



# CDBG HOUSING MANUAL

Appendix E

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## Overview

Like all other aspects of the CDBG Program, there are a variety of ways that grantees may use CDBG funds for housing activities that serve low- and moderate-income households (LMI). However, the majority of grantees in California will administer housing programs as discussed in this manual.

[CDBG Income Limits](#)

## 1 Housing Rehabilitation

This part of the Housing Chapter reviews traditional housing rehabilitation activities and provides a step-by-step process for implementing housing rehabilitation programs in compliance with applicable rules and requirements.

### 1.1 Meeting a National Objective in Housing Rehab

All CDBG-funded activities must not only be eligible, but also meet a national objective. Housing rehabilitation activities must result in permanent residential housing that is occupied by low- and moderate-income (LMI) households upon completion.

[24 CFR 570.483\(b\)\(3\)](#)

[Guide to National Objectives and Eligible Activities for State CDBG Program](#)

Occupancy of housing shall be based on the household income of all household members over 18 years of age using the following rules:

- Each single-family unit rehabilitated with CDBG funds must be occupied by a LMI household.
- If the structure contains two dwelling units, at least one unit must be occupied by a LMI household.
- For properties with more than two units, at least 51% of the units must be occupied by LMI households.

For more information on documenting households as LMI, grantees should refer to Section 2.2 Applicant Eligibility below.

### 1.2 Connections to water/sewer lines and septic systems

The costs of connecting existing residential structures to water distribution lines or local sewer lines and payment of connection fees are eligible costs. The upgrading or replacement of an existing substandard septic system is also an eligible cost as part of a rehabilitation project, if providing a utility connection is cost prohibitive. Grantees should work with the local health department (LHD) to determine the criteria for a substandard septic system.



### 1.3 Washers, Dryers and Dishwashers

Washers, dryers and dishwashers are commonly installed in affordable and starter homes that are not funded with CDBG. Therefore, the Department will allow Grantees to utilize CDBG funds to install energy efficient (compliant with Energy Star Standards) clothes washers, dryers, and dishwashers when done in conjunction with housing rehabilitation and or newly created housing units in the CDBG program.

Clothes washers, dryers and dishwashers may be purchased and installed with CDBG funds when **ALL** of the following conditions are met:

- CDBG funds will be used to assist the rehabilitation or creation of housing units;
- Installation of such appliances conform to local market demand and is comparable to unassisted homes in the local market;
- Deed restrictions or covenants ensure that the appliances remain in the housing units, if appropriate;
- Qualifying appliances meet or exceed Energy Star standards (dryers should follow standards below since Energy Star does not rate dryers);
- National objective requirements and all other applicable local requirements are met.

#### **High efficiency appliances must meet the following requirements:**

##### *Clothes Washers*

- Consortium for Energy Efficiency (CEE) Tier 2 or higher
- Minimum energy factor of 2.0 or greater
- Water factor 6.0 or less

##### *Clothes Dryers*

- Minimum 7.0 cubic feet capacity: shortens dry time by allowing air flow
- Sensor Dry system: measures moisture in drum then automatically adjusts drying time
- Five Temperature Levels: high, medium high, medium low, low, and ultra low

##### *Dishwashers*

- Consortium for Energy Efficiency (CEE) Tier 2
- Minimum energy factor of 0.68 or greater



- Maximum annual energy use of 325 kilowatt-hours or less

### 1.4 Ineligible Activities

The general rule is that any activity not specifically authorized under the CDBG regulations is ineligible to be assisted with CDBG funds. The regulations stipulate that the following activities may not be assisted with CDBG funds:

[24 CFR 570.204\(b\)](#)

- New housing construction except under certain conditions<sup>1</sup>.
- Income payments, which are defined as grants exceeding 3 consecutive months, to an individual or family that are used to provide basic levels of food, shelter (i.e., payment for rent, mortgage and/or utilities) or clothing;
- Luxury or non-standard items, such as swimming pools, Jacuzzis, high-end appliances, window air conditioners, etc.; and
- Labor time for sweat equity may not be paid out to recipients of rehabilitation assistance.

## 2 Program Guidelines

All Grantees must develop program guidelines covering the procedural requirements of its rehabilitation program and administer the guidelines uniformly.

E-1: Sample Housing Rehab Program Guidelines

These guidelines should be specific to the project and well defined as to what the grantee requires of the property owner in return for providing the assistance. Guidelines should generally contain the following key elements (which are discussed in detail below):

- Types of financial assistance,
- Applicant eligibility,
- Property eligibility,
- Property standards,

<sup>1</sup> Generally, new construction of housing is not eligible under the CDBG program. However, the regulations allow for certain eligible entities to carry out this activity on behalf of the state grantee. Grantees should consult with HCD if they intend to request CDBG funds for new construction of housing.



- Contracting requirements,
- Relocation requirements,
- Complaints procedures, and
- Maintenance agreements.

The program guidelines should be developed by local agency staff.

Guidelines should be written clearly and in their preferred language and made available to all potential applicants to the rehabilitation program.

The guidelines should be adopted by the local governing body and should always include a clause describing the process by which they can be changed. If the local governing body passes special policies that change the adopted guidelines, these changes must also be approved by the governing body as an addendum to the guidelines.

All applicants initially selected to participate in the project are considered “potential” applicants until verification of income can prove they are low and moderate-income based on the applicable HUD income limits. This verification should not be done until CDBG funds are made available. Once the Grantee has confirmed the applicants are eligible, the program guidelines should be presented to the applicant household prior to commencing work on their properties. HCD has provided tools 2-1 and 2-2 to assist Grantees with income verification.

Tool 2-1: Part 5 and IRS  
Income Determinations

Tool 2-2: Income Verification  
and Review Guidance

It is considered “best practice” for the Grantee to ensure that the property owner has initialed each page and signed the last page of the guidelines to avoid potential issues/complaints that may occur during the provision of assistance. Applicants who choose not to comply with the grantee’s guidelines can choose not to participate in the voluntary rehabilitation project.

