individuals and families in providing work or services pertaining to facilities or activities assisted under this part, in accordance with 42 U.S.C 11375 (c) (7).

The regulation refers to the following sections of the statute:

Participation of homeless individuals 42 U.S.C. 11375 (d)

The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility services, or other assistance of the recipient assisted under this part. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

Certifications on Use of Assistance 42 U.S.C. 11375 (c) (7)

Each recipient shall certify to the Secretary that...to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this part, in providing services assisted under this part, and in providing services for occupants of facilities assisted under this part.

Promising Practice: Participation of Homeless Persons

Participation of homeless or formerly homeless persons in a policy-making or operations function can pose a challenge for ESG-funded program administrators. A shelter in California has found an optimal way to involve homeless residents and formerly homeless persons in administrative functions and policy-making at the shelter. At this shelter for women recovering from substance abuse, residents are required to develop and maintain an individual service plan that establishes goals and milestones in the resident's recovery process. Participants who are successful at maintaining sobriety and meeting service plan goals are eligible to assume the paid position of "house manager" at one of the residential shelter sites. For this particular population, this is a creative way to build the residents' (or former residents') ability to assume responsibility, provide rewards for success, and enable a former resident to serve as a role model. In assigning a former resident to the position of "house manager," the shelter employs a person who is fully aware of the issues and concerns of the residents, and can bring those concerns to shelter administrators. As a former resident, the house manager can more readily relate to and motivate participants and can intervene before problems reach crisis levels.

4.7 Ensuring Confidentiality

To ensure the safety and security of ESG project participants fleeing domestic violence situations, ESG recipients are required to develop and implement procedures to guarantee the confidentiality of records concerning project participants. In addition, the address and location of family violence shelter facilities receiving ESG funding may not be publicly disclosed except with the written authorization of the person(s) responsible for the shelter facility's operation. To comply with this requirement, recipient organizations should, for example, keep written records or files pertaining to families under lock and key with only particular personnel granted access to those files.

The federal regulation at 24 CFR 576.56 describes this requirement:

24 CFR 576.56 (a) (2)

Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375 (c) (5).

The federal statute referred to above describes the provision as follows:

Certifications on Use of Assistance 42 U.S. C. 11375 (c)

(5) It will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this part and that the address or location of any family violence shelter project assisted under this part will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

4.8 Building and Habitability Standards

Any building for which ESG funding is used for renovation, major rehabilitation, or conversion must meet local government safety and sanitation standards. In addition, the following are a number of basic standards to ensure that shelter and housing facilities funded through the ESG program are safe, sanitary, and adequately maintained.

While the following guidance pertains specifically to the Supportive Housing Program (SHP), it can serve as a good reference of basic habitability standards for the ESG program as well. (Note: Excerpted from 24 CFR 583.300 (b))

Structure and Materials. The shelter building should be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents.

Access. The shelter must be accessible, and there should be a second means of exiting the facility in the case of emergency or fire.

Space and Security. Each resident should have adequate space and security for themselves and their belongings. Each resident must have an acceptable place to sleep.

Interior Air Quality. Each room or space within the shelter/facility must have a natural or mechanical means of ventilation. The interior air should

be free of pollutants at a level that might threaten or harm the health of residents.

Water Supply. The shelter's water supply should be free of contamination.

Sanitary Facilities. Each resident should have access to sanitary facilities that are in proper operating condition. These facilities should be able to be used in privacy, and be adequate for personal cleanliness and the disposal of human waste.

Thermal Environment. The shelter/facility must have any necessary heating/cooling facilities in proper operating condition.

Illumination and Electricity. The shelter/facility should have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There should be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.

Food Preparation. Food preparation areas, if any, should contain suitable space and equipment to store, prepare and serve food in a safe and sanitary manner.

Sanitary Conditions. The shelter should be maintained in a sanitary condition.

Fire Safety-Sleeping Areas. There should be at least one working smoke detector in each occupied unit of the shelter facility. In addition, smoke detectors should be located near sleeping areas where possible. The fire alarm system should be designed for a hearing-impaired resident.

Fire Safety-Common Areas. All public areas of the shelter must have at least one working smoke detector.

4.9 Sanctions for Noncompliance

If HUD determines that a grantee is not complying with the requirements of the ESG regulations or other applicable Federal laws, then HUD may apply one or more of a variety of sanctions on the grantee. These include requiring that previously committed ESG funds are returned to HUD or choosing not to provide future grant funding to the grantee. Specifically,

sanctions that may be applied (in addition to any remedies that may otherwise be available) include:

- Issuance of a warning letter indicating that further failure to comply with such requirements will result in a more serious sanction;
- Conditioning of a future grant;
- Directing the grantee to stop incurring costs under the grant;
- Requiring that some or all of the grant amounts already disbursed to the grantee be remitted to HUD;
- Reducing the level of funds the grantee would otherwise be entitled to receive;
- Electing not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.

In addition, if a State grantee determines that a State recipient is in noncompliance with the regulations, the State must take appropriate actions. Grant amounts that become available to a State as a result of a sanction must, at the State's option, be made available as soon as practicable to other nonprofit organizations or units of general local government located in the State. Use of these funds falls under the same period of use rules as other ESG funds. A further discussion of reallocation is contained in Section Two of this Guide.

The federal regulation at 24 CFR 576.67 describes the process of applying sanctions as follows:

Sanctions 24 CFR 576.67

- (a) HUD sanctions. If HUD determines that a grantee is not complying with the requirements of this part or of other applicable Federal law, HUD may (in addition to any remedies that may otherwise be available) take any of the following sanctions, as appropriate:
- (1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;
 - (2) Condition a future grant;
 - (3) Direct the grantee to stop the incurring of costs with grant amounts;
 - (4) Require that some or all of the grant amounts be remitted to HUD;
 - (5) Reduce the level of funds the grantee would otherwise be entitled to receive; or
 - (6) Elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.
- (b) State sanctions. If a State determines that a State recipient is not complying with the requirements of this part or other applicable Federal laws, the State must take appropriate actions, which may include the actions described in paragraph (a) of this section. Any grant amounts that become available to a State as a result of a sanction under this section must, at the option of the State, be made available (as soon as practicable) to other nonprofit organizations or units of general local government located in the State for use within the time periods specified in 576.53(a), or to HUD for reallocation under 576.45(d).
- (c) Reallocations. Any grant amounts that become available to HUD as a result of the imposition of a sanction under this section will be reallocated under 576.45(d).

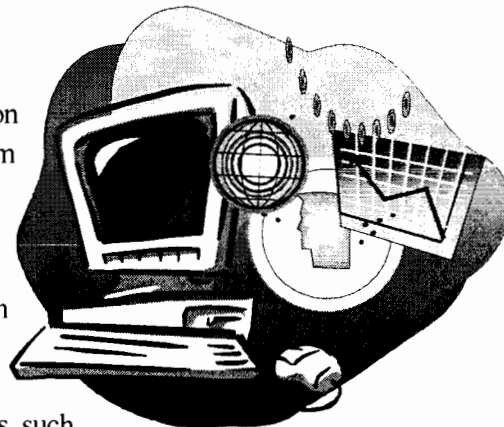
Section Five: Integrated Disbursement and Information System (IDIS)

The Integrated Disbursement and Information System (IDIS) is a mainframe-based computer application that allows HUD staff and ESG grantees (as well as other formula-funded program grantees) to track projects and activities. This section of the Guide introduces the management and reporting capabilities of IDIS vis-à-vis the ESG program, and outlines administrative matters such as the classification of costs, eligible expenditures, and the procedure for drawdown of ESG funds. For a more detailed exploration of the Integrated Disbursement and Information System, you may visit the IDIS web site at <http://www.hud.gov/cpd/idis/idisweb.html>. You may also wish to link directly to the IDIS Reference Manual at http://www.hud.gov/cpd/idis/refman/ref_man.html.

5.1 What Can IDIS Do?

The Integrated Disbursement and Information System was designed to provide program participants and HUD staff with financial management, information reporting and performance monitoring capabilities. In addition, IDIS was designed to interact with other HUD systems and for use by a variety of users, including grantees, HUD Field Offices and HUD Headquarters. As such,

IDIS can be an effective tool for grantees to manage information about recipient progress, manage program funds, disburse program funds and create financial and program management reports. The system has the added benefit of reducing paperwork and year-end processing time involved in managing the ESG program.



ESG grantees can use IDIS to:

- ◆ Set up activities and link them to existing projects and the Consolidated Plan;
- ◆ Collect data for tracking and reporting on performance of program activities;
- ◆ Maintain a running account of funds for all program participants including the amount allocated and committed to specific local projects and activities;
- ◆ Identify and reflect program income that funds the activities;
- ◆ Disburse funds for grantees from programs to eligible expenses;
- ◆ Provide current information on accomplishments and progress of participants;
- ◆ Create individual and consolidated reports that are used by program participants, HUD Field Office and HUD Headquarters;
- ◆ Provide a basis for assessing the effectiveness of HUD's formula-funded programs.

5.2 Using IDIS to Monitor ESG Expenditures

The IDIS reporting capability allows the ESG grantee to manage and monitor programs throughout the program year by tracking disbursements and reporting performance. Because IDIS is a “real-time” system, all reports are up-to-date as of the time they are run.

Once a grantee’s projects have been set up in IDIS (or the information has been transferred from the Consolidated Planning System), grant funds are then transferred to IDIS and the grantee is ready to set up activities, drawdown funds and report on the progress of each activity. Each project is set-up and described in IDIS through a series of activities. The system uses specific activity codes (called Matrix Codes). Data issues may arise if a project is set up or described incorrectly in IDIS. Therefore, it is essential that grantees use the correct Matrix Codes and accurate activity descriptions when establishing a project. This process is explained further in Subsection 5.4.

Each activity in IDIS has a name, is linked to a project, and has an assigned budget. Once an activity is set up, funds are committed (obligated) to that specific activity. Committed funds are not interchangeable between various activities, and funds can be drawn down only after they are committed. Grantees and HUD staff use reports generated from IDIS to track ESG disbursements and progress of each project.

5.3 IDIS Reporting Capability

IDIS features a number of reports that provide useful monitoring information for ESG programs. These include:

- *ESG Grantee Statistics*: provides beneficiary statistics on residential and non-residential activities, direct benefit information, and the dollars committed to ESG projects. Demographics include number of children and adults served, characteristics of beneficiary (e.g., runaway youth, chronically mentally ill, alcohol dependent, etc.), family size, race/ethnicity, etc.
- *ESG Grantee Activity Summary*: provides the grantee's total committed and disbursed dollars for all ESG projects and for each individual project, by type of expenditure; and
- *ESG Grantee Financial Summary*: shows the full grant, and committed/disbursed amounts for each ESG grantee.

These reporting capabilities can facilitate the preparation of annual reports required for each program. Furthermore, IDIS consolidates and organizes the ESG data in the system in a manner required by the program.

5.4 ESG Projects and Activities in IDIS

Identifying ESG Projects in IDIS – “The Shelter is the Project”

IDIS is designed to identify the grantee's projects, and within each project the activities that are being provided by that grant. In the ESG program, the maxim to keep in mind is “The Shelter is the Project.” For instance, an organization may operate several shelter facilities, only one of which receives ESG support. Therefore, to identify the project in IDIS, use the name of the facility (e.g.,

“Harbor Light Shelter-ESG01”) rather than the name of the organization operating the shelter (e.g., “Salvation Army”). Likewise, if the ESG funding supports services such as meal distribution, use, for example, “Zaccheus Community Kitchen-ESG01” rather than the name of the sponsoring organization (e.g., “Catholic Community Services”).

In the above examples, “ESG01” has been added after the project name in order to identify both that it is an ESG project and that it is for the 2001 program year. This is necessary, since IDIS is based on a First In-First Out (FIFO) accounting system where payment amounts are made for the earliest program grant year. ESG requires that its grantees meet program limitations and deadlines such as the two-year expenditure requirement. Therefore, it is important to keep track of the program year for which the ESG payments are made. In order for the grantee to track its payments for a specific program year, it needs to add a code after the project name to indicate both that it is an ESG project and that it is for the correct program year. Each grantee can include short additional codes for its own budgeting purposes.

As with the IDIS matrix codes needed to be used for activities, each project also needs its own project matrix code. The project matrix code for **all ESG projects** should be **Homeless Facilities (not operating costs)**, which is **Matrix Code 03C**.

Note: The Homeless Facilities matrix code used to identify all ESG projects is the same one used as the activity code for rehabilitation or renovation (see below).

