

EXHIBIT D

ESG PROGRAM TERMS AND CONDITIONS

1. Federal Grant Identification

HUD Grant No:

CFDA Number:

Date HUD Grant Agreement Signed:

2. Definitions

In addition to the definitions found in 42 U.S.C. 11371 (2011) and 24 C.F.R. § 576.2 and 91, the following definitions apply to the ESG Program:

- a. "Annual Action Plan" or (AAP) means a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.
- b. "Annual Funding Cycle" means the annual process where the Department prepares and submits to HUD the Department's Annual Action Plan which describes the method for distributing funds to Eligible Organizations. After HUD approval, HUD issues a grant agreement to the Department to fund the activities described in the Annual Action Plan.
- c. "Annual Performance Report" means a report prescribed by HUD for all jurisdictions receiving funding under the ESG program provided in 24 C.F.R. Part 576, that includes the number of persons helped, the types of help provided, and the project or program outcomes data measured under the performance standards developed in consultation with the Continuum(s) of Care.
- d. "Applicant" means an Eligible Organization that applies to receive ESG funds from the Department.
- e. "Application" means a Contractor's ESG application submitted in response to an ESG NOFA.
- f. "Board of Directors" means a group of individuals who are elected to govern and oversee the nonprofit organization's operations. The board is responsible for setting

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the organization's mission, strategy, and goals, and ensuring that the organization operates in compliance with legal and ethical standards.

g. “Build America, Buy America (BABA)” means the Contractor must comply with the requirements of the Build America, Buy America (BABA) Act, 41 U.S.C. 8301 and all applicable rules and notices, as may be amended, if applicable to the Grantee’s infrastructure project. Pursuant to HUD’s Notice, “Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD federal financial assistance” (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates are subject to BABA requirements, unless exempted by a waiver.

h. “Charter City” Pursuant to California Constitution Section 3. Article XI Local Government Section 7, a County or city may make and enforce within all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. Pursuant to Gov. Section 34101, Cities organized under a Charter shall be “chartered cities”.

i. “City Charter” Pursuant to California Constitution Article 9, Section 5(a), a City Charter provides that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. Any new City charter shall supersede any existing City Charter.

j. “Continuum of Care” or (CoC) means the group composed of representatives of relevant organizations, which generally includes nonprofit homeless providers; victim Service Providers; faith-based organizations; governments; businesses; advocates; public housing agencies; school districts; social Service Providers; mental health agencies; hospitals; universities; affordable housing developers; law enforcement; organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons that are organized to plan for and provide, as necessary, a system of outreach, engagement, and assessment; emergency shelter; rapid re-housing; transitional housing; permanent housing; and prevention strategies to address the various needs of homeless persons and persons at risk of homelessness for a specific geographic area.

i. “Continuum of Care Service Area” means the entire geographic area within the boundaries of an Eligible Continuum of Care.

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- j. “Contract” means the contract entered into by the Department and the ESG Subrecipient (also known as Contractor) setting forth the basic terms and conditions governing the awards of ESG funds.
- k. “Contractor” means a Subrecipient that enters into a Standard Agreement (STD 213) with the Department for ESG funds and becomes a federally defined Contractor under 24 C.F.R. § 576.2 Definitions, see 2 C.F.R. § 200.1, but not a federally defined Contractor under 2 C.F.R. § 200.331. Subrecipient is often used synonymously with Contractor.
- l. “Department” means the California Department of Housing and Community Development.
- m. “Eligible Activities” means those activities upon which ESG funds may be expended as defined under 24 C.F.R. Part 576 Subpart B.
- n. “Eligible Continuum of Care” means a Continuum of Care in the State that has within its Service Area at least one Nonentitlement Area.
- o. “Eligible Organization” means a Private Nonprofit Organization or a Unit of General Purpose Local Government that provides, or contracts with, Private Nonprofit Organizations to provide Eligible Activities.
- p. “ESG” is the acronym for the Emergency Solutions Grants program.
- q. “ESG Entitlement” means a Unit of General Purpose Local Government that meets one of the following:
1. is a Metropolitan City or Urban County as defined under 42 U.S.C. 5302 that receives an allocation of ESG funds directly from HUD;
 2. is in a Nonentitlement Area that has entered into an agreement with an Urban County to participate in that locality’s ESG program; or
 3. is a Metropolitan City or Urban County that have entered into a joint agreement with one another to receive and administer a combined direct allocation of ESG funds from HUD.
- r. “ESG Entitlement Area” or “Entitlement Area” means the geography within an ESG Entitlement’s boundaries.

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- s. “ESG Nonentitlement” means a Unit of General Purpose Local Government that does not receive ESG funding directly from HUD and is not participating as an ESG Entitlement Area.
- t. “ESG Nonentitlement Area” means the geography within an ESG Nonentitlement’s boundaries.
- u. “Expenditure Milestone(s)” means the percentage of the award, that is identified in the Standard Agreement, that must be expended by a specified time period.
- v. “General Law” is a law that is unrestricted as to time, is applicable throughout the entire territory subject to the power of the legislature that enacted it and applies to all persons in the same class.
- w. “General Law City” Pursuant to Government Code (Gov) 34102, they are cities organized under the General Law.
- v. “Governing Board” means Board of Supervisors for a County Applicant and means City Council for a City Applicant.
- w. “HUD” means the U.S. Department of Housing and Urban Development.
- x. “Notice of Funding Availability” (NOFA) refers to a process that informs the public that funding is available for a specific purpose and can be requested through an application process.
- y. “Nonentitlement Area” means an area which is not a metropolitan city or part of an Urban County and does not include Indian tribes. 42 U.S.C. 5302(7).
- z. “Project Description” includes specific location, purpose (provide housing, support services, etc.), number and type of beneficiaries/units, any proposed changes to structures and/or land, and use of funds.
- aa. “Request for Funds (RFF)” means a request for reimbursement by a Subrecipient for Eligible Expenses on forms provided by the Department.
- bb. “Service Area” has the same meaning as the term “Continuum of Care Service Area.”
- cc. “Service Providers” refers to the “Continuum of Care” definition found at 24 C.F.R. § 576.2.