### 2.1 Types of Financial Assistance

There are two types of financial assistance that can be provided in housing rehabilitation programs—grants and loans—and within each category there are numerous variations. HCD allows grantees the flexibility to determine which type of financial assistance to use depending upon local program design.

- **Grants.** Grantees can use CDBG funds to make outright grants to eligible households to cover the cost of rehabilitation of homes. Grants do not have to be paid back and normally come with no restrictions or further obligations by the recipient to the grantee. Many grantees will provide grants for the cost of temporary



relocation or lead hazard removal. (NOTE that grants are the only allowed form of assistance under involuntary programs.)

- **Loans.** A loan is a sum of money lent to a borrower. The use of loans to provide rehabilitation assistance may enable the grantee to recover all or a portion of the original financial assistance for use in accomplishing additional housing rehabilitation. Loans also provide the Grantee with an additional security on the property that is not possible when funds are provided as a grant.
  - Loan programs are self-perpetuating when loan proceeds are used to provide other loans. Repayments from housing rehabilitation loans made with CDBG funds are considered Program Income and are to be expended according to HCD requirements. (See Chapter 6: Financial Management for more information.)

There are three basic types of loan programs that may be established:

- ✓ **Forgivable loans.** A forgivable loan resembles a grant in that if the present owner retains the property for a certain period (usually a minimum period of five years), no repayment is required. The forgivable loan is instituted through the use of a mortgage and often accompanied by a promissory note. Each year the owner retains ownership and resides in the home a certain percentage of the loan amount is forgiven as if it were a grant. Should the owner continue as owner-occupant of the home until the term of the note expires, the owner pays nothing and has no conditions on the disposition of the property. Should the property be sold, vacated or its use changed prior to the expiration of the note, the owner owes the grantee whatever balance remains on the note. Mortgages and promissory notes must be recorded at the local county recorder.
- ✓ **Deferred loans.** A deferred loan is a loan made to an eligible homeowner that does not require repayment for a specified number of years or until the property is sold, at which time the loan balance would become due. The balance payable, at the time of sale, may be prorated by the Grantee due to the depreciation of rehabilitation work. HCD recommends a deferment period of at least five years. Grantees often use deferred loans to provide assistance to households that are currently unable to afford loan repayments. Funds received by the grantee for repayment of a deferred loan may be recycled for additional housing rehabilitation when repaid. This must be in accordance with the Grantee's revolving loan fund policy. (Refer to Chapter 6: Financial Management for additional guidance on revolving loan funds.) The deferred loan is instituted through the use of a mortgage and often accompanied by a promissory note.
- ✓ **Amortizing loans.** Amortizing loans are loans that require payment and that have a set interest rate and term. Grantees have the discretion to utilize a sliding scale interest rate, in which the interest rate is related to a household's income or ability to pay, or may provide loans at a single interest rate for all





households. The term of the loan is also at the discretion of the grantee. All loans may be made for the same term or terms may be adjusted depending upon the size of the loan and the borrower's ability to pay (e.g., larger loans having longer terms). The amortizing loan is instituted through the use of a mortgage and often accompanied by a promissory note.

**NOTE: HCD requires a minimum of a five-year primary residency requirement for recipients of homeowner rehabilitation assistance. Therefore, the Grantee should use a mechanism such as a recorded covenant or lien on the property to ensure that this requirement is enforceable.**

A grantee should design its programs so that financial assistance is affordable to recipients. It is generally assumed that a household can afford to pay up to 25 to 30 percent of their gross monthly income for housing costs (rent or mortgage payment). The guidelines should clearly explain how ability to pay will be calculated (specifically what percent of household income will be used). If a household's ability to pay is zero, a forgivable payment loan may be the most appropriate option. Regardless of the percentage amount chosen, the determination must be used consistently across the program for all recipients.

## 2.2 Applicant Eligibility

Program guidelines should specify who is eligible for the program, the types of assistance for which they are eligible, and the amount of assistance available. The types and amounts of assistance available should be based on household and tenure characteristics and ability to pay and should be consistent across a grantee's program. Grantees should consider the following when designing a housing program:

- Allowable income and asset limits for the applicant;
- Fairness and equitable distribution of benefits (see Appendix B: Equity and Belonging Toolkit for more information);
- Application procedures; and
- Conflict of Interest (more information in Chapter 4: Grantee Requirements)

### Determining Household Income

Once funds have been awarded to the grantee, but before providing any assistance, the grantee must conduct a detailed income verification of all applicants. Grantees are required to follow the Part 5 (Section 8) method of calculating annual household income. GMM Tool 2-2 has been created to assist Grantees with income verification.

[CDBG Income Limits](#)

[GMM Tool 2-2](#)

The Part 5 (Section 8) definition of annual income is the gross amount of income of all adult household members that is

[24 CFR 5.609](#)



anticipated to be received during the coming 12-month period.

This income definition is used by a variety of federal affordable housing programs including Section 8, Home Investment Partnerships Program (HOME), Public Housing, and the Low-Income Housing Tax Credit (LIHTC) Program.

24 CFR Part 5 provides a comprehensive list of the types of income that are included and excluded from the calculation of annual gross income. Income from assets is also recognized as part of annual income under the Section 8 definition. The following steps should be taken to determine household income for the purpose of determining eligibility for CDBG housing assistance:

**Step 1:** Ask questions of the household regarding annual income and income from assets. Follow the rules pertaining to what types of income to include and exclude.

**Step 2:** Gather appropriate documentation such as wage statements, interest statements, third-party verifications, etc. *Note: Third-party written verification, is considered best practice, but only when conducted in coordination and with signed consent from the applicant to avoid unintentionally causing harm. For more information on harm and income documentation please see Appendix B: Equity and Belonging Toolkit of the CDBG Grants Management Manual.* Self-certification of income by the household should only be used as a last resort for direct benefit housing activities. Be aware that HUD may challenge national objective compliance when using self-certification as a regular method of income verification.