ESG Activities and IDIS Matrix Codes

The IDIS database includes eligible activity codes that accommodate all of HUD’s Community Planning and Development formula grant programs. However, it is important to keep in mind that ESG funds must be directly related to the five eligible categories of ESG activities – Rehabilitation, Essential Services, Operations, Homeless Prevention, and Administration. For this reason, the ESG program limits the choice to just **one** matrix code for each ESG activity.

Listed below is the matrix code that applies to each ESG eligible activity:

IDIS Matrix Codes for ESG Activities

ESG Activity	Matrix Code
<ul style="list-style-type: none"> ▪ Rehabilitation, Renovation, Conversion 	<ul style="list-style-type: none"> ▪ 03C – Homeless Facilities (not operating costs)
<ul style="list-style-type: none"> ▪ Essential Services 	<ul style="list-style-type: none"> ▪ 05 – Public Services (General)
<ul style="list-style-type: none"> ▪ Operations, Maintenance 	<ul style="list-style-type: none"> ▪ 03T – Operating costs of Homeless/AIDS
<ul style="list-style-type: none"> ▪ Homeless Prevention 	<ul style="list-style-type: none"> ▪ 05Q – Subsistence Payments
<ul style="list-style-type: none"> ▪ Administration 	<ul style="list-style-type: none"> ▪ 21A – General Program Administration

5.5 The Drawdown of Funds Under IDIS

As outlined in Subsection 2.6, ESG recipients make requests to the grantee for program funds to meet project costs on a cost-reimbursement basis. This may be done on a pre-determined schedule (e.g., monthly) established between the grantee and recipient. Once ESG funds have been committed to the relevant activities, the grantee can make disbursements or draw down the committed funds using IDIS.

The drawdown of funds in IDIS is a three-step process. The computer prompts the user to:

1. *Designate a grantee or subgrantee:* by doing so, IDIS knows which grants, receipt funds, subfunds, or subgrants to associate with a particular grantee. For ESG, only grantees are presently authorized to draw down funds.
2. *Create a drawdown:* this is also called creating a voucher. When the drawdown request is generated, IDIS performs a preliminary validation on it, then generates a voucher number.
3. *Approve a drawdown:* the authorized person in the grantee’s organization approves each voucher line item or the entire voucher. The approved line items are submitted to the HUD financial system (LOCCS), and if approved, sent to the U.S. Treasury for payment.

Thus, it is the IDIS interface with the HUD Financial System that results in the disbursement of grant funds and the final approval of requested drawdowns.

There are three limits on the amount of a drawdown. A drawdown cannot exceed the:

- Total amount estimated for the activity (its budget);
- Total amount funded from a grant for an activity; or
- Balance of the grant (grant less all previous drawdowns).

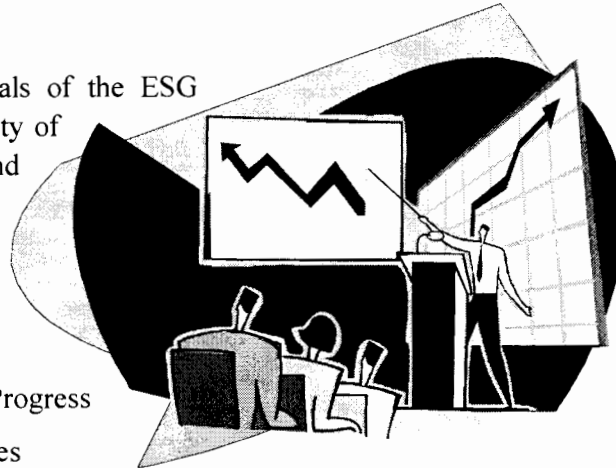
Funds drawn down by grantee governments should be disbursed within three (3) days. Similarly, grantees' recipients should disburse funds in payment of program costs within three (3) days of receipt of funds from grantees' account.

Section Six:

Performance Monitoring and Reporting

This section discusses the goals of the ESG program, the value and necessity of reporting on project progress, and the other strategies for monitoring by HUD Field Offices or grantees. This section covers the following:

- Tracking and Monitoring Progress
- Reporting on ESG Activities



6.1 Tracking and Monitoring Progress

Monitoring progress of recipients under the ESG program is an important function of the grantee and of HUD Field Offices to ensure that the basic ESG program goals are met. Through monitoring of grantee and project activities, grantees and recipients can demonstrate how particular homelessness prevention and shelter activities contribute to the broader goals of the ESG program which include:

- Providing a first step in the Continuum of Care model to assist homeless individuals and families toward independence;
- Providing decent, safe and sanitary accommodations to homeless residents and participants.

Monitoring can take a number of forms and can include review of progress reports, telephone consultation, and performance of on-site assessments. The three basic goals for oversight and monitoring of the progress and performance of ESG grantees/recipients include:

- Ensure that ESG funds are used effectively to assist homeless individuals and families and that the basic ESG program goals are met;

- Ensure compliance with ESG regulations and program requirements in the usage of funds and in carrying out program activities; and
- Enhance and develop the management capacity of grantees/recipients.

Grantee and Recipient Monitoring

In addition to reviewing regular reports submitted by grantees and recipient organizations, HUD Field Offices often perform a number of other types of monitoring. Monitoring might include on-site visits, review of records such as client files, financial records, and interviews with staff and project participants. On-site visits and review of grantee and recipient organization records can provide the HUD Field Office with a full picture of how the grantee and its recipient organizations are complying with ESG program requirements and goals.

The documents or reports that the HUD Field Office may review in monitoring a grantee and its recipients (either in a visit or off-site) may include the following:

- Applications for ESG funding from eligible agencies and nonprofit organizations and copy of a Request for Proposals (if used);
- Award notifications, grant agreements, or contracts between HUD and grantee or grantee and recipients;
- Correspondence from grantees or recipients concerning questions about eligible costs, substantial changes in the uses of ESG funds or any other issues;
- Financial reports or audits that grantees or recipients submit;
- Reports requested from grantees concerning activities undertaken with ESG funds; and
- Records related to monitoring reviews.

On-site monitoring by a HUD Field Office to a grantee might involve:

- Formal and advance notification of the visit;
- Pre-visit preparation based on review of existing information;
- Coverage of the areas outlined below; and

- Clear conclusions and recommendations provided to the grantee following the visit.

Areas for Monitoring

The areas for monitoring and oversight include the following:

- Eligible Activities Requirements – Ensure that grantees and recipients are using ESG funds as originally planned and for eligible activities. The reviewer should determine if costs are properly classified and if spending limits on certain activities have been properly adhered to. The reviewer should ensure that the activities funded by ESG benefit homeless persons and that they are provided at a reasonable cost.
- Financial Regulations – Ensure that grantees and recipients are appropriately following financial management requirements (see Section Seven for more information).
- Program Disbursements – Ensure that grantees and recipients draw down funds in compliance with requirements (see Section Seven for more information).
- Procurement and Audits – Ensure that grantees and recipients comply with such requirements (see Section Seven for more information).
- Conflict of Interest, Environmental Compliance, and Other Federal Requirements – Ensure that grantees and recipients comply with these requirements (see Section Eight for more information on these requirements).

Training and Information Dissemination for Grantees and Recipients

Training and dissemination of program requirements is another technique of monitoring. The more information that is provided to grantees and recipients at the beginning of the grant period, the fewer issues are likely to arise during monitoring and on-site visits.

Often grantees or HUD Field Offices offer an orientation to and/or start-up training on the ESG program for all recipients of ESG funds in the jurisdiction. An effective time to present information is when ESG allotments have been determined by the grantee and the grant agreement has been developed and signed by both parties. Additional methods for information dissemination include holding training sessions, sponsoring

meetings, and providing technical assistance at various points throughout the grant period.

The types of information that grantees typically provide to recipients at these opportunities include: program regulations, program requirements including deadlines for expenditure of funds, information on eligible (and ineligible) activities, reporting requirements and instructions on requesting reimbursement of recipient costs to the grantee.

Self-monitoring by Recipient Organizations

Self-monitoring of project progress and outcomes is an equally important activity for ESG recipient organizations. Information tracking mechanisms should be established at the beginning of a reporting period, so that information is consistently collected throughout the period. Such tracking allows the recipient to understand if its project is meeting ESG program goals as well as the terms of its grant agreement.

Many grantees find it useful to include a number of self-monitoring requirements within the grant agreement. These might require a recipient to track particular outcomes that were identified in the grant agreement. For example, a project may have pledged to place a certain percentage of project participants into permanent housing. Documenting the actual number of placements from project records at regular intervals will inform staff of the success rate. This should be compared to the outcome proposed initially.

6.2 Reporting

Grantee Reports to HUD

Review of reports is a primary activity of monitoring ESG project progress and performance of both HUD Field Offices and ESG grantees. As the contractually responsible entity, ESG grantees should gather from recipient organizations various pieces of program and financial information on a regular basis. This serves not only to assist the grantee to monitor the progress of ESG recipient organizations funded by the jurisdiction's ESG allotment, but also to report on these activities to HUD. Reports to HUD are completed through use of the Integrated Disbursement and Information System (IDIS – described below and in

Section Five of this Guide) as well as through annual reporting with the Consolidated Annual Performance and Evaluation Report (CAPER).

The CAPER is an annual report on progress in meeting a jurisdiction's goals set out in their Consolidated Plan. The CAPER reports on programs funded by the Community Planning and Development formula grants (Community Development Block Grant (CDBG), HOME, Housing Opportunities for People with AIDS (HOPWA), and Emergency Shelter Grants). In the annual CAPER, for example, a jurisdiction funded with an ESG grant should report on the number of homeless persons provided with services through the ESG program during the year, and the types of activities which were funded by the program. Annual reporting to HUD is discussed more fully below in Subsection 6.3.

The IDIS system is designed to be an integrated database and serves not only as a reporting mechanism to HUD, but also as a program and financial management tool to assist grantees to track recipient progress. In IDIS, the grantee reports on a periodic basis the following recipient project information:

- Number of participants in each recipients' ESG project (i.e., average number served daily and yearly);
- Demographic information on participants receiving services through the ESG recipient (including race/ethnicity, age, sex, and families);
- Type of services or housing assistance provided by the recipient;
- Description of the beneficiaries of the ESG project (such as mentally ill, runaway youth, battered spouse, etc.);
- Shelter type; and
- Other sources of funding to support the ESG project.

Assessing recipient progress through these periodic IDIS reports allows the grantee to understand if the recipient is meeting program requirements, carrying out eligible activities and expending funds in a timely manner.

Recipient Reports to the Grantee

In order to obtain the information that is required in IDIS, most grantees require regular, detailed reporting by the recipient. Reporting often occurs in conjunction with a recipient's request for reimbursement of ESG costs. At a minimum, recipient reporting to the grantee should occur on an

annual basis, which is HUD's requirement for reporting accomplishments and the number and type of participants served by each ESG project.

Many grantees design a reporting format for recipients to complete in order to ensure that consistent and comprehensive information about program activities and meeting of program goals is obtained across all recipient organizations. In addition, these forms ensure that the recipient provides to the grantee all information required by IDIS for HUD. These reporting forms might include, for example, questions on the number of participants served in the immediately past reporting period, the types of services provided, and the number of clients to whom these services were delivered. Other information such as demographic characteristics of the participants should be gathered as well.

Below is a sample grantee reporting form requesting information from recipient organizations:

REPORT TO THE GRANTEE

Recipient Organization: Please complete the following items and submit with the initial reimbursement request in each annual reporting period.

Project Title and Address _____

Activity Name and Description:

Race/Ethnicity of persons served by the Project: (Report actual numbers)

- ___ White, Non-Hispanic
- ___ Black, Non-Hispanic
- ___ Hispanic
- ___ Asian/Pacific Islander
- ___ American Indian/Alaskan Native
- ___ **TOTAL**

___ Number of Female-headed households

Indicate type of projects(s) and service(s):

- | | |
|----------------------------------|------------------------------------|
| ___ emergency shelter facilities | ___ transitional housing |
| ___ vouchers for shelters | ___ outreach |
| ___ drop-in-center | ___ soup kitchen/meal distribution |
| ___ food pantry | ___ health care |
| ___ mental health | ___ HIV/AIDS services |
| ___ alcohol/drug program | ___ employment |
| ___ child care | ___ homeless prevention |
| ___ other (please list) _____ | |

Number of People Served for each activity:

Residential Services:

- average number of adults daily _____
- average number of children daily _____
- average number served yearly _____

Non-residential Services:

- average number serviced daily _____

REPORT TO THE GRANTEE (continued)

SOURCES OF LOCAL MATCH:

Other Federal (including pass-through funds, e.g., City CDBG, County FEMA, etc.)