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dd. "Site" means one or more facilities where the program(s) is being carried out.

ee. "Site Control" means the legal right to occupy and use the Site, as evidenced by such things as:

1. A deed demonstrating ownership in fee title;
2. a lease demonstrating a leasehold interest in the Site and its improvements for at least the term of the ESG grant;
3. an enforceable option to purchase or lease a Site provided that such option will be for at least the term of the ESG grant; or
4. for rotating shelter programs, Site Control may include other evidence provided by the Applicant granting permission to use the Site(s). Such evidence must be approved by the Department in writing before the deadline for submission of the ESG applications stated in the applicable NOFA.

ff. "Standard Agreement" means the contract entered into by the Department and the Contractor (also known as Subrecipient) setting forth the basic terms and conditions governing the awards of ESG funds.

gg. "Subrecipient" means an entity that enters into a Standard Agreement with the Department for a General Purpose Local Government or Private Nonprofit Organization to which a recipient makes available ESG funds as defined in 24 C.F.R. § 576.2. Throughout the Guidelines, Subrecipient is also referred to as Contractor.

hh. "Subcontractor" means an entity that is performing work as shown under 24 C.F.R. § 576.100(A) and as described in Exhibit A of the Standard Agreement, ESG funds for a Contractor or Service Provider.

ii. "Written Standards" are defined in 24 C.F.R. § 576.400(e).

Note: Authority cited: Section 50406(n), Health and Safety Code. Reference: 42 U.S.C. 5302, 42 U.S.C. 11302, 42 U.S.C. 11371, 42 U.S.C. 11373, 24 C.F.R. § 576.3, 24 C.F.R. § 576.400, and C.F.R. § 576.2.

3. **Eligible Activities**

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ESG funds awarded to the Contractor shall be used for the Eligible Activities set forth in Exhibit D, as permitted under the federal ESG regulations at 24 C.F.R. Part 576, the Guidelines, and the ESG NOFA. The following additional provisions or requirements shall apply:

- A. ESG funds may be used for five program components: Street Outreach, Emergency Shelter, Homelessness Prevention, Rapid Rehousing, and Homeless Management Information Systems (HMIS), as well as Administrative Activities. The five program components and the Eligible Activities that may be funded under each are set forth in 24 C.F.R. § 576.101 through 24 C.F.R. § 576.107. Eligible Administrative Activities are set forth in 24 C.F.R. § 576.108.
- B. Pursuant to 2 C.F.R. § 200.414, OMB requirements and Section 208 of the Guidelines, Contractor may permit homeless service providers receiving ESG funds to charge an indirect cost allocation to their grant. The indirect cost allocation may not exceed 15 percent (de-minimis) of the allowable direct costs under the ESG activity unless a higher limit for the indirect cost allocation has been approved by the applicable Federal agency pursuant to OMB requirements. Indirect Costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective or activity.
- C. Contractor shall receive a portion of its ESG grant allocation for the payment of administrative costs. Pursuant to 24 C.F.R. § 576.108(b), the Department will share one percent of federal funds for all those awarded for direct administrative costs.
- D. Rental assistance payments provided as part of an RR or HP activity under 24 C.F.R. § 576.106 cannot exceed HUD's Fair Market Rent (FMR) as provided under 24 C.F.R. Part 888 and must comply with HUD's standard for rent reasonableness as established under 24 C.F.R. § 982.507. Contact your HCD representative in the Federal Programs Branch for further assistance.
- E. All provisions of 24 C.F.R. Part 576 and the Guidelines shall apply including, but not limited to the following:
 - 1) The maximum allocation spending cap on Emergency Shelter and street outreach activities of 60 percent of the aggregate amount of assistance provided for the contractor established pursuant to 24 C.F.R. § 576.100(b).
 - 2) None of the ESG funds provided may be used to require people experiencing homelessness to receive treatment or perform any other

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prerequisite activities as a condition for receiving shelter.

- 3) ESG funds shall not be used for Renovation, Conversion, or Major Rehabilitation activities pursuant to 24 C.F.R. § 576.102. HUD defines "renovation and conversion" as an activity that does materially add to the value of the building, appreciably prolong its useful life, or adapt it to new uses.
- 4) The requirements of the Build America, Buy America Act (BABA) may apply to minor repairs.
- 5) No less than 40 percent of the total funds available to the Contractor must be awarded to Rapid Re-Housing.
- 6) Homelessness Prevention will be limited to no more than 10 percent of any awarded contract/budget and will not be awarded as a standalone activity.

