

Cross-Cutting Policies and Procedures Manual



I. Introduction

The State of California operates, on an annual basis, the Emergency Solutions Grant (ESG) from the U.S. Department of Housing and Urban Development (HUD) as authorized under the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) and the 2012 ESG Interim Rule.

The State of California was awarded \$315,721,589 in Emergency Solutions Grant – Cares Act (ESG-CV) from HUD from funds appropriated through the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136 / CARES Act) that was signed into law on March 27, 2020. The bill made ESG-CV funds available to HUD which then allocated the funds to ESG-eligible states and cities. Both the ESG and ESG-CV programs are administered by the Department of Housing and Community Development (CA HCD).

The ESG and ESG-CV program must comply with several cross-cutting federal rules and requirements. This document establishes the policies and procedures to ensure compliance with these requirements. This policy may be updated periodically to incorporate applicable changes in the ESG, and ESG-CV programs as required by HUD and/or determined necessary by the State.

A. Applicability

This Manual applies to ESG grants funded using:

- Annual ESG
- ESG-CV

Applicable cross-cutting requirements are generally summarized in 24 CFR 576.407 of the regulations, but some requirements (such as lead-based paint) are included elsewhere in the regulations. These requirements are detailed in Section II A.-H.

II. Applicable Cross-cutting Requirements and Procedures

A. Section 3

Eligible ESG and ESG-CV projects shall be carried out in a manner to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 ([12 U.S.C. 1701u](#)) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very

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low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

Procedures:

To carry out activities consistent with the Section 3 requirements, subrecipients should follow the guidance set forth in HUD's Section 3 Guidebook:

<https://www.hudexchange.info/programs/section-3/section-3-guidebook/welcome/>

Subrecipients shall maintain adequate documentation showing compliance with all Section 3 requirements and comply with annual reporting requirements set by CA HCD.

On a regular basis, CA HCD will monitor subrecipients to ensure compliance with these requirements and review reporting submitted by subrecipients to ensure compliance with the objective of the Section 3 program.

B. Fair Housing and Equal Opportunity

All programs and activities must ensure that they are carried in a manner to affirmatively further fair housing and ensure programs, activities, and services are carried in a manner that promotes nondiscrimination and equal opportunity. Applicable laws and authorities include:

- The Fair Housing Act ([42 U.S.C. 3601-19](#)) and implementing regulations at [24 CFR part 100 et seq.](#);
- Executive Order 11063, as amended by Executive Order 12259 ([3 CFR](#), 1959-1963 Comp., p. 652 and [3 CFR](#), 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at [24 CFR part 107](#);
- Title VI of the Civil Rights Act of 1964 ([42 U.S.C. 2000d-2000d](#)) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at [24 CFR part 1](#);
- The Age Discrimination Act of 1975 ([42 U.S.C. 6101-6107](#)) and implementing regulations at [24 CFR part 146](#);
- Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794](#)) and implementing regulations at [part 8 of this title](#);
- Title II of the Americans with Disabilities Act, [42 U.S.C. 12101 et seq.](#);
- Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 ([3 CFR](#), 1964-1965 Comp., p. 339;
- [3 CFR](#), 1966-1970 Comp., p. 684; [3 CFR](#), 1966-1970 Comp., p. 803;
- [3 CFR](#), 1978 Comp., p. 230; and [3 CFR](#), 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at [41 CFR chapter 60](#);
- Executive Order 11625, as amended by Executive Order 12007 ([3 CFR](#), 1971-1975 Comp., p. 616 and [3 CFR](#), 1977 Comp., p. 139) (Minority Business Enterprises);

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- Executive Order 12432 ([3 CFR](#), 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 ([3 CFR](#), 1977 Comp., p. 393 and [3 CFR](#), 1987 Comp., p. 245) (Women's Business Enterprise)
- Equal Access to Housing Final Rule and Equal Access in accordance with Gender Identity Final Rule – 2016

Procedures:

CA HCD and its subrecipients will ensure that all programs are operated in a manner that affirmatively furthers fair housing. CA HCD and its subrecipients shall document how programs are marketed and managed and maintained to ensure compliance with fair housing and nondiscrimination requirements. Programs will further be carried out in accordance with CA HCD's Analysis of Impediments to Fair Housing Choice and local Analyses of Impediments to Fair Housing Choice, as applicable.

CA HCD shall monitor subrecipients on a regular basis to ensure compliance with fair housing requirements.

C. Affirmative Outreach

CA HCD and its subrecipients must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. CA HCD and its subrecipients must ensure that services and assistance are made known to all potential clients, especially those who are considered a protected class by HUD and by the State of California.