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

State/Local Government Funding (e.g., State Housing Trust Funds, Local Assessment, etc.)

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Private (including recipient) Funding

Fund Raising/Cash	\$ _____
Loans	\$ _____
Building Value or Lease	\$ _____
Donated Goods	\$ _____
Donated Computers	\$ _____
New Staff Salaries	\$ _____
Volunteers (\$5/hr)	\$ _____
Volunteer Medical/Legal	\$ _____

6.3 Annual Reporting To HUD

The importance of timely and accurate performance reports cannot be overstated. Grantees should strive to ensure that all applicable deadlines are met. Performance reporting meets several basic purposes:

- It provides HUD with necessary information for the Department to meet its statutory requirement to assess each grantee's ability to carry

out relevant CPD programs in compliance with all applicable rules and regulations;

- It provides information necessary for HUD's Annual Report to Congress, also statutorily mandated;
- Along with information grantees provide on their IDIS completion screens and reports, it provides the basis for grantee monitoring; and
- It provides grantees an opportunity to describe to citizens their successes in revitalizing communities and meeting objectives stipulated in their Consolidated Plan. HUD shares grantees' interest in assuring that local governments, citizens, community groups and other interested stakeholders in the community development process are accurately informed of the use of these federal resources. HUD also acknowledges that traditional reports containing extensive statistical information are always informative. For that reason, grantees gave the flexibility to format and arrange data in ways that will best communicate to local audiences. Maps often substitute effectively for written data and HUD encourages the use of mapping technology in developing the annual report.

IDIS Completion

By the end of each program year, grantees must provide information on the accomplishments, as well as the number and characteristics of the population served by each ESG project by finishing the IDIS completion path. In order to avoid the overcounting of the population served, only the IDIS completion screens for the *first activity* for each ESG project (e.g. shelter) should be completed. The completion path includes a short narrative, which should highlight the accomplishments and successes for the whole project in serving its formerly homeless persons.

Consolidated Annual Performance and Evaluation Report (CAPER) Requirements

Grantees must also submit CAPERs to Field Offices 90 days after the end of the program year. Any request to deviate from this deadline must be in the form of a waiver request to the Field Office, and can be approved only by the Assistant Secretary for CPD. Any requests for waivers of reporting deadlines must be submitted in advance of the normal deadline. The Department will not consider reporting deadline waiver requests submitted after the reporting deadline has passed, or so close to the reporting

deadline that the deadline passes before the waiver can be transmitted to Headquarters.

Annual performance reports are due 90 days after the close of the grantee's consolidated program year. Grantees should submit a copy of their annual Consolidated Plan report to Headquarters simultaneous with its submission to the Field Office.

The parts of the CAPER dealing with each grantee's projects should include the following items:

- 1) IDIS Reports:
These reports need to clearly document the ESG funds drawn down and expended by all activities and projects of the grantee for its consolidated program year.
- 2) Narrative Reporting for ESG:
 - a) *Assessment of Five Year Goals and Objectives*
Grantees must demonstrate how activities undertaken during the program year address pertinent Strategic Plan objectives relating to housing and homeless needs and areas of high priority identified in their five year Consolidated Plan. Narrative information should be provided that describes how activities address these objectives so that overall performance in meeting Consolidated Plan goals can be assessed. For example, ESG program activities that serve the homeless or persons with special needs should be referenced to specific objectives and/or goals in the Strategic Plan. This information should be summary information so that HUD and the public can easily assess annual progress made toward meeting longer term goals. (24 CFR Part 91)
 - b) *Continuum of Care Narrative*
The report should include information on actions taken to address the needs of homeless persons including those with special needs and those at immediate risk of homelessness. This narrative should include a summary of actions taken during the program year to develop and implement a Continuum of Care strategy for the homeless, i.e. actions taken to prevent homelessness, to address the emergency shelter and transitional housing needs of homeless individuals and families (including significant sub-populations such

as those living on the streets), to help homeless persons make the transition to permanent housing and independent living. (This should include new Federal resources obtained during the year from the Continuum of Care Super NOFA to prevent homelessness, address emergency and transitional housing needs of homeless individuals and families, and to help homeless persons make the transition to permanent housing.) (24 CFR 91.315(c), 91.320(e), and 91.520)

c) *Leveraging Resources and Match*

The report should describe progress in obtaining "other" public and private resources that address needs identified in the plan. The report should also discuss how Federal resources made available from HUD leveraged "other" public and private resources, including how the matching requirements were satisfied. The ESG program match must identify the specific sources of all matching funds.

d) *Self-Evaluation*

The Consolidated Plan is a concept that is designed to enable State, local government officials and citizens to become more aware of the larger picture and the extent to which all related programs are effective in collectively solving neighborhood and community problems. Moving beyond the compilation of program outputs, there must be a focus on results that will allow States and local governments to assess progress in meeting the priority needs and specific objectives identified in their strategic plans and action plans in order to help make communities' vision of the future a reality as described in Consolidated Plan regulations at 24 CFR 91.1(a).

For ESG, this self-evaluation is particularly important for States, which must pass on all of its ESG State non-entitlement funds to local governments or private nonprofit organizations. There are many questions that this self-evaluation seeks to address: Are the activities and strategies making an impact on identified needs? What indicators would best describe the results? Does the action plan clearly define and describe your program's Method of Distribution (MOD)? Does the MOD list all the eligible activities, including appropriate thresholds, rating and ranking factors/requirements, selection criteria? What barriers may have a negative impact on fulfilling the State's strategies and local governments' overall visions? What is the status of your funding system(s)? Are funds being distributed to local governments in a timely manner? Are localities in turn carrying out

funded activities in an acceptable manner, one that ensures the timely draw down of funds? Or, are there any activities or types of activities stalled and/or unreasonably falling behind schedule? Do actual expenditures differ substantially from letter of credit disbursements? Are major goals on target? And, based on the answers to these and other question, what adjustments or improvements to strategies and activities might meet your needs more effectively?

Promising Practice: Monitoring and Evaluation

An ESG grantee in Tennessee, in addition to complying with the regular ESG program monitoring and reporting requirements described in this section of the Guide, has instituted a system of standards called "Quality Standards of Care." This system is used to assist grant-funded organizations in the ESG program and other city homeless service providers to maintain a specific level of service. These are standards by which programs for homeless persons throughout the city can be evaluated to help ensure that minimum expectations regarding services, facilities and financial practices are met. The standards provide an ongoing process by which an agency may self-monitor and evaluate its practices and services. In addition, the standards of care provide a tool by which funders may assess an agency's performance in determining funding decisions.

The standards cover four primary areas: organizational practices (staffing, personnel policies, job descriptions), client services (including policies and procedures), facility and housing operations, and fiscal policies and procedures. City agencies use a self-monitoring tool to assess their own performance under the standards, and participate in an on-site monitoring visit by an independent contractor. Technical assistance is available to assist any agency to address a standard that is not in compliance.

Developed in conjunction with the city Coalition for the Homeless, the "Quality Standards of Care" provide city homeless providers with specific measurable benchmarks for self-evaluation. The standards help to assure that homeless persons receive a standardized level of care and that public funds are spent judiciously.

Section Seven: Financial Management



The ESG grantee's contractual responsibility – to ensure that a recipient's project is carried out and documented according to the applicable federal regulations – includes oversight on financial management. The ESG recipient delivers the day-to-day services to homeless participants, and makes requests to the grantee for program funds to meet project costs. The responsibility for ESG financial transactions (i.e., authorizing and making payments, and maintaining financial records) may rest primarily with the grantee, primarily with the recipient, or with both organizations. When the responsibility is shared, there is typically a system in place in which payments must be authorized by both the recipient and the grantee, and each maintains a portion of the financial records for the project.

Grantees and recipients in the ESG program must ensure compliance with regulations and requirements pertaining to the following key areas of financial management:

- Usage of funds
- Required funding match
- Internal controls
- Budget controls
- Cash management
- Accounting controls
- Procurement
- Property asset controls
- Audits

An important aspect of financial management in the ESG program is the use of IDIS. Grantees can generate reports from IDIS that facilitate financial management of ESG projects. For further discussion of IDIS, please see [Section Five](#) of this Guide.

The remainder of this section will address each of these key financial areas in greater detail. In addition, we have included – at the end of this section – a list of “tips” that grantees and recipients of ESG funding may use to strengthen their financial management systems.

7.1 Federal Regulations Regarding Usage Of Funds

Grantees and recipients must use Emergency Shelter Grants program funds as originally planned and for eligible activities. Any changes from the planned expenditures should be documented in the appropriate files. If an ESG grantee or recipient expends funds for an eligible activity other than what was proposed, appropriate staff should be notified in writing about the changes in planned expenditures. ESG funds may not be used for activities other than those authorized in the regulations. Furthermore, all expenditures must be in accordance with conditions such as funding ceilings and other limitations on the provision of services. Please refer to [Section Three](#) for further information regarding specific funding caps and limitations for each category of ESG-funded activities.

7.2 Required Funding Match

Each ESG grantee, other than a territory, must match the funding provided by HUD with an equal amount of funds from other sources. Furthermore, regulations require that all grantees provide HUD with details on the match – including the specific sources and amounts. Please consult [Subsection 2.3](#) for further information on the required ESG funding match.

In general, matching funds provided by a recipient may include:

- Amount of funds from other sources;
- Salary paid to staff (not included in the award) to carry out the project of the recipient;

- Time contributed by volunteers (currently determined at the rate of \$5 per hour); and
- The value of any donated material or building, or of any lease, calculated using a reasonable method to establish a fair market value.

The regulations at 42 U.S.C. 11375(a) contain the requirements for the ESG funding match:

Matching Amounts 42 U.S.C. 11375(a)

- (1) Except as provided in paragraph (2), each recipient under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this part. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.
- (2) Each recipient under this part that is a State shall be required to supplement the assistance provided under this part with an amount of funds from sources other than this part equal to the difference between the amount received under this part and \$100,000. If the amount received by the State is \$100,000 or less, the State may not be required to supplement the assistance provided under this part.
- (3) In calculating the amount of supplemental funds provided by a recipient under this part, a recipient may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

7.3 Internal Controls

Internal controls refers to the combination of policies, procedures, defined responsibilities, personnel and records that allow an organization (or an agency) to maintain adequate oversight and control of its finances. As such, internal controls reflect the *overall* financial management system of an organization or agency. Budget controls, cash management, accounting controls, procurement and property controls are sub-parts of the overall financial system.

The specific administrative requirements (i.e., financial management standards) for grants to State and local government entities are contained in 24 CFR Part 85, while those pertaining to grants and agreements with non-profit organizations may be found in 24 CFR Part 84. Because the regulations are fairly consistent between the two, in some cases we have cited only one Part on a given topic.

The regulatory guidance on financial management from 24 CFR 84.21 is as follows:

Standards for financial management systems 24 CFR 84.21

- (b) Recipients' financial management systems shall provide for the following:
1. Accurate, current, and complete disclosure of the financial results of each federally-sponsored project...
 2. Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income, and interest.
 3. Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.
 4. Comparison of outlays with budget amounts for each award.
 5. Written procedures to minimize the time elapsing between the receipt of funds...and the issuance or redemption of checks...for program purposes by the recipient.
 6. Written procedures for determining the reasonableness, allocability, and allowability of costs in accordance with the provisions of Federal cost principles [Circular A-122] and the terms and conditions of the award.
 7. Accounting records including costs accounting records that are supported by source documentation.

Generally, there are two ways to determine whether the system of internal controls is adequate:

- Reliance on a **recent** assessment of the financial management system of a grantee or project sponsor by a certified public auditor (CPA); **or**
- Evidence of features that “good business practices” contribute to a sound system of internal controls.

To assess the adequacy of internal controls using the recent judgment of a Certified Public Auditor, one may ask the following:

1. Has the organization (or agency) had an audit by an independent certified public auditor completed recently (within the last 9 months) that examined, among other things, the organization’s compliance with the financial management requirements (in 24 CFR part 84 or 85) relative to its ESG funding?
2. Did the audit report indicate any deficiencies or material weaknesses in the organization’s system of internal controls?
3. Has the organization initiated any changes in its system of internal controls, or have there been any changes in its fiscal staff, since completion of the audit?

A system of internal controls may also be assessed using evidence of features that “good business practices” are indicators of an adequate system of financial controls. These include:

- An organizational chart showing titles and lines of authority for all individuals involved in approving or recording financial (and other) transactions.
- Written position descriptions that describe the responsibilities of all key employees.
- A written policy manual specifying approval authority for financial transactions and guidelines for controlling expenditures.
- Written procedures for the recording of transactions, as well as an accounting manual and a chart of accounts.
- Adequate separation of duties to assure that no one individual has authority over an entire financial transaction.