4. State Contracting Manual Requirements (Section 3.11, Federally Funded Contracts (Rev. 3/03))

All contracts, except for State construction projects that are funded in whole or in part by the Federal government, must contain a 30-day cancellation clause and the following provisions:

- A. It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid Program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the purpose of this Program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by Congress or to any statute enacted by Congress that may affect the provisions, terms, or funding of this contract in any manner.
- C. The parties mutually agree that if Congress does not appropriate sufficient funds for the Program, this Agreement shall be amended to reflect any reduction in funds.

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- D. The Department has the option to invalidate the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction in funds.

5. Sufficiency of Funds and Termination

- A. The Department may terminate this Agreement at any time for cause by giving a minimum of 14 days' notice of termination, in writing, to the Contractor. Cause shall consist of violations of any terms and/or special conditions of this Agreement; the Federal Statutes; the Federal Regulations; the Guidelines; withdrawal of the Department's expenditure authority. Upon termination of this Agreement, unless otherwise approved in writing by the Department, any unexpended funds received by the Contractor shall be returned to the Department within 30 days of the Notice of Termination.
- B. This Agreement may have been written before determining the availability of congressional appropriation of funds. It is mutually understood between the parties that this Agreement is written for the mutual benefit of both parties to avoid program and fiscal delays.
- C. This Agreement is valid and enforceable only if sufficient funds are made available to the Department by the United States Government for the purposes of this Program. In addition, this Agreement is subject to any additional restrictions, limitations or conditions, or statute, regulations or any other laws, whether federal or of the State of California, or of any agency, department, or any political subdivision of the federal or the State of California governments, which may affect the provisions, terms or funding of this Agreement in any manner.
- D. It is mutually agreed that if Congress does not appropriate sufficient funds for the Program, this Agreement shall be amended to reflect any reductions in funds.
- E. The Department has the option to terminate this Agreement under the 30-day cancellation clause or to amend this Agreement to reflect any reduction of funds.
- F. Contractor shall administer termination of assistance in accordance with 24 C.F.R. § 576.402.

6. Transfers

Contractor may not transfer by subcontract or novation, or by any other means, the rights, duties, or performance of this Agreement or any part thereof, except with the

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prior written approval of the Department and a formal amendment to this Agreement to affect such subcontract or novation.

7. Contractors and Service Providers

- A. Contractor, or its Service Providers, shall not enter into any Agreement, written or oral, with any subcontractor without the prior written determination by the Department of the Contractor's eligibility. A Contractor or Service Provider is not eligible to receive grant funds if the subcontractor is not licensed and in good standing in California or is listed on the Federal Consolidated List of Debarred, Suspended and Ineligible Contractors.
- B. Any party to a third-party agreement between the Contractor or Service Provider, and any contractor or subcontractor hired by the Contractor, or Service Provider shall require the contractor or subcontractor, if any, to do the following:
 - 1) Perform the Work in accordance with Federal, State and local housing, and building codes, as applicable.
 - 2) Comply with the labor standards described in this Exhibit, as applicable. In addition to the requirements of this Exhibit, all contractors and subcontractors must comply with the provisions of the California Labor Code, as applicable.
 - 3) Comply with the applicable Equal Opportunity Requirements, described in this Exhibit.
 - 4) Maintain at least the minimum State-required worker's compensation insurance for those employees who will perform the Work or any part of it.
 - 5) Maintain, as required by law, unemployment insurance, disability insurance, and liability insurance in an amount to be determined by the Department, which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the Contractor or any subcontractor in performing the Work or any part of it. Such insurance shall be endorsed to include a waiver of subrogation rights against the Department its officers, officials, employees, volunteers, agents, and representatives. Such policies shall be written by California licensed insurers with best ratings of not less than A: VII in the most recent edition of Best Rating Guide.

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- 6) Contractor agrees to include all the terms of this Contract in each subcontract and the Department shall have no liability for Contractor's failure to comply with this obligation.
- C. The Department reserves the right of pre-award review and approval of all proposed contracts and related procurement documents, such as requests for proposals and invitations for bids, where the subcontract amount exceeds \$25,000.00.

8. Housing First Practices

- A. 'Housing First' means the evidence-based model that uses housing as a tool rather than a reward for recovery and that centers on providing or connecting homeless people to permanent housing as quickly as possible. Housing First providers offer services as needed and requested on a voluntary basis and that do not make housing contingent on participation in services.
- B. All ESG-assisted projects shall operate in a manner consistent with Housing First practices as reflected in the Housing First Core components, CoC written standards, progressive engagement, and assistance practices as set forth in Welfare and Institution Code (WIC) 8255-8256 and 24 C.F.R. § 576.400, including but not limited to the following:
1. Ensuring low-barrier, easily accessible assistance to all people, including, but not limited to, people with no income or low-income history, and people with active substance abuse or mental health issues;
 2. Helping participants quickly identify and resolve barriers to obtaining and maintaining housing;
 3. Quickly resolving a participant's housing crisis before focusing on other non-housing related services;
 4. Allowing participants to choose the services and housing that meets their needs, within practical and funding limitations; and
 5. Connecting participants to appropriate support services available in the community that fosters long-term housing stability.

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EXHIBIT D**9. Shelter and Housing Standards**

Emergency shelters must also meet the minimum safety, sanitation, and privacy standards at 24 C.F.R. § 576.403 (b), including but not limited to, accessibility standards in accordance with Section 504 of the Rehabilitation Act (29 U.S.C.794) and implementing regulations at 24 C.F.R. Part 8, the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100, Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.), and 28 C.F.R. Part 35, where applicable.