**Step 3:** Calculate total household income by adding up the information obtained. HCD has provided Tool 2-1 and Tool 2-2 for determining household income.

[GMM Tool 2-1](#)

[GMM Tool 2-2](#)

**Step 4:** Compare the total household income to the HUD income limits for that household's size. Income limits are provided by HCD and can be found on HUD or HCD's website. Determine if eligible for assistance.

**Step 5:** Place the income calculation, determination and back-up documentation in the appropriate files.

Details and forms used for calculating household income for rehabilitation projects are provided in the "Technical Guide for Determining Income and Allowances" and an Income Calculator for CDBG is available for use on the HUD Exchange website: <https://www.hudexchange.info/incomecalculator/>.

### 2.3 Fairness and Equitable Distribution of Benefits

- Program Design may not benefit moderate-income households to the exclusion of low-income households.
- The Program may not be designed in a manner that would deny reasonable



benefit to minority, elderly or female-headed households through its guidelines and loan structuring;

- The Program may not be designed in a manner that would deny reasonable benefit to persons based on their marital status, gender identity or sexual orientation; and
- The Program Design **may** state a residency time requirement.

### 2.4 Property Eligibility

Units eligible for rehabilitation must be substandard and occupied by LMI households (households whose income is below 80 percent of the area median income as provided by HUD annually). Grantees must identify and document the major deficiencies that qualify the unit as substandard.

The Program Design must explicitly define how it will address owner-occupied properties or investor-owned (renter-occupied) properties. CDBG funds may be used for either, as determined by the Program Design. In either case, the Program Design must adopt policies that assure that public expenditures are protected from fraud, waste and mismanagement. Safeguards must be in place to prevent benefit to persons unintended to receive program benefit and to protect renters from rent hikes.

The grantee must receive and document proof of ownership from the recipient. A family or individual owns the property if that family or person:

- Has title to the property;
- Maintains a 99-year leasehold interest in the property;
- Has a recorded life estate agreement; or
- Owns or has a membership in a cooperative or mutual housing project that constitutes homeownership under state law.

HCD requires the grantee to conduct a title-search to determine the applicant is the rightful owner of the property. The title search will also allow grantees to learn if there are any outstanding liens on the property. All tax liens must be cleared before assistance can be provided to the applicant.

Since HCD requires a minimum five-year residency requirement for all owner-occupied rehab recipients, it is recommended that grantees have recipients sign a certification that the property is and will remain their primary residence. This five-year residency requirement should also be clearly stated in the agreement between the recipient and the grantee and recorded in a lien or covenant.

Homeowners must also have current insurance and maintain insurance over the period



of CDBG assistance for a property to be eligible for rehabilitation with CDBG funds. The grantee should be listed on the policy as an additional party or loss payee to obtain notification of insurance coverage or changes to the policy.

### 2.5 Conflict of Interest

CDBG grantees and subrecipients must comply with procurement requirements as outlined in Chapter 5: Procurement and with other state and local applicable conflict-of-interest provisions.

If a grantee believes there may be a potential conflict of interest with a property or applicant, the grantee should refer to Chapter 4: Grantee Requirements and/or contact HCD for further guidance.

### 2.6 Property Standards

The rehabilitation program guidelines should specify the property standard that units must meet after rehabilitation is complete.

Grantees must meet all local housing codes and occupancy standards for their rehabilitation program. At a minimum, the grantee must adopt the International Code Council (ICC) Property Maintenance Code. All new construction and reconstruction projects must meet the California Building Standards Code.

[International Code Council \(ICC\) Property Maintenance Code](#)

[California Building Standards Code \(California Code of Regulations, Title 24\)](#)

The guidelines should clearly state both the eligible and ineligible improvements. Key rules in this area include:

- Any improvement needed to bring the unit to code or which will result in energy conservation should be specified as an eligible improvement.
- General property improvements—carports, window air conditioning, den additions, etc., are generally ineligible.

To comply with HUD's Lead Safe Housing Rule (LSHR), rehabilitation to all units built prior to 1978 must follow prescribed rehabilitation practices and pass final clearance before approval of payment to the contractor. Tenants may be required to vacate the unit and not allowed re-occupancy unit until an acceptable clearance test is achieved.

[24 CFR 570.487\(c\)](#)

### 2.7 Contracting Requirements



Program guidelines should define the relationship between the Grantee, homeowner and contractors. For example, will the homeowner contract directly with the contractor? Will the Grantee contract directly with the contractors and have authorization to act on behalf of the homeowner? Will the program utilize 3-party contracts between the Grantee, the homeowner, and the contractor?

[System for Award Management \(SAM\)](#)

The Grantee is responsible for ensuring that contractors receiving work funded by CDBG have not been excluded from participation in Federal programs before contracts are awarded. To do this, the grantee must check the website at System for Award Management (SAM). The search of the excluded parties website must be completed prior to signing the construction contract and a printout documenting the search should be placed in the file documentation.

The Grantee's program guidelines should also specify contracting procedures that govern the conduct of work, such as those relating to change orders, dispute resolution, and acceptance of work. The grantee should assume final authority for sign-off on completion of work in the event of a dispute between the owner and contractor.

### 2.8 Relocation Requirements

As described in Chapter 9: Relocation, federal relocation requirements generally do not apply to homeowner rehabilitation programs since participation is voluntary and usually does not involve permanent displacement. However, if the owner's home is a two- to four-unit structure with rental units, the tenants are covered by the Uniform Relocation Act (URA) and possibly by Section 104(d) of the Housing and Community Development Act. 24 CFR Part 42 are the regulations that implement Section 104(d) of the Housing and Community Development Act. See Chapter 9: Relocation for more information.