- Hiring policies to ensure that staff qualifications are equal to job responsibilities and that individuals hired are competent to do the job.
- Control of access to accounting records, assets, blank forms, and confidential records are adequately controlled, such that only authorized persons can get access to them.
- Procedures for regular reconciliation of its financial records, comparing its records with actual assets and liabilities of the organization.

7.4 Budget Controls

Budget controls are a sub-part of the overall internal controls of an agency or organization.

The standard for budget controls, per 24 CFR 85.20(b)(4) and 24 CFR 84.21(b)(4), is that:

Budget Control 24 CFR 85.20 (b)(4)

Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

For this sub-part, the key issue is whether the grantee/recipient has adequate procedures in place to monitor ESG project expenditures and obligations against the approved ESG budget.

To assess the adequacy of budget controls, one may ask the following:

1. Does the organization (or agency) on a regular, on-going basis compare actual expenditures for the ESG award with the budgeted amounts (including the amounts budgeted for each eligible ESG expenditure category)?
2. Does the organization (or agency) relate its financial information to performance or unit cost data, as appropriate?

7.5 Cash Management

Cash management practices are always examined at the ESG grantee level, since the grantee (not the recipient) is the entity responsible for initiating the draw down of federal funds. The federal requirements for cash management, per 24 CFR 85.20(b)(7) and 24 CFR 84.21(b)(5), require that the agency (or organization) comply as follows:

Cash management 24 CFR 85.20 (b)(7)

Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used.

Cash management procedures may be examined to determine whether:

- Payments for project costs occur within three business days of the date of deposit of grant funds.
- Any interest on grant advances in an interest bearing account is returned to HUD.
- Information on the line of credit withdrawal vouchers is accurate.

For ESG, grantees are required to draw down funds on a *cost reimbursement basis*. That is, the ESG grantee or recipient organization must have already used its own financial resources to pay for the ESG-eligible direct costs of the project, and is drawing down federal funds to reimburse itself.

The only modification of this ESG cost reimbursement principle is for HUD-approved pre-agreement costs. Where an eligible ESG project has been identified in the jurisdiction's Consolidated Plan with a specific grant amount, then with HUD's approval the prospective grantee may begin to incur ESG eligible project costs prior to the signing of a grant agreement with HUD. All such expenses can then be reimbursed following the execution of the grant agreement. Grantees will need to contact their local HUD Field Office for the authority to use this pre-agreement cost process.

While grantees that draw down on a reimbursement basis are automatically satisfying the cash management regulations regarding timely disbursement, it

is still important to minimize the time between when the grantee/recipient incurs grant expenses and when it seeks reimbursement from the federal government.

7.6 Accounting Controls

The federal requirements for accounting records and source documentation, per 24 CFR 85.20(b)(2) and (6) and 24 CFR 84.21(b)(2) and (7), are that the agency (or organization) must do the following:

Accounting records 24 CFR 85.20(b)(2)

Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

Source documentation 24 CFR 85.20(b)(6)

Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

Accounting records/source documentation may be examined to determine whether the grantee/recipient has records that adequately identify the source and application of grant funds. In particular, whether:

- Expenditures are supported by invoices, contracts, purchase orders, etc.
- Wages chargeable to more than one grant/source are supported by time distribution records.
- Costs were eligible for support under ESG.

To assess the adequacy of accounting records and source documentation, one may ask the following:

1. Do the accounting records for the organization (or agency) identify the source and use of all funds, including information on:
 - ◆ all grant awards received;
 - ◆ authorizations or obligations of ESG funds;
 - ◆ unobligated balances;
 - ◆ assets and liabilities;
 - ◆ program income; and
 - ◆ total actual outlays or expenditures to date.
2. Are the accounting records of the organization (or agency) supported by adequate source documentation? [Note: the *combination* of source documentation and accounting records should provide a complete “audit trail,” documenting when a purchase was requested and by whom, how it was formally approved, what funds were used to pay for it, when it was paid and for how much.]
3. If wages for staff are chargeable to more than one funding source, are there time distribution records to support the amounts charged to the ESG grant?
4. Were the costs charged to the ESG grant all actually eligible under the ESG program? [Note: Refer to Section Three of this Guide for a list of eligible activities under the ESG program.]
5. Does the organization (or agency) have a system in place for maintaining its financial records relative to the ESG grant for *four years* from its last expenditure report to HUD (or until any litigation, claim, audit, or other action involving the records has been resolved, whichever comes later)?

7.7 Procurement Rules

The Code of Federal Regulations (<http://www.access.gpo.gov/nara/cfr/>) establish standards and guidelines for the procurement of supplies, equipment, construction, and services to ensure that they are obtained as economically as possible through an open and competitive process, and that contracts are managed with good administrative practices and sound business judgment. The regulations include:

- standards that prohibit conflicts of interest;
- procedures for open competition with consistent technical solicitations;
- affirmative efforts to hire minority- and women-owned enterprises;
- maintenance of selection documentation; and
- a contract administration system that provides sufficient monitoring.

Purchases of services from contractors or vendors by nonprofit grantees with ESG funds are subject to the regulations in 24 CFR Part 84, while purchases by public agencies with ESG grant funds are subject to the regulations in 24 CFR Part 85.

The guidelines on procurement are summarized as follows:

- ◆ Recipients are allowed to use their own procurement procedures as long as those procedures conform to the provisions of the regulations.
- ◆ Recipients must maintain a system to handle disputes, protests, and other matters arising out of its contracts; maintain a code of conduct to prevent conflicts of interest (personal, financial, and organizational); and use solicitations which are clear and accurately describe the materials, products, or services being procured.
- ◆ Recipients must use some form of cost or price analysis in connection with each of its procurements. They must be able to justify procurements awarded on a non-competitive basis and justify the awarding of procurements by bid on the basis of other than the lowest bid.
- ◆ Recipients must initiate positive efforts to use small and minority-owned businesses to the maximum extent possible; include all applicable contract provisions in contracts; and not use the cost-plus-percentage of cost contracts.

To assess the adequacy of procurement procedures, one may ask the following:

1. Does the organization (or agency) maintain a *written “standard of conduct”* governing the performance of employees engaged in purchasing and/or the award or administration of contracts, in order to avoid real or apparent conflicts of interest?
2. Are all purchases or procurements (no matter how small) conducted in a manner to provide, to the extent practical, *free and open competition*? [Note: In very rare cases, the organization or agency is allowed to conduct “sole source” procurements (per 24 CFR 85.36(d)(4) and 24 CFR 84.44(e))].
3. Does the organization (or agency) maintain *written procedures for procurement transactions* (per 24 CFR 85.36(c)(3) and 24 CFR 84.44) that specify the steps taken to avoid the purchase of unnecessary items, to examine lease versus purchase alternatives, and to ensure that solicitations for goods and services contain clear and accurate descriptions of the technical requirements being sought?
4. Does the organization ensure that *small, women-owned, and minority-owned businesses* are used to the fullest extent possible?
5. Is some form of *cost or price analysis* performed for every procurement, and documented in the procurement files (per 24 CFR 84.45-46 and 24 CFR 85.36(b)(9))? [This may include comparison of prices from written bids or those obtained by telephone, market prices obtained from catalogs or advertisements, etc.]
6. For procurements that exceed the federal “small purchase” threshold (the federal threshold is \$100,000, but the locality or State may set a lower threshold), do the *procurement files* include the following *documentation*:
 - ◆ Basis for contractor selection?
 - ◆ Justification for lack of competition when competitive bids or offers were not obtained?
 - ◆ Basis of award cost or price?

7. Does the organization or agency maintain a *system of contract administration* to ensure contractor conformance with terms and conditions of contracts that are awarded?
8. Do contracts awarded by the organization or agency include the relevant *written provisions* specified in 24 CFR 85.36(i) or 24 CFR 84.48?

7.8 Property Controls

Federal regulations regarding property controls are intended to ensure that the grantee/recipient maintains a system for tracking property and other assets purchased with grant funds, and that the grantee/recipient has procedures for ensuring such property and assets are secure and used for authorized purposes only.

Guidelines on property/equipment controls can be found in 24 CFR 85.32(d) and 24 CFR 84.34(f). The regulations for States and local governments are as follows:

Equipment 24 CFR 85.32

(d) *Management requirements.* Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with the grant funds...will, as a minimum, meet the following requirements:

- (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property...the acquisition date, and cost of the property...
- (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property.
- (4) Adequate maintenance procedures must be developed to keep the property in good condition.
- (5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

To assess the adequacy of property controls, one may ask:

1. Does the organization maintain a system for tracking property and other assets bought or leased with grant funds?
2. As part of this system, does the organization conduct a periodic (at least annual) physical inventory or inspection of property bought or leased with grant funds?
3. Does the organization have procedures in place to keep its property safe (such as adequate locks, engraving of portable equipment, and/or storage of such equipment in locations that are reasonably secure)?
4. Does the organization have systems in place to ensure that the equipment leased or purchased with grant funds is used solely for authorized purposes (e.g., leased vehicles for transporting the homeless are not employed for personal use)?

7.9 Audits

Audits are one way that an agency or organization obtains an independent, informed judgment regarding the sufficiency of the elements of the organization's financial management system.

The federal standards for audits can be found in OMB Circular A-133. Basically, the federal standards (which derive from the Single Audit Act Amendments of 1996) apply to any entity that received \$300,000 or more in federal funds in a single year. This standard applies to both the recipient and the grantee. For example, if the project recipient did not receive \$300,000 or more in federal funds, but the grantee did, then the grantee would be required to have an audit conducted in compliance with the OMB A-133 standards.

Guidelines for *non-federal* audits for State and local government entities may be found in 24 CFR 85.26, and for non-profit organizations in 24 CFR 84.26. Both set forth the same basic guidelines:

Basic rule 24 CFR 85.26 (a)

Grantees and sub-grantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

To assess the adequacy of audits, one may ask the following:

1. Did the organization (or agency) receive more than \$300,000 in federal funds in aggregate during any year since the receipt of the specific ESG grant being reviewed? [If "NO", skip to question 6 below]
2. Did the organization (or agency) have an audit completed within 9 months of the end of each of the fiscal year(s) specified in (a) above, and was/were the audit(s) conducted consistent with the standards of OMB A-133?

Specifically, did the audit(s) provide the following:

- ◆ A financial statement and schedule of federal assistance?
 - ◆ An assessment about whether the records of the organization accurately reflected the actual revenues, assets, expenditures and liabilities of the organization?
 - ◆ An evaluation of internal controls?
 - ◆ A report on program compliance?
3. Did the organization submit the audit report to HUD and other relevant "federal awarding agencies" (identified in the organization's "data collection form" submitted to the federal clearinghouse specified by OMB)?
 4. Did the audit report contain any findings regarding deficiencies or material weaknesses, compliance findings, questioned costs, or recommendations for improvements in the organization's financial systems?

5. Has the organization taken steps to ensure timely resolution of any audit findings, questioned costs, and/or recommendations?
6. If the organization was not required to have an audit per the standards of OMB A-133, did it nonetheless have an independent audit by a CPA that included an examination of ESG grant funds within the audit's scope?

7.10 Financial Management Tips

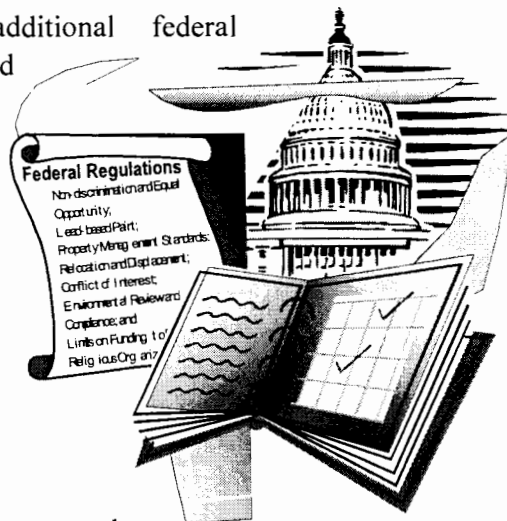
The following are some general suggestions intended to address common issues and to strengthen the financial management practices of grantees/recipients in the ESG program:

- Employee time sheets should reflect actual times, not percentages. Likewise, time sheets should be signed and dated by the staff person and then the supervisor.
- When staff salaries are shared among more than one ESG budget line (e.g., essential services and operating expenses), the time sheet should reflect the distribution of time between budget lines.
- If the expenditures are paid for by more than one source (e.g., federal, United Way, private donations), the split costs should be accurately tracked within the grantee's accounting system.
- Only actual incurred costs can be charged against the grant. For example, invoices for blocks of professional counseling time must show that participants were provided counseling services throughout that time period to be considered an actual, incurred cost.
- Grantees may not draw from their IDIS accounts until after the grantee/recipient has paid for the goods and services used in the ESG project, and are seeking reimbursement for those expenses. Requests for reimbursement with ESG funds should be made on a regular basis, such as monthly or quarterly.
- Common ineligible costs are: bad debts (e.g., late fees shown on invoices), fundraising, grant writing, public relations events, staff training, attending conferences, advertising, and entertainment.

