

# Homelessness Eligibility and Documentation Policy



# I. Introduction

## A. Overview

The Emergency Solutions Grant (ESG) Program is a federal program operated by the U.S. Department of Housing and Urban Development (HUD) to make grants to states, local governments, and territories for the purposes of funding activities that directly serve people experiencing homelessness, including people at risk of homelessness. The California Department of Housing and Community Development (CA HCD) is a direct recipient of ESG from HUD. CA HCD administers an annual allocation of ESG and an additional one-time allocation of ESG made available under the CARES Act.

For the purposes of this document, “annual ESG” refers to CA HCD’s annual allocation of ESG, “ESG-CV” refers to CA HCD’s one-time allocation of CARES Act ESG, and “ESG” refers to the program in general and to aspects of the program that apply to both annual ESG and ESG-CV.

This ESG Personally Identifying Information Policy (the “Policy”) provides comprehensive guidance on that subject to ESG projects.

## B. Applicability

This Manual applies to ESG grants funded using:

- Annual ESG
- ESG-CV

# II. General Requirements

The ESG Program’s primary regulatory body is 24 CFR Part 576, the ESG Program Interim Rule.<sup>1</sup> The ESG Program Interim Rule requires recipients to meet various requirements related to establishing and documenting the homelessness status of project participants.<sup>2</sup> CA HCD meets those requirements through this Policy by **establishing homelessness status documentation standards for CA HCD’s ESG subrecipients**. Addressing this requirement is the primary purpose of this Policy.

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<sup>1</sup> <https://www.hudexchange.info/resource/1927/hearth-esg-program-and-consolidated-plan-conforming-amendments/>

<sup>2</sup> 24 CFR 576.500(b)

### III. Definitions of Homelessness

ESG uses the HUD definitions of homelessness found in 24 CFR 91.5. It includes four “categories” of homelessness. Those categories are listed below. Each category has its own criteria and documentation standards, and each ESG program component is restricted to serving certain categories.

#### A. Category 1 – Literally Homeless

A person or family who lacks a fixed, regular, and adequate nighttime residence, meaning *any* of the following:

- (i) They have a primary nighttime residence that is a public or private place not meant for human habitation;
- (ii) They are living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, and local government programs); or,
- (iii) They are exiting an institution where they have resided for 90 days or fewer, and immediately prior to entering that institution, they were living in an emergency shelter or a place not meant for human habitation.

#### B. Category 2 – Imminent Risk of Homelessness

A person or family who will imminently lose their primary nighttime residence, meaning *all* of the following:

- (i) Their residence will be lost within 14 days of the date of their application for homelessness assistance;
- (ii) They have not identified a subsequent; and
- (iii) They lack the resources and support networks needed to obtain other permanent housing.

#### C. Category 3 – Homeless Under Other Federal Statutes

There are no CA HCD-funded ESG projects (and no plans to create projects) that are permitted to serve people who qualify as experiencing homelessness under this Category. As such, this Category is not described or further addressed in this Policy.

#### D. Category 4 – Fleeing or Attempting to Flee Domestic Violence

A person or family who meets *all* of the following criteria:

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- (i) They are fleeing or attempting to flee domestic violence, which includes but is not limited to sexual violence, dating violence, stalking, and human trafficking;
- (ii) They have no other residence; and
- (iii) They lack the resources and support networks needed to obtain other permanent housing.

### E. “At Risk of Homelessness” Definition

ESG also uses the HUD definition of “at risk of homelessness” found in 24 CFR 91.5.