[24 CFR Part 42](#)

In addition, the LSHR states that temporary relocation may be required if lead hazard reduction work is performed. The grantee is not obligated to provide financial assistance for an owner occupant; however, the Grantee must ensure the family is relocated to a suitable, decent, safe and similarly accessible dwelling unit that does not have lead-based paint hazards. See Chapter 9 and 24 CFR 35.1345 for more information.

[24 CFR 35.1345](#)

For all other situations, grantees are permitted (but not required) to relocate homeowner households temporarily while work is being completed. (For example, if rehabilitation work requires shutting off heat or plumbing for some period of time, temporary relocation may be appropriate.) In these cases, the grantees must meet several requirements:



- Grantees must have a written policy on eligibility and level of relocation benefits, known as an Optional Relocation Policy, so that benefits are distributed in a fair, nondiscriminatory manner. More information on Optional Relocation Policies can be found in Chapter 9: Relocation of the Grants Management Manual.
- Residents who are relocated temporarily must be offered a dwelling that is suitable, safe, sanitary and lead safe. However, the unit does not have to be comparable. All other conditions of the move must be reasonable, taking into account the stated needs of the beneficiary. Residents should be provided information on the complaints procedures in the event that requested accommodations cannot be met

## 2.9 Complaints Procedures

Complaints are a part of every rehabilitation program. The best prevention is to conduct frequent on-site inspections of the work, and stop work when there are problems until the problems are corrected. Also, grantees should make efforts to ensure recipients are well informed about the contract work, have initialed and signed-off on the work write-up, and have a copy of the program guidelines that include the grantee’s complaints procedure. Refer to Chapter 4: Grantee Requirements for more information on complaints. A sample Complaints Procedures is provided as Appendix 4-8.

Appendix 4.8: Sample Complaints Procedure

## 2.10 Maintenance Agreements

Each recipient under a voluntary program is required to agree to maintain their property for the term of the financial assistance. Maintenance of the property should be examined by the grantee throughout the term of financial assistance.

The grantee should reserve the right to take any appropriate action necessary to ensure that the rehabilitated property is maintained, which may include requiring an early payback of financial assistance. Therefore, the rehabilitation guidelines should detail the maintenance standards and procedures for enforcement.

# 3 Implementing Housing Rehabilitation

## 3.1 Determining Staffing

In staffing a rehabilitation program, it is helpful to understand the specific skills and duties that will be needed. Some of the key elements include:

**Program Staff.** Staff is required for marketing the program, processing applications, completing income verifications, and ensuring that all CDBG requirements are met for the project. General knowledge of mortgage lending is also helpful.



**Rehabilitation Staff.** Staff is required for performing work write-ups and inspections. Qualifications may include a certification and considerable knowledge and/or experience in various aspects of housing construction, considerable inspection experience in government funded rehabilitation programs or in residential construction management or certified in the completion of recognized building codes and/or rehabilitation standards training programs. These skills are found in experienced contractors, building inspectors, architects, etc., familiar with rehabilitation.

### 3.2 Program Marketing

In order to ensure a sufficient pool of qualified applicants, program staff should develop marketing procedures and materials (e.g., ads, flyers, etc.).

Marketing procedures should assure that the program is marketed and available to the full range of potential applicants, including those least likely to apply. *Chapter 4: Additional Grantee Requirements* and *Appendix B: Equity and Belonging Toolkit* provide additional information on how to ensure equal opportunity in CDBG funded programs.

These procedures should address the following:

- Use of equal opportunity language in advertisements and literature;
- Grantee waiver of eminent domain in advertisements and literature;
- Literature that is understandable to applicants, including key information available in other languages;
- A schedule and plans to ensure that advertising or other outreach efforts reach potential applicants at places they frequent;
- Lists of the places and/or personal contacts where program information is distributed such as churches, laundromats, service providers, parks, etc.; and
- Accessible facilities such as the ability to accommodate people with disabilities and the completion of an accessibility self-assessment.

### 3.3 Applicant Screening

Applicants must be screened to determine income, property ownership and any other applicable criteria, as may be specified in the guidelines.



Verification of income using either the Part 5 (Section 8) or IRA 1040 definition of income is required before providing direct benefit. A sample CDBG Rehabilitation Assistance Application is provided as Appendix E-3. The grantee may develop its own application format; however, the application file must contain, **at a minimum**, the following information:

Appendix E-3:  
Sample CDBG  
Rehabilitation  
Application for Assistance

- ✓ Name of the owner and address of the property.
- ✓ Signature of the owner and the date.
- ✓ Number of persons (adults and children) in the occupant household and their ages.
- ✓ Sufficient information concerning the occupant's household income.
- ✓ The grantee should also verify that property taxes are current and in the case of an existing mortgage, that principle and interest payments are current and the mortgage is not in a delinquent or fail status.
- ✓ Sufficient information to show that the occupant meets the grantee's program eligibility criteria, including household income.
- ✓ Verification of the above-referenced information.

The interview is also a good time to give the applicant a copy of the pamphlet "Protect Your Family from Lead in Your Home." The grantee must document using a Verification of Receiving the Lead-Based Paint Pamphlet form (Appendix E-4) that the pamphlet was provided to the applicant before any work may begin. The pamphlet can also be downloaded from HCD's website. If the house is reconstructed, it is not required that the applicants be given the Lead Based Paint Pamphlet. The file should, however, be documented that the project is exempt from the Lead Safe Housing Rule since it is a reconstructed property.

["Protect Your Family from Lead in Your Home" Booklet](#)

Appendix E-4:  
Sample Verification of  
Receiving the Lead-Based  
Paint Pamphlet

The information collected is confidential and should be treated as such. Applicant's permission to obtain and verify any personal information must always be granted.