Section Eight: Other Federal Requirements

This section outlines several additional federal requirements with which ESG-funded grantees and recipients must comply. These requirements include:

- Non-discrimination and Equal Opportunity;
- Lead-based Paint;
- Property Management Standards;
- Relocation and Displacement;
- Conflict of Interest;
- Environmental Review and Compliance; and
- Limits on Funding to Primarily Religious Organizations.



8.1 Non-discrimination and Equal Opportunity

The use of Emergency Shelter Grants amounts requires that the grantee or the State recipient make facilities and services available to all on a nondiscriminatory basis, and publicize this fact. The procedures that a grantee or recipient uses to convey the availability of such facilities and services should reach persons with handicaps or persons of any particular race, color, religion, sex, age, familial status or national origin within their service area who may qualify for them. If not, the recipient or grantee must establish additional procedures that will ensure that these persons are made aware of the facilities and services. Grantees and recipients must adopt procedures to disseminate information to anyone who is interested regarding the existence and location of handicap accessible services or facilities.

8.2 Lead-based Paint Requirements

Background

The purpose of these requirements is to ensure that housing receiving federal assistance (or being sold by the federal government) does not pose lead-based paint hazards to young children. As such, ESG grantees are subject to the requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (LBPPPA) and the Act's implementing regulations at 24 CFR Part 35 (see Memorandum summarizing the Rule's requirements and effective dates at: http://www.hud.gov/lea/donovan_letter.pdf) This Act, first passed by Congress in 1971 and amended several times since then, found that lead poisoning in children causes permanent damage to the brain and many other organs and results in reduced intelligence, low attention span, reading and learning disabilities, and can be linked to behavioral problems. The Centers for Disease Control and Prevention (CDC) have claimed lead poisoning to be the most common environmental disease that threatens our young children today. The most common sources of childhood exposure to lead are deteriorated lead-based paint and lead-contaminated soil in the residential environment.

In 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act, (<http://www.hud.gov/lea/leatilex.html>) referred to as "Title X." This law redefined the lead-paint hazard and set out specific requirements that necessitated a comprehensive revision of HUD's lead-based paint regulations. Title X stressed identification of hazards, notification to occupants of the existence of these hazards, and control of these hazards. HUD developed a Final Rule (http://www.hud.gov/lea/1012_3final.pdf) in September 1999 to implement sections 1012 and 1013 the statutory requirements of Title X (the sections that amend the LBPPPA) and to update and consolidate all of its lead-based paint regulations. The provisions of the new rules went into effect on September 15, 2000.

Effect of Lead-Based Paint Rules on ESG Projects

Since the ESG program deals primarily with the operation of short-term emergency shelters and the delivery of essential services to formerly homeless persons, ESG is governed by Subpart K of the Lead-Based Paint Hazard regulations. According to the *Interpretive Guidance* (http://www.hud.gov/lea/1012QA_final_sept21.PDF) to the regulations, most emergency shelters are exempt from the lead-based paint regulations.

Thus, emergency housing using efficiencies, studio apartments, dormitories, single room occupancy units, barracks, group homes, or room rentals in residential dwellings are all excluded from the lead-based paint requirements. The only ESG-assisted housing covered under the lead-based paint requirements is longer-term transitional housing in an apartment with one or more bedrooms AND which has family residents who are part of a program requiring continual residence of more than 100 days.

The majority of ESG projects, with their relatively short stays in HUD-assisted housing, are exempt from the Lead-based Paint requirements. Additionally, ESG projects providing essential services only are also excluded from the lead-based paint regulations. However, any ESG housing or services sites regularly frequented by children less than 6 years of age are encouraged to use ESG funds for testing and may use ESG rehabilitation funds for necessary abatement procedures.

In ESG projects where the residents select their own housing or where the grantee or recipient provides services such as housing search and homeless prevention services such as first month's rent, the units selected must be free from lead-based paint contamination. The remainder of Section 8.2 of the ESG Guide provides a summary of the basic requirements for transitional housing programs where the grantee or recipient provides the apartment units using ESG funds.

Section 8.2 of the ESG Guide summarizes the basic provisions of the lead-based paint regulations pertaining to ESG funded activities, such as rehabilitation and conversion of property. While the requirements pertaining to rehabilitation differ according to level of federal support (see below), the requirements around notification and provision of an information pamphlet apply for *all* types of federal housing assistance. Exemptions to the lead-based paint regulation are provided at the end of the section. Note that the lead-based paint requirements do not apply to housing assistance (such as for homeless persons) unless the assistance lasts more than 100 days.

Notice of Evaluation, Presumption, and Hazard Reduction Activities

When evaluation, or hazard reduction activities (or both) of lead-based paint is undertaken as part of federally-funded rehabilitation activities in long-term assisted housing, the grantee/recipient must notify occupants of

the property. Notification is also required when a presumption is made that lead-paint hazards are present. The grantee/recipient should provide notice to occupants within 15 days of the date the evaluation is completed (or a presumption is made) that lead-based paint hazards exist. In a format that it is clear and easy to read (i.e., in the occupant's primary language), the notice should include:

1. a summary of the nature, scope and results of the evaluation;
2. contact name, address and telephone number for more information; and
3. the date of the notice.

When hazard reduction activities are undertaken, the responsible party must provide notice to occupants no more than 15 days after the activity is completed. The notice should include the same elements as above, but also include available information on the location of any remaining lead-based paint hazards. The grantee/recipient should also provide the *Lead Hazard Information Pamphlet* available through HUD.

Rehabilitation, Renovation or Conversion

Requirements differ depending on the level of federal funding provided for these activities. The three categories include: 1) assistance of up to and including \$5,000 per unit; 2) assistance of more than \$5,000 per unit and up to and including \$25,000 per unit; and 3) assistance of more than \$25,000 per unit.

For long-term assisted housing properties receiving federal assistance of *up to \$5,000 per unit*, the following requirements apply:

1. Conduct paint testing (or presume the presence of lead-based paint);
2. Implement safe work practices during rehabilitation work if paint testing shows the presence of lead-based paint; repair any paint surfaces that are disturbed; and
3. Perform a clearance examination of the work site after completion of rehab disturbing painted surfaces. A clearance is not necessary if the rehab does not disturb painted surfaces.

For long-term assisted housing properties receiving federal assistance of \$5,000 and up to \$25,000 per unit, the following requirements apply:

1. Conduct paint testing (or presume the presence of lead-based paint);
2. Perform a risk assessment in the units, common areas and exteriors of those being rehabilitated using federal assistance; and
3. Perform interim controls. Interim controls include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above those specified in 24 CFR 35.1320, dust control and lead-contaminated soil control. *Paint stabilization* means: repair of any defective substrate that is causing paint deterioration, and removal of loose paint and other material using methods such as wet scraping, wet sanding or power sanding in conjunction with use of a HEPA filtered local exhaust attachment (dry sanding or scraping is allowed only for electrical safety reasons) and application of a new protective coating or paint.

For long-term assisted housing properties receiving federal assistance of above \$25,000 per unit, the following requirements apply:

1. Conduct paint testing (or presume the presence of lead-based paint);
2. Perform a risk assessment in the units, common areas and exteriors of those being rehabilitated using federal assistance; and
3. Abate all lead hazards identified in the test or assessment as well as any lead-based paint hazards created as a result of the rehab work.

Essential (Support) Services and Operations

For eligible ESG housing properties that receive federal assistance for essential support services or operations, a number of lead-based paint requirements apply. The grantee/recipient should conduct the following activities:

1. A visual assessment of all painted surfaces to identify deteriorated surfaces;
2. Complete paint stabilization of all deteriorated surfaces.
3. Incorporate ongoing lead-based paint maintenance activities into the regular building maintenance operations; and
4. Notification as described above.

Inspection and Abatement

In addition to complying with the regulations at 24 CFR 35, the grantee (or in the case of States, the State recipient) must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

- Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity; and
- Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

The following chart summarizes the lead-based paint requirements applicable to the ESG program by type of program and the building's period of construction:

Type of Program	Construction Period	Requirements
Rehabilitation – Property receiving less than \$5,000 per unit	Pre-1978	<ul style="list-style-type: none"> ■ Provision of pamphlet. ■ Paint testing of surfaces to be disturbed, or presume LBP. ■ Safe work practices in rehab. ■ Repair disturbed paint. ■ Clearance of the worksite. ■ Notice to Occupants.
Rehabilitation – Property receiving more than \$5,000 and up to \$25,000 per unit	Pre-1978	<ul style="list-style-type: none"> ■ Provision of pamphlet. ■ Paint testing of surfaces to be disturbed, or presume LBP. ■ Risk assessment. ■ Interim Controls. ■ Notice to Occupants.
Rehabilitation – Property receiving more than \$25,000 per unit	Pre-1978	<ul style="list-style-type: none"> ■ Provision of pamphlet. ■ Paint testing of surfaces to be disturbed, or presume LBP. ■ Risk assessment. ■ Abatement of LBP hazards. ■ Notice to Occupants.
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.

Are there Exemptions from these Regulations?

A number of properties are exempt from this regulation. For the properties that fall under the following categories, the lead-based paint regulations do not apply:

- Housing built after January 1, 1978 (the date when lead-based 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;
- 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;
- Emergency repair actions which are needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage;
- Emergency housing assistance (such as for the homeless) unless the assistance is for long-term assistance that lasts more than 100 days. **In the case where long-term housing assistance lasts for more than 100 days, then the rule does apply.**

Copies of the lead-based paint regulation can be obtained by downloading it from the HUD Office of Lead Hazard Control web site at www.hud.gov/lea or by calling 1-800-424-LEAD.

8.3 Property Management Standards

Projects using ESG funds for rehabilitation are required to use that facility to serve the homeless for up to ten years (see Subsection 3.1). Recipients of federal funds such as the Emergency Shelter Grants program are also required to follow uniform standards for using and disposing of capital improvements and equipment. Equipment is defined as having a useful life of one year and a per unit value of \$5,000 or more. "Equipment" might be, for example, a computer system or a vehicle.

Recipients must have source documentation for expenditures associated with capital improvements or equipment. For equipment, additional records are to evidence ESG funds that contributed to the original payment for the equipment, a description of the equipment, a system of coding or tagging, a description of the equipment's condition, a record of biannual inventories, and property disposition procedures.

Capital improvements such as heating and air conditioning units must be used in the same ESG-funded project as long as these are needed, even beyond the time period the project is supported through ESG funds. When no longer needed and the property cannot be used to assist homeless or low-income persons, then the recipient should sell the property and compensate its program account from the proceeds of the sale in an amount equal to the program's percentage of participation in the original cost of the property.

A similar approach is used in the disposition of equipment with a value of \$5,000 or more. Generally, equipment can be used in the same project without compensation to HUD, whether or not additional funding is received from HUD. When equipment is no longer needed in the same project and it cannot be used to assist homeless or low-income persons, and the value of the property in question is less than \$5,000, the recipient may dispose of the equipment and retain the proceeds as miscellaneous revenue.

When equipment is no longer needed in the same project, it cannot be used to assist homeless or low-income persons, and the value of the property in question is \$5,000 or more, disposition instructions should be requested from HUD. If HUD does not provide instruction in 120 days or HUD has no use for the equipment, the recipient may dispose of the equipment

provided the ESG account is reimbursed by applying to the sales price or fair market value of the equipment an amount equal to the percentage of HUD's participation in the original acquisition price of the equipment.

8.4 Relocation and Displacement

Grantees and recipients are required to take reasonable steps to minimize the displacement of persons, families, individuals, businesses, nonprofit organizations or farms as a result of administering projects funded through ESG.

Rehabilitation of real property for a project under ESG is subject to the requirements to the Uniform Relocation Act and the requirements contained in 49 CFR Part 24, subpart B. Each grantee and recipient must certify that it will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). For example, a person displaced by the program *must* be provided with relocation assistance as described in 49 CFR Part 24. This federal regulation describes a number of ways relocation assistance may be provided including payment of moving expenses or provision of replacement housing. The costs of relocation assistance may be paid from local public funds, ESG funds, or funds available from other sources.