If Rapid Re-Housing or Homeless Prevention assistance is provided, the assisted housing must meet the minimum habitability standards at 24 C.F.R. § 576.403 (c).

10. Inspections

- A. Contractor shall inspect any Work performed hereunder to ensure that the Work is being and has been performed in accordance with the applicable Federal, State and/or local requirements and this Agreement.
- B. The Department reserves the right to inspect any Work performed hereunder to ensure that the Work is being and has been performed in accordance with the applicable Federal, State and/or local requirements, and this Agreement.
- C. Contractor agrees to require that all non-conforming Work be corrected and to withhold payments to the Contractor or subcontractor until such Work is corrected.

11. Monitoring Grant Activities

- A. Contractor shall monitor the activities selected and awarded by them to ensure compliance with all ESG requirements. An onsite or desk monitoring of homeless Service Providers shall occur whenever determined necessary by the Contractor but at least once during the grant period.
- B. The Department will monitor the performance of the Contractor based on a risk assessment and according to the terms of this Agreement. The Department may also monitor any Service Providers of the Contractor as the Department deems appropriate based on a risk assessment.
- C. The Department will monitor the performance of Contractor and funded projects based on the performance measures used by HUD in ESG or the (CoC) program. In the event that project-level or system-wide performance consistently

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- remains in the lowest quartile compared to all participating Service Areas in the (CoC) allocation, the Department will work collaboratively with the Contractor to develop performance improvement plans which will be incorporated into this Standard Agreement.
- D. If it is determined that a Contractor or any of its Service Providers falsified any certification, application information, financial, or contract report, the Contractor shall be required to immediately reimburse the full amount of the ESG award to the Department and may be prohibited from any further participation in the ESG program. The Department may also impose any other actions permitted under 24 C.F.R. § 576.501(c).
 - E. As requested by the Department, the Contractor shall submit to the Department all ESG monitoring documentation necessary to ensure that Contractor and its Service Providers are in continued compliance with all ESG requirements. Such documentation requirements and the submission deadline(s) shall be provided by the Department when the information is requested from the Contractor.
 - F. Contractor and its Service Providers shall cooperate with the Department and shall make available to the Department all information, documents, and records reasonably requested. Copies of these items will also be made available to the Department upon their request. Contractor shall provide the Department the reasonable right of access to the Site during normal business hours for the purpose of assuring compliance with this Agreement and evaluating the Contractor's performance.

12. Compliance with Federal Regulations, State Laws, and Guidelines

- A. The Contractor and its Service Providers shall comply with the policies, Guidelines and requirements under 2 C.F.R. Part 200, as applicable, as they relate to the cost principles, audit requirements, acceptance and use of federal funds under this 2 C.F.R. Part 200.
- B. The Contractor agrees to comply with all federal regulations, state laws, and Guidelines applicable to the ESG Program and to the grant activity(ies), and with any other federal provisions as set forth in this Agreement. The Contractor agrees to comply with all federal regulations, state laws, and Guidelines that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all others matters applicable to the Contractor its Service Providers or subcontractor and the Work. This includes, but is not limited to, complying with all relevant sections of 2 C.F.R. Part 200.

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- C. Contractor shall indemnify, protect, defend, and hold harmless the Department from and against any and all loss, liability, damage, claim, cost, and/or expense (including reasonable attorneys' fees, court and litigation costs, and fees of expert witnesses) that result or arises in any way from the noncompliance by Contractor or Service Provider personnel of any applicable local, state, and/or federal law or requirement.

13. Procurement of Goods and Services

Prior to the drawdown of ESG funds for the Contractor's purchase of goods or services, Contractor shall comply with the Procurement Standards contained in 2 C.F.R. § 200.317 - 200.326. Contractor when procuring goods with ESG funds, must provide the Department with evidence of compliance with these requirements, as applicable.

14. Procurement of Recovered Materials

Contractor and its Service Providers must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceed \$10,000.00 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.00; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

15. Equal Opportunity Requirements and Responsibilities

- A. **Title VI of the Civil Rights Act of 1964, as amended, including 24 C.F.R. Part 1:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance. In regard to the sale or lease of a Site, Contractor shall cause or require a covenant running with the land to be inserted in the deed and leases prohibiting discrimination under this Title, and providing that State of California and the United States are beneficiaries of and entitled to enforce such covenants. Contractor shall enforce such covenant and shall not itself so discriminate.