CA HCD and its subrecipients must make reasonable efforts to ensure effective communication of services and assistance to persons with disabilities and, consistent with Executive Order 13166 and Title VI, ensure communication and programs are carried out in accordance with a Language Access Plan (LAP) to allow participation of persons with limited English proficiency.

Procedures:

CA HCD and its subrecipients shall ensure programs are communicated in a range of means to reach the intended populations. If, based on evaluation of communication strategies, it appears that a protected class is not aware of a service or program, CA HCD or the subrecipient must re-establish its communication strategy and ensure it adequately targets that protected class.

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All communication shall be carried out in accordance with CA HCD or the subrecipient's Language Access Plan (LAP). CA HCD and subrecipients are responsible for regularly updating their LAP in accordance with HUD's guidance:

<https://www.hud.gov/sites/documents/LEPMEMO091516.PDF>

D. Lead-Based Paint

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG program and all housing occupied by program participants.

Procedures:

For each property assisted, the subrecipient or service provider is responsible for evaluating the property for the risk of lead. Each program participant file shall maintain the following:

- 1) Documentation that a certified individual conducted a lead assessment using the attached lead assessment form or a similar form
- 2) Documentation that the program participant received a copy of "Protect your Family from Lead in your Home" <https://www.epa.gov/lead/protect-your-family-lead-your-home-english>
- 3) Documentation that if a housing unit did not pass the lead assessment, the property was either remediated or the household was assisted in identifying an alternative unit

CA HCD shall monitor subrecipients on a regular basis to ensure compliance with these requirements.

E. Environmental Reviews

CA HCD and its subrecipients must complete environmental reviews in accordance with 24 CFR part 58. CA HCD or subrecipient, or any contractor of the recipient or subrecipient, may not carry out any activity until a satisfactory environmental review is completed in accordance with the requirements of Part 58. Unless provided flexibility by the CARES Act or other guidance, any activity carried out without a completed environmental review is considered an ineligible activity and is at-risk of repayment.

Procedures:

Environmental Reviews shall be conducted by the subrecipient in accordance with the guidance in 24 CFR part 58 and by HUD: <https://www.hudexchange.info/homelessness->

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[assistance/coc-esg-virtual-binders/coc-esg-environmental-review/coc-and-esg-environmental-review-overview/](#)

Subrecipients shall maintain documentation of the Environmental Review Record and submit to CA HCD upon request.

CA HCD shall monitor subrecipients to ensure Environmental Reviews were conducted in a compliant manner.

F. Uniform Administrative Requirements (2 CFR Part 200)

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at [2 CFR Part 200](#) are applicable to CA HCD and its subrecipients.

Procedures:

CA HCD and its subrecipients shall ensure that program documentation indicates compliance with all applicable requirements in 2 CFR Part 200.

G. Uniform Relocation Act

Consistent with the other goals and objectives of ESG and ESG-CV, CA HCD and its subrecipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under ESG or ESG-CV.

When a tenant moves for a project assisted with ESG or ESG-CV funds under conditions that trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), [42 U.S.C. 4601-4655](#), tenant should be treated as permanently displaced and offered relocation assistance and payments consistent URA requirements and 24 CFR 576.408(c).

Procedures:

If a project triggers Uniform Relocation Assistance, the subrecipient shall consult with CA HCD for guidance and support in complying with all relevant URA requirements prior to initiating any non-reversible action.

H. Procurement of Recovered Materials

CA HCD, contractors, subrecipients, and sub-awardees 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 CFR part 247](#) that contain the highest

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percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; 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.

Procedures:

Procurement processes for CA HCD and its subrecipients shall ensure that these requirements are considered for any applicable procurement.

CA HCD shall evaluate compliance with this requirement through regular monitoring of its ESG and ESG-CV subrecipients.

III. Roles and Responsibilities

A. California Department of Housing and Urban Development

The California Department of Housing and Community Development (CA HCD) is the recipient of ESG and ESG-CV funding from HUD. The structure and process of the distribution of ESG and ESG-CV funds within the State is summarized in the State's Annual Action Plan.

CA HCD is responsible for ensuring that it and its subrecipients and partners comply with all cross-cutting requirements. This is primarily done through regular monitoring of its program subrecipients and the requirement that subrecipients monitor their service providers for compliance with all ESG and ESG-CV requirements.

B. Subrecipients

Subrecipients are Continuums of Care (CoCs) implementing ESG and ESG-CV programs. Subrecipients are responsible for ensuring all programs are carried out in a manner consistent with the federal cross-cutting requirements of the ESG and ESG-CV programs.

C. Program Participants

Program participants are those individuals or households/families that benefit from ESG and ESG-CV funds.