### 3.4 Initial Inspections

HCD has provided a standardized checklist (Appendix E-5: Initial Inspection Checklist) for use by Grantees when inspecting housing units for health and safety. HCD also requires that Grantees use photos or videos to document the conditions of the property as well as pictures of the completed project. This

Appendix E-5: Initial  
Inspection Checklist





documentation will be reviewed at monitoring. HCD also utilizes these photos to submit project summaries to HUD and other organizations for highlighting the impact of CDBG programs.

### 3.5 Performing Work Write-Ups and Cost Estimates

A very thorough inspection of the property must be conducted to determine the type and cost of work necessary to bring the property into compliance with all local and state building codes, including the HUD guidelines (for rehabilitation) or the State of California Building Code (for reconstruction). During/following the initial inspection, the housing inspector will write an inspection report. These reports are usually done on a room-by-room basis. Grantees are encouraged to provide the housing inspector with a detailed check-off form that lists every possible deficiency. The housing inspector checks for each one and specifies action needed to remedy the problem. Once completed, the housing inspector will follow up by generating a work write-up and cost estimate, in which all of the work that is needed is listed alongside an estimated dollar amount required to complete each item. A Sample Work-Write up and Cost Estimate Form are provided as Appendix E-6.

[Appendix E-6: Sample Work Write-up and Cost Estimate](#)

In addition, historic properties (those more than 50 years old and/or listed or eligible for inclusion on a national, state or local historic register) are required to follow the Secretary of Interior's Standards for Rehabilitation (also referred to as the Section 106 requirements). During the environmental review process, grantees must consult the State Historic Preservation Officer (SHPO) for guidance for historic properties, which may require a Memorandum of Agreement or documentation approved by the SHPO. Grantees must then ensure the requirements stipulated by the SHPO be incorporated into the work write-up and cost estimate. Release of CDBG funds cannot be obtained until the grantee receives SHPO concurrence. Refer to Chapter 3: Environmental Review for detailed guidance.

[California Historical Society](#)

[State Historic Preservation Office](#)

### 3.6 Pre-1978 Properties and Lead Hazard Reduction

All units in a project assisted with CDBG funds must comply with 24 CFR Part 35, which implements Title X of the Housing and Community Development Act of 1992, also referred to as the Lead Safe Housing Rule (LSHR). This regulation has been in effect since September 15, 2000, and Subpart J applies to rehabilitation projects. A summary of HUD's Lead Safe Housing Rule is provided as Appendix E-7.

[24 CFR Part 35](#)

[Appendix E-7: Summary of HUD Lead Safe Housing Rule](#)

Some rehabilitation work performed in pre-1978 units may be exempt from following the lead safe housing rule such as:



- Properties found not to have lead-based paint during current testing and earlier testing that meets the requirements of prior evaluations.
- Properties where all lead-based paint has been identified and removed using approved methods; and
- Rehabilitation that does not disturb paint.

Grantees should refer to the HUD Lead Safe Housing Requirements Screening Worksheet Parts 1-4 and 24 CFR 35.115 and 35.165 for more information regarding exemptions.

[Lead Safe Housing Requirements Screening Worksheet](#)

If a home was constructed prior to 1978, the LSHR applies. Therefore, the initial inspection report must specify all the work to be done to bring the building to standard and include all work necessary to comply with applicable lead hazard reduction requirements.

[24 CFR 35.115](#)

[24 CFR 35.165](#)

### Evaluation Method

After the initial work write-up is complete, the rehabilitation specialist must determine which lead evaluation activity must be followed. The evaluation activity required depends on the level of assistance:

- < \$5,000. Paint testing of surfaces to be disturbed must be completed. Paint testing must be conducted by a certified paint inspector or risk assessor.
- \$5,000-\$25,000. A comprehensive lead inspection must be performed of the entire unit. A comprehensive lead inspection must be conducted by a DPH certified lead risk assessor who is employed by a DPH licensed lead consultant.
- > \$25,000. A comprehensive lead inspection must be performed of the entire unit. A comprehensive lead inspection must be conducted by a DPH certified lead risk assessor who is employed by a DPH licensed lead consultant.

Grantees should be aware that there are additional rules for the type of work that is performed depending on the intent of the work. See the HUD/EPA Guidance memo for more information.

[HUD/EPA Abatement Guidance](#)

### Notification

Results of the paint test and risk assessment must be provided in a Notice of Lead Hazard Evaluation to the homeowner within 15 days of the grantee receiving them. The person performing the evaluation may be able to assist the grantee in completing

[Sample Lead Hazard Evaluation Notice](#)



the form.

It is important for the homeowner to know that, under the LSHR, they must disclose any knowledge of lead in the home to any future buyers of the property. A sample Notice of Lead Hazard Evaluation is provided on the HUD website.

Grantees also have the option to presume there is lead in the unit rather than paint testing or risk assessments. If the grantee utilizes the presumption of lead option, the scope of work must address all painted surfaces. Grantees should note that this approach may raise the cost of the work as non-lead surfaces will be required to be treated as if they contained lead. Also, if the presumption method is followed, a "Notice of Presumption" must be provided to the homeowner within 15 days of performing the initial inspection. A sample Notice of Lead Hazard Presumption is provided on the HUD website.

[Sample Lead Hazard Presumption Notice](#)

### Finalizing the Bid Specs for Lead Work

If the paint testing or risk assessment shows there are no lead hazards, then traditional rehabilitation practices may be followed.

If there are lead hazards found in the home then the following lead hazard reduction activities must be followed based on the amount of assistance and incorporated into the work write-up.

- < \$5,000. Repair surfaces to be disturbed using safe work practices and trained workers.
- \$5,000-\$25,000. Perform interim controls using safe work practices and trained workers. If presumption occurred, perform standard treatments using safe work practices and trained workers.
- > \$25,000. Perform abatement using safe work practices and certified abatement supervisor and certified workers.