To meet this definition, a person or family must meet *all* of the following criteria:

- (i) Their income must be less than 30% of the area median income (AMI);<sup>3</sup>
- (ii) They do not have sufficient resources or support networks (e.g. family, friends, faith-based or other social networks) to prevent them from moving into an emergency shelter or another location described in [Section II.B.1](#) of this Policy;
- (iii) They meet *at least one* of the additional criteria below:
  - a. They have moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
  - b. They are living in the home of another because of economic hardship;
  - c. They have been notified in writing that their right to occupy their current housing or living situation will be terminated within 24 days after the date of their application for assistance;
  - d. They live in a hotel or motel and the cost of that hotel or motel stay is paid for by an entity other than a charitable organization or a federal, state, or local government program for low-income individuals;
  - e. They live in a single-room occupancy or efficiency apartment unit in which there reside more than two people; or, they live in a larger housing unit in which there reside more than 1.5 people per room as defined by the U.S. Census Bureau;
  - f. They are exiting a publicly funded institution, or system of care (such as a health care facility, a mental health facility, a foster care or other youth facility, or corrections program or institution); or
  - g. They otherwise live in housing that has characteristics associated with instability and an increased risk of homelessness as identified in CA HCD’s approved consolidated plan, which can be found online [here](#).

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<sup>3</sup> <https://www.huduser.gov/portal/datasets/il.html>

## IV. Subrecipient Requirements

### A. Overview

Subrecipients are required to follow the requirements in this section. Certain elements of this section may be modified or waived for projects funded using ESG-CV or annual ESG from Financial Year (FY) 2021 or earlier when preparing, preventing, or responding to the COVID-19 pandemic; for more information, contact CA HCD.

### B. Eligibility by ESG Program Component

Each ESG program component has its own participant eligibility criteria related to the participant's homelessness status. Each component is required to serve only those participants who meet one of the criteria below.

*Note:* HMIS and Administrative Costs are not program components; they should be considered complementary activities that enable the other components to function (e.g. administrative costs providing for budgeting and reporting) or fulfill requirements (e.g. HMIS providing for participant data entry).

#### 1. Street Outreach

Street Outreach (ESG-SO) can serve people who are experiencing unsheltered homelessness, which is a subset of people who are experiencing literal homelessness according to the definition in [Section III.A.](#) whose primary nighttime residence is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, which includes but is not limited to a car, a park, an abandoned building, a bus or train station, an airport, or a camping ground.<sup>4</sup>

Note that the above requirement is intended to *include*, not *exclude*, people who are fleeing domestic violence according to the definition in [Section III.D.](#) in addition to experiencing unsheltered homelessness.

#### 2. Emergency Shelter

Emergency Shelter (ESG-ES) can:

- Intake (i.e. begin providing services to) people who are experiencing literal homelessness according to the definition in [Section III.A.](#); and,

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<sup>4</sup> 24 CFR 576.2, "Homeless" definition, (1)(i)

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- Continue providing services to people who are experiencing sheltered homelessness, which is a subset of people who are experiencing literal homelessness according to the definition in [Section III.A.](#) whose primary nighttime residence is an emergency shelter.

Note that the above criteria are intended to *include*, not *exclude*, people who are fleeing domestic violence according to the definition in [Section III.D.](#) in addition to experiencing literal homelessness;

### 3. Homelessness Prevention

Homelessness Prevention (ESG-HP) can serve people who meet *either* of the following criteria:

- They are at risk of homelessness according to the definition in [Section III.E.](#); or
- They meet *both* of the following sub-criteria:
  - They are *either* imminently at risk of homelessness according to the definition in [Section III.B.](#) or they are fleeing domestic violence according to the definition in [Section III.D.](#); and
  - Their income is less than 30% of the AMI.

### 4. Rapid Re-Housing

Rapid Re-Housing (ESG-RRH) can serve people who are experiencing literal homelessness according to the definition in [Section III.A.](#)

Note that the above requirement is intended to *include*, not *exclude*, people who are fleeing domestic violence according to the definition in [Section III.D.](#) in addition to experiencing literal homelessness.

## C. Documentation Timing

Each project is required to document that each of its participants meets the criteria for an eligible category of homelessness before that participant begins receiving ESG assistance. (This is referred to interchangeably as “documentation of homelessness,” “homelessness documentation,” “certification of homelessness,” and “homelessness certification.”)

