



Emergency Solutions Grant (ESG) Program Manual for HCD Subrecipients

California Department of Housing and
Community Development


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PURPOSE AND OVERVIEW

Purpose

The Emergency Solutions Grant (ESG), as authorized by authorized by subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378) and regulated by [24 CFR Part 576](#), provides federal funds from the U.S. Department of Housing and Urban Development (HUD) to the California Department of Housing and Community Development (HCD) to support local programs in assisting individuals and families to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. ESG funds are available for five program components:

Street Outreach (SO)

Emergency Shelter (ES)

Homelessness Prevention (HP)

Rapid Re-Housing (RRH)

Homeless Management Information System (HMIS)

ESG funds may also be used for administrative activities.

This manual provides standards and guidance established by HCD for subrecipients receiving ESG funding from HCD to ensure funds are administered in compliance with applicable statutory and regulatory requirements and State standards as well as HCD's strategic goals. The standards described in this manual include both general standards applicable to all ESG-funded program components as well as component-specific standards. Unless otherwise noted, subrecipients have discretion to establish additional standards for ESG funding implementations so long as these standards do not conflict with [Federal ESG regulations](#), [State ESG regulations](#), this manual, and other HCD requirements, policies, standards, and grant contract stipulations.

This manual incorporates standards, policies, and procedures that ESG subrecipients should be familiar with and adhere to when implementing their programs, including but not limited to requirements established by HUD and additional requirements established by State law, regulations, Notice of Funding Availability (NOFA) and contract language, and the State's Consolidated Plan. This manual provides guidance regarding the actions ESG subrecipients must take to be compliant with these requirements.

Each ESG subrecipient should develop project policies and procedures that govern their implementation of ESG funds. These policies and procedures should incorporate HUD requirements and the State's ESG policies and procedures, including this manual, and may incorporate additional policy requirements or limitations as long as these do not conflict with HUD or the State requirements. Each ESG subrecipient and each subrecipient's subrecipient (referred to herein as sub-subrecipients or contractors) should additionally develop detailed procedures as necessary to ensure that staff are consistently

implementing the policies, procedures, and requirements laid out by HUD, the State, and the State's direct subrecipients.

This manual has been updated to reflect the changes made to 24 CFR Part 576 – Emergency Solutions Grant Program, that were published April 1, 2018.

HCD's Strategic Goals

Increase coordination with local community-wide planning efforts to ensure the strategic use of resources to prevent and end homelessness.

State-funded ESG activities should contribute to the community's overall efforts to impact homelessness and align with local priorities. ESG applicants and awardees should actively participate in their Continuum of Care (CoC) governance and planning activities.

ESG subrecipients must participate in the local Homeless Management Information System (HMIS) or comparable database (where specifically permitted) and will be expected to adhere to the CoC written standards and participate in the local Coordinated Entry System (CES).

Improve access to funded activities to ensure California communities reach those who are experiencing homelessness and need assistance.

ESG subrecipients are expected to use Housing First approaches to help ensure that households experiencing homelessness, including those with high barriers to housing stability or high-service needs, are able to participate in ESG-funded activities. In general, Housing First practices include low-barrier program admission and access, housing-focused assistance, and participant self-determination.

As required by the federal regulations, CES is an important tool in serving those who are experiencing homelessness with the appropriate intervention, if any.

Shorten the length of time people experience homelessness through Rapid Re-Housing (RRH) and greater emphasis on project performance as part of an integrated homeless crisis response system.

RRH helps people find and keep permanent housing, typically through landlord outreach and help with housing search, temporary rental assistance, and housing-focused services. With RRH, people should experience a reduced time being homeless, while being connected to resources and support in their community.

RRH providers should coordinate with other providers to ensure full community coverage, connect people to local CES processes and stabilization services, and work as part of a homeless crisis system for connecting people to stable housing using a [Housing First](#) approach. Stabilization services may include access to school or early childhood care and learning, public benefit programs, employment services, reunification services, and or health care, including substance use and mental health services. For survivors fleeing domestic violence, services should also be available within the local crisis response system.

Consistent with the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act, measure program outcomes.

ESG programs should be designed to achieve the performance goals as specified by HUD and reflected in the HEARTH performance measures described in [System Performance Measures](#). Programs should operate as cost-effectively as possible, including reducing the length of stay in homelessness, while facilitating program exits to permanent housing.

HCD will use performance data and other tools, including their CoC's HMIS and HMIS-comparable databases and CA's Homeless Data Integration System (HDIS) on an ongoing basis to understand the ESG program's performance and make improvements.

Overview

To better align its ESG program with federal ESG and the HEARTH Act priorities, HCD redesigned how it allocates and distributes funding. The redesigned ESG program aims to do the following:

- Update the State ESG program to better align with local CoC, federal ESG, and HEARTH goals;

- Invest in impactful activities based on key performance goals and outcomes, improve geographic distribution of funded activities and continuity of funded activities; and

- Reduce the State and local focus on an intensive annual provider competition and create a streamlined delivery mechanism that increases focus on program outcomes, promoting best practices, and continuous improvement.

Racial Equity

The ESG program is a critical resource in the homeless crisis response system throughout California. People living unhoused become stably housed when the system is low barrier, trauma informed, culturally responsive and Housing First oriented. People living unstably housed become stably housed when the system is oriented toward problem solving conversations and personal advocacy to help people identify practical solutions based on their own available resources.

It is expected that HCD and its subrecipients, including county governments and nonprofits, are leaders in their crisis response systems, facilitating partnerships among service organizations and promoting evidence-based, anti-racist practices. Equity must be the foundation of these refined systems, embedding it in the design, implementation, performance measures, and monitoring of our work. National and state data show vast racial disparities in who experiences homelessness, and in some instances, the outcomes within the homeless systems.

Subrecipients must respond to the disproportionality in access to services, service provision and outcomes and cannot simply rely on delivering a standardization of services to address inequity. Subrecipients 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 circumstance, ability or identity.

This includes marginalized populations, Black, Native and Indigenous, Latinx, Asian, Pacific Islander, People of Color, immigrants, people with criminal records, people with disabilities, people with mental health and substance use vulnerabilities, people with limited English proficiency, people who identify as LGBTQ+, and other individuals that may not access mainstream support.

DEFINITIONS

Action Plan means the annual plan required by HUD pursuant to 24 CFR Part 91 governing the distribution and use of ESG funds allocated by HUD to states and local governments.

Administrative activities are defined at [24 CFR 576.108](#).

Administrative Entity means a Units of General Local Government (UGLG) approved by the Department pursuant to section [25 CCR 8403](#) to administer State ESG funds. Refer to [24 CFR section 576.2](#).

Anti-racist is someone who is supporting an antiracist policy though their actions or expressing antiracist ideas. This includes the expression of ideas that racial groups are equals and do not need developing and supporting policies that reduce racial inequity.¹

At risk of homelessness means:

- 1) An individual or family who:
 - (i). Has an annual income below 30 percent of median family income for the area, as determined by HUD;
 - (ii). Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “homeless” definition in this section; and
 - (iii). Meets one of the following conditions:
 - a) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - b) Is living in the home of another because of economic hardship;
 - c) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 14 days after the date of application for assistance;

¹ Kendi, Ibram X. *How to Be an Antiracist*. New York, NY: One World, 2019.

- d) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
 - e) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
 - f) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - g) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;
- 2) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
- 3) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Balance of State Allocation means funds allocated pursuant to the requirements [of 25 CCR sections 8404 through 8407](#).

Bias is a human trait resulting in a person’s tendency and need to categorize individuals into various groups to process information and make sense of the world. These processes are typically developed based on an individual’s life experiences and are often unconscious.²

City is defined at 42 U.S.C. section 5302(a)(5).

Consolidated plan means a plan prepared in accordance with 24 CFR part 91. An *approved consolidated plan* means a consolidated plan that has been approved by HUD in accordance with 24 CFR part 91.

Continuum of Care 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

² United States, Department of Justice, Community Relations Service. “Understanding Bias: A Resource Guide.” *Community Relations Services Toolkit for Policing*. Accessed 24 August 2021: <https://www.justice.gov/file/1437326/download>

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; RRH; 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.

Continuum of Care Allocation means the ESG funds pursuant to the requirements of [25 CCR section 8403](#).

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

Coordinated Entry means the system of program access, needs assessment and prioritization developed by a Continuum of Care pursuant to [24 CFR 576.400 \(d\)](#), and associated HUD requirements and guidance. This term is also known as “Coordinated Entry System”, “Coordinated Assessment” or “Centralized Assessment”.

Core Practices means the practices and protocols of delivering ESG Eligible activities as specified in [25 CCR section 8409](#).

Contractor means a state law contractor entity that enters into a Standard Agreement (STD 213) with the Department for ESG funds, per (State Contracting Manual, Glossary; [25 CCR 8401](#)), and becomes a federally defined subrecipient under [24 CFR 576.2](#) Definitions, see [2 CFR 200.1](#), but not a federally defined contractor under [2 CFR 200.331](#). Subrecipient is often used synonymously with contractor.

Department means the California Department of Housing and Community Development also referred to as HCD.

Disparity means a measurable difference in outcomes for populations.

Eligible activities mean those activities upon which ESG funds may be expended as described in section 8408.

Eligible Continuum of Care means a Continuum of Care in the State that has within its Service Area at least one non-entitlement area. These entities must also meet the requirements of [25 CCR sections 8403 \(d\) or 8404 \(a\)](#).

Eligible organization means a Private nonprofit organization or a UGLG that provides, or contracts with Private nonprofit organizations to provide, Eligible activities.

Emergency shelter means any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and which does not require occupants to sign leases or occupancy agreements. Any project funded as an ES under a Fiscal Year 2010 Emergency Solutions grant may continue to be funded under ESG.

Equality is the access and distribution of a set of resources evenly across individuals of ap population.

Equity is the access to or distribution of resources according to the unique need or circumstances to reach an equal outcome, taking into account historical and other factors to inform decision-making.

ESG is the acronym for the Emergency Solutions Grants program.

ESG Entitlement means a UGLG that meets one of the following: (1) is a Metropolitan City or Urban County as defined under 42 USC 5302 that receives an allocation of ESG funds directly from HUD; (2) is in a Non-entitlement 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.

ESG Entitlement Area or Entitlement Area means the geography within an ESG Entitlement's boundaries.

ESG Non-entitlement means a UGLG that does not receive ESG funding directly from HUD and is not participating as an ESG Entitlement.

ESG Non-entitlement Area means the geography within an ESG Non-entitlement's boundaries.

Explicit Bias occurs when an individual has overt and conscious prejudices, as well as positive or negative preferences for categorization of people based on age, gender, race, or other criteria.

Governing Board - for nonprofit applicants this term includes board of directors; for county local government applicants this term includes county board of supervisors; for City local government applicants this term includes City council.

Homeless means:

- 1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - (i). An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - (ii). An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

- (iii). An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- 2) An individual or family who will imminently lose their primary nighttime residence, provided that:
- (i). The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - (ii). No subsequent residence has been identified; and
 - (iii). The individual or family lacks the resources or support networks, *e.g.*, family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- 3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- (i). Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 - (ii). Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - (iii). Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - (iv). Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- 4) Any individual or family who:
- (i). Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

- (ii). Has no other residence; and
- (iii). Lacks the resources or support networks, **e.g.**, family, friends, faith-based or other social networks, to obtain other permanent housing.

Homeless Management Information System (HMIS) means the information system designated by the Continuum of Care to comply with the HUD's data collection, management, and reporting standards and used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at-risk of homelessness.

Homelessness prevention activities means activities or programs described in [24 CFR 576.103](#).

HUD means the United States Department of Housing and Urban Development.

Implicit bias is defined as an individual's subconscious preference or prejudice towards a person or group. It can be developed through certain cultural and societal norms, such as structural racism, which reinforce the idea that certain stereotypes are true or that discrimination is acceptable

Joint Powers Authority (JPA) means two or more public agencies that, by agreement, jointly exercise any power common to the contracting parties.³

Metropolitan city means a city that was classified as a metropolitan city under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which ESG funds are made available. This term includes the District of Columbia.

NOFA is the acronym for a "Notice of Funding Availability" described in [25 CCR section 8405](#).

Non-entitlement area is defined at 42 U.S.C. 5302.

Operations means the category of ESG activities that includes shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food, and furnishings.

Private nonprofit organization means a private nonprofit organization that is a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 and which is exempt from taxation under subtitle A of the Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance. A private nonprofit organization does not include a governmental organization, such as a public housing agency or housing finance agency.

Program income shall have the meaning provided in 2 CFR 200.80. Program income includes any amount of a security or utility deposit returned to the recipient or subrecipient.

³ CCR GOV Title 1 § 6502

Program participant means an individual or family who is assisted under ESG program.

Program year means the consolidated program year established by the recipient under 24 CFR part 91.

Race is the social construction of categorizing people largely based on physical differences features, such as skin color or ancestry, without a biological basis.

Racial Equity is when an individual's racial identity does not predict how they will fare, as demonstrated by statistics, by the examination and elimination of policies, practices, attitudes, and messages that allow for disparate outcomes.

Racial Inequity is when two or more racial groups are not standing on approximately equal footing, such as the percentages of each ethnic group in terms of their representation in the homelessness population.⁴

RRH means the activities set forth in [24 CFR 576.104](#).

Rank means the order of eligible applications for funding based only on the rating established pursuant to the applicable grant selection criteria.

Rating means the process by which eligible applications are evaluated and given an overall numerical or relative value based on the numerical or relative value(s) assigned to each of the identified selection criteria described in the NOFA to which the applicant is responding.

Recipient means any State, territory, metropolitan city, or urban county, or in the case of reallocation, any UGLG that is approved by HUD to assume financial responsibility and enters into a grant agreement with HUD to administer assistance under this part. For purposes of this document, Recipient means The Department of Housing and Community Development (HCD)

Service Area has the same meaning as the term "Continuum of Care Service Area".

Service provider is an entity that enters into a written agreement with an HCD contractor (i.e. subrecipient) to implement eligible activities with ESG funds; often synonymous with "subrecipient of the Administrative Entity," below.

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

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

- a deed demonstrating ownership in fee title;
- a lease demonstrating a leasehold interest in the Site and its improvements for at least the term of the ESG grant,

⁴ Ibram X. Kendi. (American author, professor, antiracist activist and historian of race and discriminatory policy in America)

- 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
- 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 prior to the deadline for submission of the ESG application stated in the applicable NOFA.

Standard Agreement means the contract entered into by the Department and the ESG Subrecipient setting forth the basic terms and conditions governing the award of ESG funds.

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

Subrecipient is synonymous with “contractor,” above.

Subrecipient of the Administrative Entity means an entity that enters into a written agreement with the Administrative Entity to implement Eligible activities with ESG funds.

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

Urban county means a county that was classified as an urban county under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which ESG funds are made available.

Victim service provider means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. This term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

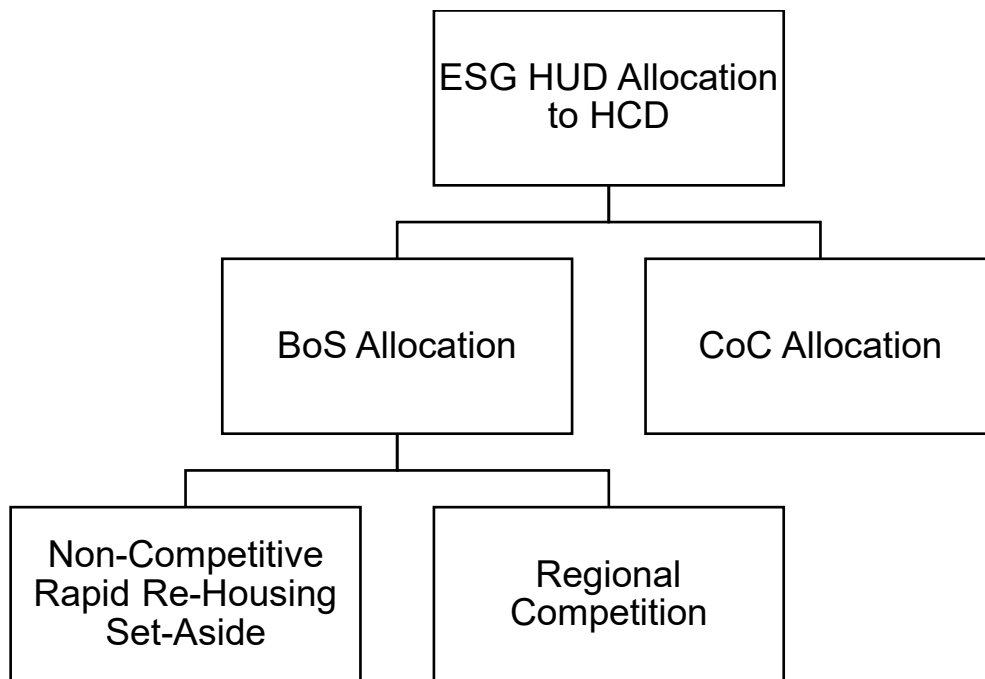
ESG FUNDING ALLOCATION

The State of California receives a formula amount of ESG funding each year from HUD. HCD allocates its funding to the State's CoC service areas containing at least one non-entitlement area using a formula method set forth under [25 CCR Section 8402](#) of the State ESG Regulations. Funding allocated by two related, but distinct allocation processes. These are:

- 1) **CoC Allocation**: CoCs within this allocation have at least one city or county that receives ESG funds directly from HUD as well as one non-entitlement area. Within the CoC Allocation, *Administrative Entities* (AEs) are selected by HCD to administer an allocation of funds provided through a formula for their service area. These AEs must be local governments of ESG Entitlement Areas and must commit to administering State ESG funds in collaboration with their CoC throughout their CoC Service Area, including ensuring access to ESG funds by households living in non-entitlement areas. A minimum of 40% of each AE Allocation must be used for RRH activities.

- 2) **Balance of State (BoS) Allocation:** CoCs within this allocation have no cities or counties that receive ESG funds directly from HUD. All areas are non-entitlement areas within the BoS Allocation. Eligible CoCs that meet the requirements set forth under [25 CCR Section 8404 \(a\)\(1\)](#) of the State Regulations may select providers to receive a portion of funds available noncompetitively for RRH. HCD will administer these contracts with all providers within the BoS allocation. The remaining funds within the BoS Allocation will be divided into three regional allocations. CoCs will recommend homeless service providers to compete for these funds within their regional allocation under a Notice of Funding Availability (NOFA) issued by HCD.

For the purposes of this program, both the AE and BoS are treated contractor.



Local Continuum of Care

HCD recognizes the integral role of local CoCs in the redesigned ESG program. Specifically, CoCs promote community-wide planning and the strategic use of resources to address homelessness; improve coordination and integration with mainstream resources and other programs targeted to people experiencing homelessness; improve data collection and performance measurement; and tailor local programs to the strengths and challenges within the community.

To participate in the ESG program, local CoCs must meet the following minimum requirements:

Received CoC Program funding (which includes CoC planning funds) for one or more projects from HUD in at least one of the past two years or has registered to apply for funding in the next CoC Program competition;

Has HUD-compliant conflict of interest policies in place;

Has adopted, or will adopt by time of funding approval, written standards that meet HUD's requirements for all eligible activities proposed to be carried out with ESG funds;

Has demonstrated capacity to manage federal funds appropriately and effectively; and

Operates or will operate a HUD-compliant HMIS.

Local CoCs are responsible for the following:

Recommending an AE for communities participating in the CoC Allocation or recommending qualified provider projects in the BoS Allocation;

Collaborating with the local AE (CoC Allocation), to the maximum extent feasible, in determining eligible activities, selection of providers, and administering ESG awards;

Developing a conflict-of-interest policy that meets HUD's requirements;

Adopting Written Standards for all eligible activities;

Operating an HMIS that is fully compliant with HUD's [data and technical standards](#);

Having a functional CES that meets the requirements of [24 CFR 576.400](#) and associated HUD Notices, requirements, and guidance.

CoC Allocation

The CoC Allocation is the funds designated to CoC Service Areas that have at least one jurisdiction that currently receives HUD ESG entitlement funds and meet capacity and funding thresholds. Within the CoC Allocation:

The AE is approved by HCD and administers contracts for State ESG funds. These AEs are local governments of ESG Entitlement Areas that have committed to administering State ESG funds, in collaboration with their CoC, throughout their Service Area.

AE's have undergone a capacity assessment conducted by HCD, and any issues identified are addressed in contract/grant conditions.

HCD enters into a contract with each approved AE.

Each AE runs its own grant selection process under the terms of CCR 25 Section 8403 (g) of the [State regulations](#), and contracts directly with its selected homeless service providers. An AE administers funds only for its CoC Service Area, unless it enters into an agreement with a geographically

contiguous CoC to administer 100% of the funding attributable to both CoC Service Areas for RRH in accordance with 25 CCR Section 8403(a)(1) of the [State regulations](#).

AE Serving a Geographically Contiguous CoC

In addition to receiving funds in the CoC allocation, an approved AE is eligible to administer funds for a geographical contiguous CoC that is eligible to receive funds under the BoS Allocation. An AE runs their own grant selection process under the terms of 25 CCR Section 8403(g) of the [State regulations](#), and contracts directly with the selected homeless service providers. The AE administers funds for both its CoC Service Area and the geographical contiguous CoC for only RRH activities in accordance with 25 CCR Section 8403(a)(1) of the [State regulation](#).

No Qualified AE Serving a CoC Service Area

In the absence of an approved AE for their Service Area, CoCs within the CoC Allocation select provider/s to administer a portion of funds available under their formula allocation for RRH. These funds are accessed noncompetitively, and HCD administers these contracts with providers. In recommending providers for noncompetitive RRH funds, the CoC shall follow a process that meets the requirements of 25 CCR 8403(a)(2) of [State regulation](#).

AE Qualifications and Selection

As established in 25 CCR Section 8402 (e) (2) of the [ESG State regulations](#), HCD biennial issues a Solicitation of Interest seeking a qualified City or County local entity to act as the AE within each qualified CoC Service Area. The AE administers ESG funding in close collaboration with their CoC. To qualify, the AE must:

- Be a unit of general-purpose local government that has administered ESG funds as a HUD entitlement during at least one of the past five years;

- If the only ESG entitlement in the Service Area is a City, a County Agency may be proposed by the local CoC to serve as the AE if it has experience administering another federal homelessness, housing, community development or human services program in at least one of the past five years;

- Have no unresolved ESG monitoring findings with HUD or the Department that the Department determines poses a substantial risk to the Department;

- Demonstrate the ability and willingness to perform the functions of an AE; and

- Be recommended by its local CoC and willing to collaborate with the CoC to the maximum extent feasible.

Approved AE Roles and Responsibilities

The AE shall provide a written agreement with the CoC specifying the roles and responsibilities to ensure compliance with federal and State ESG requirements. The CoC

and the AE shall collaborate to the maximum extent feasible in determining Eligible activities, selecting providers, and administering the ESG funds in a manner that is supportive of the operation of a coordinated effort and system to reduce and end homelessness.

If the AE is recommending a Private nonprofit organization for ESG ES funds, the nonprofit organization must submit a Certification of Local Government Approval to undertake ESG-funded activities from each Unit of Local Government where the activity is carried out pursuant to section 414 [42 U.S.C. section 11373(c)].

The AE shall select providers qualified to deliver Eligible activities in the Service Area through a process that is consistent with (1) through (8) below and inform the Department of selected providers and activities. The AE shall:

Conduct fair and open competitions which avoid conflict of interest in project selection, implementation, and the administration of funds;

Follow procurement requirements of [2 CFR Part 200.318- 200.326](#);

Evaluate provider capacity and experience, including the ability to deliver services in Non-entitlement areas;

Evaluate eligibility and quality of services, including adherence to Core Practices pursuant to [25 CCR section 8409 of the State regulations](#);

Utilize data and consider community input to identify unmet needs;

Prioritize activities that address the highest unmet need, considering other available funding and system-wide performance measures;

Consider project-level performance measures when evaluating proposals that are consistent with HUD system and project performance measures; and

Collaborate with the CoC.

The AE shall ensure that:

- 1) Not including any funding administered by the AE on behalf of a geographically contiguous CoC Service Area, not less than 40 percent of the funds awarded on an annual basis shall be used for RRH activities; and
- 2) Through the use of Coordinated Entry and other means, all funded activities are available to Non-entitlement areas of the Service Area.

The AE shall facilitate outreach and access to services to eligible populations in the Non-entitlement areas and shall evaluate participation from these areas at least annually. The Department may condition future funding to ensure access to funded activities by households within Non-entitlement areas.

Funded activities may also serve households located in ESG Entitlement Areas.

Balance of State (BoS) Allocation

CoCs in the BoS Allocation are those that have no ESG entitlement jurisdictions within their CoC Service Area. Funding in the BoS is made available based on recommendations from a CoC in two ways:

Noncompetitive RRH Set-Aside: Within the BoS Allocation, CoCs are responsible for recommending eligible homeless service providers to receive a portion of funds available under the formula allocation noncompetitively for RRH. HCD will administer these contracts with the selected providers approved by HCD.

Regional Competition: Remaining funds within the BoS Allocation will be divided into three geographic regions (Northern Region, Bay Area Region, Central and Imperial Valley Region). CoCs from these regions recommend providers to compete under HCD's NOFA. HCD will directly administer contracts with successful applicants from the regional competition. Applicants must be endorsed by the CoC.

HCD will monitor CoCs in the BoS allocation to ensure they are adhering to the roles and responsibilities in this Manual. On an annual basis, HCD will monitor as many CoCs as is feasible given staffing and other conditions. CoCs will be triaged for monitoring based on a risk assessment which will include as one of its risk factors the length of time since the CoC was most recently monitored.