For more information about repair, interim controls, standard treatments, abatement and the types of training or certification required for personnel performing the work, as well as for definitions of some of the terms used above, please see the Summary of HUD Lead Safe Housing Rule (Appendix E-7).

Appendix E-7:  
Summary of HUD Lead  
Safe Housing Rule

The work write-up must be revised to incorporate the appropriate lead hazard reduction work and methods required to perform the work. Once the work write-up has been finalized, the cost estimate tells whether or not the work can be done within the maximum grant amount or the owner's ability to repay.



The person preparing cost estimates should be familiar with the current rates for materials and labor and be able to estimate accurately the time required to complete each task. Good, reliable cost estimates are critical. Since costs change rapidly, it is important that cost estimates be used as soon as possible.

### 3.7 Executing Agreements with Homeowners

The grantee must enter into a formal written agreement with the applicant for the amount of the assistance made available.

- This agreement needs to be signed by the homeowner, prior to the start of work, and represents the official financial obligating instrument between the homeowner and the grantee.
- At a minimum, this agreement shall certify the legal owner of the property, the type of assistance, as well as outline all conditions associated with the assistance.
- Conditions of the agreement may include a monthly payment schedule if applicable, a minimum five-year primary residency requirement for owner occupied properties, hazard insurance, death of the applicant, conversion, transfer or sale of the property rehabilitated, and any other conditions that, if violated, may result in a reimbursement of funds by the applicant.

The grantee must also utilize a recorded lien, prior to the start of work, to secure the amount of the federal investment.

Following approval, grantees should meet with the applicant to review the proposed scope of work to be undertaken. Applicants should initial each page and sign the last page of work items, thereby attesting to the fact that the applicant was made aware of the improvements to be made to the property. The homeowner should also receive all proper notices and information about lead-based paint. It is also important to finalize any temporary relocation plans and set a schedule for the work.

### 3.8 Contractor Selection for Rehabilitation

Grantees should begin as early as possible to get contractors interested in participating in your rehabilitation program. Based on knowledge of the project area, the Grantee must decide how they will procure construction contractors.

There are four ways the Grantee may select housing rehabilitation contractors:

- 1) Grantee conducts Sealed Bid procurement for entire project where bids are solicited for individual homes, or groups of homes, based on the lowest bid.

[2 CFR 200.320\(b\)\(1\)](#)



- 2) Grantee conducts Sealed Bid procurement for individual trades (i.e., carpentry, electrical, plumbing, etc.) for the entire project and awards contracts to the lowest bidder for each trade.
- 3) Grantee conducts Request for Qualifications procurement to develop a list of prequalified contractors. The homeowner is required to solicit bids and choose a contractor from list. [2 CFR 200.320\(b\)\(2\)](#)
- 4) Grantee conducts Small Purchase method of procurement for contracts of less than the federal Simplified Acquisition Threshold, currently \$250,000. [2 CFR 200.320\(a\)\(2\)](#)

**NOTE: HCD strongly encourages the use of an RFQ and the creation of a Pre-Qualified list of contractors for owner-occupied housing rehabilitation programs, where homeowners contract for construction services.**

Regardless of procurement method, there are four key elements involved in the contracting process are covered in the following discussion: recruiting contractors, procurement procedures, preparing the contract, and contract award and monitoring.

### 3.8.1 Recruiting Contractors

It is often difficult to recruit contractors if there are only relatively small jobs for repairing homes in poor condition. The grantee should identify possible contractors and attempt to interest them in program participation. Local Chambers of Commerce, the Supplier Clearinghouse, conversations with construction materials suppliers, and word of mouth are all information resources to aid in developing a contractors list. [California Public Utilities Commission Supplier Clearinghouse](#)

An index of Lead-Related Construction (LRC) professionals can be found on the California Department of Health website. [California Lead Safe Certified Contractors List](#)

To promote the participation of small contractors, the grantee may attempt to eliminate procedural barriers and provide technical assistance. Some grantees have:

- Provided technical assistance such as:
  - Financial management assistance;
  - Talking to local suppliers about credit extension to rehabilitation contractors;
  - Asking local financial institutions to extend lines of credit; and



- Allowing progress payments after completion and inspection of a certain percentage of work;
- Provided translation/interpretation services.

In addition, grantees must ensure that they are using trained and certified workers to perform work in compliance with the lead safe housing rule.

### Pre-Qualified Lists

Grantees may utilize pre-qualified contractor lists in the Housing Rehabilitation Program. The federal regulations require that Grantees ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. **Also, the Grantee must not preclude potential bidders from qualifying during the solicitation period.**

All Pre-Qualified Lists must adhere to the policies outlined below:

- 1) The list must be developed through open solicitation following procurement guidelines described in *Chapter 5: Procurement*. However, if the Homeowner will be selecting the contractor and executing the contract, the Grantee may use their own local procurement policy for solicitation of a pre-qualified list.
- 2) Grantees must document all solicitations specifically directed to contractors who identify as people of color, as women, and/or whose preferred language is anything other than English. More information on equitable procurement can be found in *Appendix B: Equity and Belonging Toolkit*.
- 3) Pre-Qualified Lists must include several qualified sources to ensure competition.
- 4) Grantees must not preclude potential bidders from qualifying during the solicitation period. For example, if a homeowner has a contractor in mind, the contractor must be allowed to apply for inclusion in the pre-qualified list.
- 5) HUD recommends all Pre-Qualified Lists be updated on an annual basis. The list must include the date established and date of the most recent update.

When developing a Pre-Qualified List, Grantees should consider the following:

- a) Homeowner satisfaction on previous jobs
- b) Communication with homeowners and consultants on previous jobs
- c) Timeliness and accountability on previous jobs
- d) Issues or concerns on previous jobs



- e) Contractor eligible for re-hire
- f) Conduct a basic internet search and look for any online reviews, BBB ratings, news articles, etc. to uncover any potential issues.