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- B. **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act)**: This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.
- C. **Civil Rights Restoration Act of 1987**: This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
- D. **Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]**: This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- E. **The Fair Housing Amendment Act of 1988**: This act amended the original Fair Housing Act to provide for the protection of families with children and people with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
- F. **Affirmatively Furthering Fair Housing (AFFH)**: The Fair Housing Act in 1968 prohibits discrimination in the sale, rental, and financing of housing based on race, religion, and national origin. Over time the law expanded its protections to include discrimination based on sex, disability, and familial status. The law also introduced the need to go beyond just prohibiting discrimination to instead creating real housing choice by affirmatively furthering fair housing. In 2018 California adopted AB 686, which expands upon the fair housing requirements and protections outlined in the Fair Employment and Housing Act (FEHA). The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development. AB 686 creates new requirements that apply to all housing elements due for revision on or after January 1, 2021. Affirmatively Furthering Fair Housing requires taking meaningful actions to combat discrimination, overcome patterns of segregation, and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Jurisdictions must take

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meaningful actions that when taken together, address significant disparities in housing needs and access to opportunity. Such actions may include, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

- 1) Federal regulations for affirmatively furthering fair housing include, but are not limited to, 24 C.F.R. § 5.151-24 and 24 C.F.R. § 5.152.
 - 2) For ESG, AFFH requires collecting demographic data for the homeless population and analyzing it to develop more equitable ways to serve the homeless population. Please refer to Section 103 and 207 of the Guidelines for additional guidance regarding this process.
- G. **Advancing Racial Equity**: Pursuant to direction from HUD, as provided at the links below, Contractors should prioritize the advancement of racial equity at all levels of the homeless response system. The Department asks Contractors to be leaders in their homeless response systems, facilitating partnerships among service organizations and promoting racial equity practices. Contractors must respond to disproportionality in access to services, service provision, and outcomes. Contractors cannot simply rely on delivering a standardization of services to address equity. Contractors have the responsibility to examine their data to ensure all eligible persons receive equitable services, support, and are served with dignity, respect, and compassion regardless of circumstances, ability, or identity.
- Please refer to the 2024 ESG NOFA for additional guidance regarding this process.
- H. **The Housing for Older Persons Act of 1995 (HOPA)**: Retained the requirement that the housing facilities must have one person who is 55 years of age or older living in at least 80 percent of its occupied units. The act also retained the requirement that housing facilities publish and follow policies and procedures that demonstrate intent to be housing for persons 55 or older.
- I. **The Age Discrimination Act of 1975, as amended, including 24 C.F.R. Part 146**: This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any

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State law currently in effect on the same topic.

- J. **Section 504 of the Rehabilitation Act of 1973, as amended:** It is unlawful to discriminate based on disability or handicap in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of their disability or handicap, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Section 504 also contains design and construction accessibility provisions for multifamily dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991. Contractor must ensure that its programs are accessible to and usable by persons with disabilities in accordance with the implementing regulations at 24 C.F.R. Part 8.
- K. **The Americans with Disabilities Act of 1990 (ADA), as amended:** This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment by state and local governments and in places of public accommodations and commercial facilities. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment. The ADA also requires that facilities that are newly constructed or altered, by, on behalf of, or for use of a public entity, be designed and constructed in a manner that makes the facility readily accessible to and usable by persons with disabilities. The Act defines the range of conditions that must be made to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.
- L. **Executive Order 11063, as amended, including 24 C.F.R. Part 107:** This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government. This order and its implementing regulations include requirements that all actions necessary be taken to prevent discrimination because of race, color, religion, sex, or national origin, in the use, occupancy, sale, leasing, rental, or other disposition of property assisted with Federal loans, advances, grants or contributions.
- M. **Executive Order 11259:** This executive order provides that the administration of all federal programs and activities relating to housing and urban development be

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carried out in a manner to further housing opportunities throughout the United States.

- N. **The Equal Employment Opportunity Act:** This act empowers the Equal Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.
- O. **The Immigration Reform and Control Act (IRCA) of 1986:** Under IRCA, employers may hire only persons who may legally work in the U.S., i.e., citizens and nationals of the U.S. and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (19).
- P. **The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978:** This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.
- Q. **The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002):** This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- R. **Executive Order 11246, as amended:** This executive order applies to all Grantees, Subrecipients, their contractors, and subcontractors. It provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin.
- S. **24 C.F.R. Part 5, Subpart A:** The requirements at 24 C.F.R. Part 5 are applicable including the nondiscrimination and equal opportunity requirements at 24 C.F.R. § 5.105(a) and the housing counseling requirements at 24 C.F.R. § 5.111.
- T. **Build America, Buy America:** Contractor must comply with the requirements of the Build America, Buy America (BABA) Act, 41 U.S.C. 8301 and all applicable

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rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD federal financial assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates are subject to BABA requirements, unless exempted by a waiver.

16. Affirmative Outreach

- A. Contractor or its Service Providers must make known that the use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures the Contractor or its service providers intend to use to make known the availability of its facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability, who may qualify for those facilities and services, the Contractor or its service providers must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services.
- B. Contractors and Service Providers must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, Contractors and Service Providers are also required to take reasonable steps to ensure meaningful access to programs and activities for Limited English Proficiency (LEP) persons.
- C. Equal Access for Disabilities:
 - 1) Contractors must provide a language access plan that makes appropriate accommodations for LEP interpretive services and services that support the visually impaired as required by Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794 (contractors receiving federal financial assistance), in conjunction with section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794d (created the U.S. Access Board to regulate websites, electronic information and communication technology (EICT) accessibility); Section 255, of the Communications Act of 1934, as amended; 24 C.F.R. Part 8, including sections 8.3 and 8.4; and 36 C.F.R. Part 1194, 36 C.F.R. §§ 1194.1.

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1194.2, and Appendices B and C to Part 1194 (accessibility standards for disabled to communication technology); see U.S. Access Board website;

- 2) Achieving Compliance: The California State Dept. of Rehabilitation maintains an Assistive Technology website with resources for services to achieve compliance with recognized standards for non-discriminatory accessibility.