CoC Roles and Responsibilities in the BoS Allocation

CoCs under the BoS allocation play an integral role in recommending a homeless service provider's application in response to both the Department's non-competitive RRH allocation and the regional competition (as announced in the NOFA). In recommending homeless service providers for ESG funds, CoC's shall use a process that meets the following requirements:

- Follow a process that is fair and open and avoids conflicts of interest in project selection, implementation, and the administration of funds;

- Consider a selection criterion reasonably consistent with the criteria used by the Department in the published ESG NOFA;

- Comply with the Core Practice requirements in [25 CCR section 8409](#) which include:

 - Comprehensive and coordinated access to the activity throughout the Service Area;

 - Prioritized access to services for people with the most severe needs;

 - Low barrier access to services and consistency with housing first practices; and

 - Using a progressive engagement approach to services and financial assistance.

Incorporate the performance standards set forth in the Department's Annual Action Plan;

Comply with federal ESG requirements;

Consider any other practices promoted or required by HUD;

If the CoC is recommending a Private nonprofit organization for ESG ES funds, the nonprofit organization must submit a Certification of Local Government Approval to undertake ESG-funded activities from each Unit of Local Government where the activity is carried out pursuant to section 414 [42 U.S.C. section 11373(c)]

The local CoC must inform homeless service provider applicant, if they are successfully funded, they must maintain documentation of satisfactory match pursuant to the requirements of 24 CFR 576.201

SYSTEM AND PROJECT PERFORMANCE

General performance measures have been established by HCD for each program component, as described in the program component sections of this manual. Performance measures are based on applicable system and project-level goals established by HUD for the ESG program and HCD strategic priorities. HCD may establish specific performance targets for certain measures. However, nothing prohibits a local CoC or subrecipient from establishing additional performance measures or higher performance expectations.

Subrecipients are encouraged to review data regularly related to equity and homelessness, such as tracking demographic data to determine if there are project-level disparities that need to be addressed. Subrecipients must consult their local CoC when establishing performance measures and targets. Subrecipients are required to report on performance as part of HCD reporting.

In addition to project-level performance, HCD may request performance data for any CoC where a state ESG funded project operates from HDIS. Performance data may be used to understand the CoC's general performance relative to federal and state goals, ESG's impact on local system performance, and progress toward identifying and eliminating racial disparities. HCD will specify any measures about which it may request data in its Annual Action Plan. The chart at the end of this subheading outlines key federal and state performance measures, all of which will be incorporated into the Annual Action Plan, and the interaction of each measure with each ESG program component.

Communities are encouraged to use the [CoC Racial Equity Analysis Tool](#) to gain deeper insight related to which racial and ethnic groups are experiencing homelessness and identify steps to create equitable systems. Additionally, communities may use [Stella P](#) to analyze HMIS data for demographics and system performance to identify how people are served in the local system and whether different groups experience issues with access, system use, or housing outcomes. While reviewing quantitative data, it is important to include a diverse group in analyzing the data to determine the impacts and potential qualitative information, such as the historical and continued racial discrimination through human trafficking and bondage of people of African descent, Jim Crow laws, redlining,

segregation, and punitive policing.⁵ Subrecipients are encouraged to have a data analysis review group with representation reflecting the population being served, including people with lived expertise, using the information as a roadmap to create goals and strategies that drive towards equity.

This data may inform future resource allocation, performance targets, and system health and equity analyses to address disparities.

In general, ESG subrecipients should routinely measure and seek to improve performance in the areas listed.

Outcome Measure	SO	ES	RRH	HP
Percentage of people who remained in RRH for 6 months, 9 months and 12 months			●	
RRH exits to a positive housing destination			●	
Reduction in the average and median length of stay in ES		●		
ES exits to a positive housing destination		●		
Percentage of people who return to homelessness (ES, TES, SO) from PH (RRH, PH, PSH) in 6 months, 9 months, and 12 months	●	●	●	●
Percentage of those that obtain a positive housing destination (ES, SH, TH, RRH, PH, PSH, OPH) from SO	●			
Percentage of people that enter the homeless service system (ES, TES, SO) after receiving ESG-CV HP financial assistance				●
All Outcomes Measures broken down by Racial Equity components	●	●	●	●

PROGRAM COMPONENTS AND ELIGIBLE ACTIVITIES

General Provisions and Expenditure Limits

ESG funds may be used for five program components: SO, ES, HP, RRH, and HMIS; as well as administrative activities.

The five program components and the eligible activities that may be funded under each are set forth in § 576.101 through § 576.107. Eligible administrative activities are set forth in § 576.108.

⁵ United States, Department of Housing and Urban Development, Office of Special Needs Assistance Programs. “5 Tips to Approaching Rehousing with Racial Equity.” *COVID-19 Homeless System Response*. Accessed 27 August 2021: <https://files.hudexchange.info/resources/documents/COVID-19-Homeless-System-Response-5-Tips-to-Approaching-Rehousing-with-Racial-Equity.pdf>

The total amount of each subrecipient's fiscal year grant that may be used for SO and ES activities cannot exceed 60% of the subrecipient's total grant award.

The total amount of ESG funds that may be used for administrative activities cannot exceed 7.5% of HCD's fiscal year grant. HCD typically retains 6% of the available 7.5% and passes the remaining onto subrecipients. This percentage is only offered to the CoC Allocation, Administrative Entities. Under the Balance of State Allocation, only units of local government can request up to \$200.00 per application.

Subject to the cost principles in [2 CFR part 200, subpart E](#), and other requirements in this part, employee compensation and other overhead costs directly related to carrying out SO, ES, HP, RRH, and HMIS are eligible costs of those program components. These costs are not subject to the expenditure limit for administrative activities.

Street Outreach

Eligible Activities and Costs

Subject to the expenditure limit in [24 CFR 576.100\(b\)](#), ESG funds may be used for costs of providing essential services necessary to reach out to unsheltered homeless people; connect them with emergency shelter, housing, or critical services; and provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. For the purposes of this section, the term "unsheltered homeless people" means individuals and families who qualify as homeless under paragraph (1)(i) of the "homeless" definition under [24 CFR 576.2](#).

Engagement

Activities to locate, identify, and build relationships with unsheltered homeless people for the purpose of providing immediate support, intervention, and connections with homeless assistance programs and/or mainstream social services and housing programs. These activities include:

- Initial assessment of needs and eligibility, using tools and processes that promote racial equity, considering the impact of external sources of discrimination and bias and how it may impact the individual
- Providing crisis counseling;
- Addressing urgent physical needs such as providing meals, blankets, clothes, or toiletries;
- Actively connecting and providing information and culturally relevant referrals to programs targeted to people experiencing homelessness and mainstream social services and housing programs, including emergency shelter, transitional housing, community-based services, permanent supportive housing, and RRH programs;

- Eligible costs include the cell phone costs of outreach workers during the performance of these activities.

Case Management

Assessing housing and service needs, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant. Eligible services and activities are as follows:

Using the CES;

Conducting the initial evaluation, including verifying and documenting eligibility;

Counseling;

Developing, securing, and coordinating services;

Helping obtain Federal, state, and local benefits;

Monitoring and evaluating participant progress;

Providing information and referral to other providers;

Developing an individualized housing and service plan, including planning a path to permanent housing stability.

Emergency Health Services

Outpatient treatment of urgent medical conditions by licensed medical professionals in community-based settings (e.g., streets, parks, and campgrounds) to those eligible participants unwilling or unable to access emergency shelter or an appropriate healthcare facility.

ESG funds may be used only for those services to the extent that other appropriate health services are inaccessible or unavailable within the area. Eligible treatments consist of:

Assessing participants' health problems and developing treatment plans;

Assisting participants to understand their health needs;

Providing or helping participants obtain appropriate emergency medical treatment;

Providing medication and follow-up services.

Emergency Mental Health Services

Outpatient treatment of urgent mental health conditions by licensed professionals in community-based settings (e.g., streets, parks, and campgrounds) to those eligible participants unwilling or unable to access emergency shelter or an appropriate healthcare facility.

ESG funds may be used only for these services to the extent that other appropriate mental health services are inaccessible or unavailable within the community. Eligible treatment consists of:

- Crisis Intervention;
- Prescription of psychotropic medications;
- Explain the use and management of medications;
- Combinations of therapeutic approaches to address multiple problems.

Transportation

Costs of travel by outreach workers, social workers, medical professionals, or other service providers during the provision of eligible SO services. The costs of transporting unsheltered people to emergency shelters or other service facilities are also eligible. These costs include the following:

- Cost of a participant's travel on public transit;
- Mileage allowance for outreach workers to visit participants;
- Purchasing or leasing a vehicle for use in conducting outreach activities, including the cost of gas, insurance, taxes, and maintenance for the vehicle;
- Costs of staff to accompany or assist participant to use public transportation.

Services to Special Populations

ESG funds may be used to provide services for homeless youth, victim services, and services for people living with HIV/AIDS, so long as the costs of providing these services are eligible under a. through e. of this section. The term *victim services* mean services that assist program participants who are victims of domestic violence, dating violence, sexual assault, or stalking, including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

Minimum Period of Use

The recipient or subrecipient must provide services to homeless individuals and families for at least the period during which ESG funds are provided.

Maintenance of Effort

If the subrecipient is a UGLG, its ESG funds cannot be used to replace funds the local government provided for SO and ES services during the immediately preceding 12-month period, unless HUD determines that the UGLG is in a severe financial deficit.

Upon the recipient's request, HUD will determine whether the UGLG is in a severe financial deficit, based on the recipient's demonstration of each of the following:

The average poverty rate in the UGLG's jurisdiction was equal to or greater than 125 percent of the average national poverty rate, during the calendar year for which the most recent data are available, as determined according to information from the U.S. Census Bureau.

The average per-capita income in the UGLG's jurisdiction was less than 75 percent of the average national per-capita income, during the calendar year for which the most recent data are available, as determined according to information from the Census Bureau.

The UGLG has a current annual budget deficit that requires a reduction in funding for services for homeless people.

The UGLG has taken all reasonable steps to prevent a reduction in funding of services for homeless people. Reasonable steps may include steps to increase revenue generation, steps to maximize cost savings, or steps to reduce expenditures in areas other than services for homeless people.

Key Performance Measures

The performance measures below ensure that SO projects align with the local CoC's system wide goal to end homelessness. Providers should gauge their progress and identify areas of improvement based on the following performance measures for their ESG funded programs:

Street Outreach Outcome Measures
Percentage of people who return to homelessness (ES, TES, SO) from PH (RRH, PH, PSH) in 6 months, 9 months, and 12 months
Percentage of those that obtain a positive housing destination (ES, SH, TH, RRH, PH, PSH, OPH) from SO
All Outcomes Measures broken down by Racial Equity components

Subrecipients are encouraged to center racial equity in their programs, including data review. Key steps to doing so includes providing an equal voice for Black, Indigenous, Latinx, Asian, Pacific Islanders, and people of Color, as well as people with lived experience of homelessness, at planning and data review tables to establish specific data metrics and analyze data to ensure all groups are being served in SO and successfully rehoused at rates will help reduce disparities in outcomes by population.

Racial Equity Practices⁶

All homeless services should be centered in racial equity. SO operators should consider the following in program design and implementation:

Program Design and Services

- 1) Engage people with lived expertise of unsheltered homelessness, representative of all subpopulations and reflective of the demographics of people experiencing homelessness, in the development of outreach plans and processes, including to help ensure that efforts are reaching unsheltered people who may be less visible within the community. Be sure to include partners beyond information gathering, but create the opportunities for individuals and families to have decision-making power and access to resources needed to support their engagement (e.g., childcare, transportation, compensation for time, etc.)
- 2) Expand efforts to connect unsheltered people to safe shelter and housing options and ensure outreach and referral processes are providing equitable access for people who are unsheltered. Examine data and consult with people with lived expertise to determine if there are other disparities to be addressed, such as by race, age, ethnicity, disability, gender identity, family composition, etc.
- 3) Implement approaches to referring and safely transporting people to appropriate and safe shelter, housing options, and/or services that people with lived experience of homelessness value and trust.
- 4) Take individualized, trauma-informed steps to assist any remaining unsheltered people, across all subpopulations, into shelter or housing that addresses their needs and preferences and that is culturally responsive, and

⁶ This section draws on text from the following sources:

United States, Department of Housing and Urban Development, Office of Special Needs Assistance Programs. "Part 1: Equity as the Foundation." *COVID-19 Homeless System Response*. Accessed 31 August 2021: <https://files.hudexchange.info/resources/documents/COVID-19-Homeless-System-Response-Rehousing-Activation-and-Racial-Equity-Part-1-Equity-as-the-Foundation.pdf>

United States, Department of Housing and Urban Development, Office of Special Needs Assistance Programs. "Creating a Cultural Equity Plan: Organizational Policies and Procedures." *COVID-19 Homeless System Response*. Accessed 31 August 2021: <https://files.hudexchange.info/resources/documents/COVID-19-Homeless-System-Response-Creating-a-Cultural-Equity-Plan-Organizational-Policies-and-Procedures.pdf>

National Alliance to End Homelessness. "The Alliance's Racial Equity Network Action Steps: Addressing Racial and Ethnic Disparities in the Homelessness System." 3 February 2020. Accessed 31 August 2021: <https://endhomelessness.org/resource/the-alliances-racial-equity-network-action-steps/>

The Framework for an Equitable COVID-19 Homelessness Response. *The Framework for an Equitable COVID-19 Homelessness Response*. 19 October 2020. Accessed 31 August 2021: <https://housingequityframework.org/>

sustain efforts so that any experience of unsheltered homelessness can be immediately ended.

- 5) Enact policies and procedures that ensure the personal space, time, and property of persons in unsheltered situations are respected during all interactions, including respect for the rest and comfort of individuals encountered during outreach and other interactions.
- 6) Seek out community organizations that have trusted relationships with underserved groups and can provide expertise on reaching and engaging them, including broadening your partnerships to contract with them for services.
- 7) Ensure that nothing is done to criminalize, sanction, or penalize people for engaging in essential activities of life while experiencing unsheltered homelessness. Outreach and engagement to those unsheltered should be primarily led by non-law enforcement outreach specialist focused on making connections to housing and services.
- 8) Continuously adapt outreach and engagement strategies, and provide access to essential technologies to link people to permanent housing options, medical and behavioral health care services, health coverage, employment and educational opportunities, and other trauma-informed services as needed. Create plans to ensure that people are rehoused quickly out of shelter settings and that no one in shelters exits to the street, but rather exits to permanent housing, within efforts to provide equitable access to housing options for everyone.
- 9) Develop more comprehensive understanding of the housing and services needs of all those who remain unsheltered, differentiated by subpopulations and disaggregated by race and ethnicity, based upon direct consultation with people with lived expertise and based upon analysis of data, including analyzing deficiencies and biases within existing data to inform equity-based decisions

Organizational

Across all positions, hire a diverse staff that is representative of the people being served—this includes hiring people with lived experience of homelessness. Be mindful that hiring one or two members of a large staff does not point to equity, instead be intentional about assessing hiring practices, performance evaluation criteria, etc.

Train staff on racial equity, cultural humility, trauma-informed care, and Housing First, while offering support and supervision to implement lessons learned.

Implement a transparent accountability structure that include publicly sharing progress on equity outcomes.

Continuously review the procurement process to create opportunities to engage a diverse array of community-based organizations.

Data and Continuous Improvement

- 1) Examine and assess your street outreach quantitative data and disaggregate by demographic data to see if there are disparities and ensure a diverse group is examining the data and acting on it
 - (a) Who is being referred shelter or services and who is not?
 - (b) How long is it taking different groups to move to shelter or housing?
 - (c) Which groups are more likely to exit back into homelessness?
- 2) Through direct consultation with unsheltered people, assess reasons why people remain unsheltered, such as whether it is because of lack of emergency beds available or because the assistance being offered has not adequately addressed their needs and preferences, and adapt strategies and options in response
- 3) Create an annual anonymous survey to get feedback from staff and clients on the culture and climate of your services and system with regard to race, ethnicity, and equity.
- 4) Convene a group of staff members, program participants, and community stakeholders to review policy and procedure for any barriers that might cause a specific racial group to avoid or be barred from crisis housing (e.g., culturally biased dress codes, racial balance of program staff, rules on previous behavior or residence, etc.).

Emergency Shelter

ES is intended to provide temporary shelter for the homeless in general or for specific populations of the homeless. ESG funding may be used to provide *essential services* for individuals and families who are in an emergency shelter, renovating buildings to be used as ES for homeless families and individuals, and for *shelter operations*. Where no appropriate emergency shelter is available for a homeless family or individual, eligible costs may also include a hotel or motel voucher for that family or individual.

State ESG funds **shall not be used** for renovation, conversion, or major rehabilitation activities pursuant to [24 CFR 576.102](#). However, minor, or routine repairs⁷ to an ESG-funded ES that do not qualify as renovation, conversion, or major rehabilitation are an eligible use of State ESG funds, [25 CCR 8408\(d\)](#).

⁷ <https://www.hudexchange.info/resources/documents/SNAPS-Shots-Emergency-Shelters-distinguishing-between-renovation-conversion-and-maintenance-activities.pdf>

Eligible Activities and Costs

Essential Services

Case Management

Housing-focused case management activities assess, arrange, coordinate, and monitor individualized services developed for program participants to end their homelessness. Eligible costs include:

- Using the CES;
- Initial evaluation including verifying and documenting eligibility;
- Counseling;
- Developing, securing, and coordinating services including Federal, State, and local benefits;
- Monitoring and evaluating program participant progress;
- Providing information and referrals to other providers;
- Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking; and
- Developing an Individualized Housing and Service Plan

Child Care

The costs of childcare for program participants are eligible. The children must be under the age of 13 unless they are disabled. Disabled children must be under the age of 18. The child-care center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible. Eligible costs include:

- Childcare costs;
- Meals and snacks; and
- Comprehensive and coordinated sets of appropriate developmental activities

Education Services

Education Services is instruction or training to enhance participants' ability to obtain and maintain housing: literacy, English literacy, English as a Second Language (ESL), General Education Development (GED), consumer education, health education, and substance abuse prevention.

Educational services/skill-building;
Screening, assessment, and testing;
Individual or group instruction;

Tutoring;
Provision of books, supplies, and instructional material;
Counseling; and
Referral to community resources.

Employment Assistance and Job Training

Job assistance services assist participants to secure employment and placement in job training programs. Eligible costs include:

- Classroom, on-line, and/or computer instruction;
- On the job instruction;
- Job finding, skill-building;
- Reasonable stipends in employment assistance and job training programs;
- Books and instructional material;
- Employment screening, assessment, or testing;
- Support for acquisition of vocational licenses and/or certificates;
- Structured job skills and job-seeking support;
- Special training and tutoring, including literacy training and pre-vocational training;
- Counseling or job coaching; and
- Referral to community resources.

Outpatient Health Services

Outpatient Health Services are eligible activities to the extent that other appropriate services and treatment are unavailable or inaccessible within the community. Direct outpatient treatment of medical conditions provided by licensed medical professionals.

Assessing health problems and developing a treatment plan;
Assisting program participants to understand their health needs;
Providing or helping participants obtain appropriate medical treatment, preventative medical care, and health maintenance services, including emergency medical services;
Providing medication and follow-up services; and
Providing preventative and non-cosmetic dental care.

Legal Services

Legal advice and representation are eligible activities to the extent that other appropriate services and treatment are unavailable or inaccessible within the community. This would include necessary legal services regarding matters that interfere with the program participant's ability to obtain and retain housing. Eligible costs include:

Hourly fees for legal advice and representation by licensed attorneys and certain other fees-for-service;

Client intake, preparation of cases for trial, provision of legal advice, representation at hearings, and counseling;

Filing fees and other necessary court costs.

Emergency Solutions Grant (ESG) funds may be used only for these services to the extent that other appropriate legal services are unavailable or inaccessible within the community.

Eligible subject matters are child support, guardianship, paternity, emancipation, and legal separation, orders of protection and other civil remedies for victims of domestic violence, dating violence, sexual assault, and stalking, appeal of veterans and public benefit claim denials, and the resolution of outstanding criminal warrants.

Component services or activities may include client intake, preparation of cases for trial, provision of legal advice, representation at hearings, and counseling.

Fees based on the actual service performed (*i.e.*, fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's employees' salaries and other costs necessary to perform the services.

Legal services for immigration and citizenship matters and issues relating to mortgages are ineligible costs. Retainer fee arrangements and contingency fee arrangements are ineligible costs.

Life Skills Training

Life Skills Training teaches critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, substance use, and homelessness. Allowable services must support the program participant to function independently in the community. They include:

- Budgeting resources;
- Managing money;
- Managing household;
- Resolving conflict;

- Shopping for food and needed items;
- Improving nutrition;
- Using public transportation; and
- Parenting

Mental Health Services

Mental Health Services are eligible activities to the extent that other appropriate services and treatment are unavailable or inaccessible within the community. Services are direct outpatient treatment of mental health conditions by licensed professionals.

- Crisis intervention;
- Individual, family, or group therapy sessions;
- Prescription of psychotropic medications or explanations about the use and management of medications; and
- Combinations of therapeutic approaches to address multiple problems

Substance Abuse Treatment Services

Substance Abuse Treatment is an eligible activity to the extent that other appropriate services and treatment are unavailable or inaccessible within the community. Services must be provided by licensed or certified professionals, and be designed to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors. Inpatient detoxification and other inpatient drug or alcohol treatment are not eligible costs. Eligible costs include:

Client intake and assessment;
Outpatient treatment for up to thirty days;
Group and individual counseling; and
Drug testing

Transportation

Costs of travel by program participants to and from medical care, employment, childcare, or other facilities that provide eligible essential services are eligible. Staff travel costs incurred to support provision of essential services are also allowable. Eligible costs include:

Cost of program participant's travel on public transportation;
Mileage allowance for service workers to visit participants;
Purchasing or leasing a vehicle used for transport of participants and/or staff serving participants, including the cost of gas, insurance, taxes, and maintenance for the vehicle; and

Travel costs of staff to accompany or assist program participants to use public transportation

Services for Special Populations

ESG funds may be used to provide services for homeless youth, victim services, and services for people living with HIV/AIDS, so long as the costs of providing these services are eligible under paragraphs (1) through (10) of this section. The term victim services means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, or stalking, including services offered by rape crisis centers, domestic violence shelters and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

Shelter Operations

Shelter operations are costs to operate and maintain emergency shelters and also provide other emergency lodging when appropriate. Eligible Costs include:

- Rent;
- Security;
- Fuel;
- Insurance;
- Utilities;
- Food;
- Furnishings;
- Supplies necessary for the operation of ES activities;
- Hotel and motel voucher for family or individuals⁸;
- Equipment - Equipment means tangible, nonexpendable, personal property having a useful life of more than one year). For non-profit organizations, any equipment purchases costing \$5,000 or higher will require HCD pre-approval and a completion of an Equipment Request Form; and
- Maintenance⁹ – Does not materially add to the value of the building/property; does not appreciably prolong the useful life of the building/property; and does not adapt the building/property to new uses. Examples of maintenance activities could include activities such as:
 - Cleaning;
 - Minor or routine repairs of furnishings, equipment, and fixtures;

⁸ Hotel or motel vouchers are only eligible when no appropriate emergency shelter is available.

⁹ <https://www.hudexchange.info/resources/documents/SNAPS-Shots-Emergency-Shelters-distinguishing-between-renovation-conversion-and-maintenance-activities.pdf>

- Protective or preventative measures to keep a building, its systems, and its grounds in working order.
- Replacing a few shingles on a leaky roof;
- Patching leaking pipes or plumbing;
- Replacing a broken window;
- Fixing a crack in a sidewalk;
- Filling potholes in a parking lot; and
- Repairing portions of a fence

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)

Eligible costs are the costs of providing URA assistance under § 576.408, including relocation payments and other assistance to persons displaced by a project assisted with ESG funds. Persons that receive URA assistance are not considered “program participants” for the purposes of this part, and relocation payments and other URA assistance are not considered “rental assistance” or “housing relocation and stabilization services” for the purposes of this part.

Ineligible Activities and Costs

Legal services to address immigration, citizenship, and mortgage issues including retainer fee arrangements, and contingency fee arrangement are **not** eligible costs.

Prohibition Against Involuntary Family Separation

The age, of a child under age 18 must not be used as a basis for denying any family's admission to an ES that uses ESG funding or services and provides shelter to families with children under age 18¹⁰.

Minimum Period of Use

Where the subrecipient uses ESG funds solely for essential services or shelter operations, the subrecipient must provide services or shelter to homeless individuals and families at least for the period during which the ESG funds are provided. The subrecipient does not need to limit these services or shelter to a particular site or structure, so long as the site or structure serves the same type of persons originally served with the assistance (e.g., families with children, unaccompanied youth, disabled individuals, or victims of domestic violence) or serves homeless persons in the same area where the subrecipient originally provided the services or shelter.

¹⁰ [24 CFR § 576.102\(b\)](#)

Maintenance of Effort

If the subrecipient is a UGLG, its ESG funds cannot be used to replace funds the local government provided for SO and ES services during the immediately preceding 12-month period, unless HUD determines that the UGLG is in a severe financial deficit.

Upon the recipient's request, HUD will determine whether the UGLG is in a severe financial deficit, based on the recipient's demonstration of each of the following:

The average poverty rate in the UGLG's jurisdiction was equal to or greater than 125 percent of the average national poverty rate, during the calendar year for which the most recent data are available, as determined according to information from the U.S. Census Bureau.

The average per-capita income in the UGLG's jurisdiction was less than 75 percent of the average national per-capita income, during the calendar year for which the most recent data are available, as determined according to information from the Census Bureau.

The UGLG has a current annual budget deficit that requires a reduction in funding for services for homeless people.

The UGLG has taken all reasonable steps to prevent a reduction in funding of services for homeless people. Reasonable steps may include steps to increase revenue generation, steps to maximize cost savings, or steps to reduce expenditures in areas other than services for homeless people.

Key Performance Measures

The performance measures below ensure that ES projects align with the local CoC's system wide goal to end homelessness. Providers should gauge their progress and identify areas of improvement based on the following performance measures for their ESG funded programs:

Emergency Shelter Outcome Measures
Reduction in the average and median length of stay in ES
ES exits to a positive housing destination
Percentage of people who return to homelessness (ES, TES, SO) from PH (RRH, PH, PSH) in 6 months, 9 months, and 12 months
All Outcomes Measures broken down by Racial Equity components

Subrecipients are encouraged to center racial equity in their programs, including data review. Key steps to doing so includes providing an equal voice for Black, Indigenous, Latinx, Asian, Pacific Islanders, and people of Color, as well as people with lived

experience of homelessness, at planning and data review tables to establish specific data metrics and analyze data to ensure all groups are being served in shelter and successfully rehoused at rates will help reduce disparities in outcomes by population.