### 3.8.3 Procurement Procedures

Procurement procedures need to be developed by Grantees. Grantees must demonstrate that solicitations were done in a fair, unbiased manner and that efforts were made to solicit bids from small, minority, women owned and Section 3 businesses. Bidding requirements are outlined in Chapter 5: Procurement.

Each contractor must provide proof of liability insurance in an amount deemed reasonable by the grantee. The liability insurance shall be maintained during the life of the contract. Each contractor must provide evidence of workers compensation insurance at a level in conformance with state law for all employees at the job site and shall require subcontractors to provide evidence of the same. Contractors must submit documentation that shows they are qualified to perform lead work such as:

- Proof they attended a safe work practices training session (for jobs involving safe work practices).
- Proof of California certification for abatement supervisor and workers (for jobs involving abatement). This may be in the form of a website screenshot or a certificate.

Any solicitation for bids by the grantee should include:

- Location for bid document pick up and submission;
- Address of unit to be rehabilitated;
- Time the unit is open for inspection; and
- Time and place for bid opening.

### Sealed Bid Opening

CDBG requires Grantees to hold a public bid opening on all sealed bid construction projects, when using a sealed bid procurement process. Grantees are required to take minutes from the bid opening to be monitored by HCD. The minutes should include names of all present at the meeting, a list of all bids received, and the amounts bid for the work. Homeowners must be informed of the bid opening and given an opportunity to attend it as well.



### 3.8.5 Preparing the Contract

The type of procurement utilized may impact the contract development and should be considered when determining parties to the contract. For example, if the Grantee utilized local procurement policies to develop a pre-qualified list and homeowners solicit bids, the contract would be solely between the homeowner and the contractor. However, HCD strongly encourages Grantees to develop and utilize a uniform contract document for all program contracts.

The grantee remains responsible for monitoring contractor compliance with payments and all other program requirements.

Key federal provisions which apply to all rehabilitation contracts are:

- Lead Based Paint clause, and
- Conflict of Interest clause

Davis-Bacon and other labor standard provisions do not apply to the rehabilitation of residential property if such property contains less than 8 units. Within the contract, the grantee should require the contractor to:

- Obtain and pay for all necessary permits and licenses;
- Perform all work in conformance with all local building codes, HUD guidelines, and State of California Building Code, whether or not covered by the specifications and drawings;
- Keep the premises clean and orderly during repairs and remove all debris at the completion of work;
- Obtain written consent from the grantee and the homeowner for changes to specifications;
- Comply with all required rehabilitation practices for the lead safe housing rule;
- Obtain written consent prior to sub-contracting;
- Provide provisions for termination and for non-performance;
- Pay for all lead-based paint clearance tests of the unit and continue work until the unit passes clearance; and provide each of the required notices to owners and tenants;
- Warrant the work for one year from final acceptance.

**NOTE:** HCD requires that Grantees attach a copy of the work write-up to the contract.

**WARNING:** There should not be any verbal agreements between homeowners and the contractor. All work must be identified in the contract.





### 3.8.6 Contract Award and Monitoring

Following award of the contract, the contract package must be executed by all parties. The homeowner must sign the contract and initial each page and sign the last page of the work write-up. A Notice to Proceed should be issued promptly to the contractor, specifying the time period within which the work should begin and when the work should be completed. A sample Notice to Proceed is provided as Appendix E-8.

Appendix E-8:  
Sample Housing  
Notice to Proceed

A pre-construction conference is required by HCD to clarify the responsibilities of all parties. A sample Pre-Construction Conference Checklist that can be used at such a conference is provided as Appendix E-9.

Appendix E-9:  
Sample Rehab  
Pre-Construction  
Conference Checklist

Work must not begin until all the required permits are secured by the contractor, copies of which must be provided to the grantee for verification and original to be posted inside the house.

### 3.11 Inspections

Systematic thorough inspections by the rehabilitation specialist are critical to successful housing rehabilitation. Periodic interim inspections of the rehabilitation construction will be made by the grantee throughout the contract period, and formally documented in the files. Photographs of before and after are highly recommended. These inspections will be conducted to assure compliance with the contract standards for workmanship and materials, to detect any unauthorized deviations and to identify necessary changes to the contract work in its early stages.

Inspection and approval of completed work must be conducted by the grantee prior to the contractor's request for partial or final payment. The grantee has the authorization to override an owner's decision and accept the work in accordance with complaints procedures if an owner makes unreasonable requests/demands and the contractor has satisfied all the requirements of the grantee. A final inspection of the work must be performed prior to final payment to the contractor in order for the project to be considered complete. A sample Certification of Inspection is provided as Appendix E-10.

Appendix E-10:  
Sample Certification of  
Inspection

### 3.12 Change Orders

Any additions to, deletions from, or changes in the rehabilitation contract work, time, or price must be approved in a written change order request before the additional work is started.



The change order must be executed by the owner and the contractor and approved by the rehabilitation specialist and the grantee. Change orders may be used to add items of work that are essential to complete the original work and were not evident until after the work started.

The contractor shall not be authorized to perform any work outside the scope of the original contract without a written and properly executed change order. All costs must be reasonable and necessary in accordance with 2 CFR 200 to be eligible for payment with CDBG funds.

### 3.13 Clearance

If the rehabilitation job had any lead hazard reduction work performed, a clearance of the unit must be passed before re-occupancy. A clearance examination involves a visual assessment and dust testing to determine if the unit or worksite is safe for occupancy. Clearance must be performed by a certified risk assessor, certified lead-based paint inspector or certified lead sampling technician. Clearance cannot be performed by the same contractor who performed the work. It must be a separate party.

The clearance test cannot be performed until one hour after the final cleaning of the unit. Results of the clearance test must be incorporated into a "Notice of Lead Hazard Reduction Activities" by the grantee. This notice must be provided to the homeowner within 15 days of the clearance test.