The federal regulation at 24 CFR 576.59 describes the requirements for relocation as follows:

Relocation 24 CFR 576.59

- (a) Minimizing displacement. Consistent with the other goals and objectives of this part, grantees and recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.
- (b) Relocation assistance for displaced persons. A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).
- (c) Real property acquisition requirements. The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.
- (d) Responsibility of grantees and recipients. Each grantee and recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this part, or funds available from other sources.
- (e) Appeals. A person who disagrees with the grantee's or recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the grantee or recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

The federal regulations provide further definitions of “displaced person” as follows:

Definition 24 CFR 576.59 (f)

(1) Displaced person.

- (i) The term “displaced person” means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. Permanent, involuntary moves for an assisted project include:
 - (A) A permanent move from the real property (building or complex) following notice by the grantee, recipient or property owner to move permanently from the property, if the move occurs on or after the date that the grantee or recipient submits to HUD an application for assistance that is later approved and funded;
 - (B) A permanent move from the real property that occurs before the submission of the application to HUD, if the grantee, recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project, or
 - (C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:
 - 1. The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex following the completion of the project at a rent, including estimated average utility costs, that does not exceed the greater of the tenant’s rent and estimated average utility costs before the initiation of negotiations, or 30 percent of gross household income; or
 - 2. The tenant has been required to relocate temporarily but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and the tenant does not return to the building/complex; or
 - 3. The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

24 CFR 576.59 (f) (continued)

- (ii) A person does not qualify as a "displaced person" if:
 - (A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;
 - (B) The person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement;
 - (C) The person is ineligible under 49 CFR 24.2(g)(2); or
 - (D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.
- (iii) The grantee or recipient may, at any time, request a HUD determination of whether a displacement is or would be covered under this section.

(2) Initiation of negotiations.

For purposes of determining the type of replacement housing payment to be made to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the grantee and HUD.

8.5 Conflict of Interest

Grantees and their recipients must avoid any conflict of interest in carrying out activities funded by federal grants dollars, such as the Emergency Shelter Grants program. Generally, this means that a person who is an employee, otherwise in a decision-making position, or has information about decisions made by the organization (such as an agent, consultant, officer or elected or appointed official of the grantee or recipient) may not obtain a personal or financial interest or benefit from the organization's activity, including through contracts, subcontracts or agreements. This exclusion continues during the employee's tenure and for one year following employment.

As part of general guidelines for the procurement of goods and services using federal funding (such as ESG), grantees and recipients are required to have a “code of conduct” in place that prohibits employees, officers or agents of the organization from participating in the decision making process related to procurement if that person, or that person’s family, partner or any organizations employing any of the above has a direct financial interest or benefit from that procurement. In addition, these persons may not accept any gratuity, favors, or anything of monetary value from a contractor, consultant or other entity whose services are procured for the organization. Organizations should develop standards for avoiding such apparent or potential conflicts. Such standards may include for example a written policy that is part of the employee policies. Often, employees are required to sign a statement indicating that they have read the policy and will comply. This signed statement then becomes part of the employee’s personnel file.

The federal regulations at 24 CFR 576.57 (d) describe the conflict of interest requirements as follows:

24 CFR 576.57

- (d) Conflicts of interest. In addition to the conflict of interest requirements in OMB Circulars A-102 and A-110, no person –
- (1) (i) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, State recipient, or nonprofit recipient (or of any designated public agency) that receives emergency shelter grant amounts and
(ii) Who exercises or has exercised any functions or responsibilities with respect to assisted activities, or
 - (2) Who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial 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 him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter. HUD may grant an exception to this exclusion as provided in 570.611 (d) and (e) of this chapter.

8.6 Environmental Review/Compliance

Federally funded entities or organizations, such as those receiving ESG funds, are required to submit certification of compliance with environmental review requirements in order for the entity to receive a release of funds certification. ESG funds provided to a grantee/recipient prior to receipt of a release of funds certification for environmental compliance can result in recapture of those funds. A grantee/recipient should keep comprehensive records on any environmental problems, lead-based paint concerns, or corrective actions required by HUD.

The federal regulation at 24 CFR 576.57 (e) details the requirement as follows:

Environmental review responsibilities 24 CFR 576.57(e)

- (1) Generally. Responsible entities must assess the environmental effects of each application under part 58 of this title. An applicant must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under the National Environmental Policy Act of 1969 (NEPA) and related authorities listed in part 58 of this title. The grant award is subject to completion of the environmental responsibilities set out in part 58 of this title within a reasonable time period after notification of the award. This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.
- (2) Awards to States. In the case of emergency shelter grants to States that are distributed to:
 - (i) Units of general local government, the unit of general local government shall be the responsible entity, and the State will assume HUD's functions with regard to the release of funds; or
 - (ii) Nonprofit organizations, the State shall be the responsible entity, and HUD will perform functions regarding release of funds under part 58 of this title.
- (3) Release of funds. HUD will not release funds for an eligible activity if the grantee, recipient, or any other party commits emergency shelter grant funds before the grantee submits, and HUD approves, any required Request for Release of Funds.

8.7 Limits on Funding to Primarily Religious Organizations

In order to uphold the basic provision of separation of church and State, a number of conditions apply to the provision of ESG funding to organizations that are primarily religious in nature. These provisions generally require that when funded under the ESG program, the religious organization will provide services in a way that is free from religious influences and in accordance with the following principles:

- The organization will not discriminate against any employee or applicant for employment on the basis of religion, and will not limit employment or give preference in employment on the basis of religion.
- The organization will not discriminate against, limit services provided to, or give preference to any person obtaining shelter, other service(s) offered by the project, or any eligible activity permissible under the ESG program on the basis of religion and will not limit such service provision or give preference to persons on the basis of religion.
- The organization will not provide religious instruction, counseling, religious services, worship (not including voluntary nondenominational prayer before meetings), engage in religious proselytizing, or exert other religious influences in the provision of shelter or other eligible ESG activities.

This particular provision is often challenging for recipient organizations. Some examples of what is allowable and what is not might be helpful. Requiring that a program participant attend religious services or meetings as a condition of receiving other social services at the organization (such as shelter or a meal) is not allowed under this provision. Allowing participants to choose to take part in services or meetings offered by the organization as they wish, separate from the ESG-funded activities provided, is allowable.

If a primarily religious organization owns a structure that is to be renovated, rehabilitated or converted for use as a homeless shelter through the use of ESG funds, then several provisions apply, as follows:

- The structure that is to be renovated, rehabilitated or converted with HUD ESG funds, must be leased to an existing newly established wholly secular organization.
- The ESG funds will go to the separate secular organization and not to the primarily religious organization.
- The structure to be renovated, rehabilitated or converted will be used exclusively for secular purposes, and be available to all persons.
- The lease payments made by the secular organization to the primarily religious organization do not exceed fair market rent for the building prior to renovation, rehabilitation or conversion.
- If rehabilitation or renovation improvements are made to any portion of the building that is *not* leased by the secular organization, then the costs of these improvements must be paid by the religious organization.
- If the separate secular organization does not retain use of the leased structure/building for wholly secular purposes for the useful life of the improvements, then the religious organization will pay the grantee or HUD (whichever granted the ESG funds originally) an amount equal to the residual value of the improvements. The original grantee is expected to reallocate the funds for the purpose of alleviating homelessness in its jurisdiction, but there is no requirement that funds received after the close of the grant period are to be used in accordance with the requirements of this part.

A primarily religious organization may establish a completely secular, private, nonprofit organization to serve as a recipient of HUD funds. This secular, nonprofit organization is eligible to receive ESG funding, subject to the following provisions:

- The secular organization must agree to provide shelter and other ESG-funded services in a manner that is free from religious influences and in accordance with the principles described above.
- The secular organization may enter into a contract with the religious organization to provide essential services or homeless prevention

activities. The religious organization must agree, as part of the contract, to carry out its responsibilities in a way free from religious influence.

In making an application to receive ESG funding, it is not necessary for the religious organization to establish the separate, secular organization prior to submitting the application or prior to its selection, but may apply on behalf of the secular organization to be established. The application is reviewed on the basis of the religious organization's financial responsibility, capacity, and its commitment to provide appropriate resources to the secular organization after its formation. After formation, the secular organization will be required to demonstrate that it meets the definition of a nonprofit organization (see appendix). Obligation of HUD's ESG funds will be conditioned upon compliance with these requirements.

The federal regulations at 24 CFR 576.23 are quite detailed on this requirement. These regulations are as follows:

Limitations—Primarily Religious Organizations 24 CFR 576.23

- (a) Provision of assistance.
- (1) Assistance may be provided under this part to a grantee or recipient that is a primarily religious organization if the primarily religious organization agrees to provide all eligible activities under this program in a manner that is free from religious influences and in accordance with the following principles:
- (i) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;
 - (ii) It will not discriminate against any person applying for shelter or any of the eligible activities under this part on the basis of religion and will not limit such housing or other eligible activities or give preference to persons on the basis of religion; and
 - (iii) It will provide no religious instruction or counseling, conduct no religious services or worship (not including voluntary nondenominational prayer before meetings), engage in no religious proselytizing, and exert no other religious influence in the provision of shelter and other eligible activities under this part.
- (2) HUD may provide reallocated amounts to a recipient that is a primarily religious organization if the assistance will not be used by the organization to acquire a structure (in the case of homeless prevention activities under 576.21(a)(4)), or to rehabilitate a structure owned by the organization, except as described in paragraph (b) of this section.
- (b) Rehabilitation or conversion of emergency shelters. Grants may be used to rehabilitate or convert to an emergency shelter a structure that is owned by a primarily religious organization, only if:
- (1) The structure (or portion thereof) that is to be renovated, rehabilitated, or converted with HUD assistance has been leased to an existing or newly established wholly secular organization;
 - (2) The HUD assistance is provided to the secular organization (and not the religious organization) to make the improvements;
 - (3) The leased structure will be used exclusively for secular purposes available to all persons;
 - (4) The lease payments paid to the primarily religious organization do not exceed the fair market rent for the structure before the renovation, rehabilitation, or conversion;

Limitations—Primarily religious organizations (continued) 576.23

- (5) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the religious organization; and
 - (6) The primarily religious organization agrees that if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay to the original grantee (from which the amounts used to renovate, rehabilitate, or convert the building were derived) an amount equal to the residual value of the improvements. A private nonprofit organization must remit to HUD this amount if the organization is the lessee as well as the grantee. The original grantee is expected to use this amount to alleviate homelessness in its jurisdiction, but there is no requirement that funds received after the close of the grant period be used in accordance with the requirements of this part.
- (c) Assistance to a wholly secular private nonprofit organization.
- (1) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The secular organization may be eligible to receive all forms of assistance available under this part, subject to the following:
 - (i) The secular organization must agree to provide shelter and services eligible under this part in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (a)(1) of this section.
 - (ii) The secular organization may enter into a contract with the religious organization to provide essential services or undertake homeless prevention activities. The religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (a)(1) of this section.
 - (iii) The rehabilitation, conversion, or renovation of emergency shelters are subject to the requirements of paragraph (b) of this section.
 - (2) HUD will not require the religious organization to establish the secular organization before the selection of its application. In such a case, the religious organization may apply on behalf of the secular organization. The application will be reviewed on the basis of the religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the secular organization after formation. After formation, a secular organization that is not in existence at the time of the application will be required to demonstrate that it meets the definition of private nonprofit organization contained in 576.3. The obligation of funds will be conditioned upon compliance with these requirements.