Racial Equity Practices

All homeless services should be centered in racial equity. ES operators should consider the following in ES design and implementation:

Program Design and Services

Engage people with lived expertise of homelessness, representative of all subpopulations and reflective of the demographics of people experiencing homelessness, for input and decision-making to transform approaches to sheltering people, focusing on safer, healthier, trauma-informed models. Be sure to include partners beyond information gathering, but create the opportunities for individuals and families to have decision-making power and access to resources needed to support their engagement (e.g., childcare, transportation, compensation for time, etc.)

Design shelter to be welcoming, maximize support service staff that can connect program participants to housing and other services. Minimize the presence of law enforcement/security.

Ensure that all existing and new shelter options are available 24 hours per day and are low-barrier, culturally responsive, non-discriminatory, welcoming to LGBTQ people, accessible for people with disabilities, allow families to remain together as self-defined, and equitably accessed by people from historically marginalized communities.

Seek out community organizations that have trusted relationships with underserved groups and can provide expertise on reaching and engaging them, including broadening your partnerships to contract with them for essential services.

Expand housing-focused case management services and housing subsidy resources for people staying within shelters and other settings, to support more people to exit to permanent housing and to create capacity to serve other people experiencing homelessness

Create plans to ensure that people are rehoused quickly out of shelter settings and that no one in shelters exits to the street, but rather exits to permanent housing, within efforts to provide equitable access to housing options for everyone.

As a part of your exit process, provide anonymous ways for people to give feedback on racial and cultural treatment while engaging with your program.

Organizational

Across all positions, hire a diverse staff that is representative of the people being served—this includes hiring people with lived experience of homelessness. Be mindful that hiring one or two members of a large staff does not point to equity, instead be intentional about assessing hiring practices, performance evaluation criteria, etc.

Train staff on racial equity, cultural humility, trauma-informed care, and Housing First, while offering support and supervision to implement lessons learned.

Implement a transparent accountability structure that include publicly sharing progress on equity outcomes.

Continuously review the procurement process to create opportunities to engage a diverse array of community-based organizations.

Data and Continuous Improvement

Examine and assess your shelter quantitative data and disaggregate by demographic data to see if there are disparities and ensure a diverse group is examining the data and acting on it

Who is entering shelter and who is not?

How long is it taking different groups to move to housing

Which groups are more likely to exit back into homelessness?

Engage in consultation and qualitative data with people with lived expertise to determine if there are disparities related to age, ethnicity, disability, gender identity, sexual orientation, family composition, etc.

Create an annual anonymous survey to get feedback from staff and clients on the culture and climate of your services and system with regard to race, ethnicity, and equity.

Convene a group of staff members, program participants, and community stakeholders to review policy and procedure for any barriers that might cause a specific racial group to avoid or be barred from crisis housing (e.g., culturally biased dress codes, racial balance of program staff, rules on previous behavior or residence, etc.)

Review data on who was banned or terminated from shelter to check for disparities in who is asked to leave, how long, or who has unknown exits

Homelessness Prevention

ESG funds may be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance necessary to prevent an individual or family from moving into an emergency shelter or another place described in paragraph (1) of the “homeless” definition in [24 CFR 576.2](#). This assistance, referred to as homelessness

prevention, may be provided to individuals and families who meet the criteria under the “at risk of homelessness” definition, or who meet the criteria in paragraph (2), (3), or (4) of the “homeless” definition in § 576.2 and have an annual income below 30 percent of median family income for the area, as determined by HUD. The costs of HP are only eligible to the extent that the assistance is necessary to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing and achieve stability in that housing. HP must be provided in accordance with the housing relocation and stabilization services requirements in § 576.105, the short-term and medium-term rental assistance requirements in § 576.106, and the written standards and procedures established under § 576.400.

Eligible Activities and Costs

Housing Relocation and Stabilization Services

Financial Assistance Costs

Subject to the general conditions under [24 CFR 576.103](#), ESG funds may be used to pay housing owners, utility companies, and other third parties for the following costs:

Rental application fees. ESG funds may pay for the rental housing application fee that is charged by the owner to all applicants

Security deposits. ESG funds may pay for a security deposit that is equal to no more than 2 months' rent.

Last month's rent. If necessary to obtain housing for a program participant, the last month's rent may be paid from ESG funds to the owner of that housing at the time the owner is paid the security deposit and the first month's rent. This assistance must not exceed one month's rent and must be included in calculating the program participant's total rental assistance, which cannot exceed 24 months during any 3-year period.

Utility deposits. ESG funds may pay for a standard utility deposit required by the utility company for all customers for the utilities listed in paragraph (5) of this section.

Utility payments. ESG funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.

Moving costs. ESG funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance under paragraph b)

of this section and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible

If a program participant receiving short- or medium-term rental assistance under [24 CFR 576.106](#) meets the conditions for an emergency transfer under [24 CFR 5.2005\(e\)](#), ESG funds may be used to pay amounts owed for breaking a lease to effect an emergency transfer. These costs are not subject to the 24-month limit on rental assistance under [24 CFR 576.106](#).

Services Costs

Subject to the general restrictions under [24 CFR 576.103](#), ESG funds may be used to pay the costs of providing the following services:

Housing search and placement. Services or activities necessary to assist program participants in locating, obtaining, and retaining suitable permanent housing, include the following:

- Assessment of housing barriers, needs, and preferences;

- Development of an action plan for locating housing;

- Housing Search

- Outreach to and negotiation with owners;

- Assistance with submitting rental applications and understanding leases;

- Assessment of housing for compliance with Emergency Solutions Grant (ESG) requirements for habitability, lead-based paint, and rent reasonableness;

- Assistance with obtaining utilities and making moving arrangements; and

- Tenant counseling

Housing stability case management. ESG funds may be used to pay cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a program participant who resides in permanent housing or to assist a program participant in overcoming immediate barriers to obtaining housing. This assistance cannot exceed 30 days during the period the program participant is seeking permanent housing and cannot exceed 24 months during the period the program participant is living in permanent housing. Component services and activities consist of:

- Using the CES as required under [24 CFR 576.400\(d\)](#), to evaluate individuals and families applying for or receiving HP assistance

- Conducting the initial evaluation required under §576.401(a), including verifying and documenting eligibility, for individuals and families applying for HP assistance Counseling;

Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;

Monitoring and evaluating program participant progress;

Providing information and referrals to other providers;

Developing an individualized housing and service plan, including planning a path to permanent housing stability; and

Conducting re-evaluations required under [24 CFR 576.401\(b\)](#).

Mediation. ESG funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

Legal services. ESG funds may pay for legal services, as set forth in [24 CFR 576.102\(a\)\(1\)\(vi\)](#), except that the eligible subject matters also include landlord/tenant matters, and the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which the program participant currently resides.

Credit repair. ESG funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.

Maximum Amounts and Periods of Assistance

The recipient may set a maximum dollar amount that a program participant may receive for each type of financial assistance under paragraph a) of this section. The recipient may also set a maximum period for which a program participant may receive any of the types of assistance or services under this section. However, except for housing stability case management, the total period for which any program participant may receive the services under paragraph b) of this section must not exceed 24 months during any 3-year period. The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family.

Use with Other Subsidies

Financial assistance under paragraph a) of this section cannot be provided to a program participant who is receiving the same type of assistance through other public sources or to a program participant who has been provided with replacement housing payments under the URA, during the period of time covered by the URA payments.

Housing Counseling

Housing counseling, as defined in [§5.100](#), that is funded with or provided in connection with ESG funds must be carried out in accordance with [§5.111](#). When recipients or subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of housing counseling, as defined in §5.100, and therefore are not required to be carried out in accordance with the certification requirements of §5.111

Short-Term and Medium-Term Rental Assistance

General Provisions

Subject to the general conditions under [24 CFR 576.103](#), the subrecipient may provide a program participant with up to 24 months of rental assistance during any 3-year period. This assistance may be short-term rental assistance, medium-term rental assistance, payment of rental arrears, or any combination of this assistance.

- Short-term rental assistance is assistance for up to 3 months of rent. Medium-term rental assistance is assistance for more than 3 months but not more than 24 months of rent.
- Payment of rental arrears consists of a one-time payment for up to 6 months of rent in arrears, including any late fees on those arrears.
- Rental assistance may be tenant-based or project-based, as set forth in this section.

Discretion to Set Caps and Conditions

Subject to the requirements of this section, the recipient may set a maximum amount or percentage of rental assistance that a program participant may receive, a maximum number of months that a program participant may receive rental assistance, or a maximum number of times that a program participant may receive rental assistance. The recipient may also require program participants to share in the costs of rent.

Use with Other Subsidies

Except for a one-time payment of rental arrears on the tenant's portion of the rental payment, rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance, or living in a housing unit receiving project-based rental assistance or operating assistance, through other public sources. Rental assistance may not be provided to a program participant who has been provided with replacement housing payments under the URA during the period of time covered by the URA payments.

Rent Restrictions

Whether a household is seeking to maintain its current housing or relocate to another unit to avoid homelessness (HP), or exiting homelessness into new housing (RRH), the process for determining acceptable rent amounts is the same¹¹:

- (a) The subrecipient first compares the gross rent (see box below) for the current or new unit with current Fair Market Rent (FMR) limits, which are updated annually.
- (b) If the unit's gross rent is at or below FMR, the subrecipient next uses current data to determine rent reasonableness (more information is provided below on how to determine and document this).

If the gross rent is at or below both the FMR **and** the rent reasonableness standard for a unit of comparable size, type, location, amenities, etc., ESG funds may be used to pay the rent amount for the unit.

If the gross rent for the unit exceeds either the rent reasonableness standard or FMR, ESG recipients are prohibited from using ESG funds for **any** portion of the rent, even if the household is willing and/or able to pay the difference. However, because the FMR and rent reasonableness requirements apply only to rental assistance, ESG funds may be used:

- (a) To pay for financial assistance and services to help the eligible program participant stay in the unit, or
- (b) To pay for financial assistance and services to locate and move to a different unit that meets the rent reasonableness standard and is at or below FMR and pay rental assistance in that unit.

Rent reasonableness and FMR requirements only apply to Rental Assistance and **do not apply** when a program participant receives only financial assistance or services under Housing Stabilization and Relocation Services. This includes rental application fees, security deposits, an initial payment of "last month's rent," utility payments/deposits, and/or moving costs, housing search and placement, housing stability case management, landlord-tenant mediation, legal services, and credit repair. (**Note:** "Last month's rent" may not exceed the rent charged for any other month; security deposits may not exceed 2 months' rent.)

[Fair Market Rent \(FMR\)](#)

HUD establishes FMRs to determine payment standards or rent ceilings for HUD-funded programs that provide rental assistance, which it publishes annually. Federal law requires that HUD publish final FMRs for use in any fiscal year on October 1—the first day of the fiscal year (FY). FMRs for each fiscal year can be found by visiting HUD's website at www.huduser.org/portal/datasets/fmr.html and clicking on the current "Fair Market Rent Documentation System" link. This site allows subrecipients to search for FMRs by

¹¹ <https://www.hudexchange.info/resources/documents/ESG-Rent-Reasonableness-and-FMR.pdf>

selecting their state and county from the provided list. The site also provides detailed information on how the FMR was calculated for each area.

Subrecipients must consult the most current FMR published for their geographic area and document FMR for all units for which ESG funds are used for rental assistance.

To calculate the gross rent for purposes of determining whether it meets the FMR, consider the entire housing cost: rent plus the cost of utilities that must, according to the lease, be the responsibility of the tenant. Utility costs may include gas, electric, water, sewer, and trash. However, telephone, cable or satellite television service, and internet service are not included in FMRs, and are not allowable costs under ESG. The FMR also does not include pet fees or late fees that the program participant may accrue for failing to pay the rent by the due date established in the lease. The monthly allowance for utilities is typically established by the public housing authority for the area in which the housing is located. Public housing authorities will often have different utility schedules based on the type of unit (apartment, duplex, single family).

Calculating the GROSS RENT AMOUNT

To calculate the gross rent of a unit that is being tested by the FMR standard:

$$\begin{array}{r} \text{Total contract rent amount of the unit.} \\ + \\ \text{Any fees required for occupancy under the lease (excluding late fees and pet fees)} \\ + \\ \text{Monthly utility allowance* (excluding telephone, cable/TV service, and Internet} \\ \text{services) established by local PHA.} \\ = \\ \text{Gross Rent Amount} \end{array}$$

***Note:** The monthly utility allowance is added only for those utilities that the tenant pays for separately (for more information on utility allowances established by the local public housing agency (PHA), see 24 CFR § 982.517). The utility allowance does not include telephone, cable or satellite television service, and internet service. If all utilities are included in the rent, there is no utility allowance.

HUD sets FMRs to ensure that a reasonable supply of modest but adequate rental housing is available to HUD program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many low-income families as possible.

Note: Once a unit is determined to meet the FMR and rent reasonableness requirements, ESG funds may be used to pay for the actual utility costs. The utility allowance calculation is only used to determine whether the unit meets the FMR standard.

Example:

A case manager wants to rapidly re-house a mother and son and has identified a 2-bedroom unit at a rent of \$1,200 per month, not including utilities. The utility allowance for that size and type of unit is \$150. Therefore, the gross rent is \$1,350. A check of three similar units in the neighborhood reveals that the reasonable rent is \$1,400 for that area of the city.

However, the FMR for the jurisdiction is \$1,300. This means the household cannot be assisted with ESG in this unit because the gross rent exceeds the FMR.

Determining and Documenting FMR

Subrecipients must ensure that the rent for units assisted under the ESG Program does not exceed current HUD-published FMRs for their particular geographic region.

Determining FMR standards is straightforward. For ESG, no geographic area has more than one FMR standard. However, if a subrecipient covers multiple cities or counties, they must use the appropriate FMR for the geographic area in which the assisted rental unit is located. Subrecipients should print and place in case files a copy of the applicable FMR data to document the FMR for that participant's unit size and geographic area.

Rent Reasonableness

HUD's rent reasonableness standard is designed to ensure that rents being paid are reasonable in relation to rents being charged for comparable unassisted units in the same market. Methods of determining and documenting rent reasonableness are described in the section below. For units within the FMR limit, if a rent reasonableness determination supports a lower rent than the advertised rent, then ESG funds may not be used to rent the unit (unless the landlord is willing to lower the rent). However, as with FMR, ESG funds could be used to assist the program participant to move to a different unit that meets both the FMR and rent reasonableness standards. If the rent reasonableness determination supports the advertised rent (and is within the FMR limit), rental assistance with ESG funds may be provided for the unit, as long as all other program requirements are met.

Determining and Documenting Rent Reasonableness

Subrecipients are responsible for determining what documentation is required in order to ensure the rent reasonableness standard is met. Subrecipients should determine rent reasonableness by considering the location, quality, size, type, and age of the unit, and any amenities, maintenance, and utilities to be provided by the owner. Comparable rents can be checked by using a market study of rents charged for units of different sizes in different locations or by reviewing advertisements for comparable rental units. For example, a participant's case file might include the unit's rent and description, a printout of three comparable units' rents, and evidence that these comparison units shared the same features (location, size, amenities, quality, etc.). Another acceptable method of documentation is written verification signed by the property owner or management company, on letterhead, affirming that the rent for a unit assisted with ESG funds is comparable to current rents charged for similar unassisted units managed by the same owner.

Subrecipients must establish their own written policies and procedures for documenting comparable rents and ensure that they are followed when documenting rent reasonableness in the case file. Use of a single form to collect data on rents for units of different sizes and locations will make the data collection process uniform. A sample "Rent Reasonableness Checklist and Certification" form is available at: www.hud.gov/offices/cpd/affordablehousing/library/forms/rentreasonablechecklist.doc

Note: This HUD sample form is used across different housing programs.

Before conducting its own study of rent levels in its community, a subrecipient should consult existing sources of rental housing data that can be used to establish comparable rents. Each subrecipient must determine which approach is appropriate for its jurisdiction, given the size of its program, other housing programs it administers, local staff capacity, and other resources available within the community.

Monitoring

For monitoring purposes, the Department will determine whether the subrecipient developed a written policy and followed that policy to determine and document that:

- (1) The rent was reasonable; **and**
- (2) The rent was within the established FMR limit.

The basis for the determination must be supported by the evidence documented in the case file. Therefore, adequate documentation will enable a supervisor or other entity charged with monitoring the program to readily identify the factors and process that resulted in the determination that each unit met HUD requirements.

Subrecipients' policies and procedures must be transparent and consistently applied across their program, and result in decisions that comply with HUD requirements. At a minimum, an effective policy includes a methodology, documentation requirements, staffing assignments, and strategies for addressing special circumstances.

This means that policies and procedures should provide step-by-step guidance on making comparisons between the program participant's rent, the FMR, and the rent reasonableness standards for comparable units in that community. This includes the documentation to be included in each case file, such as forms and/or case notes from the staff making the determination. For example, a subrecipient could create a policy where a provider must consider the rents of three comparable units and allow as "reasonable" only rents that fall within \$50 of the average of the three comparable rents. In this example, a rent could be paid that is slightly higher than some of the individual comparable units. That rent would still be considered "reasonable" under the subrecipient's policy—but rent could only be paid if it is **also** at or below the FMR.

Staff Roles and Responsibilities

Subrecipients should have a procedure in place to ensure that compliance with rent reasonableness and FMR are documented prior to a check for rent being approved and/or prepared. The responsibility of determining and documenting each unit's compliance with these standards may be assigned to one or more program staff, such as the case manager, clerical support staff, or a staff member who is assigned to conduct habitability inspections. One staff person may perform all the checks, or the tasks may be divided among more than one staff. For example, for rent reasonableness, one staff member could conduct a telephone survey of the property owner/landlords, while another searches rental databases for comparable properties.

Rental Assistance Agreement

When providing rental assistance under both the HP and RRH components of the ESG program, the subrecipient must make payments directly to the housing owner (or their agent, such as a property manager)¹² and assistance may only be provided in cases where a rental assistance agreement is in place between the subrecipient and owner.

The rental assistance agreement required between the subrecipient and property owner **must** set forth the terms under which the rental assistance is being provided. It *must at least* include the following:

- (a) A provision requiring the owner to give the subrecipient a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant, as indicated in [24 CFR 576.106\(e\)](#).
- (b) The same payment due date, grace period, and late payment penalty requirements as the program participant's lease, as indicated in [§576.106\(f\)](#);
- (c) For **project-based rental assistance**, the initial term of the rental assistance agreement must be 1 year. For **tenant-based rental assistance**, subrecipients should establish the term of the rental assistance agreement for the period of time they anticipate providing assistance.

¹² [Requirements for Rental Assistance Agreements and Leases Under ESG \(PDF\)](#)

The rental assistance agreement should also include provisions addressing the following:

- (a) **The type of rental assistance being provided** (tenant-based or project-based);
- (b) **Late Payments:** If a subrecipient incurs late payment penalties, it is the sole responsibility of the subrecipient to pay those penalties using non-ESG funds, as indicated in [24 CFR 576.106\(f\)](#);
- (c) **Program Participant Sharing in Rent:** The subrecipient may require the program participant to pay a portion of the monthly rental cost. In such cases, the subrecipient must have written policies and procedures for determining the program participant's portion, and the rental assistance agreement should specify the amount of rent to be paid by the subrecipient and the amount to be paid by the program participant, as indicated in [24 CFR 576.106\(b\)](#);
- (d) **Termination:** When providing tenant-based rental assistance, the rental assistance agreement with the owner must terminate and no further rental assistance payments may be made under that agreement if: the program participant moves out of the housing unit; the lease terminates and is not renewed; or the program participant becomes ineligible to receive ESG rental assistance [24 CFR 576.106\(h\)](#).

Special Considerations for Rental Arrears: Even when the assistance is solely for arrears, a rental assistance agreement is required, because rental arrears are considered rental assistance. For payments of rental arrears, the agreement should provide the amount paid by the subrecipient, include the number of months of arrears paid, and any other terms and conditions of the payment. The agreement should reflect the evidence/documentation used to justify that the arrears are an eligible payment.

Late Payments

The subrecipient must make timely payments to each owner in accordance with the rental assistance agreement. The rental assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The subrecipient is solely responsible for paying late payment penalties that it incurs with non-ESG funds.

Lease

Each program participant receiving rental assistance must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. For program participants living in housing with project-based rental assistance under paragraph (i) of this section, the lease must have an initial term of one year.

Each lease executed on or after December 16, 2016, must include a lease provision or incorporate a lease addendum that includes all requirements that apply to tenants, the owner or lease under [24 CFR part 5, subpart L](#) (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), as supplemented by [24 CFR 576.409](#), including the prohibited bases for eviction and restrictions on construing lease terms under [24 CFR 5.2005\(b\)](#) and (c). If the housing is not assisted under another “covered housing program,” as defined in [24 CFR 5.2003](#), the lease provision or lease addendum may be written to expire at the end of the rental assistance period.

Special Considerations for Rental Arrears: When the assistance is solely for arrears, *an oral lease agreement may be accepted in place of a written lease*, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner’s financial records, rent ledgers, or canceled checks.¹³

Tenant-Based Rental Assistance

A program participant who receives tenant-based rental assistance may select a housing unit in which to live and may move to another unit or building and continue to receive rental assistance, as long as the program participant continues to meet the program requirements. The subrecipient may require that all program participants live within a particular area for the period in which the rental assistance is provided.

The rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if:

- The program participant moves out of the housing unit for which the program participant has a lease;
- The lease terminates and is not renewed; or
- The program participant becomes ineligible to receive ESG rental assistance.

Project-Based Rental Assistance

If the subrecipient identifies a permanent housing unit that meets ESG requirements and becomes available before a program participant is identified to lease the unit, the recipient or subrecipient may enter into a rental assistance agreement with the owner to reserve the unit and subsidize its rent in accordance with the following requirements:

The rental assistance agreement may cover one or more permanent housing units in the same building. Each unit covered by the rental assistance agreement (“assisted unit”) may only be occupied by program participants, except as provided under item (4) of this section.

The subrecipient may pay up to 100 percent of the first month’s rent, provided that a program participant signs a lease and moves into the unit before the end of the month for which the first month’s rent is paid. The rent paid before a

¹³ [2013-09-25-Requirements for Rental Assistance Agreements and Leases Under ESG \(PDF\)](#)

program participant moves into the unit must not exceed the rent to be charged under the program participant's lease and must be included when determining that program participant's total rental assistance.

The subrecipient may make monthly rental assistance payments only for each whole or partial month an assisted unit is leased to a program participant. When a program participant moves out of an assisted unit, the subrecipient may pay the next month's rent, i.e., the first month's rent for a new program participant, as provided in item (2) of this section.

The program participant's lease must not condition the term of occupancy to the provision of rental assistance payments. If the program participant is determined ineligible or reaches the maximum number of months over which rental assistance can be provided, the subrecipient must suspend or terminate the rental assistance payments for the unit. If the payments are suspended, the individual or family may remain in the assisted unit as permitted under the lease, and the subrecipient may resume payments if the individual or family again becomes eligible and needs further rental assistance. If the payments are terminated, the rental assistance may be transferred to another available unit in the same building, provided that the other unit meets all ESG requirements.

The rental assistance agreement must comply with State regulations. When a new program participant moves into an assisted unit, the term of the rental assistance agreement may be extended to cover the initial term of the program participant's lease. If the program participant's lease is renewed, the rental assistance agreement may be renewed or extended, as needed, up to the maximum number of months for which the program participant remains eligible. However, under no circumstances may the subrecipient commit ESG funds to be expended beyond the expenditure deadline in [24 CFR 576.203](#) or commit funds for a future ESG grant before the grant is awarded.

Changes in Household Composition

The limits on the assistance apply to the total assistance an individual receives, either as an individual or as part of a family. ([24 CFR 576.106](#))

Subrecipients may require program participants receiving assistance to provide notification regarding changes to household income, household composition, or other circumstances that may impact need for assistance. If such a policy has been established, it must be in the CoC's written standards, and subrecipients must re-evaluate participants upon receipt of notification.¹⁴

If a subrecipient does not have a policy, the ESG regulation does not require that information about changes in household circumstances received outside of the re-evaluation process trigger a re-evaluation.

¹⁴ <https://www.hudexchange.info/resources/documents/SNAPS-Shots-ESG-Eligible-Participants-Homelessness-Rapid-Re-Housing.pdf>

Key Performance Measure

Successful retention in a permanent housing destination. Meeting this criterion will be based on persons served in a HP program and retain their permanent housing.

Subrecipients are encouraged to center racial equity in their programs, including data review. Key steps to doing so includes providing an equal voice for Black, Indigenous, Latinx, Asian, Pacific Islanders, and people of Color, as well as people with lived experience of homelessness, at planning and data review tables to establish specific data metrics and analyze data to ensure all groups are being served in shelter and successfully rehoused at rates will help reduce disparities in outcomes by population.

Racial Equity Practices

All homeless services should be centered in racial equity. HP operators should consider the following in program design and implementation:

Program Design and Services

Develop responsive HP policies that do not exacerbate existing racial and income disparities in housing markets by prioritizing vulnerable renters and communities of color in federal aid and offering direct rental assistance rather than channeling benefits through financial institutions that communities of color are less likely to use.

Engage and partner with individuals and families most impacted by HP priorities to co-design prevention strategies. Valuing the knowledge from past and/or present experiences will inform and improve the design and implementation of HP strategies. Be sure to include partners beyond information gathering, but create the opportunities for individuals and families to have decision-making power and access to resources needed to support their engagement (e.g., childcare, transportation, compensation for time, etc.)

Assess and gain a deep understanding of who is most in need of and where HP assistance efforts should occur to clearly identify who the program will serve and its focus.