## D. Order of Documentation

When establishing a participant’s eligibility, projects are required to document that participant’s homelessness status in the following order:

- (1) Third-party documentation: source documents or statements provided by an outside party
- (2) Staff/intake worker observation: documentation or statements provided by ESG staff within the agency

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- (3) Self-certification: documentation signed by the participant certifying that they meet the applicable definition of homelessness.

Before a project moves down the order of documentation—for example, before a project moves from third-party documentation to staff/intake worker observation—the project must document that the previous documentation could not be obtained. This can be documented via methods including case notes or signed certifications from the case manager.

Lack of third-party documentation *must not* prevent a person or family from being immediately admitted to emergency shelter or receiving outreach services, including shelter/outreach services provided by a victim services provider.

*For ESG-ES projects:* HUD recognizes that third-party documentation at the emergency shelter level is not feasible in most cases and has therefore provided an alternative methodology for establishing eligibility for shelter intake. This alternative methodology supersedes the order of documentation found in this Section. More information can be found here: <https://www.hudexchange.info/faqs/programs/emergency-solutions-grants-esg-program/program-requirements/expenditures-and-recordkeeping/what-is-acceptable-documentation-of-eligibility-for-homeless-individuals/>

### E. Documentation Standards by Category of Homelessness

Each category of homelessness (as listed in [Section III](#)) and the at risk of homelessness definition in [Section III.E](#). has its own standards of documentation.

#### 1. Documentation Standards for Category 1 – Literal Homelessness

##### a. Third-Party Documentation

Third-party documentation must be a signed, dated, written official communication from another housing provider, services provider, or another entity that has knowledge of the participant's living situation.<sup>5</sup> The referral or signed official communication must, at minimum, include the following:

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<sup>5</sup> “Another entity that has knowledge of the participant's living situation” is an intentionally broad category. Examples might include a law enforcement officer who has visibly identified a participant's unsheltered sleeping location, a grocery store that allows a participant to sleep outside their door at night, and an owner of a green space who has an arrangement with a participant allowing them to camp on that green space. The essential qualification is that the certifying entity must have *first-hand knowledge* of the participant's living situation.

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- A statement that the signatory has first-hand knowledge of the participant's living situation;
- A statement that the participant's living situation meets the criteria for literal homelessness according to the definition in [Section III.A.](#) and specifying which criteria are being met;
- A description of the participant's living situation sufficient to support the above.

Please also note the following:

- CA HCD does not prescribe the form in which third-party documentation is provided;
- A print-out from HMIS or an HMIS comparable database demonstrating that a participant is currently enrolled in a project that serves people experiencing literal homelessness (including but not limited to ESG-SO and ESG-ES projects) qualifies as third-party documentation; *note that this method of verification will be used primarily by ESG-RRH projects;*

### **b. Staff/Intake Worker Observation**

Staff/intake worker observation must be a signed, dated, written narrative from a staff or outreach worker attesting to the living situation of the participant. The narrative must include:

- A statement that the signatory has first-hand knowledge of the participant's living situation;
- A statement that the participant's living situation meets the criteria for literal homelessness according to the definition in [Section III.A.](#) and specifying which criteria are being met;
- A description of the participant's living situation sufficient to support the above.

When using this method of certification, the case manager must document that they first did their due diligence in attempting to secure third-party certification of homelessness as defined in [Section IV.E.1.a.](#) Due diligence can be documented in ways that include but are not limited to a signed, dated, written certification from the case manager, a case note in the participant's file, or another note attached to the participant's record.

### **c. Self-Certification**

Self-certification must be a signed, dated, written certification from the head of household applying for ESG assistance. It must include:

- A statement that the participant's living situation meets the criteria for literal homelessness according to the definition in [Section III.A.](#) and specifying which criteria are being met;
- A description of the participant's living situation sufficient to support the above;



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- A statement that the living situation above was true *at minimum* on the night before ESG project intake.