Appendix: Additional Resources

The following web pages available through HUD's web site contain helpful information:

<http://www.hud.gov/cpd/cpdcomde.html> - HUD's web page for Community Planning and Development programs (such as ESG)

<http://www.hud.gov/cpd/homeless.html> - HUD's Homeless assistance web page

<http://www.hud.gov/hmasist1.html> - HUD's homeless assistance providers page

<http://www.hud.gov/cpd/esg/handbook.pdf> - HUD's Monitoring Guidance for the ESG program

<http://www.hud.gov/fundopp.html> - funding opportunities available through HUD

<http://www.hud.gov/cpd/cpdalloc.html> - HUD's current CPD formula funding allocations including ESG

<http://www.hud.gov/cpd/idis/idisweb.html> - IDIS home page on HUD's web site

http://www.hud.gov/cpd/idis/refman/ref_man.html - IDIS Reference Manual

<http://www.hud.gov/lea> - Lead Based Paint Information

The Special Needs Assistance Programs office at HUD headquarters can be reached at:

U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 7258
Washington, DC 20140

Telephone Number **202-708-1226**

Glossary

The terms **Grantee and HUD** are defined in 24 CFR part 5. “*Grantee means the person or legal entity to which a grant is awarded and that is accountable for the use of the funds provided. HUD means the same as Department.*” (24 CFR 1.100)

Administrative costs means as the term is defined in 24 CFR 583.135(b) of this part, except that the exclusion relates to the costs of carrying out eligible activities under 24 CFR 576.21(a). “*Administrative costs include the costs associated with accounting for the use of grant funds, preparing reports for submission to HUD, obtaining program audits, and similar costs related to administering the grant after the award. This does not include the costs of carrying out eligible activities under 24 CFR 583.105 through 583.125.*” (24 CFR 583.135(b))

Consolidated plan means the plan prepared in accordance with part 91 of Title 24 of the CFR, which describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs, including the ESG program. An approved consolidated plan means a consolidated plan that has been approved by HUD in accordance with part 91 of this title.

Conversion means a change in the use of a building to an emergency shelter for the homeless under 24 CFR 576, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building after conversion. If such costs do not exceed 75 percent of the value of the building before conversion, they are to be considered rehabilitation and the three-year use requirement under 24 CFR 576.53 applies. The conversion of any building to an emergency shelter that is assisted under this part must meet local government safety and sanitation standards under 24 CFR 576.55. For projects of 15 or more units where rehabilitation costs are 75 percent or more of the replacement cost of the building, that project must meet the requirements of 24 CFR 8.23(a).

Displaced person means a person (family, individual, business, nonprofit organization, or farm) that moves from real property or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition. Permanent, involuntary

moves for an assisted project include: A) A permanent move from the real property (building or complex) following notice by the grantee, recipient or property owner to move permanently from the property, if the move occurs on or after the date that the grantee submits to HUD an application for assistance that is later approved and funded; B) A permanent move from the real property that occurs before the submission of the application to HUD, if the grantee, recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:

- The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex following the completion of the project at a rent, including estimated average utility costs, that does not exceed the greater of the tenant's rent and estimated average utility costs before the initiation of negotiations, or 30 percent of gross household income; or
- The tenant was required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and the tenant does not return to the building/complex; or
- The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

A person is not considered a displaced person if: A) the person has been evicted for cause based on a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; B) the person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement; C) the person is ineligible under 49 CFR 24.2(g)(2); or D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

The grantee/recipient may, at any time, request a HUD determination of whether a displacement if or would be covered under this section.

Emergency shelter means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for specific populations of the homeless.

Essential services includes services concerned with employment, health, drug abuse, and education and may include (but are not limited to):

- (a) Assistance in obtaining permanent housing.
- (b) Medical and psychological counseling and supervision.
- (c) Employment counseling.
- (d) Nutritional counseling.
- (e) Substance abuse treatment and counseling.
- (f) Assistance in obtaining other Federal, State, and local assistance including mental health benefits; employment counseling; medical assistance; Veteran's benefits; and income support assistance such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps;
- (g) Other services such as child care, transportation, job placement and job training; and
- (h) Staff salaries necessary to provide the above services.

Formula city or county means a metropolitan city or urban county that is eligible to receive an allocation of grant amounts under 24 CFR 576.5.

Homeless means as the term is defined in 42 U.S.C. 11302. “(a) *IN GENERAL. – For purposes of this Act, the term “homeless” or “homeless individual or homeless person” includes-- (1) an individual who lacks a fixed, regular, and adequate nighttime residence; and (2) an individual who has a primary nighttime residence that is: A) supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); B) a institution that provides a temporary residence for individuals intended to be institutionalized; or C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodations for human beings.*

- (b) *INCOME ELIGIBILITY.— (1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program*
- (c) *EXCLUSION.— For purposes of this Act, the term “homeless” or “homeless individuals” does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.” (42 U.S.C. 11302)*

Homeless prevention means activities or programs designed to prevent the incidence of homelessness, including (but not limited to):

- (a) Short-term subsidies to defray rent and utility arrearages for families who have received eviction or utility termination notices;
- (b) Security deposits or first month's rent to permit a homeless family to move into its own apartment;
- (c) Mediation programs for landlord-tenant disputes;
- (d) Legal services programs for the representation of indigent tenants in eviction proceedings;
- (e) Payments to prevent foreclosure on a home; and
- (f) Other innovative programs and activities designed to prevent the incidence of homelessness.

Indian tribe means as the term is defined in 42 U.S.C. 5302(a). *NOTE: Indian Tribes and Alaskan Native Villages now receive homeless assistance under a block grant as a result of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330). For information about this program, please consult HUD’s Office of Native American Programs or contact the national ONAP office in Denver at (303) 675-1600.*

Major rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

Metropolitan city means a city that was classified as a metropolitan city under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available. *“The term “metropolitan city” means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of*

Management and Budget, or (b) any other city, within a metropolitan area, which has a population of fifty thousand or more . . .” (42 U.S.C. 5302(a))

Private nonprofit organization is an eligible recipient of ESG funds from all grantees. The term private nonprofit organization “*means a secular or religious organization described in section 501(c) of title 26 that is exempt from taxation under subtitle A of title 26, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.*” (42 U.S.C. 11371)

Rehabilitation means the labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75 percent of the value of the building before the change in use.

Renovation means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

Responsible entity means as the term is defined in 24 CFR 58.2 of this title, as applied though 24 CFR 58.1(b)(3) of this title and 24 CFR 576.57(e). “*(b) Applicability. This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include: . . . (3) Grants to States and units of general local government under the Emergency Shelter Grant Program . . .*”. (24 CFR 58.1)

State means each of the several States, the Commonwealth of Puerto Rico, and the District of Columbia.

Territory means each of the following: the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

Transitional Housing is one type of supportive housing used to facilitate the movement of homeless individuals and families to permanent housing. Basically, it is housing in which homeless persons live for up to 24 months and receive supportive services that enable them to live more independently. The supportive services may be provided by the organization managing the

housing or coordinated by them and provided by other public or private agencies.

State recipient means any unit of general local government or nonprofit organization to which a State makes available emergency shelter grant amounts.

Unit of general local government means any city, county, town, township, parish, village, or other general purpose political subdivision of a State. (42 U.S.C. 5302(a))

Urban county means a county that was classified as an urban county under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available. *“(6)(A) The term "urban county" means any county within which— (i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government; and (ii) either-- (I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government ...”* (42 U.S.C. 5302(a))

Value of the building means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or recipient.



Homeless Prevention in the Emergency Shelter Grants Program

March 2001



U.S. Department of Housing and Urban Development
Office of Community Planning and Development

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1. Introduction

Homeless Prevention in the Emergency Shelter Grants Program

This brochure provides information about homeless prevention efforts within the Emergency Shelter Grants (ESG) program, and highlights some specific homeless prevention strategies employed by ESG grantees and the agencies (recipients) that operate ESG projects.

Prevention can be viewed as a sensible and cost-effective way of addressing homelessness in this country. By lowering the rate of entry of people into the homeless population, service providers can more effectively aid those who are currently homeless. In addition to




saving the cost of shelter and related social services, prevention efforts can also reduce the human and social costs of homelessness. Homeless prevention programs help people to maintain steady employment and self-sufficiency, thereby generating real benefits in our communities, schools, and places of work.

This brochure begins with a brief overview of the Emergency Shelter Grants program and a summary of the regulations and limitations pertaining to ESG homeless prevention. Section 2 is organized around the main types of activities funded under the ESG category of homeless prevention:

- Short-term financial assistance;
- Tenant-landlord mediation services; and

■ Legal services to prevent eviction.

Section 3 of the brochure describes outreach and eligibility screening strategies for ESG-funded homeless prevention projects. Finally, Section 4 presents some of the ways in which grantees and recipients may track or follow-up with beneficiaries of homeless prevention assistance provided under ESG.

Throughout Sections 2, 3, and 4, you will find specific project examples (identified by the  symbol) that represent successful implementation strategies for homeless prevention assistance in several states. We hope that by disseminating this information and the accompanying examples, ESG grantees and recipients will be better equipped to support and maintain homeless prevention activities.

The Emergency Shelter Grants (ESG) Program

The Emergency Shelter Grants program was originally established by the Homeless Housing Act of 1986, in response to the growing issue of homelessness among men, women, and children in the United States. In 1987, the ESG program was incorporated into Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378).

The objectives of the Emergency Shelter Grants program are to increase the number and quality of emergency shelters and transitional housing facilities for homeless individuals and families, to operate these facilities and provide essential social services, and to help prevent homelessness.

Since its inception and incorporation into the McKinney Act, the ESG program has helped states and localities provide facilities and services to meet the needs of homeless people. ESG funds assist in providing shelter for homeless persons, but also aid in the transition of this population to permanent homes.

Designed as a *first step* in a continuum of assistance, the ESG program strives to help emergency shelter residents meet their most immediate needs as well as aid them in their transition towards independent living. ESG serves a broad population encompassing both homeless individuals and families, with no

restrictions or further targeting. Through homeless prevention activities, the program also serves individuals and families *at risk* of losing their permanent housing. It is significant to note that ESG is the only HUD McKinney program that may be used to *prevent* homelessness.

For complete and comprehensive information on the ESG program, including directions on how to apply for funding and details on all the pertinent rules and regulations, please refer to the *ESG Desk Guide* that can be accessed through the HUD website.

Homeless Prevention Activities

Homeless prevention became an eligible ESG activity category in FY 1989 – adding a new population and a new dimension to the program. Since then, many grant recipients have developed prevention projects. However, homeless prevention activities tend to represent a modest portion of the funded ESG components. For instance, a recent assessment of 30 ESG projects nationwide found that only 5 of 30 (or 17 percent) were implementing homeless prevention activities as part of their grant.

ESG grantees may allocate up to 30 percent of their total ESG award to homeless prevention. The 30 percent limitation applies only to the overall grant. It does not apply to an allocation made to an individual recipient.

To help prevent the incidence of homelessness in a community, ESG funds can be used to support a variety of activities, including (but not limited to):

- Short-term subsidies to defray rent and utility debts for families that have received eviction or utility termination notices;
- Security deposits or first month's rent to permit individuals or families at risk of homelessness to obtain permanent housing;
- Mediation programs for landlord-tenant disputes;

- Legal services programs for the representation of indigent tenants in eviction proceedings;
- Payments to prevent foreclosure on a home; and
- Other innovative programs and activities designed to prevent the incidence of homelessness.

Certain conditions govern the activities funded under the homeless prevention component of the ESG program. For example, ESG funds can be used to provide direct *financial* assistance to families to prevent homelessness only under specific circumstances that are discussed in the next section. In addition, this component has particular documentation requirements for participant eligibility that are explained in Section 3 of this brochure.

2. Eligible Homeless Prevention Activities

This section describes the three main categories of homeless prevention assistance within the ESG program:

- short-term financial assistance for rent, mortgage, security deposit or utility payments;
- tenant-landlord mediation; and
- legal services to prevent eviction.



It should be noted that agencies and nonprofit organizations engaged in homeless prevention activities may provide several types of services that fall under these categories. Descriptions of possible activities presented in this section are taken from real examples of ESG projects.

Short-term Financial Assistance

Many ESG grantees and recipients use homeless prevention funds to provide short-term financial assistance to defray rent and utility debts for families. It is important to note that the law places some limitations on this type of assistance. Namely, ESG homeless prevention funds can be used for financial assistance *only* under the following circumstances:

- the assistance is necessary to prevent eviction or termination of utility services;
- the inability of the household to pay the rent, mortgage or utility payment is due to a sudden loss of income;
- there is a reasonable prospect that the household will be able to resume payments within a reasonable period of time; and

- the assistance will not supplant funding for preexisting homeless prevention activities from other sources.

To meet these requirements, the individual or family must already have received an eviction notice, foreclosure notice, or notification of utility termination. There must also be documentation on the sudden loss of income, and information to substantiate the service provider's expectation that the household will be able to resume payments soon (e.g., evidence of future income such as SSI, TANF, etc.).



Prevention of Mortgage Foreclosure

The *Bi-County Community Action Program (Bi-CAP)* of Bemidji, Minnesota, directs ESG homeless prevention funding to clients needing financial assistance to prevent mortgage foreclosure. This is a growing issue in the communities served by Bi-CAP, in part due to the high levels of poverty in this mostly rural area. Potential beneficiaries of homeless prevention assistance are carefully screened to determine the severity of the situation and whether direct financial help will “cure” the problem. For example, agency staff may examine whether the housing will be affordable after the initial crisis is managed. Sometimes, cash assistance from Bi-CAP is combined with assistance from other community service agencies. If warranted, a mortgage foreclosure prevention specialist at Bi-CAP can assist clients in identifying alternative affordable housing options.