Design screening tools to get to the population you mean to serve equitably. Screening for prevention assistance within the targeted population must not result in service decisions based on membership in a protected class (e.g., race, ethnicity, sex), but these decisions can be based on vulnerabilities. Designing appropriate screening strategies can include collaborations with school districts, healthcare systems/hospitals, housing courts, public social service agencies, or senior centers and can help you identify additional and specific vulnerabilities you could include.

Review data for households living in neighborhoods/zip codes where large numbers of people last resided before seeking help with housing assistance, housing with children younger than 2 years old or involved with CPS.

Design screening tools to target households who have previously received assistance from the homeless service system, a risk factor for future instances of housing instability and/or experiencing homelessness.

Fund culturally responsive partners with an established presence and connection to households in targeted, high-risk neighborhoods to participate as access points, develop marketing/communication strategy, and administer related prevention activities. This will result in increased access and improved outcomes and the capacity to develop more culturally responsive prevention activities in the ethnic and cultural community context in which the household resides. This may require reimagining your procurement process to decrease barriers to competition and incentive strategies that align with equity-based performance.

Continuously adapt outreach and engagement strategies, and provide access to essential technologies to link people to permanent housing options, medical and behavioral health care services, health coverage, employment and educational opportunities, and other trauma-informed services as needed. Create plans to ensure that people are stabilized quickly in their current housing or a different housing option to ensure no one exits to the street, but rather exits to permanent housing, within efforts to provide equitable access to housing options for everyone.

Develop more comprehensive understanding of the housing and services needs of all those who unstably housed differentiated by subpopulations and disaggregated by race and ethnicity, based upon direct consultation with people with lived expertise and based upon analysis of data, including analyzing deficiencies and biases within existing data to inform equity-based decisions

As a part of your exit process, provide anonymous ways for people to give feedback on racial and cultural treatment while engaging with your program

Organizational

- 1) Across all positions, hire a diverse staff that is representative of the people being served—this includes hiring people with lived experience of homelessness. Be mindful that hiring one or two members of a large staff does not point to equity, instead be intentional about assessing hiring practices, performance evaluation criteria, etc.
- 2) Train staff on racial equity, cultural humility, trauma-informed care, and Housing First, while offering support and supervision to implement lessons learned.
- 3) Implement a transparent accountability structure that include publicly sharing progress on equity outcomes.
- 4) Continuously review the procurement process to create opportunities to engage a diverse array of community-based organizations.

Data and Continuous Improvement

Examine and assess your HP quantitative data and disaggregate by demographic data to see if there are disparities and ensure a diverse group is examining the data and acting on it.

Who is receiving rental assistance and services and who is not?

How long is it taking different groups to stabilize in housing?

Which groups are more likely to exit into homelessness?

Which zip codes are people experiencing the most housing instability and which zip codes are being served most by your program?

Through direct consultation with people with lived expertise of being unstably housed, assess reasons why people experience instability and if the assistance being offered has not adequately addressed their needs and preferences, and adapt strategies and options in response. Use qualitative feedback to determine if there are disparities related to age, ethnicity, disability, gender identity, sexual orientation, family composition, etc.

Create an annual anonymous survey to get feedback from staff and clients on the culture and climate of your services and system regarding race, ethnicity, and equity.

Convene a group of staff members, program participants, and community stakeholders to review policy and procedure for any barriers that might cause a specific racial group to avoid or be barred from HP program.

Rapid Re-Housing

RRH Assistance may be provided to individuals and families who are homeless under **Category 1** (Persons sleeping in emergency shelter, on the streets, or another place not meant for human habitation) of the homeless definition, i.e., those who meet the criteria under paragraph (1) of the “homeless” definition at [24 CFR 576.2](#). It may also be provided to persons who are fleeing domestic violence (DV) and meet the criteria under **Category 4** (Fleeing/Attempting to Flee DV) of the “homeless” definition that are living on the streets or in an emergency shelter. Homeless status must be properly documented.

The Department strongly encourages communities to target new funds into RRH to assist individuals and families currently living on the streets or in shelter. RRH assistance has been found to have a larger impact on homelessness in communities relative to prevention assistance, which is very difficult to target strategically.

ESG funds may be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing. The RRH assistance must be provided in accordance with the housing relocation and stabilization services requirements in [24 CFR 576.105](#), the short- and medium-term rental assistance requirements in [24 CFR 576.106](#), and the written standards and procedures established under [24 CFR 576.400](#).

Eligible Activities and Costs

RRH funds can be used for two broad categories of assistance: Rental Assistance which refers to monthly payments made of landlords for housing costs, and Housing and Relocation and Stabilization Services, which include staffing costs for services provided to participants and of financial assistance costs needed to move participants into housing or stabilize them there, other than rental assistance.

Housing Relocation and Stabilization Services

Financial Assistance Costs

Subject to the general conditions under [24 CFR 576.104](#), ESG funds may be used to pay housing owners, utility companies, and other third parties for the following costs:

Rental application fees. ESG funds may pay for the rental housing application fee that is charged by the owner to all applicants

Security deposits. ESG funds may pay for a security deposit that is equal to no more than 2 months' rent.

Last month's rent. If necessary to obtain housing for a program participant, the last month's rent may be paid from ESG funds to the owner of that housing at the time the owner is paid the security deposit and the first month's rent. This assistance must not exceed one month's rent and must be included in calculating the program participant's total rental assistance, which cannot exceed 24 months during any 3-year period.

Utility deposits. ESG funds may pay for a standard utility deposit required by the utility company for all customers for the utilities listed in subsection (e), below.

Utility payments. ESG funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.

Moving costs. ESG funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance under this section and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible

If a program participant receiving short- or medium-term rental assistance under 24 CFR 576.106 meets the conditions for an emergency transfer under 24 CFR 5.2005(e), ESG funds may be used to pay amounts owed for breaking

a lease to effect an emergency transfer. These costs are not subject to the 24-month limit on rental assistance under [24 CFR 576.106](#).

Services Costs

Subject to the general restrictions under [24 CFR 576.104](#), ESG funds may be used to pay the costs of providing the following services:

Housing search and placement. Services or activities necessary to assist program participants in locating, obtaining, and retaining suitable permanent housing, include the following:

- Assessment of housing barriers, needs, and preferences;

- Development of an action plan for locating housing;

- Housing Search

- Outreach to and negotiation with owners;

- Assistance with submitting rental applications and understanding leases;

- Assessment of housing for compliance with Emergency Solutions Grant (ESG) requirements for habitability, lead-based paint, and rent reasonableness;

- Assistance with obtaining utilities and making moving arrangements; and

- Tenant counseling

Housing stability case management. ESG funds may be used to pay cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a program participant who resides in permanent housing or to assist a program participant in overcoming immediate barriers to obtaining housing. This assistance cannot exceed 30 days during the period the program participant is seeking permanent housing and cannot exceed 24 months during the period the program participant is living in permanent housing. Component services and activities consist of:

- Using the CES as required under [24 CFR 576.400\(d\)](#), to evaluate individuals and families applying for or receiving RRH assistance

- Conducting the initial evaluation required under §576.401(a), including verifying and documenting eligibility, for individuals and families applying for RRH assistance

- Counseling;

- Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;

- Monitoring and evaluating program participant progress;

Providing information and referrals to other providers;

Developing an individualized housing and service plan, including planning a path to permanent housing stability; and

Conducting re-evaluations required under [24 CFR 576.401\(b\)](#).

Mediation. ESG funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

Legal services. ESG funds may pay for legal services, as set forth in [24 CFR 576.102\(a\)\(1\)\(vi\)](#), except that the eligible subject matters also include landlord/tenant matters, and the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which the program participant currently resides.

Credit repair. ESG funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.

Maximum Amounts and Periods of Assistance

The recipient may set a maximum dollar amount that a program participant may receive for each type of financial assistance under paragraph a) of this section. The recipient may also set a maximum period for which a program participant may receive any of the types of assistance or services under this section. However, except for housing stability case management, the total period for which any program participant may receive the services under paragraph b) of this section must not exceed 24 months during any 3-year period. The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family.

Use with Other Subsidies

Financial assistance under paragraph (1) of this section cannot be provided to a program participant who is receiving the same type of assistance through other public sources or to a program participant who has been provided with replacement housing payments under the URA, during the period of time covered by the URA payments.

Housing Counseling

Housing counseling, as defined in [§5.100](#), that is funded with or provided in connection with ESG funds must be carried out in accordance with [§5.111](#). When recipients or subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of

housing counseling, as defined in §5.100, and therefore are not required to be carried out in accordance with the certification requirements of §5.111

Short-Term and Medium-Term Rental Assistance

General Provisions

Subject to the general conditions under [24 CFR 576.104](#), the subrecipient may provide a program participant with up to 24 months of rental assistance during any 3-year period. This assistance may be short-term rental assistance, medium-term rental assistance, payment of rental arrears, or any combination of this assistance.

- (a) Short-term rental assistance is assistance for up to 3 months of rent.
- (b) Medium-term rental assistance is assistance for more than 3 months but not more than 24 months of rent.
- (c) Payment of rental arrears consists of a one-time payment for up to 6 months of rent in arrears, including any late fees on those arrears.
- (d) Rental assistance may be tenant-based or project-based, as set forth in paragraphs in this section.

Discretion to Set Caps and Conditions

Subject to the requirements of this section, the recipient may set a maximum amount or percentage of rental assistance that a program participant may receive, a maximum number of months that a program participant may receive rental assistance, or a maximum number of times that a program participant may receive rental assistance. The recipient may also require program participants to share in the costs of rent.

Use with Other Subsidies

Except for a one-time payment of rental arrears on the tenant's portion of the rental payment, rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance, or living in a housing unit receiving project-based rental assistance or operating assistance, through other public sources. Rental assistance may not be provided to a program participant who has been provided with replacement housing payments under the URA during the period of time covered by the URA payments.

Rent Restrictions

Whether a household is seeking to maintain its current housing or relocate to another unit to avoid homelessness (HP), or exiting homelessness into new housing (RRH), the process for determining acceptable rent amounts is the same¹⁵:

¹⁵ <https://www.hudexchange.info/resources/documents/ESG-Rent-Reasonableness-and-FMR.pdf>

- (a) The subrecipient first compares the gross rent (see box below) for the current or new unit with current Fair Market Rent (FMR) limits, which are updated annually.
- (b) If the unit's gross rent is at or below FMR, the subrecipient next uses current data to determine rent reasonableness (more information is provided below on how to determine and document this).

If the gross rent is at or below both the FMR **and** the rent reasonableness standard for a unit of comparable size, type, location, amenities, etc., ESG funds may be used to pay the rent amount for the unit.

If the gross rent for the unit exceeds either the rent reasonableness standard or FMR, ESG recipients are prohibited from using ESG funds for **any** portion of the rent, even if the household is willing and/or able to pay the difference. However, because the FMR and rent reasonableness requirements apply only to rental assistance, ESG funds may be used:

To pay for financial assistance and services to help the eligible program participant stay in the unit, or

To pay for financial assistance and services to locate and move to a different unit that meets the rent reasonableness standard and is at or below FMR and pay rental assistance in that unit.

Rent reasonableness and FMR requirements only apply to Rental Assistance and **do not apply** when a program participant receives only financial assistance or services under Housing Stabilization and Relocation Services. This includes rental application fees, security deposits, an initial payment of "last month's rent," utility payments/deposits, and/or moving costs, housing search and placement, housing stability case management, landlord-tenant mediation, legal services, and credit repair. (**Note:** "Last month's rent" may not exceed the rent charged for any other month; security deposits may not exceed 2 months' rent.)

Fair Market Rent (FMR)

HUD establishes FMRs to determine payment standards or rent ceilings for HUD-funded programs that provide rental assistance, which it publishes annually. Federal law requires that HUD publish final FMRs for use in any fiscal year on October 1—the first day of the fiscal year (FY). FMRs for each fiscal year can be found by visiting HUD's website at www.huduser.org/portal/datasets/fmr.html and clicking on the current "Fair Market Rent Documentation System" link. This site allows subrecipients to search for FMRs by selecting their state and county from the provided list. The site also provides detailed information on how the FMR was calculated for each area.

Subrecipients must consult the most current FMR published for their geographic area and document FMR for all units for which ESG funds are used for rental assistance.

To calculate the gross rent for purposes of determining whether it meets the FMR, consider the entire housing cost: rent plus the cost of utilities that must, according to the

lease, be the responsibility of the tenant. Utility costs may include gas, electric, water, sewer, and trash. However, telephone, cable or satellite television service, and internet service are not included in FMRs, and are not allowable costs under ESG. The FMR also does not include pet fees or late fees that the program participant may accrue for failing to pay the rent by the due date established in the lease. The monthly allowance for utilities is typically established by the public housing authority for the area in which the housing is located. Public housing authorities will often have different utility schedules based on the type of unit (apartment, duplex, single family).

Calculating the GROSS RENT AMOUNT

To calculate the gross rent of a unit that is being tested by the FMR standard:

$$\begin{array}{r} \text{Total contract rent amount of the unit.} \\ + \\ \text{Any fees required for occupancy under the lease (excluding late fees and pet fees)} \\ + \\ \text{Monthly utility allowance* (excluding telephone, cable/TV service, and Internet} \\ \text{services) established by local PHA.} \\ = \\ \text{Gross Rent Amount} \end{array}$$

***Note:** The monthly utility allowance is added only for those utilities that the tenant pays for separately (for more information on utility allowances established by the local public housing agency (PHA), see 24 CFR § 982.517). The utility allowance does not include telephone, cable or satellite television service, and internet service. If all utilities are included in the rent, there is no utility allowance.

HUD sets FMRs to ensure that a reasonable supply of modest but adequate rental housing is available to HUD program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many low-income families as possible.

Note: Once a unit is determined to meet the FMR and rent reasonableness requirements, ESG funds may be used to pay for the actual utility costs. The utility allowance calculation is only used to determine whether the unit meets the FMR standard.

Example:

A case manager wants to rapidly re-house a mother and son and has identified a 2-bedroom unit at a rent of \$1,200 per month, not including utilities. The utility allowance for that size and type of unit is \$150. Therefore, the gross rent is \$1,350. A check of three similar units in the neighborhood reveals that the reasonable rent is \$1,400 for that area of the city.

However, the FMR for the jurisdiction is \$1,300. This means the household cannot be assisted with ESG in this unit because the gross rent exceeds the FMR.

Determining and Documenting FMR

Subrecipients must ensure that the rent for units assisted under the ESG Program does not exceed current HUD-published FMRs for their particular geographic region.

Determining FMR standards is straightforward. For ESG, no geographic area has more than one FMR standard. However, if a subrecipient covers multiple cities or counties, they must use the appropriate FMR for the geographic area in which the assisted rental unit is located. Subrecipients should print and place in case files a copy of the applicable FMR data to document the FMR for that participant's unit size and geographic area.

Rent Reasonableness

HUD's rent reasonableness standard is designed to ensure that rents being paid are reasonable in relation to rents being charged for comparable unassisted units in the same market. Methods of determining and documenting rent reasonableness are described in the section below. For units within the FMR limit, if a rent reasonableness determination supports a lower rent than the advertised rent, then ESG funds may not be used to rent the unit (unless the landlord is willing to lower the rent). However, as with FMR, ESG funds could be used to assist the program participant to move to a different unit that meets both the FMR and rent reasonableness standards. If the rent reasonableness determination supports the advertised rent (and is within the FMR limit), rental assistance with ESG funds may be provided for the unit, as long as all other program requirements are met.

Determining and Documenting Rent Reasonableness

Subrecipients are responsible for determining what documentation is required in order to ensure the rent reasonableness standard is met. Subrecipients should determine rent reasonableness by considering the location, quality, size, type, and age of the unit, and any amenities, maintenance, and utilities to be provided by the owner. Comparable rents can be checked by using a market study of rents charged for units of different sizes in different locations or by reviewing advertisements for comparable rental units. For example, a participant's case file might include the unit's rent and description, a printout of three comparable units' rents, and evidence that these comparison units shared the same features (location, size, amenities, quality, etc.). Another acceptable method of

documentation is written verification signed by the property owner or management company, on letterhead, affirming that the rent for a unit assisted with ESG funds is comparable to current rents charged for similar unassisted units managed by the same owner.

Subrecipients must establish their own written policies and procedures for documenting comparable rents and ensure that they are followed when documenting rent reasonableness in the case file. Use of a single form to collect data on rents for units of different sizes and locations will make the data collection process uniform. A sample “Rent Reasonableness Checklist and Certification” form is available at: www.hud.gov/offices/cpd/affordablehousing/library/forms/rentreasonablechecklist.doc

Note: This HUD sample form is used across different housing programs.

Before conducting its own study of rent levels in its community, a subrecipient should consult existing sources of rental housing data that can be used to establish comparable rents. Each subrecipient must determine which approach is appropriate for its jurisdiction, given the size of its program, other housing programs it administers, local staff capacity, and other resources available within the community.

Monitoring

For monitoring purposes, the Department will determine whether the subrecipient developed a written policy and followed that policy to determine and document that:

- (1) The rent was reasonable; **and**
- (2) The rent was within the established FMR limit.

The basis for the determination must be supported by the evidence documented in the case file. Therefore, adequate documentation will enable a supervisor or other entity charged with monitoring the program to readily identify the factors and process that resulted in the determination that each unit met HUD requirements.

Subrecipients’ policies and procedures must be transparent and consistently applied across their program, and result in decisions that comply with HUD requirements. At a minimum, an effective policy includes a methodology, documentation requirements, staffing assignments, and strategies for addressing special circumstances.

This means that policies and procedures should provide step-by-step guidance on making comparisons between the program participant’s rent, the FMR, and the rent reasonableness standards for comparable units in that community. This includes the documentation to be included in each case file, such as forms and/or case notes from the staff making the determination. For example, a subrecipient could create a policy where a provider must consider the rents of three comparable units and allow as “reasonable” only rents that fall within \$50 of the average of the three comparable rents. In this example, a rent could be paid that is slightly higher than some of the individual comparable units. That rent would still be considered “reasonable” under the subrecipient’s policy—but rent could only be paid if it is **also** at or below the FMR.

Staff Roles and Responsibilities

Subrecipients should have a procedure in place to ensure that compliance with rent reasonableness and FMR are documented prior to a check for rent being approved and/or prepared. The responsibility of determining and documenting each unit's compliance with these standards may be assigned to one or more program staff, such as the case manager, clerical support staff, or a staff member who is assigned to conduct habitability inspections. One staff person may perform all the checks, or the tasks may be divided among more than one staff. For example, for rent reasonableness, one staff member could conduct a telephone survey of the property owner/landlords, while another searches rental databases for comparable properties.

Rental Assistance Agreement

When providing rental assistance under both the HP and RRH components of the ESG program, the subrecipient must make payments directly to the housing owner (or their agent, such as a property manager)¹⁶ and assistance may only be provided in cases where a rental assistance agreement is in place between the subrecipient and owner.

The rental assistance agreement required between the subrecipient and property owner **must** set forth the terms under which the rental assistance is being provided. It *must at least* include the following:

- (a) A provision requiring the owner to give the subrecipient a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant, as indicated in [24 CFR 576.106\(e\)](#);
- (b) The same payment due date, grace period, and late payment penalty requirements as the program participant's lease, as indicated in §576.106(f);
- (c) For **project-based rental assistance**, the initial term of the rental assistance agreement must be 1 year. For **tenant-based rental assistance**, subrecipients should establish the term of the rental assistance agreement for the period of time they anticipate providing assistance.

The rental assistance agreement should also include provisions addressing the following:

- (a) **The type of rental assistance being provided** (tenant-based or project-based);
- (b) **Late Payments:** If a subrecipient incurs late payment penalties, it is the sole responsibility of the subrecipient to pay those penalties using non-ESG funds, as indicated in [24 CFR 576.106\(f\)](#);
- (c) **Program Participant Sharing in Rent:** The subrecipient may require the program participant to pay a portion of the monthly rental cost. In such cases, the subrecipient must have written policies and procedures for determining the program participant's portion, and the rental assistance agreement should

¹⁶ [Requirements for Rental Assistance Agreements and Leases Under ESG \(PDF\)](#)

specify the amount of rent to be paid by the subrecipient and the amount to be paid by the program participant, as indicated in [24 CFR 576.106\(b\)](#);

- (d) **Termination:** When providing tenant-based rental assistance, the rental assistance agreement with the owner must terminate and no further rental assistance payments may be made under that agreement if: the program participant moves out of the housing unit; the lease terminates and is not renewed; or the program participant becomes ineligible to receive ESG rental assistance [24 CFR 576.106\(h\)](#).

Special Considerations for Rental Arrears: Even when the assistance is solely for arrears, a rental assistance agreement is required, because rental arrears are considered rental assistance. For payments of rental arrears, the agreement should provide the amount paid by the subrecipient, include the number of months of arrears paid, and any other terms and conditions of the payment. The agreement should reflect the evidence/documentation used to justify that the arrears are an eligible payment.

Late Payments

The subrecipient must make timely payments to each owner in accordance with the rental assistance agreement. The rental assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The subrecipient is solely responsible for paying late payment penalties that it incurs with non-ESG funds.

Lease

Each program participant receiving rental assistance must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. For program participants living in housing with project-based rental assistance under paragraph (i) of this section, the lease must have an initial term of one year.

Each lease executed on or after December 16, 2016 must include a lease provision or incorporate a lease addendum that includes all requirements that apply to tenants, the owner or lease under [24 CFR part 5, subpart L](#) (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), as supplemented by [24 CFR 576.409](#), including the prohibited bases for eviction and restrictions on construing lease terms under [24 CFR 5.2005\(b\)](#) and (c). If the housing is not assisted under another "covered housing program," as defined in [24 CFR 5.2003](#), the lease provision or lease addendum may be written to expire at the end of the rental assistance period.

Special Considerations for Rental Arrears: When the assistance is solely for arrears, *an oral lease agreement may be accepted in place of a written lease*, if the agreement gives the program participant an enforceable leasehold interest under state law and the

agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks.¹⁷

Tenant-Based Rental Assistance

A program participant who receives tenant-based rental assistance may select a housing unit in which to live and may move to another unit or building and continue to receive rental assistance, as long as the program participant continues to meet the program requirements. The subrecipient may require that all program participants live within a particular area for the period in which the rental assistance is provided.

The rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if:

- The program participant moves out of the housing unit for which the program participant has a lease;
- The lease terminates and is not renewed; or
- The program participant becomes ineligible to receive ESG rental assistance.

Project-Based Rental Assistance

If the subrecipient identifies a permanent housing unit that meets ESG requirements and becomes available before a program participant is identified to lease the unit, the recipient or subrecipient may enter into a rental assistance agreement with the owner to reserve the unit and subsidize its rent in accordance with the following requirements:

The rental assistance agreement may cover one or more permanent housing units in the same building. Each unit covered by the rental assistance agreement ("assisted unit") may only be occupied by program participants, except as provided under item (4) of this section.

The subrecipient may pay up to 100 percent of the first month's rent, provided that a program participant signs a lease and moves into the unit before the end of the month for which the first month's rent is paid. The rent paid before a program participant moves into the unit must not exceed the rent to be charged under the program participant's lease and must be included when determining that program participant's total rental assistance.

The subrecipient may make monthly rental assistance payments only for each whole or partial month an assisted unit is leased to a program participant. When a program participant moves out of an assisted unit, the subrecipient may pay the next month's rent, i.e., the first month's rent for a new program participant, as provided in item (2) of this section.

The program participant's lease must not condition the term of occupancy to the provision of rental assistance payments. If the program participant is determined ineligible or reaches the maximum number of months over which

¹⁷ [2013-09-25-Requirements for Rental Assistance Agreements and Leases Under ESG \(PDF\)](#)

rental assistance can be provided, the subrecipient must suspend or terminate the rental assistance payments for the unit. If the payments are suspended, the individual or family may remain in the assisted unit as permitted under the lease, and the subrecipient may resume payments if the individual or family again becomes eligible and needs further rental assistance. If the payments are terminated, the rental assistance may be transferred to another available unit in the same building, provided that the other unit meets all ESG requirements.

The rental assistance agreement must have an initial term of one year. When a new program participant moves into an assisted unit, the term of the rental assistance agreement may be extended to cover the initial term of the program participant's lease. If the program participant's lease is renewed, the rental assistance agreement may be renewed or extended, as needed, up to the maximum number of months for which the program participant remains eligible. However, under no circumstances may the subrecipient commit ESG funds to be expended beyond the expenditure deadline in [24 CFR 576.203](#) or commit funds for a future ESG grant before the grant is awarded.

Changes in Household Composition

The limits on the assistance apply to the total assistance an individual receives, either as an individual or as part of a family. ([24 CFR 576.106](#))

Subrecipients may require program participants receiving assistance to provide notification regarding changes to household income, household composition, or other circumstances that may impact need for assistance. If such a policy has been established, it must be in the CoC's written standards, and subrecipients must re-evaluate participants upon receipt of notification.¹⁸

If a subrecipient does not have a policy, the ESG regulation does not require that information about changes in household circumstances received outside of the re-evaluation process trigger a re-evaluation.

Key Performance Measures

The performance measures below ensure that RRH projects align with the local CoC's system wide goal to end homelessness. Providers should gauge their progress and identify areas of improvement based on the following performance measures for their ESG funded programs:

Rapid Re-housing Outcome Measures
Percentage of people who remained in RRH for 6 months, 9 months and 12 months

¹⁸ <https://www.hudexchange.info/resources/documents/SNAPS-Shots-ESG-Eligible-Participants-Homelessness-Rapid-Re-Housing.pdf>

RRH exits to a positive housing destination
Percentage of people who return to homelessness (ES, TES, SO) from PH (RRH, PH, PSH) in 6 months, 9 months, and 12 months
All Outcomes Measures broken down by Racial Equity components

Subrecipients are encouraged to center racial equity in their programs, including data review. Key steps to doing so includes providing an equal voice for Black, Indigenous, Latinx, Asian, Pacific Islanders, and people of Color, as well as people with lived experience of homelessness, at planning and data review tables to establish specific data metrics and analyze data to ensure all groups are being served in RRH and successfully rehoused at rates will help reduce disparities in outcomes by population.