17. Environmental Requirements

- A. By execution of this Agreement, the Contractor agrees to assume responsibility for environmental review, decision-making, and action under 24 C.F.R. Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities" and shall comply with the environmental requirements of 24 C.F.R. Part 58 including §58.4 "Assumption Authority." The obligation of funds and incurring of costs is hereby conditioned upon compliance with 24 C.F.R. Part 58, and completion by HCD of all applicable review and approval requirements.
- B. The Contractor, its Service Providers, and any Subcontractors of the Contractor or service provider, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project, or commit or expend ESG or local funds for eligible activities under this part, until the Contractor has performed an environmental review under 24 C.F.R. Part 58 and the Contractor has received HCD approval if required by the level of environmental review.
- C. In accordance with 24 C.F.R. § 58.22, "Limitations on activities pending clearance" neither a Contractor nor any Service Provider in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 24 C.F.R. § 58.1(b) on an activity or project until the environmental review process is complete and if required, HCD has approved the Contractor's HUD Form 7015.5 "Request for Release of Funds and Certification" (RROF) and issued HUD Form 7015.16, "Authority to Use Grant Funds". Neither a Contractor nor any Service Provider in the development process may commit non-HUD funds or undertake an activity or project that would have an adverse environmental impact or limit the choice of reasonable alternatives. Upon completion of environmental review, HCD shall notify Contractor. HUD funds shall not be utilized before this requirement is satisfied. Violation of 24 C.F.R. Part 58 may result in disapproval, modification, or cancellation of the ESG Grant.

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- D. If a project or activity is exempt under 24 C.F.R. § 58.34, “Exempt activities” or is categorically excluded (except in extraordinary circumstances) under 24 C.F.R. § 58.35(b) “Categorical exclusions not subject to §58.5”, no RROF is required, and the recipient may undertake the activity immediately after the Contractor has provided documentation to HCD of its determination that each activity or project is exempt or categorically excluded. The Contractor remains responsible for carrying out any applicable requirements under §58.6, “Other Requirements” and must provide documentation to HCD at the time of grant monitoring of its compliance with this section of 24 C.F.R. Part 58.
- E. By execution of this Agreement, the Contractor is also subject to the provisions of the California Environmental Quality Act (CEQA). Contractor assumes responsibility to fully comply with CEQA’s requirements regarding the Work.

18. Clean Air and Water Acts

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 5050, as amended from time to time.

19. Lead-Based Paint Hazards

The assistance provided under this Agreement is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 – 4845), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 - 4856). Activities performed with the assistance provided under this Agreement are subject to 24 C.F.R. Part 35.

20. Labor Standards

- A. Pursuant to 24 C.F.R. § 576.407(e) Davis-Bacon Act does not apply to the ESG program.
- B. Federal Regulations see The Fair Labor Standards Act (FLSA) 29 U.S.C. §§ 201-219.

21. Matching Funds

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The matching requirements of 24 C.F.R. § 576.201 shall apply to this activity. The Department requires the Contractor to provide a 1:1 match for all ESG expenditures. The eligible forms of matching contributions are defined at 24 C.F.R. § 576.201(d). Program income may be used as matching contributions, subject to the requirements at 24 C.F.R. § 576.201.

23. Assurance of Compliance with the “Violence Against Women Reauthorization Act of 2022” (VAWA) (S.3623 - 117th Congress (2021-2022) (as amended or reauthorized) Title VI - Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking – Sec. 601-603. See also 81 FR 80803, Nov16, 2016.

VAWA provides housing protections for survivors of domestic and dating violence, sexual assault, and stalking when it comes to finding and keeping a home, they can feel safe in. VAWA applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistently with all nondiscrimination and fair housing requirements. VAWA now expands housing protections to HUD programs beyond HUD’s public housing program and HUD’s tenant-based and project-based Section 8 programs. VAWA now provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking. During the performance of this Agreement, the ESG Recipient shall ensure that all requirements of VAWA are complied with, including but not limited to:

- A. Domestic Violence survivors are not denied assistance as an applicant, or evicted or have assistance terminated as a tenant, because the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, and stalking.
- B. It will implement an ‘emergency transfer plan’, which allows for domestic violence survivors to move to another safe and available unit if they fear for their life and safety.
- C. It will provide “Protections against denials, terminations, and evictions that directly result from being a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.”
- D. It will implement a ‘Low-barrier certification process’ where a domestic violence survivor need only to self-certify in order to document the domestic violence, dating violence, sexual assault, or stalking, ensuring third party documentation

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does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.

24. Liability Insurance

Unless otherwise approved in writing, Contractor shall have and maintain in full force and effect during the term(s) of this Agreement liability insurance in an amount of not less than \$1,000,000.00 per occurrence with the Department named as an additional insured. Prior to drawdown of funds, Contractor shall provide a valid certificate of insurance to the Department's Program Representative for review and approval.