“Last Resort” Financial Assistance

The *Community Sharing Fund* of the St. Paul Foundation is considered a “last resort” emergency fund. Working through a network of 70 social service agencies in a three-county area, this recipient of ESG homeless prevention monies serves clients who are in danger of being evicted from their homes and are not eligible for help elsewhere. A thorough screening process and documentation of the eviction proceedings help staff to assess the potential for solving the housing problem through short-term cash assistance. In some cases, clients are required to attend financial

management classes prior to receiving monetary assistance. Where a “reasonable” chance of success in solving the problem exists, financial awards (averaging \$400) are made to the referring agency, which in turn provides a check to the landlord for payment of the rent.

Tenant-Landlord Mediation

ESG homeless prevention funds are sometimes used to support mediation or alternative dispute resolution programs for landlord-tenant disputes over issues such as non-payment of rent, housing repair or maintenance, or the recovery of security deposits. While there is a range of mediation programs available to address tenancy issues, a common theme is that they generally involve *pre-judicial* efforts to resolve the dispute. To be successful, tenant-landlord mediation services require a strong working relationship between the mediating agency and the landlords and property owners. A number of ESG-funded homeless prevention projects have demonstrated a high level of accomplishment in this area.



Tenancy Preservation Program

In Springfield, Massachusetts, the *Mental Health Association's (MHA)* Tenancy Preservation Program works to help families and individuals in Hampden County retain their current permanent housing or find more appropriate alternative housing to avoid eviction and homelessness. The Hampden County Housing Court, Massachusetts Housing Finance Agency housing managers, public housing providers, and/or legal services professionals (including judges) refer tenants at risk of eviction due to tenancy problems resulting from mental illness, substance abuse, or other cognitive problems. Experienced outreach staff from MHA work collaboratively with the referring agencies to engage the client, complete a comprehensive assessment and service plan, and facilitate access to service providers *before* tenancy is lost.



Pre-court Mediation Services

In Virginia, Minnesota, *Legal Aid Services* works with low-income tenants who have received eviction notices to identify the problem and mediate a solution with the landlord. Mediation may include the negotiation of a payment plan, or a delayed move-out date to allow the tenant sufficient time to secure safe and affordable housing. Staff also work closely with local government and service agencies that provide emergency financial assistance to address housing issues. The success of this ESG-funded homeless prevention project is attributable to the agency's strong working relationship with public and private housing providers, including property management companies.



Mediation Services at Eviction Hearings

In Madison, Wisconsin, ESG homeless prevention funds help to support a landlord-tenant eviction mediation project run by the *Tenant Resource Center*. In this project, volunteer mediators facilitate communication between tenants and landlords during attendance at weekly eviction court in Dane County. If there appears to be a potential to resolve the dispute prior to setting the case for trial, the mediator assists the two parties with finalizing and drafting a written agreement. The presence of a neutral third party often serves to defuse the situation and prevent immediate eviction of the tenant. Common outcomes include the development of a payment plan to allow the tenant to remain in the housing, or a negotiated move-out date that gives the tenant enough time to find alternative housing.

Legal Services

Legal services programs funded under ESG homeless prevention typically involve the representation of low-income tenants in eviction proceedings. Legal services provided under ESG may also include representing a client in

other housing-related disputes such as denial of entry into public housing or termination of rental subsidy.



Public Housing Admission Denials

Legal Aid Services of Northeastern Minnesota also uses ESG homeless prevention funds to assist low-income clients who have been denied admission to public housing. Staff work with public housing directors to determine the reason for denial, and formulate a plan to address the issue. For example, if a criminal record caused the denial, Legal Aid Services will work to identify the circumstances surrounding the crime, and any evidence of rehabilitation. They may then request a hearing to set forth reasons for reconsideration. Legal Aid Services staff – and their colleagues in mediation services – have established good working relationships with public housing agency staff. Furthermore, they have a demonstrated ability to develop plans that address the issues preventing clients from securing or remaining in housing.



Legal Counsel to Prevent Homelessness

Legal Action of Wisconsin targets ESG homeless prevention funds to assist low-income clients facing homelessness in Rock County. ESG funds help to support two part-time housing attorneys who handle intake, legal counsel, and referral to other lawyers as needed. The attorneys provide intake services three days per week in two cities in the county. Most referrals come from community action programs, housing programs, and a variety of local non-profit organizations. Legal services to prevent homelessness focus on two primary areas: housing evictions and terminations of rental assistance (e.g., Section 8). Potential clients are screened for eligibility based on the same criteria established for non-ESG services—income (up to 125 percent of the federal poverty level) and citizenship status (including legal aliens). Housing attorneys meet with other staff attorneys on a weekly basis to discuss and prioritize cases on the basis of need and merit. Legal assistance may include negotiation with the landlord or housing authority, representation in court proceedings, or representation at housing authority administrative hearings.

3. Outreach and Eligibility Screening

Successful outreach to potential participants in an ESG homeless prevention project requires close working relationships with various sources of referrals in the community. Grantees and recipients may network with a variety of social service and housing agencies to identify persons *at risk* of homelessness. They must then carefully evaluate the needs of this population in their community. Regardless of the source of referral, however, it is essential for project staff to determine and correctly document each client's eligibility for homeless prevention assistance. The guidelines for eligibility under ESG homeless prevention are outlined in this section.



Homeless Prevention Outreach

Participant outreach strategies in homeless prevention projects vary depending on the type of agency/organization and the nature of the assistance provided. In some cases, ESG-funded grantees and recipients seek out individuals or families in the community in need of homeless prevention services. In other cases, potential clients self-refer, or are referred for assistance by another agency, nonprofit organization, or centralized intake system. Regardless of the outreach or referral source, all clients must meet the statutory requirements for eligibility described later in this section.



Court-assisted Outreach

In Madison, Wisconsin, the *Tenant Resource Center's (TRC)* eviction mediation project also serves an outreach function. The court clerk works

directly with TRC staff to keep them apprised of upcoming eviction proceedings through a weekly printout of eviction cases on the court docket for the following week. Using the contact information on the court documents, TRC staff send postcards to the tenants to remind them of the court date and to explain mediation services available to them at the hearing. Regardless of the response to the postcard, volunteer mediators attend each hearing to again offer their services to the tenant.



Telephone Screening and Referral

The City of Nashville, Tennessee, relies on a central point of entry into the city's homeless services system. A telephone hotline, called the Congregational Helpline, provides screening and referral services for individuals seeking a broad range of homeless services. Through the Congregational Helpline, the *Campus for Human Development* identifies individuals "close to eviction" who may benefit from ESG-funded financial assistance for rent and/or utilities. The agency verifies all financial need information with landlords and utility companies, and follows-up in person with the clients. The Campus for Human Development provides homeless prevention cash assistance on a first come, first served basis (usually limited to one time only). However, staff make decisions on a case-by-case basis, taking into account any extenuating circumstances. Furthermore, staff may provide alternative services such as financial counseling through other funding sources.

Eligibility Determination

As noted earlier, a number of guidelines govern the use of ESG homeless prevention funds. For example, direct financial assistance requires evidence that the individual was being forced out due to formal eviction, foreclosure, or utility termination proceedings. Furthermore, there must be evidence of the status of payments related to this. Therefore, any agency providing financial assistance with ESG homeless prevention funds must obtain *documentation* of:

- formal eviction, foreclosure, or utility termination proceedings;

- the inability to pay due to a sudden loss of income;
- the payment being necessary to prevent homelessness; and
- the resumption of payment being reasonably expected in the near future.

Identifying applicants eligible for homeless prevention assistance is the first step toward meeting the needs of those at risk of losing their permanent housing. However, the demand for homeless prevention services often exceeds the availability of funding. As a result, ESG program recipients may still need to prioritize assistance among those deemed eligible. This is sometimes accomplished with a “first come, first served” policy. More often, there is a condition imposed by the agency regarding the frequency with which an individual or family can obtain assistance.



Automated Database for Service History

In Topeka, Kansas, *Doorstep, Inc.* operates a homeless prevention project that provides emergency cash assistance to individuals and families facing eviction. The agency screening process requires proof of income-based eligibility as well as documentation of the pending eviction. A citywide computerized database links all social service agencies in Topeka and enables them to track client-level data, including income source, service use, and previous cash assistance. Participating agencies use the information in the database to ensure that direct cash assistance is not provided to the same individual or family more than once in a 12-month period.



Income Eligibility Guidelines

One way in which a homeless service provider may choose to prioritize eligibility for prevention services is through an income cutoff guideline. *Legal Aid Services*, an ESG-funded legal service provider in Minnesota, has set this eligibility guideline at less than or equal to 125 percent of the federal poverty level (FPL). That is, any individual or family with a household income less than or equal to 125 percent of the federal poverty level is eligible for housing-related legal services. Within those guidelines, however, the provider may still

find it necessary to prioritize cases due to limited staff resources. In that situation, evictions and denials to public housing take precedence over mediation services involving housing repairs or unrecovered security deposits.

4. Tracking and Follow-Up

While not expressly required by ESG program regulations, some grantees and recipients engaged in homeless prevention activities endeavor to follow-up with clients served to determine the outcome of such assistance. For example, an agency may follow-up with a tenant and/or landlord to see if they upheld the terms of their mediated agreement (i.e., were payments made to the landlord as scheduled, did the tenant move out by the date specified, etc.), and to determine whether the tenant maintained stable housing. The following are typical examples of tracking and follow-up implemented by ESG recipients.



Tracking Direct Cash Assistance

The *Community Sharing Fund (CSF)* of St. Paul, Minnesota, has several procedures in place to ensure the proper use of financial assistance for rent or utilities. First, CSF sends the check directly to the social service agency working with the client. That agency, in turn, cuts a check to the landlord. The Community Sharing Fund then obtains a copy of the cancelled check from the agency, as well as a signed statement regarding the use of the funds. Although no regular follow-up is required, CSF periodically pulls files at random to trace the progress of assistance. Furthermore, the direct service agencies involved with the client frequently continue to provide supportive services well past the short-term cash assistance provided by CSF.



Follow-up on Mediation Services

The *Tenant Resource Center* of Madison, Wisconsin, routinely attempts to follow-up with clients that have received mediation services supported by ESG homeless prevention funding. The agency reviews the file approximately three

months after the provision of services, and attempts to follow-up with the tenant and/or the landlord. The goal of the follow-up is to determine whether the agreement decided upon during mediation was upheld. Staff track their attempts to contact both parties via a telephone log. After five attempts to reach the parties by telephone, a letter is mailed to the tenant. Staff eventually reach at least half of the clients served, and of those reached approximately two-thirds of the cases are upheld at three months. If circumstances warrant, TRC staff may also follow-up with the landlord and/or tenant at six months.

Contact Information for Emergency Shelter Grants Projects Cited in Text:

Bi-County Community Action Program

Anne McGill, Assistant Director of Operations
2715 15th Street N.W.
Bemidji, MN 56601
Phone: 218-751-4631
Fax: 218-751-8542

Campus for Human Development

Becky Halvorsen, Human Resources Director
532 8th Avenue South
P.O. Box 25309
Nashville, TN 37202
Phone: 615-251-9791, x32
Fax: 615-251-3274

Community Sharing Fund of the Saint Paul Foundation

Carol R. Olson, Program Officer
600 Norwest Center
St. Paul, MN 55101-1797
Phone: 651-224-5463
Fax: 651-224-8123

Deorstep, Inc.

Lisa Milner
1119 S.W. Tenth Avenue
Topeka, KS 66604
Phone: 785-357-5341
Fax: 785-232-4685

Legal Action of Wisconsin, Inc.

Kevin Magee, Managing Attorney
31 South Mills Street
P.O. Box 259686
Madison, WI 53725
Phone: 608-256-3304
Fax: 608-256-0510

Legal Aid Services of Northeastern Minnesota

Karen Hill, Outreach Coordinator
820 North 9th Street, Suite 150
Virginia, MN 55792
Phone: 218-749-3270
Fax: 218-749-0706

Mental Health Association of Greater Springfield

Linda Williams, Executive Director
Jim Burdell, Program Director
146 Chestnut Street
Springfield, MA 01103
Phone: 413-734-5376

Tenant Resource Center

Megin Hicks, Program Director
1202 Williamson Street, Suite A
Madison, WI 53703
Phone: 608-257-0143
Fax: 608-286-0804