Racial Equity Practices

All homeless services should be centered in racial equity. RRH operators should consider the following in program design and implementation:

Program Design and Services

- 1) Engage and partner with individuals and families most impacted by homelessness to co-design RRH programs and strategies. Valuing the knowledge from past and/or present experiences will inform and improve the design and implementation of RRH strategies. Be sure to include partners beyond information gathering, create the opportunities for individuals and families to have decision-making power and access to resources needed to support their engagement (e.g., childcare, transportation, compensation for time, etc.).
- 2) Evaluate and update policies and procedures including:
 - (a) If the program is designed to use all the flexibilities offered by RRH to provide each household what they need related to rental assistance amount and length of subsidy, considering the possibility that some households may need longer or deeper assistance due to inequities like housing and employment discrimination. Update documents to allow for flexibility
 - (b) Review and eliminate policies that ban services for returning clients, as possible.
- 3) Regularly assess who is unable to access housing because of new or existing CES prioritization policies. Communities are always encouraged to evaluate and adjust their prioritization policies based on evolving information and circumstances, including new or improved data, changing needs and priorities, and available resources.

- 4) Regularly refresh projections of needs for different housing interventions across all subpopulations and examine equity impacts, based upon direct consultation with people with lived expertise and analysis of data.
- 5) Recognize that bias can influence how housing opportunities are offered to participant. Client choice is central—don't make assumptions—ask where someone is willing to live. Staff should respect client choice and empower clients to seek housing where they choose to live
- 6) Ensure people newly entering housing are aware of tenant rights and responsibilities, including Fair Housing and VAWA housing protections.
- 7) Develop more comprehensive understanding of the housing and services needs of all those who unstably housed differentiated by subpopulations and disaggregated by race and ethnicity, based upon direct consultation with people with lived expertise and based upon analysis of data, including analyzing deficiencies and biases within existing data to inform equity-based decisions.
- 8) As a part of your exit process, provide anonymous ways for people to give feedback on racial and cultural treatment while engaging with your program.

Organizational

Across all positions, hire a diverse staff that is representative of the people being served—this includes hiring people with lived experience of homelessness. Be mindful that hiring one or two members of a large staff does not point to equity, instead be intentional about assessing hiring practices, performance evaluation criteria, etc.

Train staff on racial equity, cultural humility, trauma-informed care, and Housing First, while offering support and supervision to implement lessons learned.

Train staff and landlords on Fair Housing practices. Get connected with government and non-profit agencies working on fair housing locally to partner on and amplify your landlord outreach and education efforts.

Set up team and supervision structures to support open dialogue about housing choice and housing discrimination and a culture of working together towards solutions.

Implement transparent accountability structures that include publicly sharing progress on equity outcomes.

Continuously review the procurement process to create opportunities to engage a diverse array of community-based organizations.

Data and Continuous Improvement

- 1) Examine and assess your RRH quantitative data and disaggregate by demographic data to see if there are disparities and ensure a diverse group is examining the data and acting on it.

- (a) Determine your housing placement rates. Which populations are/are not getting housed during a determined period (e.g., 90-days)?
 - (b) How long is it taking different groups to stabilize in housing? Be sure to track how long it takes the groups with the greatest disparities to be rehoused as compared to other populations groups.
 - (c) Which groups are more likely to exit into homelessness? Analyze the characteristics of the people who return to homelessness and determine whether the results of structural racism (e.g., family configuration, criminal records, undiagnosed disabilities, etc.) are contributing towards housing instability.
 - (d) Assess patterns of disparate placement in communities of higher/lower poverty, opportunity, transportation, jobs, schools, churches, family support, health care, etc. to see if the race of the consumer is a factor.
- 2) Engage in consultation and qualitative data with people with lived expertise to determine if there are disparities related to age, ethnicity, disability, gender identity, sexual orientation, family composition, etc. Also, assess reasons why people experience instability and if the assistance being offered has not adequately addressed their needs and preferences, and adapt strategies and options in response.
 - 3) Create an annual anonymous survey to get feedback from staff and program participants on the culture and climate of your services and system with regard to race, ethnicity, and equity.
 - 4) Convene a group of staff members, program participants, and community stakeholders to review policy and procedure for any barriers that might cause a specific racial group to avoid or be barred from HP program (e.g., culturally biased dress codes, racial balance of program staff, rules on previous behavior or residence, etc.).

Homeless Management Information Systems (HMIS)

ESG funded client and activity data must be entered into the subrecipient's CoC HMIS or comparable database for clients who are victims of violence or legal service providers. Data entry and reporting expectations include:

- Timely and accurate data entry into HMIS;
- Acquiring and documenting informed written consent from program participants;
- Protecting program participants' confidentiality;
- Using the HMIS as a tool to analyze data to inform and improve the delivery of services.

Comparable Database

Domestic violence service providers are required to collect client-level data consistent with HMIS data collection requirements in an HMIS comparable database rather than a CoC's HMIS. HCD requires subrecipients to aggregate ESG data from sub-subrecipients using HMIS comparable databases for reporting purposes.

Eligible Activities and Costs

Recipient and Subrecipients

The recipient or subrecipient may use ESG funds to pay the costs of contributing data to the HMIS designated by the CoC for the area, including the costs of:

- Purchasing or leasing computer hardware;

- Purchasing software or software licenses;

- Purchasing or leasing equipment, including telephones, fax machines, and furniture;

- Obtaining technical support;

- Leasing office space;

- Paying charges for electricity, gas, water, phone service, and high-speed data transmission necessary to operate or contribute data to the HMIS;

- Paying salaries for operating HMIS, including:

 - Completing data entry;

 - Monitoring and reviewing data quality;

 - Completing data analysis;

 - Reporting to the HMIS Lead;

 - Training staff on using the HMIS or comparable database; and

 - Implementing and complying with HMIS requirements;

 - Paying costs of staff travel to and attend HUD-sponsored and HUD-approved training on HMIS and programs authorized by Title IV of the McKinney-Vento Homeless Assistance act;

 - Paying staff travel costs to conduct intake; and

 - Paying participation fees charged by the HMIS Lead, if the recipient or subrecipient is not the HMIS Lead. The HMIS Lead is the entity designated by the CoC to operate the area's HMIS.

HMIS Lead Agencies

If the recipient is the HMIS lead agency, as designated by the CoC in the most recent fiscal year CoC Homeless Assistance Grants Competition, it may also use ESG funds to pay the costs of:

Hosting and maintaining HMIS software or data;
Backing up, recovering, or repairing HMIS software or data;
Upgrading, customizing, and enhancing the HMIS
Integrating and warehousing data, including development of a data warehouse for use in aggregating data from subrecipients using multiple software systems;
Administering the system;
Reporting to providers; the CoC, HUD; and
Conducting training on using the system or a comparable database, including traveling to the training.

Victim Services

If the subrecipient is a victim services providers must use ESG funds to establish and operate a comparable database that collects client-level data over time (*i.e.*, longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS.

General Restrictions

[Per 25 CCR 8408\(c\)](#), HCD will not approve any CoC service area spending more than 10% of its ESG allocation on HMIS activities absent an exception, signed and in writing, from HCD.

Administrative Activities

Eligible Activities and Costs

Subrecipients may spend ESG funds on administrative costs related to the planning and execution of ESG activities during the grant period inclusive of what may be shared with subcontractors. This does not include staff and overhead costs directly related to carrying out activities eligible under 24 CFR 576.101 through 24 CFR 576.107, because those costs are eligible as part of those activities.

General Management, Oversight, and Coordination

Costs of overall program management, coordination, monitoring, and evaluation. These costs include, but are not limited to, necessary expenditures for the following:

- 1) Salaries, wages, and related costs of the recipient's staff, the staff of subrecipients, or other staff engaged in program administration. In charging costs to this category, the recipient may either include the entire salary, wages, and related costs allocable to the program of each person whose primary responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of

each person whose job includes any program administration assignments. The recipient may use only one of these methods for each fiscal year grant. Program administration assignments include the following:

- (a) Preparing program budgets and schedules, and amendments to those budgets and schedules;
 - (b) Developing systems for assuring compliance with program requirements;
 - (c) Developing interagency agreements and agreements with subrecipients and contractors to carry out program activities;
 - (d) Monitoring program activities for progress and compliance with program requirements;
 - (e) Preparing reports and other documents directly related to the program for submission to HUD;
 - (f) Coordinating the resolution of audit and monitoring findings;
 - (g) Evaluating program results against stated objectives; and
 - (h) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in (a) through (g)
- 2) Travel costs incurred for monitoring subrecipients;
 - 3) Administrative services performed under third-party contracts or agreements, including general legal services, accounting services, and audit services; and
 - 4) Other costs for goods and services required for administration of the program, including rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.

Training on ESG Requirements

The costs of providing training on ESG requirements and attending HUD-sponsored ESG trainings.

Consolidated Plan

HCD is responsible for the costs and process of preparing and amending the ESG and homelessness related sections of the consolidated plan in accordance with ESG requirements and 24 CFR part 91.

Environmental Review

Costs of carrying out the environmental review responsibilities under 24 CFR § 576.407 of the HUD regulations. HCD will share the costs of environmental review with subrecipients that are units of general-purpose local government via administrative costs. The amount shared must be reasonable under the circumstances. HCD may share its funds for administrative costs with subrecipients that are private nonprofit organizations.

Indirect Costs

ESG grant funds may be used to pay indirect costs in accordance with [2 CFR Part 200, Subpart E](#), as applicable. Indirect costs charged to an activity subject to an expenditure limit under [24 CFR 576.100](#) must be added to the direct costs charged for that activity when determining the total costs subject to the expenditure limit.

Indirect costs of private non-profit organizations, local governments, and joint powers authorities, as applicable and in accordance with [2 CFR 200](#), are an eligible expense, but may not exceed 10% of the allowable modified total direct costs (MTDC) under the ESG activity unless a higher limit for indirect cost allocation has been approved by the applicable federal agency pursuant to OMB requirements. *Agencies requesting an indirect cost allocation above ten percent must provide a letter from the federal agency which has approved the higher rate.*

Indirect costs charged to an activity with an expenditure limit.

Indirect Costs + Direct Costs = Total Costs

Total Costs are then compared to the Expenditure Limit

For more information on indirect costs, please refer to the [Indirect Cost Toolkit for CoC and ESG Programs](#).

AWARD AND USE OF GRANT FUNDS

Submission Requirements and Grant Approval

1. *Application submission and approval.* In addition to meeting the application submission requirements in 24 CFR part 5, subpart K, each State, urban county, or metropolitan city must submit and obtain HUD approval of a consolidated plan in accordance with the requirements in 24 CFR part 91, and each territory must submit and obtain HUD approval of a consolidated plan in accordance with the requirements that apply to local governments under 24 CFR part 91. As provided under 2 CFR 200.207, HUD may impose special conditions or restrictions on a grant if the recipient is determined to be high risk.
2. *Amendments.* The recipient must amend its approved consolidated plan in order to make a change in its allocation priorities; make a change in its method of distributing funds; carry out an activity not previously described in the plan; or change the purpose, scope, location, or beneficiaries of an activity. The amendment must be completed and submitted to HUD in accordance with the requirements under 24 CFR 91.505.

Obligation Requirements

All costs incurred and reimbursable shall be in accordance with the funds availability dates set by HUD in the Grant Agreement between HUD and HCD and meet the following requirements:

Within 60 days from the date that HUD signs the grant agreement with the Department (or grant amendment for reallocated funds), the Department must obligate the entire grant, except the amount for its administrative costs. This requirement is met by a subgrant agreement with, or a letter of award requiring payment from the grant to, a subrecipient.

Within 120 days after the date that the Department obligates its funds to a unit of general-purpose local government, the subrecipient must obligate all those funds by a subgrant agreement with, or a letter of award requiring payment to, a private nonprofit organization; a procurement contract; or the written designation of a department within the government of the subrecipient to directly carry out an eligible activity.

Expenditures. The subrecipient must draw down and expend funds from each year's grant not less than once during each quarter of the recipient's program year. All of the subrecipient's grant must be expended for eligible activity costs within 24 months after the date HUD signs the grant agreement with the recipient. For the purposes of this paragraph, expenditure means either an actual cash disbursement for a direct charge for a good or service or an indirect cost or the accrual of a direct charge for a good or service or an indirect cost.

Payments to subrecipients. The Department must pay each subrecipient for allowable costs within 30 days after receiving the subrecipient's complete payment request.

Match Requirements

HCD's match requirements are addressed in its ESG Match Policy (published 12.12.2022).

Means of Carrying Out Grant Activities

The State of California may use an amount consistent with the restrictions in 24 CFR [576.100](#) and [576.108](#) to carry out administrative activities through its employees or procurement contracts. If California acts as the HMIS lead by the CoC, the State may use funds to carry out HMIS activities set forth in 24 CFR [576.107\(a\)\(2\)](#). The State must subgrant the remaining funds in its fiscal year grant to:

1. Units of general-purpose local government, which may include metropolitan cities and urban counties that receive ESG funds directly from HUD; or
2. Private nonprofit organizations, provided that for ES activities the recipient obtains a certification of approval from the UGLG for the geographic area in which those activities are to be carried out.

Procurement Requirement

The Federal Regulations establish standards and guidelines for the procurement of supplies, equipment, construction, and services to ensure that they are obtained as economically as possible through an open and competitive process, and that contracts are managed with good administrative practices and sound business judgment. The regulations include:

- Standards that prohibit conflicts of interest;
- Procedures for open competition with consistent technical solicitations;
- Maintenance of selection documentation; and
- Contract administration system that provides sufficient monitoring

Procurement by Non-State Entities

Purchases of goods and services by local governments, Indian tribal governments, institutions of higher education, hospitals, and other eligible private nonprofit organizations are subject to the requirements found at 2 CFR Part 200.318 – 326. The guidelines on procurement are summarized as follows:

1. The nonfederal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.
2. The nonfederal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.213 Suspension and debarment.
3. The nonfederal entity must maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
4. The nonfederal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.
5. The nonfederal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.
6. All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements,

statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

7. The nonfederal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws.
8. The nonfederal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
 - a. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured
 - b. Identify all the requirements which the offerors must fulfill and all other factors to be used in evaluation bids or proposals
9. The nonfederal entity must use of the following methods of procurement:
 - a. Procurement by micro purchases
 - b. Procurement by small purchase procedures
 - c. Procurement by sealed bids (formal advertising)
 - d. Procurement by competitive proposals

Racial Equity in Procurement

Subrecipients are encouraged to take steps to appropriately address racial inequities in the homelessness service system by redesigning the procurement process for ESG funds. Please see [Increasing Equity in the Homeless Response System through Expanding Procurement](#) for recommendations and changes jurisdictions can make to procurement processes to expand and/or change the types of organizations involved in service delivery to include community-based organization, as well as organization led by people of color. The purpose of these changes will:

Reduce barriers reported by organizations to existing procurement processes, including smaller overall budgets, less access to funding, and less access to public funds;

Increase the availability of culturally relevant and appropriate services to populations experiencing homelessness and in the areas of most need;

Ensure services are delivered by organizations best equipped to meet the needs of marginalized populations, as well as communities that have experienced disinvestment.

Standard Agreement

The Department shall enter into a written contract, known as the “Standard Agreement” directly with the Subrecipient.

For the Administrative Entity, the Standard Agreement will follow receipt of funding recommendations from an Administrative Entity and certification by the Administrative Entity that the proposed activities meet federal and State requirements pursuant to sections [25 CCR](#) sections 8403, 8408, and 8409. The Department may require documentation to verify the accuracy of the information provided.

For funding recommendations made pursuant to [25 CCR](#) sections 8403(a)(2) and 8404(a)(2), the Standard Agreement will follow after receipt of these recommendations from the CoC, and verification by the Department that the requirements of these sections have been met.

For applications funded pursuant to the NOFA, the Standard Agreement will follow the funding award by the Department.

The Standard Agreement will require the Subrecipient to comply with the requirements and provisions of the Act, [24 CFR Part 576](#), these regulations, and generally applicable State contracting rules and requirements.

The Standard Agreement will include the items specified in this section:

A clear and accurate identification of the Subrecipient under contract with the Department;

The geographic area in which the activity or activities are to be provided.

The amount of the Grant, including budget detail sufficient for the Department to enter into HUD's financial management system ("IDIS"), and to ensure eligibility of expenses; the basis upon which payment is to be made; and the process by which the Subrecipient must request payment;

A clear and complete statement of the activities and services the Subrecipient will perform and provide or, for an Administrative Entity, cause to be performed and provided. For an Administrative Entity, the information on activity, services, and budget will be reflected for each of its selected providers;

Timeframes for the performance of approved Eligible activities as required pursuant to [24 CFR 576.203](#).

The Department may approve modifications to the Standard Agreement as described below.

The Administrative Entity may propose to change the funded provider or Eligible activity consistent with [25 CCR](#) section 8403 if necessary to meet the requirements of this Chapter or to expend its funding allocation. Any change must still comply with the requirements in [25 CCR](#) sections 8408 and 8409.

A Subrecipient shall notify the Department of any line item changes to the budget needed for the Department to update IDIS. For line item changes representing more than 25 percent of the overall budget, a contract amendment is required. Changes must still comply with the requirements in [25 CCR](#) sections 8408 and 8409.

The following performance requirements shall appear in each Standard Agreement and shall include additional provisions specific to each Subrecipient:

Reporting requirements pursuant to [25 CCR](#) section 8413; and

Requirements for fiscal management in accordance with generally accepted accounting standards and federal fiscal requirements.

Contract Amendment

The subrecipient agrees to notify the Department of any line item changes to the budget needed for the Department to update the federal Integrated Disbursement and Information System. The subrecipient must request a formal amendment to the Standard Agreement (Std. 213A) when there is a:

- Change in the scope or objective of the program or activity;
- Cumulative transfer of funds between/among activity categories (shelter operations, essential services, etc.) of amounts in excess of twenty-five (25) percent of the total grant amount.

HCD will review the request together with the justification for amendment and notify the subrecipient of its decision. The amendment does not become effective until the amendment process is completed. The Standard Agreement for an amendment will be processed and must again be signed by both the subrecipient and the HCD. There must be sufficient time from the amendment's effective date for the revised expenditures to occur before the contract expiration date, and the subrecipient shall not incur costs affected by the amendment until approved. The formal amendment process takes a minimum of 45 days to complete.

Budget Changes

After the effective date of the grant agreement, no changes to program budget, funded homeless service providers, or eligible activities shall be made without prior approval from the Department. Any changes to the agreement must be made in writing and approved by both the Department and the subrecipient. For administrative entities, the proposed change/s must be consistent with [25 CCR](#) 8403 and also comply with the requirements in [25 CCR](#) Sections 8408 and 8409.

Line-Item Revisions:

The transfer of funds between approved budget line items, within an approved budget activity category, is permissible. This does not include Grant Administration funds. Line-item revisions must be approved by the ESG HCD representative.

Disbursement Procedures

ESG funds shall be disbursed pursuant to the terms of the Standard Agreement.

The Department may rely on the Subrecipient's certification that expenditures claimed in a request for disbursement are eligible and necessary, provided that the Subrecipient also certifies that detailed supporting documentation verifying each expenditure is available and shall be retained by the Subrecipient to maintain such records for possible audit for five (5) years after the Department closes its HUD grant or any other period specified in 24CFR 576.500 (y).

Subrecipients may request an advance of 30 days working capital or \$5,000, whichever is greater, after the Standard Agreement is fully executed. Backup documentation for the Advance Payment must be submitted to the department within 30 days.

The Department shall establish minimum disbursement amounts or other related procedures necessary for the efficient administration of the ESG program. Requests for disbursement must be made at least quarterly.

If a Subrecipient uses ESG funds for the costs of ineligible activities, the Subrecipient shall be required to reimburse these funds to the Department and shall be prohibited from applying to the Department for subsequent ESG funds until the Department is fully repaid.

Notwithstanding an advance of 30 days working capital or \$5,000, whichever is greater, only costs incurred after full execution of the Standard Agreement, and after all environmental review requirements have been met, will be paid by the Department. Environmental review compliance shall include compliance with 24 C.F.R. Part 50.

PROGRAM REQUIREMENTS

Area-Wide Systems Coordination Requirements

Consultation with CoCs

HCD will consult with each CoC that serves the subrecipient's jurisdiction in determining how to allocate ESG funds each program year; developing the performance standards for, and evaluating the outcomes of, projects and activities assisted by ESG funds; and developing funding, policies, and procedures for the administration and operation of the HMIS.

Coordination with Other Targeted Homeless Services

HCD and its subrecipients must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with other programs targeted to homeless people in the area covered by the CoC or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area. These programs include:

CoC

Section 8 Moderate Rehabilitation Program for Single Room Occupancy Program for Homeless Individuals (24 CFR part 882);

HUD - Veterans Affairs Supportive Housing (HUD-VASH) (division K, title II, Consolidated Appropriations Act, 2008, Pub. L. 110-161 (2007), 73 FR 25026 (May 6, 2008));

Education for Homeless Children and Youth Grants for State and Local Activities (title VII-B of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.));

Grants for the Benefit of Homeless Individuals (section 506 of the Public Health Services Act (42 U.S.C. 290aa-5));

Healthcare for the Homeless (42 CFR part 51c);

Programs for Runaway and Homeless Youth (Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.));

Projects for Assistance in Transition from Homelessness (part C of title V of the Public Health Service Act (42 U.S.C. 290cc-21 et seq.));

Services in Supportive Housing Grants (section 520A of the Public Health Service Act);

Emergency Food and Shelter Program (title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.));

Transitional Housing Assistance Grants for Victims of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Program (section 40299 of the Violent Crime Control and Law Enforcement Act (42 U.S.C. 13975));

Homeless Veterans Reintegration Program (section 5(a)(1)) of the Homeless Veterans Comprehensive Assistance Act (38 U.S.C. 2021);

Domiciliary Care for Homeless Veterans Program (38 U.S.C. 2043);

VA Homeless Providers Grant and Per Diem Program (38 CFR part 61);

Health Care for Homeless Veterans Program (38 U.S.C. 2031);

Homeless Veterans Dental Program (38 U.S.C. 2062);

Supportive Services for Veteran Families Program (38 CFR part 62); and

Veteran Justice Outreach Initiative (38 U.S.C. 2031).

System and Program Coordination with Mainstream Resources

HCD and its subrecipients must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible. Examples of these programs include:

Public housing programs assisted under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (24 CFR parts 905, 968, and 990);

Housing programs receiving tenant-based or project-based assistance under section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f) (respectively 24 CFR parts 982 and 983);

Supportive Housing for Persons with Disabilities (Section 811) (24 CFR part 891);

HOME Investment Partnerships Program (24 CFR part 92);

Temporary Assistance for Needy Families (TANF) (45 CFR parts 260-265);

Health Center Program (42 CFR part 51c);

State Children's Health Insurance Program (42 CFR part 457);

Head Start (45 CFR chapter XIII, subchapter B);

Mental Health and Substance Abuse Block Grants (45 CFR part 96); and

Services funded under the Workforce Investment Act (29 U.S.C. 2801 et seq.).

Centralized or Coordinated Assessment

Once the CoC has developed a CES in accordance with requirements to be established by HUD, each ESG-funded program or project within the CoC's area must use the CES. The subrecipient must work with the CoC to ensure the screening, assessment and referral of program participants are consistent with the written standards required by paragraph (e) of this section. A victim service provider may choose not to use the CoC's CES.

CoCs and subrecipients are strongly encouraged to evaluate policies and procedures affecting access and interventions for different subpopulations based on need. Communities are always encouraged to evaluate and adjust their prioritization policies based on evolving information and circumstances, including new or improved data, changing needs and priorities, and available resources. Please see [Advancing Racial Equity through Assessments and Prioritization](#) for additional guidance on strategies to advance racial equity and dismantle embedded racism in coordinated entry assessment and prioritization processes.

Written Standards for Providing ESG Assistance

Subrecipients are required to establish and consistently apply written standards for providing ESG assistance as detailed in [24 CFR 576.400\(e\)](#). The Standards established by the Department are contained in [Section X. Written Standards for Providing ESG Assistance](#) of the ESG Program Manual and the associated record keeping requirements for each standard are noted in [Section VIII.A.](#).

Where indicated, a subrecipient may establish additional standards as long as they do not conflict with the practices and standards established by the State. Where the State has not established a standard and instead delegates that authority to a subrecipient, the subrecipient must consult with and follow standards as adopted by the CoC governing

body where ESG assistance is provided. If the CoC has not formally adopted a standard, the subrecipient must still consult with the CoC governing body.

The Department will establish and consistently apply, or require that its subrecipients establish and consistently apply, written standards for providing ESG assistance. If the written standards are established by the subrecipients, the Department may require these written standards to be:

Established for each area covered by a Continuum of Care or area over which the services are coordinated and followed by each subrecipient providing assistance in that area; or

Established by each subrecipient and applied consistently within the subrecipient's program.

Written standards developed by the state must be included in the state's Consolidated Plan. If the written standards are developed by its subrecipients, the state must describe its requirements for the establishment and implementation of these standards in the state's Consolidated Plan.

At a minimum, these written standards must include:

- a) Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under Emergency Solutions Grant (ESG);
- b) Standards for targeting and providing essential services related to street outreach;
- c) Policies and procedures for admission, diversion, referral, and discharge by ESs assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;
- d) Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
- e) Policies and procedures for coordination among emergency shelter providers, essential services providers, HP, and RRH assistance providers; other homeless assistance providers; and mainstream service and housing providers (see [24 CFR 576.400](#)(b) and (c) for a list of programs with which ESG-funded activities must be coordinated and integrated to the maximum extent practicable);
- f) Policies and procedures for determining and prioritizing which eligible families and individuals will receive HP assistance and which eligible families and individuals will receive RRH assistance (these policies must include the emergency transfer priority required under [24 CFR 576.409](#));

- g) Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving HP or RRH assistance;
- h) Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and
- i) Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the HP or RRH assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance; or the maximum number of times the program participant may receive assistance.