25. Reporting and Recordkeeping

- A. Pursuant to Section 303 of the Guidelines, Contractor shall keep and maintain records providing a full description of the activity(ies) undertaken. These include but are not limited to the following:
- 1) Records demonstrating that the activity(ies) meet the Emergency Solutions Grant program's national objective for which the ESG Grant is being provided;
 - 2) Records demonstrating the eligibility of the activities constituting the eligible program expenses;
 - 3) Records demonstrating compliance with this Agreement and the ESG Requirements;
 - 4) Data demonstrating client eligibility for services provided including the name, income level, family size of each client and other information for determining eligibility.
- B. A record of the services provided to each client, and such other records as may be reasonably required by the Department to allow the Department to evaluate the Contractor's operation of the program and compliance with the ESG Program and this Agreement.
- C. Records that allow the Department to comply with the Department's record keeping and reporting under the ESG Requirements. Contractor shall provide records that identify and account for the use of the ESG Grant proceeds and expenditures of all eligible program costs pertaining to this Agreement. Including

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without limitation, the records specified in 24 C.F.R. § 576.500, as they pertain to the activities under this Agreement.

- D. Books and records pertaining to the eligible program expenses shall be kept and prepared in accordance with generally accepted accounting principles or as otherwise required by the Department.
- E. By July 31 of each year, Contractor shall submit an Annual Performance Report to the Department. In accordance with federal reporting requirements, the report will include, but will not be limited to, beneficiary data, Minority Owned Business/Women Owned Business (MBE/WBE) data, and Section 3 data, if applicable.
- F. Contractor shall submit a Request for Funds (RFF) and Detailed Expense Report (DER) in a manner and format approved by the Department within thirty (30) days after the end of the State Mandated reporting period. Compliance reports shall be submitted as specified by the Department. Close-out-of-grant progress reports shall be submitted within sixty (60) days after the end of the reporting period.
- G. Contractor shall manage and maintain all client data information using a Homeless Management Information System (HMIS) or comparable data system (defined as a separate data system that collects required HMIS and ESG data elements and complies with HUD Data and Technical Standards).
- H. Contractor shall maintain all fiscal and program records pertaining to the ESG Grant for a period of five (5) years after the Department closes its HUD grant or any other period specified in 24 C.F.R. § 576.500(y).
 - 1) NOTE: Record retention is based on *the Department's HUD closing date; NOT five (5) years from this Agreement expiration*. The retention requirement can extend beyond five (5) years after this Agreement expires. Therefore, the Contractor must contact the Department for the specific record retention date for this Agreement.
- I. Contractor shall submit required reports on forms approved by the Department.

26. Audit/Retention and Inspection of Records

- A. Contractor agrees to maintain accounting books and records in accordance with Generally Accepted Accounting Principles, pursuant to 2 C.F.R. § 200.1

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Contractor agrees that the Department, the Department of General Services, the Bureau of State Audits, the Department of Housing and Urban Development, or their designated representatives, shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for five (5) years after the Department closes its HUD grant or any other period specified in 24 C.F.R. § 576.500(y).

NOTE: Record retention is based on the Department's HUD closing date; NOT five (5) years from this Agreement expiration. The retention requirement can extend beyond five (5) years after this Agreement expires. Therefore, the Contractor must contact the Department for the specific record retention date for this Agreement.

- B. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the Department to audit records and interview staff in any subcontract related to performance of this Agreement.
- C. Contractor receives federal funds that, in the aggregate, equal or exceed the threshold identified in the Uniform Administrative Requirements, the Contractor must have an annual single audit in compliance with the Single Audit Act of 1984, as amended and comply with 2 C.F.R. Part 200, Subpart F. The audit shall be performed by a qualified State, local or independent auditor. Contractor shall notify the Department of the auditor's name and address immediately after the selection has been made. The contract for audit shall include a clause which permits access by the Department to the independent auditor's working papers. Audits shall be submitted to the Department when completed but no later than nine months following the close of the fiscal year. Contractor shall take corrective actions on any issues noted during the audit within six months of the date of receipt of the reports. HCD shall consider sanctions as described in 2 C.F.R. § 200.505 if the Contractor is not in compliance with these audit requirements.
- D. Contractor, its Service Providers, and their subcontractors shall comply with the audit requirements contained in 2 C.F.R. Part 200.

27. Faith-Based Activities

Contractor and its Service Providers shall not require, as a condition of Program Participant housing, participation by Program Participants in any religious or

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philosophical ritual, service, meeting, or rite. Contractor and its Service Providers listed shall also comply with the requirements of 24 C.F.R. § 576.406 of the Federal Regulations.

28. Interest of Members, Officers or Employees of Contractors, Members of Local Governing Body

In addition to the conflict-of-interest requirements in 2 C.F.R. § 200.112 and pursuant to 24 C.F.R. § 576.404, no person:

- A. Who is an employee, agent, consultant, officer or elected or appointed official of the Contractor (or of any designated public agency); and
- B. Who exercises or has exercised any functions or responsibilities with respect to assisted activities; or,
- C. 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 themselves or for those with whom they have family or business ties, during their tenure or for 1 year thereafter.

HUD may grant an exception to this exclusion as provided in 24 C.F.R. § 570.611 (d).

- D. Contractor shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees, or agents engaged in the selection, award, and/or administration of contracts supported by federal funds to ensure no conflict of interest, real or apparent, would be involved.

29. Anti-Lobbying Certification

- A. The Contractor shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant and that all Service Providers shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

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- B. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and no more than \$100,000.00 for such failure.
- 1) No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - 2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

30. Waivers

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. Failure of the Department to enforce the provisions of this Agreement or required performance by the Contractor of these provisions, at any time, shall in no way be construed to be a waiver of such provisions, nor affect the validity of this Agreement, or the right of the Department, to enforce these provisions.