When using this method of certification, the case manager must document that they first did their due diligence in attempting to secure third-party certification of homelessness as defined in [Section IV.E.1.a](#) and to secure staff/intake worker observation as defined in [Section IV.E.1.b](#). Due diligence can be documented in ways that include but are not limited to a signed, dated, written certification from the case manager, a case note in the participant's file, or another note attached to the participant's record.

### **d. Exiting an Institution**

Participants who qualify as experiencing literal homelessness because (i) they are exiting an institution where they have resided for 90 days or fewer *and* (ii) they entered that institution from an emergency shelter or another place not meant for human habitation must be documented as experiencing literal homelessness in the following manner:

- (i) The institution must provide signed, dated, written certification from an appropriate staff member that attests to the participant's date of entry and date of exit, which must not constitute a stay longer than 90 days;
- (ii) Documentation establishing that the participant was living in an emergency shelter or another place not meant for human habitation as defined elsewhere in this section, which may (but is not required to) come from the institution.

## **2. Documentation Standards for Category 2 – Imminent Risk of Homelessness**

Documentation that a person is at imminent risk of homelessness as defined in [Section III.B](#) must fulfill the following criteria:

- It must include evidence that the applicant will lose their housing within 14 days, which must meet the following standards:
  - It must be in signed, dated, and in writing;
  - It must clearly state or identify that, absent external intervention, they will lose their housing within 14 days;
  - It must come from someone outside the applicant household, *or* the case manager must document that they did their due diligence in attempting to obtain third party certification and were unable to do so (standards for this may be found in [Section IV.E.1.a](#));
- It must include signed, dated, written certification from the applicant head of household that they have not been able to identify a subsequent residence; and
- It must include signed, dated, written certification from the applicant head of household or from the case manager *or* other written documentation that establishes that the

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applicant lacks the resources and support networks necessary to obtain other permanent housing.

Note that:

- CA HCD does not prescribe the form in which any of this documentation is provided;
- There are many circumstances under which a person might lose their housing within 14 days, but to qualify as being at imminent risk of homelessness, the evidence must demonstrate that they *will* lose their housing within 14 days; for example, an eviction order from a court with an eviction date within 14 days meets the standard, while a 5-day 'notice to pay or quit' does not.

### 3. Documentation Standards Omitted for Category 3

There are no CA HCD-funded ESG projects (and no plans to create projects) that are permitted to serve people who qualify as experiencing homelessness under this Category. As such, this Policy does not provide documentation standards for this Category.

### 4. Documentation Standards for Category 4 – Fleeing Domestic Violence

Certification that a person is fleeing domestic violence follows the third-party certification standards in [Section IV.E.1.a](#) and the self-certification standards in [Section IV.E.2.c](#).

It is especially important when certifying participants as experiencing homelessness under this Category to ensure that the order of documentation in [Section IV.D.](#) is not a barrier to accessing shelter or services.

While all documentation of homelessness is Personally Identifiable Information (PII), documentation that a person is fleeing domestic violence constitutes Sensitive Personally Identifiable Information (SPII) and should therefore be handled with the highest degree of security and confidentiality possible without creating unnecessary barriers to receiving shelter or services. For more information about PII and SPII, please refer to [CA HCD's ESG Personally Identifiable Information Policy](#).

### 5. Documentation Standards for “At Risk of Homelessness”

In determining an applicant's annual income, the project must use the standard for calculating annual income under 24 CFR 5.609 (sometimes called “Part 5 income calculation”).

Documentation that an applicant lacks sufficient resources and support networks to avoid experiencing literal homelessness must be acquired following the order of documentation in [Section IV.D.](#) and must follow the third-party certification standards, staff/intake worker observation, and self-certification standards in [Section IV.E.1.](#)

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Documentation that an applicant meets at least one of the “additional criteria” must be acquired following the order of documentation in [Section IV.D.](#) and must follow the third-party certification standards, staff/intake worker observation, and self-certification standards in Section [IV.E.1.](#)

## Appendix A: Changelog

Date Effective	Description
5.11.2022	Updated draft into new format