Participation in HMIS

Each subrecipient 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. If the subrecipient is a victim service provider, it must use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS.

HCD will assess compliance with HMIS requirements during the annual monitoring process and periodically as it deems necessary.

Evaluation of Program Participant Eligibility and Needs

Evaluations

The subrecipient or its sub-subrecipient must 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 CES requirements set forth under [CFR 24 576.400\(d\)](#) and the written standards established under [CFR 24 576.400\(e\)](#).

Re-Evaluations for Homelessness Prevention and Rapid Re-Housing Assistance

The subrecipient or its sub-subrecipient must re-evaluate the program participant's eligibility and the types and amounts of assistance the program participant needs not less than once every 3 months for program participants receiving HP assistance, and not less than once annually for program participants receiving RRH assistance. At a minimum, each re-evaluation of eligibility must establish that:

- a) The program participant does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD; and
- b) The program participant lacks sufficient resources and support networks necessary to retain housing without ESG assistance.

The subrecipient or its sub-subrecipient may require each program participant receiving HP or RRH assistance to notify the subrecipient or its sub-subrecipient regarding changes in the program participant's income or other circumstances (e.g., changes in household composition) that affect the program participant's need for assistance under ESG. When notified of a relevant change, the subrecipient or its sub-subrecipient must re-evaluate the program participant's eligibility and the amount and types of assistance the program participant needs.

Annual Income

When determining the annual income of an individual or family, the subrecipient or its sub-subrecipient must use the standard for calculating annual income under 24 CFR 5.609.

Connecting Program Participants to Mainstream and Other Services

The subrecipient or its sub-subrecipient must assist each program participant, as needed, to obtain:

Appropriate supportive services, including assistance in obtaining permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

Other Federal, State, local, and private assistance available to assist the program participant in obtaining housing stability, including:

Medicaid (42 CFR chapter IV, subchapter C);

Supplemental Nutrition Assistance Program (7 CFR parts 271-283);

Women, Infants and Children (WIC) (7 CFR part 246);

Federal-State Unemployment Insurance Program (20 CFR parts 601-603, 606, 609, 614-617, 625, 640, 650);

Social Security Disability Insurance (SSDI) (20 CFR part 404);

Supplemental Security Income (SSI) (20 CFR part 416);

Child and Adult Care Food Program (42 U.S.C. 1766(t) (7 CFR part 226));

Other assistance available under the programs listed in § 576.400(c).

Housing Stability Case Management

While providing HP or RRH assistance to a program participant, the subrecipient or its sub-subrecipient must:

Require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability; and

Develop a plan to assist the program participant to retain permanent housing after the ESG assistance ends, taking into account all relevant considerations, such as the program participant's current or expected income and expenses; other public or private assistance for which the program participant will be eligible and likely to receive; and the relative affordability of available housing in the area.

The subrecipient or its sub-subrecipient is exempt from the requirement under paragraph (e)(1)(i) of this section if the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) prohibits that subrecipient or its sub-subrecipient from making its shelter or housing conditional on the participant's acceptance of services.

Terminating Assistance

As described in 24 CFR 576.402, if a program participant violates program requirements, subrecipients may terminate the assistance in accordance with a formal process established by the subrecipient that recognizes the rights of individuals affected. Subrecipients must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases. All participants must be informed of the termination criteria and process and their rights at program admission. This must be provided to participants in a language and in a manner that they can understand. Subrecipients are highly encouraged to review any and all policies on termination with a racial equity lens and remove all policies that may cause disparate outcomes or be rooted in implicit bias.

To terminate rental assistance or housing relocation and stabilization services to a program participant, the required formal process, at a minimum, must consist of:

1. Written notice to the program participant containing a clear statement of the reasons for termination;
2. A review of the decision, in which the program participant is given the opportunity to present written or oral objections to a third party other than the person (or a subordinate of that person) who made or approved the termination decision; and
3. Prompt written notice of the final decision to the program participant.

Terminating assistance does not bar the subrecipient from providing further assistance at a later date to the same family or individual.

Subrecipients must have written policies and procedures for terminating assistance that, at minimum, includes the standards and practices described above.

Shelter and Housing Standards

Lead-Based Paint Remediation and Disclosure

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.

Minimum Standards for Emergency Shelters

Any building for which Emergency Solutions Grant (ESG) funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any ES that receives assistance for shelter operations must also meet the following minimum safety, sanitation, and privacy standards. The subrecipient may also establish standards that exceed or add to these minimum standards.

Structure and materials. The shelter building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents. Any renovation (including major rehabilitation and conversion) carried out with ESG assistance must use Energy Star and WaterSense products and appliances.

Access. The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and 28 CFR part 35; where applicable.

Space and security. Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.

Interior air quality. Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.

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

Sanitary facilities. Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.

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

Illumination and electricity. The shelter must have adequate natural or artificial illumination to permit normal indoor activities and support health and

safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.

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

Sanitary conditions. The shelter must be maintained in a sanitary condition.

Fire safety. There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.

Minimum Standards for Permanent Housing

The subrecipient or its sub-subrecipient cannot use ESG funds to help a program participant remain or move into housing that does not meet the minimum habitability standards provided in this paragraph. The subrecipient may also establish standards that exceed or add to these minimum standards.

Structure and materials. The structures must be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.

Space and security. Each resident must be provided adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.

Interior air quality. Each room or space must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.

Water supply. The water supply must be free from contamination.

Sanitary facilities. Residents must have access to sufficient sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.

Thermal environment. The housing must have any necessary heating/cooling facilities in proper operating condition.

Illumination and electricity. The structure must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the structure.

Food preparation. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.

Sanitary conditions. The housing must be maintained in a sanitary condition.

Fire safety.

There must be a second means of exiting the building in the event of fire or other emergency.

Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

Conflicts of Interest

Organizational Conflicts of Interest

The provision of any type or amount of ESG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the recipient, the subrecipient, or a parent or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent or subsidiary of the subrecipient, carry out the initial evaluation required under [24 CFR 576.401](#) or administer HP assistance under [24 CFR 576.103](#). Recipients and sub recipients must also maintain written standards of conduct covering organizational conflicts of interest required under 2 CFR 200.318.

Individual Conflicts of Interest

For the procurement of goods and services, the recipient and its subrecipients must comply with 2 CFR 200.317 and 200.318. For all other transactions and activities, the following restrictions apply:

- a. *Conflicts prohibited.* No person described in paragraph (2)(b) of this section who exercises or has exercised any functions or responsibilities with respect to activities assisted under the ESG program, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.

- b. *Persons covered.* The conflict-of-interest provisions of paragraph (2)(a) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or its subrecipients.
- c. *Exceptions.* Upon the written request of the recipient, HUD may grant an exception to the provisions of this subsection on a case-by-case basis, taking into account the cumulative effects of the criteria in paragraph (2)(c)(ii) of this section, provided that the recipient has satisfactorily met the threshold requirements of paragraph (2)(c)(i) of this section.
 - i. Threshold requirements. HUD will consider an exception only after the recipient has provided the following documentation:
 - a) If the recipient or subrecipient is a government, disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - b) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate state or local law.
 - ii. Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the threshold requirements under paragraph (2)(c)(i) of this section, HUD must conclude that the exception will serve to further the purposes of the ESG program and the effective and efficient administration of the recipient's or subrecipient's program or project, taking into account the cumulative effect of the following factors, as applicable:
 - a) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 - b) Whether an opportunity was provided for open competitive bidding or negotiation;
 - c) Whether the affected person has withdrawn from his or her functions, responsibilities, or the decision-making process with respect to the specific activity in question;
 - d) Whether the interest or benefit was present before the affected person was in the position described in paragraph (2)(a) of this section;
 - e) Whether undue hardship results to the recipient, the subrecipient, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict; and
 - f) Any other relevant considerations.

Contractors

All contractors of the recipient or subrecipient must comply with the same requirements that apply to subrecipients under this section.

Homeless Participation

The CA ESG Subrecipient Program Manual requires each subrecipient to provide for the participation of not less than one homeless individual or formerly homeless individual on its board of directors or other equivalent policy-making entity, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receives funding under ESG. This satisfies HCD's requirements under [24 CFR 576.405](#).

Subrecipients must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of the subrecipient, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under Emergency Solutions Grant (ESG). [24 CFR 576.405](#).

If the subrecipient is unable to meet requirement under paragraph (1), it must instead develop and implement a plan to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding any facilities, services, or other assistance that receive funding under Emergency Solutions Grant (ESG). The plan must be included in the annual action plan required under [24 CFR 91.220](#).

To the maximum extent practicable, the subrecipient must involve homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under ESG, in providing services assisted under ESG, and in providing services for occupants of facilities assisted under ESG. This involvement may include employment or volunteer services.

Equal Participation of Faith-Based Organizations

The HUD program requirements in [24 CFR 5.109](#) apply to the ESG program, including the requirements regarding disposition and change in use of real property by a faith-based organization.

Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to receive ESG funds. Religious or faith-based organizations may receive ESG funds if they agree to provide all eligible activities under the program in a manner that is in accordance with [24 CFR 576.406](#).

Any religious organization that receives ESG funds retains its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ESG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. However, among other things, faith-based organizations may use space in their facilities to provide ESG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an ESG-funded religious organization retains its authority over its internal governance, and the organization may retain religious terms in its organization's name, select its board

members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

Organizations that are directly funded under the ESG Program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under ESG. If an organization conducts these activities, the activities must be offered separately, in time or location, from the programs or services funded under ESG, and participation must be voluntary for program participants.

An organization that receives ESG funds shall not, in providing ESG assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.

If the subrecipient that is a local government voluntarily contributes its own funds to supplement federally funded activities, the subrecipient has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, items i-iv applies to all of the commingled funds.

Other Federal Requirements

The requirements in [24 CFR part 5, subpart A](#) are applicable, including the housing counseling requirements at 24 CFR 5.111. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR part 75 apply, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).

Nondiscrimination and Equal Opportunity

Title VIII of the Civil Rights Act of 1968 (The Fair Housing Act)

This act, as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions because of race, color, religion, sex, familial status, national origin, and disability. It also requires that all federal programs relating to housing and urban development be administered in a manner that affirmatively furthers fair housing.

Executive Order 11063 as amended by Executive Order 12259

This executive order prohibits discrimination on the basis of race, color, religion, sex, or national origin in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

Title VI of the Civil Rights Act of 1964

This act prohibits discrimination on the basis of based on race, color, and/or national origin in programs or activities receiving federal financial assistance.

The Age Discrimination Act of 1975

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. Federal law preempts any State law currently in effect on the same topic.

Section 504 of the Rehabilitation Act of 1973

It is unlawful to discriminate based on disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.

Title II of the Americans with Disabilities Act of 1990 (ADA)

Title II of the ADA applies to all State and local governments and all departments, agencies, special purpose districts, and other instrumentalities of State or local government (“public entities”). It applies to all programs, services, or activities of public entities. Title II entities that contract with other entities to provide public services also have an obligation to ensure that their contractors do not discriminate against people with disabilities.

Executive Order 11246 as amended by Executive Order 11375

This executive order prohibits employment discrimination on the basis of race, color, religion, sex, or national origin.

Equal Access in Accordance with An Individual’s Gender Identity

This section applies to assistance provided under Community Planning and Development (CPD) programs, including assistance under Emergency Solutions Grants program. The requirements of this section apply to recipients and subrecipients, as well as to owners, operators, and managers of shelters and other buildings and facilities and providers of services funded in whole or in part by any CPD program.

The admissions, occupancy, and operating policies and procedures of recipients, subrecipients, owners, operators, managers, and providers, including policies and procedures to protect privacy, health, safety, and security, shall be established or amended, as necessary, and administered in a nondiscriminatory manner to ensure that:

Equal access to CPD programs, shelters, other buildings and facilities, benefits, services, and accommodations is provided to an individual in accordance with the individual's gender identity, and in a manner that affords equal access to the individual's family;

An individual is placed, served, and accommodated in accordance with the gender identity of the individual;

An individual is not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of the individual's gender identity; and

Eligibility determinations are made and assisted housing is made available in CPD programs as required by §5.105(a)(2).

Placement and accommodation in temporary, Emergency Shelters and other buildings and facilities with shared sleeping quarters or shared bathing facilities:

- (1) Placement and accommodation. Placement and accommodation of an individual in temporary, Emergency Shelters and other buildings and facilities with physical limitations or configurations that require and are permitted to have shared sleeping quarters or shared bathing facilities shall be made in accordance with the individual's gender identity.
- (2) Post-admission accommodations. A recipient, subrecipient, owner, operator, manager, or provider must take nondiscriminatory steps that may be necessary and appropriate to address privacy concerns raised by residents or occupants and, as needed, update its admissions, occupancy, and operating policies and procedures.

Affirmative Outreach

Subrecipients must make it known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the subrecipient or sub-subrecipient intends to use to make known the availability of the facilities, assistance, and services will not 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 subrecipient or sub-subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services.

The Department and its subrecipients 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, the Department and its subrecipients are also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons. All subrecipients should refer to the HUD guidelines on LEP located at the following webpage:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq

Uniform Requirements

The requirements of [2 CFR Part 200](#) apply to the State and subrecipients.

Environmental Review Responsibilities for Counties and Non-Profits

County Responsibilities

- 1) By executing the Agreement, the Contractor agrees to assume responsibility for environmental review, decision-making, and action under [24 CFR Part 58](#), “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities” and shall comply with the environmental requirements of 24 CFR Part 58 including [§58.4](#) “Assumption Authority.”
- 2) The obligation of funds and incurring of costs is hereby conditioned upon compliance with 24 CFR Part 58, and completion by HCD of all applicable review and approval requirements.
- 3) 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 CFR Part 58 and the Contractor has received HCD approval if required by the level of environmental review
- 4) In accordance with [24 CFR 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 CFR Section 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”.
- 5) 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.
- 6) Upon completion of environmental review, HCD shall notify Contractor
- 7) HUD funds shall not be utilized before this requirement is satisfied.
- 8) Violation of 24 CFR Part 58 may result in disapproval, modification, or cancellation of the ESG Grant
- 9) If a project or activity is exempt under [24 CFR § 58.34](#), “Exempt activities” or is categorically excluded (except in extraordinary circumstances) under [24 CFR § 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

- 10) 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 CFR Part 58.
- 11) By executing the Agreement, the Contractor is also subject to the provisions of the California Environmental Quality Act (CEQA).
- 12) Contractor assumes responsibility to fully comply with CEQA’s requirements regarding the Work

Non-Profits Responsibilities for Environmental

- 1) The Contractor shall comply with the environmental requirements of [24 CFR Part 58](#)
- 2) The obligation of funds and incurring of costs is hereby conditioned upon compliance with 24 CFR Part 58 and completion by HCD and the U.S. Department of Housing and Urban Development of all applicable review and approval requirements.
- 3) The Contractor shall supply all available, relevant information for its activities as well as the activities of all Service Providers, subrecipients and/or subcontractors, necessary for the Department to perform the appropriate level of environmental review as required under 24 CFR Part 58.
- 4) The Contractor shall also carry out any required environmental mitigation measures which result from the environmental review and provide documentation to HCD to demonstrate that the mitigation measures have been fully implemented
- 5) HUD may eliminate from consideration any application that would require an Environmental Impact Statement (EIS).
- 6) The Contractor, its Service Providers, or any subcontractor 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 HCD has completed and HUD has approved, if required by the level of review, the environmental review under 24 CFR Part 58 and until HUD has issued HUD Form 7015.16 “Authority to Use Grant Funds” based on HCD’s submission of HUD Form 7015.15, “Request for Release of Funds”.
- 7) In accordance with 24 CFR 58.22, 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 CFR Section 58.1\(b\)](#) on an activity or project until completion of the environmental review.

- 8) 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.
- 9) Upon completion of environmental review or receipt of environmental clearance, the Department shall notify Contractor.
- 10) HUD funds shall not be utilized before this requirement is satisfied.
- 11) Violation of the provisions of [24 CFR Part 58](#) may result in disapproval, modification, or cancellation of the ESG Grant.
- 12) If a project or activity is exempt under [24 CFR § 58.34](#), “Exempt activities” or is categorically excluded (except in extraordinary circumstances) under [24 CFR § 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 been notified by HCD of its determination that each activity or project is exempt or categorically excluded.
- 13) The Contractor remains responsible for carrying out any applicable requirements under [§58.6](#), “Other Requirements” and must provide documentation to HCD prior to commitment of HUD funds for any activity of compliance with §58.6.
- 14) The Standard Agreement is subject to the provisions of the California Environmental Quality Act (CEQA).
- 15) Contractor assumes responsibility to fully comply with CEQA’s requirements regarding the Work.

Activities under this part are subject to environmental review by HUD under 24 CFR part 58. The recipient shall supply all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 58. The recipient also shall carry out mitigating measures required by HUD or select alternate eligible property. HUD may eliminate from consideration any application that would require an Environmental Impact Statement (EIS).

The recipient or subrecipient, or any contractor of the recipient or subrecipient, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for eligible activities under this part, until HUD has performed an environmental review under 24 CFR part 58 and the recipient has received HUD approval of the property.

Davis-Bacon Act

The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) do not apply to the ESG program.

Procurement of Recovered Materials

The recipient, subrecipients and its contractors 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 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.

Audit Requirements for Non-Profit Organizations

Non-profit organizations subject to regulations in the part 200 and part 800 series of title 24 of the CFR shall comply with the audit requirements of [2 CFR part 200, subpart F](#). For HUD programs, a non-profit organization is the mortgagor or owner (as these terms are defined in the regulations in the part 200 and part 800 series) and not a related or affiliated organization or entity.

Selecting Clients on the Basis of Age

Service to homeless youth who meet the requirements of Government Code Section 11139.3 would not be considered arbitrary discrimination under the State ESG Program. It authorizes the provision of housing for homeless youth and does not consider such service unlawful age discrimination. This Section shall not be construed to permit discrimination against families with children.

Housing for homeless youth includes emergency or permanent housing tied to supportive services that assist homeless youth in stabilizing their lives and developing the skills and the resources they need to make a successful transition to independent, self-sufficient adulthood.

Federally Funded Life-Saving Services and Housing for Immigrants

People experiencing homelessness, including victims of domestic violence and human trafficking, **cannot be denied ESG assistance based on their immigration status in most cases.**¹⁹

¹⁹ [HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services \(PDF\)](#)

The Personal Responsibility and Work Opportunity Act of 1996 **does not** require nonprofit charitable organizations to verify the immigration status of program participants for federal, state, or local public benefits.²⁰

Displacement, Relocation, and Acquisition

Minimizing Displacement

Consistent with the other goals and objectives of Emergency Solutions Grant (ESG), subrecipients must ensure 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 Emergency Solutions Grant (ESG).

Temporary Relocation Not Permitted

No tenant-occupant of housing (a dwelling unit) that is converted into an ES may be required to relocate temporarily for a project assisted with ESG funds or be required to move to another unit in the same building/complex. When a tenant moves for a project assisted with ESG funds under conditions that trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601-4655, as described in paragraph (c) of this section, the tenant should be treated as permanently displaced and offered relocation assistance and payments consistent with that paragraph.

Relocation Assistance for Displaced Persons

A displaced person (defined in in the next paragraph of this section) must be provided relocation assistance at the levels described in, and in accordance with, the URA and 49 CFR part 24. A displaced person must be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601 et seq.). Whenever possible, minority persons shall be given reasonable opportunities to relocate to comparable and suitable decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require providing a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. (See 49 CFR 24.205(c)(2)(ii)(D).) As required by Section 504 of the Rehabilitation Act (29 U.S.C. 794) and 49 CFR part 24, replacement dwellings must also contain the accessibility features needed by displaced persons with disabilities.

The term “displaced person” means any person (family, individual, business, nonprofit organization, or farm, including any corporation, partnership, or association) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under the ESG

²⁰ For more information about verification and the nonprofit exemption, see Department of Justice, Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344, 61345 (Nov. 17, 1997).

program. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property that is made:

After the owner (or person in control of the site) issues a notice to move permanently from the property or refuses to renew an expiring lease, if the move occurs on or after:

The date of the submission by the recipient (or subrecipient, as applicable) of an application for assistance to HUD (or the recipient, as applicable) that is later approved and funded if the recipient (or subrecipient, as applicable) has site control as evidenced by a deed, sales contract, or option contract to acquire the property; or

The date on which the recipient (or subrecipient, as applicable) selects the applicable site, if the recipient (or subrecipient, as applicable) does not have site control at the time of the application, provided that the recipient (or subrecipient, as applicable) eventually obtains control over the site;

Before the date described in paragraph 1) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or

By a tenant-occupant of a dwelling unit and the tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition of the property for the project.

A person does not qualify as a displaced person if:

- a) The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement; violation of applicable Federal, State or local law, or other good cause; and the recipient determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.
- b) The person moved into the property after the submission of the application but, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced), and the fact that the person would not qualify as a “displaced person” (or for any assistance under this section) as a result of the project;
- c) The person is ineligible under [49 CFR 24.2\(a\)\(9\)\(ii\)](#); or
- d) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

The State or its subrecipients may, at any time, request that HUD determine whether a displacement would be covered by this rule.

Initiation of Negotiations

For purposes of determining the type of replacement housing payment assistance to be provided to a displaced person pursuant to this section:

If the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, “initiation of negotiations” means the execution of the agreement between the recipient and the subrecipient or the agreement between the recipient (or subrecipient, as applicable) and the person owning or controlling the property;

If site control is only evidenced by an option contract to acquire the property, the “initiation of negotiations” does not become effective until the execution of a written agreement that creates a legally enforceable commitment to proceed with the purchase, such as a sales contract.

Real Property Acquisition Requirements

The acquisition of real property, whether funded privately or publicly, for a project assisted with Emergency Solutions Grant (ESG) funds is subject to the URA and Federal governmentwide regulations at [49 CFR part 24, subpart B](#).

Appeals

A person who disagrees with the determination of the State, a subrecipient, or a sub-subrecipient concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the recipient under [49 CFR 24.10](#). A low-income person who disagrees with the recipient's determination may submit a written request for review of that determination by the appropriate HUD field office.

Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Applicability of VAWA Protections

The core statutory protections of VAWA that prohibit denial or termination of assistance or eviction solely because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking applied upon enactment of VAWA 2013 on March 7, 2013. The VAWA regulatory requirements under [24 CFR part 5, subpart L](#), as supplemented by this section, apply to all eligibility and termination decisions that are made with respect to ESG rental assistance on or after December 16, 2016. The recipient must ensure that the requirements under 24 CFR part 5, subpart L, are included or incorporated into rental assistance agreements and leases as provided in § 576.106(e) and (g).

All VAWA Requirements and responsibilities are assigned to the subrecipient to complete.

Covered Housing Provider

For the ESG program, “covered housing provider,” as such term is used in HUD’s regulations in 24 CFR part 5, subpart L, refers to:

The recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2005(e);

The housing owner for the purposes of 24 CFR 5.2005(d)(1), (d)(3), and (d)(4) and 5.2009(a);

The housing owner and the recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2005(d)(2); and

The housing owner and the recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2007. However, the recipient or subrecipient may limit documentation requests under 24 CFR 5.2007 to only the recipient or subrecipient, provided that:

This limitation is made clear in both the notice described under 24 CFR 5.2005(a)(1) and the rental assistance agreement;

The entity designated to receive documentation requests determines whether the program participant is entitled to protection under VAWA and immediately advise the program participant of the determination; and

If the program participant is entitled to protection, the entity designated to receive documentation requests must notify the owner in writing that the program participant is entitled to protection under VAWA and work with the owner on the program participant’s behalf. Any further sharing or disclosure of the program participant’s information will be subject to the requirements in 24 CFR 5.2007.

Notification

As provided under 24 CFR 5.2005(a) each subrecipient that determines eligibility for or administers ESG rental assistance is responsible for ensuring that the notice and certification form described under 24 CFR 5.2005(a)(1) is provided to each applicant for ESG rental assistance and each program participant receiving ESG rental assistance at each of the following times:

- a) When an individual or family is denied ESG rental assistance;
- b) When an individual or family’s application for a unit receiving project-based rental assistance is denied;
- c) When a program participant begins receiving ESG rental assistance;
- d) When a program participant is notified of termination of ESG rental assistance; and
- e) When a program participant receives notification of eviction.

Emergency Transfer Plan

The subrecipient must develop the emergency transfer plan under 24 CFR 5.2005(e) The emergency transfer plan must be developed by each subrecipient that administers ESG rental assistance.

Once the applicable plan is developed in accordance with this section, the subrecipient that administers ESG rental assistance must implement the plan in accordance with 24 CFR 5.2005(e).

Each emergency transfer plan must meet the requirements in 24 CFR 5.2005(e) and include the following program requirements:

For families living in units receiving project-based rental assistance (assisted units), the required policies must provide that if a program participant qualifies for an emergency transfer, but a safe unit is not immediately available for an internal emergency transfer, that program participant shall have priority over all other applicants for tenant-based rental assistance, utility assistance, and units for which project-based rental assistance is provided.

For families receiving tenant-based rental assistance, the required policies must specify what will happen with respect to the non-transferring family member(s), if the family separates in order to effect an emergency transfer.

Bifurcation

For the purposes of this part, the following requirements shall apply in place of the requirements at 24 CFR 5.2009(b):

When a family receiving tenant-based rental assistance separates under 24 CFR 5.2009(a), the family's tenant-based rental assistance and utility assistance, if any, shall continue for the family member(s) who are not evicted or removed.

If a family living in a unit receiving project-based rental assistance separates under 24 CFR 5.2009(a), the family member(s) who are not evicted or removed can remain in the assisted unit without interruption to the rental assistance or utility assistance provided for the unit.

Emergency Shelters

The following requirements apply to Emergency Shelters funded under [CFR 24 576.102](#):

- a) No individual or family may be denied admission to or removed from the ES on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the individual or family otherwise qualifies for admission or occupancy.

- b) The terms “affiliated individual,” “dating violence,” “domestic violence,” “sexual assault,” and “stalking” are defined in [24 CFR 5.2003](#).