[Sample Notice of Lead Hazard Reduction Activities](#)

Grantees must be aware that if the unit fails the clearance test the unit cannot be reoccupied. The contractor will need to re-clean and another clearance test must be performed. All costs for subsequent testing are NOT eligible CDBG costs but must be borne by the contractor.

Once the unit has passed the clearance test, the final invoice may be processed. Grantees should coordinate this visual inspection to be conducted at the time of dust wipe testing.

Appendix E-11:  
Sample Notice of  
Acceptance of Work

### 3.14 Final Documentation

HCD recommends that all Programs hold a "post-construction" meeting that establishes final inspection, final payments, completed and accepted work.

The homeowner and program staff should sign off on completion of work prior to finalizing the payment to contracts. After which, the Notice of Acceptance of Work (Appendix E-11) may be issued to the contractor. Grantees must have the contractor sign a Release of Lien Form and provide warranty documents, and subcontractors release of lien waivers before final payout.



Samples of lien release forms can be found on the California Department of Consumer Affairs website.

[Conditional and Unconditional Lien Release Forms](#)

## 4 Walk-Away Policy

HCD recommends that Grantees, in the administration of a housing rehabilitation program, develop a “walk away” policy for units when it is determined that it is not economically feasible or possible to bring the unit up to local code and meet HUD’s Lead Based Paint standards. The purpose of the “walk-away” policy is to prevent investment in a home which is so deteriorated that all necessary improvements cannot be achieved within the maximum allowable funding level. HCD also recommends that a written notification be provided to the homeowner if the project is deemed not feasible with appropriate reasoning and such documentation should be maintained for monitoring.

Grantees should include policies and procedures (i.e., referrals or housing counseling) in their Program Design to address situations where individuals are residing in units that are not suitable for rehabilitation.

## 5 Multi-family Housing

Using CDBG funds for the rehabilitation of multi-family housing units is also an eligible activity. Assisted property owners must agree to maintain affordable rents for a minimum of five years. Any longer term is subject to local discretion. The maximum amount of rent charged may not exceed rents affordable to households at 80% AMI and below according to CA Health and Safety Code 50053

[California Health and Safety Code 50053](#)

HCD recommends using what is consistent with other programs administered locally.

### 5.1 Meeting a National Objective

In addition to the requirements discussed in the previous section, public housing projects must also meet a National Objective of the CDBG program.

- For properties with more than two units, at least 51 percent of the units must be occupied by LMI households.

Rental units must be occupied by LMI persons at affordable rents (as defined by HCD) for a minimum period of five years. The maximum amount of rent charged may not exceed the HUD Fair Market Rent (FMR) during the affordability period.



Each completed residential rehabilitation project file must have a signed copy of the landlord-tenant agreement for each rental unit. In addition, the grantee is responsible for monitoring and enforcing the affordability periods for each project.

### 5.2 Installation of Broadband Infrastructure in Multi-Family Housing

HUD regulations require the installation of broadband infrastructure at the time of new construction or substantial rehab of all HUD-funded multifamily housing, including CDBG-funded multifamily housing with more than four rental units. Broadband infrastructure is defined as cables, fiber optics, wiring or other permanent, including wireless, infrastructure in each dwelling unit meeting the Federal Communications Commission's definition. Substantial rehab is defined as work on the electrical system with estimated costs equal to or greater than 75% of the cost of replacing the entire electrical system, or when the estimated cost of the rehab is equal to or greater than 75% of the total estimated cost of replacing the multifamily rental housing after the rehab is complete. Some exceptions are allowed when:

- The location of the new construction or substantial rehab makes installation of broadband infrastructure infeasible;
- The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or an undue financial burden; or
- The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

### 5.3 Financial Assistance

Financial assistance may be provided as a grant or loan to the property owner for an eligible project (e.g., the rehabilitation of a multi-unit housing complex). The assistance must be conditioned upon the requirement to make a minimum of 51% of the units available for a minimum of five years at rents affordable to low- and moderate-income tenants (as discussed above).

### 5.4 Davis Bacon Wage Determination

Davis Bacon and/or State prevailing wages apply when a grantee rehabilitates a structure with eight or more units. Grantees are advised to contact HCD very early for guidance.

### 5.5 Relocation

The Uniform Relocation Act applies to all projects in which tenants are living in a multi-unit structure. Proper notices, services and payments must be provided to tenants as applicable. See Chapter 9: Relocation, for more information.



## 6 Homebuyer Assistance

Owning a home is part of the American dream. CDBG funds can help support this dream by providing funds to income eligible households to purchase an existing or newly constructed home. This section reviews the eligible activities under the CDBG program for home purchase activities.

CDBG funds may be used to provide direct homeownership assistance under 105(a)(24), a separate and permanent eligibility category that allows CDBG funding to:

- Provide up to 50 percent of required down payment;
- Pay any or all of the reasonable closing costs;
- Provide all or part of the premium for mortgage insurance required up-front by a private lender;
- Provide principal write-down assistance;
- Subsidize interest rates;
- Finance acquisition; and
- Acquire guarantees for mortgage financing from private lenders (i.e., assist homebuyers with private mortgage insurance).

### 6.1 Meeting a National Objective

Because the use of CDBG funds under this eligible activity is limited to assisting LMI households, any such use of funds must qualify under the national objective of benefit to low- and moderate-income persons-housing activities (LMH).

### 6.2 Additional Information

The CDBG regulations also do not restrict CDBG assistance to only those households purchasing a home for the first-time. It is, however, possible for the grantee to place additional requirements on its local program policies and procedures, such as limiting the activity to first time homebuyers or homebuyers only located in a designated area. In this instance, Grantees must define “first-time homebuyer” in their program guidelines as CDBG regulations do not define the term.



More information about homebuyer assistance with CDBG funds can be found in Chapter 2 of the State Guide to National Objectives and Eligible Activities.

[CDBG State Guide to National Objectives and Eligible Activities](#)