31. Litigation

- A. If any provision of this Agreement, or any underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. Contractor shall notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement of the

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Department and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

32. Sanctions

The Department may impose sanctions, as well as any other remedies available to it under law, on Contractor or its Service Providers, for failure to abide by any State and Federal laws and regulations applicable to the ESG Program. Such sanctions include:

- A. Conditioning a future grant on compliance with specific laws or regulations;
- B. Directing Contractor or its Service Providers to stop incurring costs under the current grant;
- C. Requiring that some or the entire grant amount is remitted to the Department;
- D. Reducing or disencumbering some or all of the amount of grant funds Contractor would otherwise be entitled to receive;
- E. Electing not to award future grant funds to Contractor unless and until appropriate actions are taken by the Contractor to ensure compliance; and/or,
- F. Taking any other actions permitted pursuant to 24 C.F.R. § 576.501.

33. Drug-Free Workplace Requirements

The Contractor shall comply with and be subject to the requirements of the federal drug-free workplace requirements, which include the following actions be taken:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- B. Establishing an ongoing drug-free awareness program to inform employees about: (i) the dangers of drug abuse in the workplace; (ii) the Contractor's policy of maintaining a drug-free workplace; (iii) any available drug counseling, rehabilitation, and employee assistance programs; and (iv) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

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- C. Contractor and their Service Providers shall maintain a drug free environment on the Site. Contractor and their Service Providers pledge to the Department that all persons working or residing on the Site shall not unlawfully manufacture, distribute, dispense, possess, or use controlled substances, as said term is defined in 21 U.S.C. Section 812 and California Health and Safety Code Section 11007 (or successor statutes), including marijuana, heroin, cocaine, and amphetamines on the Site. If Contractor or any person working or residing on the Site is convicted or pleads guilty or nolo contendere to a charge of unlawfully manufacturing, distributing, dispensing, possessing, or using controlled substances on the Site, then such event shall constitute a default of this Agreement.

34. Area-wide System Coordination Requirements

The Contractor and their Service Providers agree to participate in the Homeless Management Information System ("HMIS"), or comparable database, pursuant to 24 C.F.R. § 576.107. Contractor must ensure that data on all persons served, and all activities assisted under ESG are entered into the applicable community wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. Contractor shall coordinate and integrate, to the maximum extent practicable, ESG funded activities with mainstream housing, health, social services, employment education, and youth programs targeted to homeless people in the area covered by the Continuum of Care ("CoC") or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for the area as set forth at 24 C.F.R. § 576.400(b) and (c). Furthermore, Contractor understands they are required by federal law to provide for the participation of at least one homeless or formerly homeless person(s) in a policy-making function within the organization as required in 24 C.F.R. § 576.405. 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 Contractor. The Contractor also agrees that to the maximum extent practicable, they will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this Agreement as listed in 24 C.F.R. § 576.405 in accordance with 42 U.S.C. 11375(d) and 42 U.S.C. 11375(c)(7).

35. Evaluation of Program Participant Eligibility and Needs

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Pursuant to 24 C.F.R. § 576.401, Contractor and their Service Providers shall conduct an initial evaluation to determine the eligibility of each individual or family's eligibility for ESG assistance and the amount and types of assistance the individual or family needs to regain stability in permanent housing. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements set forth under 24 C.F.R. § 576.400(d) and the written standards established under 24 C.F.R. § 576.400(e).

35. False, Fictitious or Fraudulent Claims:

Warning: Any person who knowingly makes a false claim or statement to HUD or the Department may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

A. Detecting, Preventing, and Reporting FRAUD

- 1) Fraud is a white-collar crime that has a devastating effect on the ESG program because the ESG program beneficiaries are victims of this crime when the ESG program is abused.
- 2) HCD wants to stop any criminal assault on the ESG program it administers, and in doing so all ESG funds go to people it was designed to help and improve their living conditions.

B. Combatting Fraud

- 1) The U.S. Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) is committed to protecting HUD's programs, operations, and beneficiaries from dishonest individuals and organizations.
- 2) HUD cannot combat fraud alone.
- 3) HUD relies on HCD and ESG NOFA applicants to combat ESG program fraud. HUD also relies on applicants for, and people receiving, HUD benefits, such as tenants receiving rental assistance, borrowers with HUD insured loans, or citizens having their communities restored using HUD grants.
- 4) The HUD OIG Hotline number is 1-800-347-3735, this is the primary means to submit allegations of fraud, waste, abuse, mismanagement, or

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Whistleblower related matters for the ESG program to the Office of Inspector General.

- 5) HUD OIG accepts reports of fraud, waste, abuse, or mismanagement in the ESG program from HUD employees, anyone administering the ESG program, anyone working in the ESG program, contractors, and the public.
- 6) You can report mismanagement or violations of law, rules, or regulations by HUD employees or program participants.
- 7) Fraud, Waste and Abuse in the ESG program and its operation may be reported in one of the following four (4) ways:

E-mail to: hotline@hudoig.gov

By Phone: Call toll free: 1-800-347-3735

By Fax: 202-708-4829

By Mail: Department of Housing & Urban Development.

HUD OIG, Office of Investigation, Room 1200

Field Office

One Sansome Street
San Francisco, CA 94104

[\(213\) 534-2518](tel:(213)534-2518)

HUD OIG, Office of Investigation

Suite 4070

Regional Office

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Los Angeles, CA 90012

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