GRANT ADMINISTRATION

Recordkeeping Requirements

Subrecipients must have policies and procedures to ensure the requirements of 24 CFR Subpart F are met, including those required by 2 CFR part 200. The policies and procedures must be established in writing and implemented by the recipient and its subrecipients to ensure that ESG funds are used in accordance with the requirements. In addition, sufficient records must be established and maintained to enable the State and HUD to determine whether ESG requirements are being met.

Monitoring

HCD will monitor each subrecipient’s implementation of the requirements in 24 CFR Subpart F during the annual monitoring process and periodically at its discretion.

Homeless Status

The subrecipient must maintain and follow written intake procedures to ensure compliance with the homeless definition in § 576.2. The procedures must require documentation at intake of the evidence relied upon to establish and verify homeless status. The procedures must establish the order of priority for obtaining evidence as third-party documentation first, intake worker observations second, and certification from the person seeking assistance third.

Lack of third-party documentation must not prevent an individual or family from being immediately admitted to ES, receiving SO services, or being immediately admitted to shelter or receiving services provided by a victim service provider.

Records contained in an HMIS or comparable database used by victim service or legal service providers are acceptable evidence of third-party documentation and intake worker observations if the HMIS retains an auditable history of all entries, including the person who entered the data, the date of entry, and the change made; and if the HMIS prevents overrides or changes of the dates on which entries are made.

For a full list of documentation requirements, please see APPENDIX C

At-Risk of Homelessness Status

For each individual or family who receives Emergency Solutions Grant (ESG) HP assistance, the records must include the evidence relied upon to establish and verify the individual or family’s “at risk of homelessness” status. This evidence must include an intake and certification form that meets HUD specifications and is completed by the recipient or subrecipient.

For a full list of documentation requirements, please see APPENDIX C

Determinations of Ineligibility

For each individual and family determined ineligible to receive Emergency Solutions Grant (ESG) assistance, the record must include documentation of the reason for that determination.

Annual Income

For each program participant who receives HP assistance, or who receives RRH assistance longer than one year, the following documentation of annual income must be maintained:

Income evaluation form containing the minimum requirements specified by HUD and completed by the recipient or subrecipient; and

Source documents for the assets held by the program participant and income received over the most recent period for which representative data is available before the date of the evaluation (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement);

To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party of the income the program participant received over the most recent period for which representative data is available; or

To the extent that source documents and third-party verification are unobtainable, the written certification by the program participant of the amount of income the program participant received for the most recent period representative of the income that the program participant is reasonably expected to receive over the 3-month period following the evaluation.

Program Participant Records

In addition to evidence of homeless status or "at risk of homelessness" status, as applicable, records must be kept for each program participant that document:

The services and assistance provided to that program participant, including, as applicable, the security deposit, rental assistance, and utility payments made on behalf of the program participant;

Compliance with the applicable requirements for providing services and assistance to that program participant under the program components and eligible activities provisions at [CFR 24 576.101](#) through [CFR 24 576.106](#), the provision on determining eligibility and amount and type of assistance at CFR

24 576.401(a) and (b), and the provision on using appropriate assistance and services at CFR 24 576.401(d) and (e); and

Where applicable, compliance with the termination of assistance requirement in CFR 24 576.402. Documentation of compliance should include written policies and procedures. Other documentation may include a written participant rights handout, written termination notices and final decisions, and other evidence.

Centralized or Coordinated Assessment Systems and Procedures

The subrecipient and its sub-subrecipients must keep documentation evidencing the use of, and written intake procedures for, the CES(s) developed by the CoC(s) in accordance with the requirements established by HUD.

Rental Assistance Agreements and Payments

The records must include copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by program participants.

Utility Allowance

The records must document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.

Shelter and Housing Standards

The records must include documentation of compliance with the shelter and housing standards in [CFR 24 576.403](#), including inspection reports.

Emergency Shelter Facilities

The subrecipient must keep records of the ES assisted under the ESG program, including the amount and type of assistance provided to each ES. As applicable, the subrecipient's records must also include documentation of the value of the building before the rehabilitation of an existing ES or after the conversion of a building into an ES and copies of the recorded deed or use restrictions.

Services and Assistance Provided

The subrecipient and its sub-subrecipients must keep records of the types of essential services, rental assistance, and housing stabilization and relocation services provided and the amounts spent on these services and assistance.

Maintenance of Effort

Subrecipients that are units of general-purpose local government must keep records to demonstrate compliance with the maintenance of effort requirement, including records of the unit of the general-purpose local government's annual budgets and sources of funding for SO and ES services.

Coordination with CoC and Other Programs

The recipient and its subrecipients must document their compliance with the requirements of [CFR 24 576.400](#) for consulting with the CoCs and coordinating and integrating ESG assistance with programs targeted toward homeless people and mainstream service and assistance programs. Documentation of compliance should include written policies and procedures. Other documentation may include meeting minutes, correspondence, referral logs, and other evidence of coordination.

- Soliciting the input of the appropriate leadership entity for each CoC on the annual allocation of ESG funds;
- Soliciting public comment from each CoC on all statewide ESG policies before their release;
- Soliciting public comment from each CoC during the consolidated planning process;
- Engaging at least once annually with the California Interagency Council on Homelessness (CAL ICH), which may include but is not limited to sending at least one HCD staff person to at **least one CAL ICH meeting and monitoring** each subrecipient to ensure that it is engaging at least once annually with CAL ICH.

HMIS

The recipient must keep records of the participation in HMIS or a comparable database by all projects of the recipient and its subrecipients.

Match

The recipient and subrecipient must keep records of the source and use of contributions made to satisfy the matching requirement in [CFR 24 576.201](#). The records must indicate the particular fiscal year grant for which each matching contribution is counted. The records must show how the value placed on third-party, noncash contributions was derived. To the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocation of regular personnel costs.

Conflicts of Interest

The recipient and its subrecipients must keep records to show compliance with the organizational conflicts-of-interest requirements in [CFR 24 576.404\(a\)](#), a copy of the personal conflicts of interest policy or codes of conduct developed and implemented to

comply with the requirements in §576.404(b), and records supporting exceptions to the personal conflicts of interest prohibitions.

Homeless Participation

The recipient and subrecipient must document its compliance with the homeless participation requirements under [CFR 24 576.405](#).

Faith-Based Activities

The recipient and its subrecipients must document their compliance with the faith-based activities requirements under [CFR 24 576.406](#).

Other Federal Requirements

The recipient and its subrecipients must document their compliance with the Federal requirements in [CFR 24 576.407](#) and [CFR 24 576.409](#), as applicable, including:

- Records demonstrating compliance with the nondiscrimination and equal opportunity requirements under CFR 24 576.407(a) and the affirmative outreach requirements in CFR 24 576.407(b), including:

 - Data concerning race, ethnicity, disability status, sex, and family characteristics of persons and households who are applicants for, or program participants in, any program or activity funded in whole or in part with ESG funds; and

 - Documentation that the recipient submitted a certification that it will affirmatively further fair housing, consistent with [CFR 24 5.150](#) and [5.151](#) of this title.

- Records demonstrating compliance with the uniform administrative requirements in 2 CFR part 200.

- Records demonstrating compliance with the environmental review requirements, including flood insurance requirements.

- Certifications and disclosure forms required under the lobbying and disclosure requirements in 24 CFR part 87.

- Data on emergency transfers requested under [CFR 24 576.409](#), pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of such requests.

Relocation

The records must include documentation of compliance with the displacement, relocation, and acquisition requirements in [CFR 24 576.408](#).

Financial Records

- a) The recipient and its subrecipient must retain supporting documentation for all costs charged to the ESG grant.
- b) The recipient and its subrecipients must keep documentation showing that ESG grant funds were spent on allowable costs in accordance with the requirements for eligible activities under “§§[576.101](#) through [576.109](#), financial management in [2 CFR 200.302](#), and the cost principles in [2 CFR part 200, subpart E](#).
- c) The recipient and its subrecipients must retain records of the receipt and use of program income.
- d) The recipient must keep documentation of compliance with the expenditure limits in [§576.100](#) and the expenditure deadline in [§576.203](#).

Subrecipients and Contractors

- a) The recipient must retain copies of all solicitations of and agreements with subrecipients, records of all payment requests by and dates of payments made to subrecipients, and documentation of all monitoring and sanctions of subrecipients, as applicable. The State must keep records of each recapture and distribution of recaptured funds under [§576.501](#)
- b) The recipient and its subrecipients must retain copies of all procurement contracts and documentation of compliance with the procurement requirements in 2 CFR part 200, subpart D
- c) The State must ensure that its subrecipients comply with the recordkeeping requirements specified by the State and HUD notice or regulations.

Other Records Specified by HUD

The State and its subrecipient must keep other records specified by HUD.

Confidentiality

The State and its subrecipients must develop and implement written procedures to ensure:

All records containing personally identifying information (as defined in HUD's standards for participation, data collection, and reporting in a local HMIS) of any individual or family who applies for and/or receives ESG assistance will be kept secure and confidential;

The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under the ESG will not be made public, except with written authorization of the person responsible for the operation of the shelter; and

The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the

recipient or subrecipient and consistent with state and local laws regarding privacy and obligations of confidentiality

The confidentiality procedures of the recipient and its subrecipients must be in writing and must be maintained in accordance with this section.

Period of Record Retention

The 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 CFR 576.500 (y). Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

Documentation of each program participant's qualification as a family or individual at risk of homelessness or as a homeless family or individual and other program participant records must be retained for 5 years after the Department closes its HUD grant or any other period specified in 24 CFR 576.500(y). Therefore, the Contractor must contact the Department of Housing and Community Development for the specific retention date for the contract agreement.

Contractor agrees to maintain accounting books and records in accordance with Generally Accepted Accounting Principles, per 2 CFR 200.49 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 the 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 CFR 576.500 (y).

Where ESG funds are used for the renovation of an ES involves costs charged to the ESG grant that exceed 75 percent of the value of the building before renovation, records must be retained until 10 years after the date that ESG funds are first obligated for the renovation; and

Where ESG funds are used to convert a building into an ES and the costs charged to the ESG grant for the conversion exceed 75 percent of the value of the building after conversion, records must be retained until 10 years after the date that ESG funds are first obligated for the conversion.

Access to Records

Federal Government Rights: Notwithstanding the confidentiality procedures established in this section, the State and its subrecipients must comply with the requirements for access to records in 2 CFR 200.336.

Public Rights: The State must provide citizens, public agencies, and other interested parties with reasonable access (consistent with state and local laws regarding privacy and obligations of confidentiality and the confidentiality requirements in this part) to records regarding any uses of ESG funds the recipient received during the preceding 5 years.

Reports

The Department, as administrator of the ESG program, must collect and report data on its use of ESG funds in the Integrated Disbursement and Information System (IDIS) and other reporting systems, as specified by HUD. The Department must also comply with the reporting requirements in 2 CFR part 200 and 24 CFR part 91 and the reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, (31 U.S.C. 6101 note), which are set forth in appendix A to 2 CFR part 170.

State of California Reports

Subrecipients are responsible for monitoring all grant-supported activities to assure that time schedules are being met. This section discusses the periodic performance and financial reports that are required.

Requests for Funds

HCD's ESG program is generally operated on a reimbursement basis. Under normal circumstances, HCD will only issue payment to subrecipients in the form of a reimbursement for incurred eligible costs. HCD may, at its discretion, advance funds to subrecipients in response to an extraordinary or emergent need. Subrecipients must request a draw down by submitting the ESG Request for Funds (RFF) form, quarterly. Invoices and receipts with proof of payment may be required before draws will be processed. Failure to provide required documentation may delay processing and prevent a timely reimbursement.

HCD may, at its discretion, issue ESG funds to subrecipients in advance of incurred eligible costs. This is typically done under extraordinary or emergent circumstances, but HCD may choose to advance ESG funds under any circumstances and in any amount it deems appropriate. HCD may, as a condition of advance, require commitments from the subrecipient regarding the timing, nature, and documentation of subsequent eligible costs. HCD may, with 30 days' notice, recapture any funds it has advanced that have not yet been spent on eligible costs.

Consolidated Annual Performance and Evaluation Report

The HUD-required Consolidated Annual Performance and Evaluation Report (CAPER) captures information for each fiscal year. Subrecipients are required to submit data as needed for the CAPER to HCD or its designee in the form and within the timeframe specified by HCD or its designee.

Certificate of Completion

A Certificate of Completion must be submitted within 60 days after the grant expires. This report certifies completion of the contract by reporting the amount of funds and the balance of any unspent funds.

Section 3 Reporting

The Section 3 program requires that ESG subrecipients, to the greatest extent possible, provide job-training, employment, and contract opportunities for low – or very-low-income residents in connection with projects and activities in their neighborhoods. The Section 3 Summary Report is due annually on October 20th.

Minority Business Enterprises and Women’s Business Enterprise (M/WBE)

As required by Executive Order 11625, HUD must annually compile and report department-wide data on M/WBE activity for submission to the Minority Business Development Agency of the Department of Commerce. Minority and women’s business enterprise outreach requirements apply to all HUD programs, including ESG.

Monitoring and Performance Review

The Department, as administrator of the ESG program, is required to monitor its subrecipients for compliance with ESG regulations. Using techniques, guidelines, and Federal regulations at 24 CFR Part 576 from HUD’s Monitoring Guidance for the ESG Program, HCD has developed a process that includes the following components, to determine the type of monitoring to be conducted during the year:

Desk Audit

A desk audit is the first step of monitoring subrecipients each year. Compliance issues considered on this assessment will be combined with any non-compliance or outstanding problems noted during the year and will be used to determine whether an on-site visit will be necessary.

Risk Assessment

HCD staff will conduct a risk assessment of agencies receiving ESG funds at the beginning of grant year to determine the need and frequency of site visits during the upcoming grant year. Included in the assessment will be a determination of risk (low, medium, or high) using factors such as financial and program issues, allocation amount, and other discretionary criteria. The Risk Assessment Form will be completed for each subrecipient receiving ESG funds.

On-Site Review

If HCD staff determine that an on-site visit is necessary, HCD will send a notification letter detailing the specifics of the monitoring visit. On-site visits for certain aspects of compliance, such as facility verifications, equipment inventory, review of client files and accounting records that cannot be monitored by other components of the grant process, will be conducted as scheduling allows.

Responsibility for Grant Administration and Oversight

In all cases, subrecipients have responsibility to HCD for the grant, and HCD ultimately holds the subrecipient accountable if a subrecipient or a contractor uses funds in violation of program requirements. Therefore, the subrecipient is prohibited from assigning certain administrative responsibilities and functions to either subrecipients or contractors. For example; the subrecipient must be the entity that signs the grant agreement with HCD and must maintain oversight over the funds and activities.

Using Contractors in ESG Programs

When determining whether to use a subrecipient or a contractor, it is important to understand that there are key distinctions between subrecipients (including sub-subrecipients) and contractors—the two are not interchangeable. In general, a contractor does not have the same authority as a subrecipient:

- a) Subrecipients may exercise discretion in making program decisions and carrying out program activities, while contractors cannot. The McKinney-Vento Homeless Assistance Act and the program regulations impose specific restrictions and responsibilities on subrecipients, and each subrecipient must comply with those restrictions and responsibilities as part of the terms of its sub-award.
- b) Contractors are responsible for complying only with those requirements and conducting those activities that the subrecipient specifies in their contracts. Therefore, when a subrecipient uses a contractor, the subrecipient must ensure the contract specifies the program requirements and policies that apply to the tasks the contractor is to perform.

Audits

Subrecipients are responsible for ensuring that their subcontractors comply with these audit requirements:

Private nonprofit organizations must submit audits to the Department for review and approval. These audits must comply with all applicable federal laws, including without limitation applicable OMB Circulars. See 24 C.F.R. 576.407(c).

Units of general local government must submit audits to the Department for review and approval. These audits must comply with all applicable federal and other laws.

The Department may also periodically request that a Subrecipient be audited at the expense of the Subrecipient and the Subrecipient shall comply.

Sanctions

Pursuant to [25 CCR](#) section 8416, the Department may impose sanctions, as well as any other remedies available to it under law, on a Subrecipient for failure to abide by any State and federal laws and regulations applicable to the ESG program. As the Department deems appropriate or necessary, sanctions include, without limitation, any or all of the following:

- Conditioning a future ESG grant on compliance with specific laws or regulations;

- Directing a Subrecipient to stop incurring costs under the current grant;

- Requiring that some or all of the grant amount be remitted to the Department;

- Reducing the amount of grant funds a Subrecipient would otherwise be entitled to receive;

- Electing not to award future grant funds to a Subrecipient and prohibiting an Administrative Entity from awarding to a particular Subrecipient of the Administrative Entity until appropriate actions are taken to ensure compliance with ESG requirements; and/or;

- Taking any other actions permitted pursuant to [24 CFR](#) 576.501.

Written Standards for Providing ESG Assistance

Standards for All Program Types

Core Principles

Homeless crisis response systems and programs are most effective when measurable goals are established and routinely monitored. Systems and programs make adjustments to program design, policies, procedures, services, and partnerships when performance goals are not being met. Data is also used to better understand different populations, their service and housing needs, and to document and actively address gaps. Systems and programs should be monitoring progress and making continual improvements to achieve a functional end to homelessness for all populations – that is, assuring homelessness is rare, brief, and non-recurring. Core performance goals should therefore focus on:

- Reducing the number of people who become literally homeless;

- Reducing the amount of time people stay literally homeless;

- Increasing permanent housing outcomes; and

- Reducing returns to literal homelessness.

HCD expects subrecipients to employ evidence-based and other best practices for their respective project and as part the local homeless crisis response system in order to achieve performance goals. HCD recommends that, at the program or project level:

Admission/screening criteria should be structured to promote the acceptance of program participants regardless of sobriety or use of substances, completion of treatment, or participation in services;

- Program participants are not rejected on the basis of poor credit/financial history, rental history, minor criminal convictions, or behaviors indicating a lack of “housing readiness;”
- Programs accept referrals from shelters, outreach, drop-in centers, and other parts of the crisis response system;
- Rehousing plans are prepared with program participants, plans are tenant-driven and focused on problem solving, and services are voluntary.

Housing First

Housing First approaches quickly connect people experiencing a housing crisis with permanent housing and the supports needed to maintain housing – *without* preconditions (e.g., sobriety, engagement in treatment, service participation requirements). All ESG projects can and should use Housing First approaches to assist program participants resolve their housing crisis as quickly as possible. For all ES, SO, HP, RRH projects, this means:

- Ensuring low-barrier, easily accessible assistance that seeks to “screen-in” people with various personal issues, including people with no income or people with active substance abuse issues;
- Helping participants quickly identify and resolve barriers to obtaining and maintaining housing;
- Seeking to quickly resolve the housing crisis before focusing on other, non-housing related issues;
- Allowing participants to choose the services and housing they feel meets their needs, within practical limits and funding requirements.
- Connecting participants to supports and services available in the community that they need and desire, especially those to which they are entitled, in order to support long-term housing stability.

Comprehensive and Coordinated Access to Crisis Response Assistance

As detailed in 24 CFR 576.400, once the CoC has developed a CES in accordance with requirements established by HUD outlined in [CPD-17-01](#), each ESG-funded project within the CoC’s area must use that assessment system.

Please note HUD now uses the terms *coordinated entry* and *coordinated entry process* instead of *centralized or coordinated assessment system* to help avoid the implication that CoCs must centralize the assessment process, and to emphasize that the process is easy for people to access, that it identifies and assesses their needs, and makes prioritization

decisions based upon needs. However, HUD considers these terms to mean the same thing.

Unless exempted by federal rules, all ESG-funded activities shall utilize a CES established by the CoC in a manner that promotes the following:

- Comprehensive and coordinated access to assistance regardless of where an individual or family is located in the CoC Service Area. Local systems should be easy to navigate and have protocols in place to ensure immediate access to assistance for people who are experiencing homelessness or most at-risk;
- Prioritized access to assistance for people with the most urgent and severe needs, including, but not limited to, survivors of domestic violence. ESG-funded activities shall seek to prioritize people who:
 - Are unsheltered and living in places not designed for human habitation,
 - Have experienced the longest amount of time homeless; and
 - Have multiple and severe service needs that inhibit their ability to quickly identify and secure housing on their own; and
 - For HP activities, people who are at greatest risk of becoming literally homeless without an intervention and are at greatest risk of experiencing a longer time in shelter or on the street should they become homeless.

Subrecipients must work with the CoC to ensure the screening, assessment and referral of program participants are consistent with the written standards established by the CoC. A victim service provider may choose not to use the CoC's CES.

CoCs and subrecipients are strongly encouraged to evaluate policies and procedures affecting access and interventions for different subpopulations based on need. Communities are always encouraged to evaluate and adjust their prioritization policies based on evolving information and circumstances, including new or improved data, changing needs and priorities, and available resources. Please see [Advancing Racial Equity through Assessments and Prioritization](#) for additional guidance on strategies to advance racial equity and dismantle embedded racism in coordinated entry assessment and prioritization processes.

Prioritized Access to Assistance for People with the Most Urgent and Severe Needs

There is often more demand for HP and homeless assistance than resources can adequately address. At the same time, some people who are experiencing a housing crisis face more significant barriers to housing placement and retention and require more urgent or intensive assistance. Therefore, people with the most severe service and housing needs should be prioritized for assistance. Generally, projects should seek to prioritize people who:

Are unsheltered and in places not designed for human habitation (e.g., cars, parks, bus stations, abandoned buildings);

Have experienced the longest amount of time homeless;

Have multiple and severe service needs that inhibit their ability to quickly identify and secure housing on their own;

And, for HP, people who are both at greatest risk of becoming literally homeless but for program intervention and are at greatest risk of experiencing a longer time in shelter or on the street should they become homeless.

Progressive Assistance

A progressive assistance approach seeks to help households end their homelessness as rapidly as possible, despite barriers, with the least amount of financial assistance and services needed to quickly resolve the housing crisis, (end homelessness or avoid imminent literal homelessness), and avoid an immediate return to literal homelessness or imminent risk of literal homelessness. Homeless crisis response systems and programs that follow a progressive approach recognize that many people experience *literal* homelessness once or just a few times, use shelter for just a short period and are able to exit on their own with a small amount of assistance, if any. They also recognize that there is no reliable way to predict who will become literally homeless or how much help someone who is literally homeless may need after they are housed to avoid a return to the streets or shelter. What can be determined is whether a homeless person who has been housed will fall immediately back into literal homelessness without additional help (e.g., they have no money to pay next month's rent, no friends or family to turn to, and no other source of housing support). Systems and programs can also know whether someone has been literally homeless for a long-time, whether they have a severe disabling condition that inhibits their ability to obtain and maintain housing, whether they experience systemic racism that causes disparate outcomes and creates challenging to securing housing and/or employment, and whether they want more help beyond basic re-housing assistance. Homeless assistance resources are limited and have to be prioritized. Resources should be available to assure no one is forced to live on the street and so that re-housing assistance can be provided to everyone who needs it, so homelessness is as brief as possible.

With this understanding, progressive engagement systems and programs first give people the opportunity to resolve their homelessness on their own after a short period. A limited amount of RRH assistance should be offered to all individuals and families who cannot quickly exit homelessness on their own – including those who are eligible and prioritized for permanent supportive housing (PSH), but who either do not want PSH or when PSH is not immediately available. RRH assistance may start with an initial package of “light-touch” assistance, including help creating a reasonable housing placement/stabilization plan, housing information and search assistance, and limited financial assistance for arrears, first month's rent, or security deposit. Barriers to retaining housing are regularly re-assessed and programs seek to close cases quickly to conserve resources.

Systems and programs should also have the ability to “flex up” assistance to the maximum amount allowed by ESG and other funders. As needed, more financial assistance and stabilization supports are offered to those who struggle to stay housed and who will clearly and immediately fall back into literal homelessness without assistance. More intensive or

a longer duration of RRH assistance is available as a “bridge” for those who are waiting on PSH or another long-term housing subsidy.

Finally, progressive systems and programs actively establish and maintain a wide array of service and housing partners to help families and individuals further stabilize their housing and meet other needs. In this way, homeless crisis response systems can remain focused on immediately ending homelessness and preventing people from immediately returning, while relying on community partners to provide permanent housing options and longer term supports. This also helps economize resources, increase the participant’s choice, more quickly end homelessness, and may help avoid returns to homelessness.

Evaluating Eligibility

Subrecipients must establish and consistently apply standard policies and procedures for evaluating individuals’ and families’ eligibility for assistance under the Emergency Solutions Grant (ESG) program,

Coordination

Subrecipients must establish and consistently apply policies and procedures for coordination among the following:

- ES providers, essential services providers, HP, and RRH assistance providers;
- Other homelessness assistance providers; and
- Mainstream service and housing providers

Standards for Street Outreach

Subrecipients must establish and consistently apply standards for targeting and providing essential services related to SO.

Housing First Practices

SO services are an important part of a community’s Housing First approach when:

- They are integrated into the local CES;
- The focus of street outreach is rapid access to shelter and/or permanent housing;
- Street outreach plans include collaborative work to ensure those with greatest vulnerabilities are accessing shelter;
- Client participation is voluntary, and the focus of providers is on engagement;
- Assessments and case plans are housing-focused;
- Staff are well-versed in housing options available in the community, including financial assistance to obtain them; and

All street outreach work is provided without pre-conditions or artificial barriers to obtaining housing and related services.

Standards for Emergency Shelter

Housing First Practices

ES services are an important part of a community's Housing First approach when:

They are integrated into the local CES;

Shelter diversion is a focus. Diversion is for clients who are not literally homeless but are seeking shelter. Shelter staff should help these individuals examine their other potential resources, such as housing with friends or family members, and assist them in transitioning into those placements. Additionally, this includes connecting clients to other resources and supports, potentially including HP assistance, to help them obtain needed help for items they need but do not have, such as funds for security deposits;

Screening for vulnerability is in place, and there is coordination to ensure those with high vulnerabilities get identified and properly assisted—potentially even prioritized. People with certain vulnerabilities, such as substance abuse disorders and mental health issues, must be offered shelter without pre-conditions. If not all shelters in the system are staffed to manage these needs, the system should figure out where people will go and how they will get there quickly;

The goal of shelter is to rapidly re-house program participants. Client assessments are focused on housing barriers, and if Housing Plans are created, they focus on quick re-housing. Shelter programs should actively promote linkages to housing and other mainstream resources. These linkages to housing financial assistance should occur quickly and be without preconditions, including length of stay in shelter; and

Movement to other interim shelters or transitional housing should occur only when:

Requested;

Most appropriate due to safety and health needs; and/or

No permanent housing solution is available (including doubled up).

Note: ESG does not fund transitional housing.

Admission, Diversion, Referral, and Discharge

The following are minimum standards, policies and procedures for initial eligibility screening including homeless status and documentation, diversion and connection to prevention assistance, admission, referral, and discharge by ES assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence,

sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest. Additionally, subrecipients should carefully review and evaluate admission, diversion, referral, or discharge policies and procedures to identify any potential bias and ensure that shelter does not deepen inequalities in housing outcomes, as demonstrated by the racial and ethnic composition of program participants/populations.

Admission

Providers of ES services shall admit individuals and families who meet the HUD definition of “homeless,” as specified in 24 CFR 576.2 (1, 2, 3 & 4) and agencies’ eligibility criteria. ES case managers will use a Continuum-wide assessment tool to review the client’s situation, understand their eligibility, and begin the process of determining length of assistance. Any new clients entering into shelter must then undergo a complete assessment to understand their needs and barriers in order to match them to the most appropriate services provider. Program participants will be prioritized within the ES system based on need, available resources, and geographic area. Program participants will be reassessed as case management progresses, based on the individual service provider’s policies.

Subrecipients are required to have standardized screening and intake criteria in writing for determining eligibility for admission to ES. The criteria must be in compliance with Fair Housing Law. The age of a child under age 18 must not be used as a basis for denying any family’s admission to an ES that uses Emergency Solutions Grant (ESG) funding or services and provides shelter to families with children under age 18.

Also note the following:

- ES cannot discriminate per HUD regulations;
- There are no requirements related to ID, income, or employment;
- Transgender placement should be based on gender self-identification.

Appropriate Placement for Transgender Persons in Single-Sex Emergency Shelters and Other Facilities

ES providers including those operating single sex projects, are now required to provide all individuals, including transgender individuals and other individuals who do not identify with the sex they were assigned at birth, with access to programs, benefits, services, and accommodations in accordance with their gender identity without being subjected to intrusive questioning or being asked to provide documentation.

HUD’s Equal Access Rule²¹ will require a subrecipient or provider to establish, amend, or maintain program admissions, occupancy, and operating policies and procedures (including policies and procedures to protect individuals’ privacy and security), so that

²¹ [Equal Access in Accordance with Gender Identity Final Rule – 2016 \(PDF\)](#)

equal access is provided to individuals based on their gender identity. This requirement includes tenant selection and admission preferences.

Other provisions and changes to the rule include:

- (a) Eliminates the prohibition on inquiries related to sexual orientation or gender identity so service providers can ensure compliance with this rule. The removal of the prohibition on inquiries related to sexual orientation or gender identity does not alter the requirement to make housing assisted by HUD and housing insured by the Federal Housing Administration available without regard to actual or perceived sexual orientation or gender identity.
- (b) Amends HUD's definition of "gender identity" to reflect the difference more clearly between actual and perceived gender identity.
- (c) Makes a technical amendment to the definition of "sexual orientation," which was adopted from the Office of Personal Management's (OPM) definition of the term in 2012 to conform to OPM's current definition.

Equal Access Rule Definition of Family

The Equal Access Rule defines family as follows:

Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:

A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or,

A group of persons residing together, and such group includes, but is not limited to:

A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);

An elderly family;

A near-elderly family;

A disabled family;

A displaced family; and,

The remaining member of a tenant family

In general, this definition of "family" applies to the federal ESG Program rules. However, the [McKinney-Vento Act, as amended by the HEARTH Act](#), distinguishes individuals from families. Therefore, paragraph (1) of the definition of family under the Equal Access Rule is considered an individual under the ESG program and the definition of family for this program is defined as follows:

Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, any group of persons presenting for assistance together with or without children and irrespective of age, relationship, or whether or not a member of the household has a disability. A child who is temporarily away from the home because of placement in foster care is considered a member of the family.

What this means is that any group of people that present together for assistance and identify themselves as a family, regardless of age or relationship or other factors, are considered to be a family and must be served together as such. Further, an ESG subrecipient cannot discriminate against a group of people presenting as a family based on the composition of the family (e.g., adults and children or just adults), the age of any member's family, the disability status of any members of the family, marital status, actual or perceived sexual orientation, or gender identity.

Here is an example of how this might apply:

An ES that serves households with children. While it is acceptable for a shelter to limit assistance to households with children, it may not limit assistance to only women with children. Such a shelter must also serve the following family types, should they present, in order to be in compliance with the Equal Access rule:

Single male head of household with minor child(ren); and

Any household made up of two or more adults, regardless of sexual orientation, marital status, or gender identity, presenting with minor child(ren).

In this example, the ES program would not be required to serve families composed of only adult members and could deny access to these types of families provided that all adult-only families are treated equally, regardless of sexual orientation, marital status, or gender identity.

HUD's mission is to create inclusive communities and quality affordable housing for all. Excluding any eligible person from ESG-funded ES, buildings, or facilities because of that person's gender identity or nonconformance with gender stereotypes would contravene this responsibility.

Diversion and Referral

Providers should screen those presenting for shelter for possible diversion. When appropriate based on the client's needs and wishes, the provision of or referral to HP services that can quickly assist the client to maintain or obtain safe, permanent housing shall be prioritized over the provision of ES or Transitional Housing services. Further, providers should ensure expedited linkage to these services for critical cases.

Discharge

Program participants shall be discharged from ES services when they choose to leave or when they have successfully obtained safe, permanent housing. Any Length of Stay limitations shall be determined by the individual service provider's policies and clearly

communicated to program participants. Service providers should avoid setting arbitrary length of stay requirements, and instead focus on models that are flexible, client-centered, and Housing First-oriented.

Assessing, Prioritizing, and Reassessing Needs for Essential Services Related to Emergency Shelter

Subrecipients are required to have a written standard assessment process and tool(s) that are applied to all eligible subrecipients of shelter essential services. Prioritization for services must align with service area homeless and/or community needs assessment plans. When developed, subrecipients are required to comply with their local CoC assessment and prioritization requirements (24 CFR 576.400(d)), including verifying and documenting eligibility. Provision of services should be determined based on client need and in alignment with subrecipient's targeted populations. Subrecipients are encouraged to engage persons with lived expertise in the creation and modification of essential services and policies to inform program design.

Provision of essential services and shelter must be available to shelter residents for at least the time period during which the ESG funds are provided. Services do not need to be limited to a particular site as long as the site serves the same categories and types of homeless originally provided with essential services or serves homeless persons in the same service area where the subrecipient originally provided the services. Subrecipients should review services and policies to determine if they have any implicit or explicit bias that negatively impacts a particular group in accessing ES or essential services. Examples of this may be limitations due to substance use, family size, or wardrobe rules.

Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter. Include:

- Safeguards to meet safety and shelter needs of special populations (DV, longtime homeless, highest barriers to housing);

- Discharge/Termination of services;

- Consider general standards/expectations concerning progressive engagement/ assessment/assistance; general Housing First practices and expectations; racial equity policies and practices to address disparities; culturally response resources and services.

Standards for Homelessness Prevention

Housing First Practices

HP services are an important part of a community's Housing First approach. To maximize the impact of prevention on reducing overall homelessness and incorporate prevention as a strategy using a Housing First approach, prevention services should be:

- Integrated into the local CES;

Targeted to serve those who would otherwise enter the homeless system. The primary goal of HP is to prevent people from falling into literal homelessness—not eviction prevention;

The HP system is designed with protocols to assist with shelter diversion and provide immediate access to HP assistance, including financial assistance;

HP screening is done with an eye towards vulnerability so that those with the greatest vulnerabilities are prioritized for assistance;

Participation in services is voluntary and the focus of the HP provider is on engagement;

Housing stabilization is created through the use of Housing Plans with a focus on retaining housing; and

HP staff can provide rapid linkages to a wide array of mainstream, public, and private housing, and services in a flexible, engaging manner.

Determining Eligibility and Priority for Homelessness Prevention

Determination of eligibility for HP requires an assessment that is compliant with the established CoC coordinated/centralized assessment procedures. In addition, program participants must meet the minimum HUD requirements for program eligibility including documentation of imminent risk of homelessness (see APPENDIX B.) As described in [24 CFR 576.400\(e\)\(3\)\(vi\)](#), minimum written standards must include policies and procedures for determining and prioritizing which eligible families and individuals will receive HP assistance.

In addition, individuals and families should be targeted to ensure that resources are being used to serve those with the most barriers to housing. HP service providers should use a shared assessment form that will target those most in need of this assistance. Each barrier should ideally have an allotment of points, and the higher score (and more barriers) the more likely the client will receive services. The assessment of barriers is based on an objective review of each client's current situation using the tool rather than the subjective opinion of a case manager assessing each client's needs.

In addition, individuals and families should be targeted to ensure that resources are being used to serve those with the most barriers to housing. Prioritization of clients must be consistent with the Continuum's written standards i.e., removing programmatic barriers, such as sobriety rules or income limits wherever possible. Furthermore, ESG funded projects should follow Housing First and progressive engagement practices by²²:

Removing programmatic barriers, such as sobriety rules or income limits, wherever possible;

Helping participants quickly identify and resolve barriers to maintaining housing;

Seeking to quickly resolve the housing crisis before focusing on other non-housing related services;

²² [25 CCR Section 8409](#)

Allowing participants to choose the services that meets their needs, within practical and funding limitations;

Connecting participants to appropriate support and services available in the community that foster long-term housing stability;

Offering financial assistance and supportive services in a manner that offers a minimum amount of assistance initially, adding more assistance over time if needed to quickly resolve the housing crisis by either ending homelessness, or avoiding an immediate return to literal homelessness or the imminent risk of literal homelessness. The type, duration, and amount of assistance offered shall be based on an individual assessment of the household, and the availability of other resources or support systems to resolve their housing crisis and stabilize them in housing.

In addition, the ESG state regulations at [25 CCR](#) Section 8408 **prohibits** subpopulation targeting with HP award funds. Applicants seeking a waiver of this requirement must submit the following documentation to HCD prior to the award of ESG funds:

- Section I. Evidence of an unmet need for these activities for the subpopulation proposed for targeting; and
- Section II. Evidence of existing funding in the CoC Service Area for programs that address the needs of all of the excluded populations.

Evaluation of Program Participant Eligibility and Needs

The subrecipient must 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 CES requirements set forth under [24 CFR § 576.400\(d\)](#) and the written standards established under [24 CFR § 576.400\(e\)](#).

The subrecipient must re-evaluate the program participant's eligibility and the types and amounts of assistance the program participant needs not less than once every three months for program participants receiving HP assistance.

Determining Type, Amount and Duration of Housing Stabilization and Relocation Related Services

Generally, service providers should use a progressive engagement model, only providing the amount of housing stabilization and relocation related services necessary for a client to stabilize in a permanent housing situation. Service provision should be flexible and tailored to the individual client's unique needs and barriers assessment. These services should be provided through a Housing First, racial equity, and progressive engagement approach where they are client-initiated and not a precondition for whether or not a client will receive housing or other services they want or need.

Subrecipients should comply with written standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant established by the local CoC. Compliance with the written standards should

include the limits, if any, on the HP assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance; or the maximum number of times the program participant may receive assistance.

Any additional requirements regarding the type, amount, and duration of housing stabilization and/or relocation services that will be provided to a program participant, including any limitations, shall be determined by the individual service provider's policies, and clearly communicated to program participants. Assistance should be account for systemic racism and barriers that may impact a household's ability to stabilize in a short period of time.

Standards for Rapid Re-Housing

Housing First Practices

RRH services are an important part of a community's Housing First approach when:

- They are integrated into the local CES;

- Families and individuals experiencing homelessness are assisted to obtain and stabilize quickly into permanent housing;

- Placements into housing are not contingent upon meeting certain criteria, such as income limits or employment. Staff focuses on resolving immediate challenges and barriers to housing;

- The most expensive support housing placements are reserved for the most vulnerable populations;

- Lengths of stay in shelter are reduced, making crisis beds available to others in need;

- Clients are linked to other mainstream benefits, resources, and support networks within the community; and

- Clients are provided with a tailored package of assistance that meets their unique housing needs. This means that the length of assistance per household will vary depending on that household's individual needs and challenges.

Determining Eligibility and Priority for Rapid Re-Housing

Determination of eligibility for RRH requires an assessment that is compliant with the established CoC coordinated/centralized assessment procedures. In addition, program participants must meet the minimum HUD requirements for program eligibility Including meeting the homeless definition with documentation.

As described in [24 CFR 576.400\(e\)\(3\)\(vi\)](#), minimum written standards must include policies and procedures for determining and prioritizing which eligible families and individuals will receive RRH assistance. Use an equity lens and relevant local data for this

process. Measure by measure, group by group, identify how data will indicate success (e.g., fewer system returns to homelessness over time) and collaboratively draft action plans or policies in response to a measure trending in the opposite direction of success (e.g., if system entries increase over time, we as a system, will...). Review outcomes of local equity analysis together to understand where access, services, and housing inequities and gaps are taking place and develop rehousing strategies that address those inequities and gaps.

In addition, individuals and families should be targeted to ensure that resources are being used to serve those with the most barriers to housing. Prioritization of clients must be consistent with the Continuum's written standards i.e., removing programmatic barriers, such as sobriety rules or income limits wherever possible. Furthermore, ESG funded projects should follow Housing First and progressive engagement practices by²³:

Removing programmatic barriers, such as sobriety rules or income requirements, wherever possible;

- Helping participants quickly identify and resolve barriers to maintaining housing;
- Seeking to quickly resolve the housing crisis before focusing on other non-housing related services;
- Allowing participants to choose the services that meets their needs, within practical and funding limitations;
- Connecting participants to appropriate support and services available in the community that foster long-term housing stability;
- Offering financial assistance and supportive services in a manner that offers a minimum amount of assistance initially, adding more assistance over time if needed to quickly resolve the housing crisis by either ending homelessness, or avoiding an immediate return to literal homelessness or the imminent risk of literal homelessness. The type, duration, and amount of assistance offered shall be based on an individual assessment of the household, and the availability of other resources or support systems to resolve their housing crisis and stabilize them in housing.

In addition, the ESG state regulations at [25 CCR Section 8408](#) **prohibits** subpopulation targeting with RRH award funds. Applicants seeking a waiver of this requirement must submit the following documentation to HCD prior to the award of ESG funds:

- a) Evidence of an unmet need for these activities for the subpopulation proposed for targeting; and
- b) Evidence of existing funding in the CoC Service Area for programs that address the needs of all of the excluded populations.

²³ [25 CCR Section 8409](#)

Finally, some providers may intentionally use RRH services as a bridge to permanent supportive housing if the client is on a waiting list for PSH and the provider has approval from the Continuum to use resources in this manner.

Evaluation of Program Participant Eligibility and Needs

Subrecipients must 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 CES requirements set forth under [24 CFR § 576.400\(d\)](#) and the written standards established under [24 CFR § 576.400\(e\)](#).

Subrecipients must re-evaluate the program participant's eligibility and the types and amounts of assistance the program participant needs not less than once annually for program participants receiving RRH assistance.

Determining Type, Amount and Duration of Housing Stabilization and Relocation Related Services

Generally, service providers should use a progressive engagement model, only providing the amount of housing stabilization and relocation related services necessary for a client to stabilize in a permanent housing situation. Service provision should be flexible and tailored to the individual client's unique needs and barriers assessment. These services should be provided through a Housing First, racial equity, and progressive engagement approach where they are client-initiated and not a precondition for whether or not a client will receive housing or other services they want or need.

Subrecipients should comply with written standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant established by the local CoC. Compliance with the written standards should include the limits, if any, on the RRH assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance; or the maximum number of times the program participant may receive assistance.

Any additional requirements regarding the type, amount, and duration of housing stabilization and/or relocation services that will be provided to a program participant, including any limitations, shall be determined by the individual service provider's policies, and clearly communicated to program participants. Assistance should be account for systemic racism and barriers that may impact a household's ability to stabilize in a short period of time.

APPENDICES

At-Risk of Homelessness Definition Categories

Category	Definition	Required Documentation	ESG Eligibility
<p>Category 1 – Individuals and Families At Risk</p>	<p>An individual or family who:</p> <p>Has an annual income below 30% of median family income for the area;</p> <p><u>AND</u></p> <p>Does not have sufficient resources or support networks immediately available to prevent them from moving to an emergency shelter or another place defined in Category 1 of the “homeless” definition;</p> <p><u>AND</u></p> <p>Meets <u>one</u> of the following conditions:</p> <p>Has moved because of economic reasons two (2) or more times during the 60 days immediately preceding the application for assistance;</p> <p style="text-align: center;">OR</p> <p>Is living in the home of another because of economic hardship; OR</p> <p>Has been notified that their right to occupy their current housing or living situation will be terminated within 21 days after the dates of application for assistance;</p> <p style="text-align: center;">OR</p> <p>Lives in a hotel or motel and the cost is not paid for by charitable organizations or by Federal, State, or local government programs for low-income individuals;</p> <p style="text-align: center;">OR</p> <p>Lives in an SRO or efficiency apartment unit in which there reside more than 2 persons or lives in a larger housing unit in which there reside more than one and a half persons per room;</p> <p style="text-align: center;">OR</p> <p>Is exiting a publicly funded institution or system of care;</p> <p style="text-align: center;">OR</p> <p>Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness</p>	<ol style="list-style-type: none"> 1. Income documentation 2. Self-certification, supported by other documentation when practical such as termination notice, unemployment compensation statement, bank statement, health care/utility bill showing arrears 3. Documenting one of the 7 conditions includes <ol style="list-style-type: none"> a. Self-certification AND b. Supporting documentation, as appropriate <ol style="list-style-type: none"> i. Third-Party – Source, Written, or Oral ii. Intake Observation OR iii. Documentation of Due Diligence 	<p>HP</p>

**At-Risk of Homelessness Definition Categories
(Continued)**

<p>Category 2 – Unaccompanied Children and Youth Under Other Federal Statutes</p>	<p>A child or youth who do not qualify as homeless under the homeless definition, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e– 2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15))</p>	<p>Income documentation</p> <p><u>AND</u></p> <p>Certification by the nonprofit or state or local government that the individual or head of household seeking assistance met the criteria of homelessness under another federal statute</p>	<p>HP²⁴</p>
<p>Category 3 – Homeless Children and Youth under §725(2) of McKinney- Vento</p>	<p>A child or youth who do not qualify as homeless under the homeless definition, but qualifies as “homeless” under section 725(2) of the McKinney- Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.</p>	<p>1. Income Documentation</p> <p><u>AND</u></p> <p>2. Certification by the nonprofit or state or local government that the individual or head of household seeking assistance met the criteria of homelessness under §725(2) of McKinney-Vento</p>	<p>HP</p>

²⁴ ²³ Households that meet the definition of Category 2 or Category 3 are eligible for ESG Homelessness Prevention assistance if they have an annual income below 30 percent of family median income for the area

HUD Homeless Definition Categories and Documentation Requirements

Category	Definition	Required Documentation	ESG Eligibility
<p>Category 1 – Literally Homeless</p>	<p>An individual or family who:</p> <p>Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;</p> <p>OR</p> <p>Is living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); OR</p> <p>Is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution</p>	<p>Written observation by the outreach worker; OR</p> <p>Written referral by another housing or service provider; OR</p> <p>Certification by the individual or head of household seeking assistance stating that (s)he was living on the streets or in shelter;</p> <p>For individuals exiting an institution – one of the forms of evidence above; AND:</p> <p>Discharge paperwork or written/oral referral, OR</p> <p>Written record of intake worker’s due diligence to obtain above evidence and certification by</p>	<p>SO²⁵</p> <p>ES</p> <p>Rapid Re-Housing</p>

²⁵ Only households who meet (1)(i) of the homeless definition are eligible for street outreach services.

<p>Category 2 – Imminent Risk of Homelessness</p>	<p>Individual or family who will imminently lose their primary nighttime residence, provided that:</p> <p>Residence will be lost within 14 days of the date of application for homeless assistance; <u>AND</u></p> <p>No subsequent residence has been identified; <u>AND</u></p> <p>The individual or family lacks the resources or support networks needed to obtain other permanent housing</p>	<p>A court order resulting from an eviction action that requires the individual or family to leave their residence within 14 days after the date of their application for homeless assistance; or the equivalent notice under applicable state law, a Notice to Quit, or a Notice to Terminate issued under state law; <u>OR</u></p> <p>An oral statement by the individual or head of household that the owner or renter of the housing in which they currently reside will not allow them to stay for more than 14 days after the date of application for homeless assistance; <u>AND</u></p> <p>Certification that no subsequent residence has been identified; <u>AND</u></p> <p>Self-certification or other written documentation that the household lacks the financial resources and support necessary to obtain permanent housing</p> <p>For households leaving a hotel or motel: Evidence that they lack the financial resources to stay; <u>OR</u> A documented and verified oral statement; <u>AND</u> Certification that no subsequent residence has been identified; <u>AND</u> Self-certification or other written documentation that the household lacks the financial resources and support necessary to obtain permanent housing</p>	<p>HP²⁶ ES</p>
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²⁶ Households that meet the definition of Category 2 are eligible for ESG Homelessness Prevention assistance if they have an annual income below 30 percent of family median income for the area

<p>Category 4 – Fleeing/Attempting to Flee Domestic Violence</p>	<p>Any individual or family who:</p> <p>Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; AND</p> <p>Has no other residence; AND</p> <p>Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.</p>	<p>For victim service providers:</p> <p>An oral statement by the individual or head of household seeking assistance which states: they are fleeing; they have no subsequent residence; and they lack resources. Statement must be documented by a self-certification or a certification by the intake worker</p> <p>For non-victim service providers:</p> <p>Oral statement by the individual or head of household seeking assistance that they are fleeing. This statement is documented by a self-certification or by the caseworker. Where safety is not jeopardized, the oral statement must be verified; AND</p> <p>Certification by the individual or head of household that no subsequent residence has been identified; AND</p> <p>Self-certification, or other written documentation, that the household lacks the financial resources and support to obtain other permanent housing.</p>	<p>HP²⁷</p> <p>ES</p> <p>RRH²⁸</p> <p>SO²⁹</p>
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²⁷ Households that meet the definition of Category 4 are eligible for ESG Homelessness Prevention assistance if they have an annual income below 30 percent of family median income for the area and **are not** living in a place described in Category 1 of the homeless definition

²⁸ Households that meet the definition of Category 4 are eligible for ESG Rapid Re-Housing assistance only if they **are** living in a place described in Category 1 of the homeless definition

²⁹ Only if the participant also meets another eligible category of homelessness.

Overview of Eligible ESG Eligible Activities and Costs

Emergency Solutions Grants (ESG) funds can be used to provide a wide range of services and supports under the five program components: SO, ES, RRH, HP, and HMIS.

Note: Administration is a not a component, it is considered an activity.* Always refer to the program regulations at 24 CFR Part 576 for complete information about all eligible costs and program requirements.

Component	Eligible Activities	Eligible Costs	
SO	Essential Services	<ul style="list-style-type: none"> Engagement Case Management Emergency Health Services 	<ul style="list-style-type: none"> Emergency Mental Health Services Transportation Services for Special Populations
ES	Essential Services	<ul style="list-style-type: none"> Case Management Child Care Education Services Employment Assistance and Job Training Legal Services Life Skills Training 	<ul style="list-style-type: none"> Outpatient Health Services Mental Health Services Substance Abuse Treatment Services Transportation Services for Special Populations
	Shelter Operations	<ul style="list-style-type: none"> Maintenance Rent Security Fuel Equipment Insurance 	<ul style="list-style-type: none"> Utilities Food Furnishings Supplies necessary for shelter operation Hotel/Motel Vouchers
	Assistance Required Under the Uniform Relocation and Real Property Acquisition Act of 1970 (URA)	<ul style="list-style-type: none"> Relocation Payments Other assistance to displaced persons 	

Component	Eligible Activities	Eligible Costs
HP AND RRH	Rental Assistance	<ul style="list-style-type: none"> • Short-term rental assistance • Medium-term rental assistance • Rental arrears
	Housing Relocation and Stabilization Services – Financial Assistance	<ul style="list-style-type: none"> • Rental application fees • Security deposits • Last month's rent • Utility deposits • Utility payments • Moving costs
	Housing Relocation and Stabilization Services – Services Costs	<ul style="list-style-type: none"> • Housing search and placement • Housing stability case management • Mediation • Legal services • Credit repair
HMIS	HMIS	<ul style="list-style-type: none"> • Contributing data to the HMIS designated by the CoC for the area • HMIS Lead (as designated by the CoC) costs for managing the HMIS system • Victim services or legal services provider costs to establish and operate a comparable database
	Administrative Activities	<p>Eligible costs are broadly categorized as follows:</p> <ul style="list-style-type: none"> General management, oversight, and coordination Training on ESG requirements Consolidated Plan Environmental review

Homelessness Prevention and Rapid Re-Housing Comparison

HP Services are intended to prevent persons who are housed from becoming homeless by helping them regain stability in their current housing or other permanent housing. Eligible participants must be at imminent risk of homelessness, homeless under other federal statutes, fleeing/attempting to flee domestic violence or meet the criteria for being at-risk of homelessness and have annual incomes at or below 30% of area median income.

Rapid Re-Housing Services are intended to help eligible participants who are literally homeless, including people who are literally homeless and fleeing/attempting to flee domestic violence, to transition from the streets or shelter as quickly as possible into permanent housing and achieve housing stability.

Eligible participants for either service component must lack the resources or support networks to help them retain or obtain other appropriate, stable housing. The chart below shows the differences between HP and RRH service components.

	HP	RRH
Eligible Participants	<p>At-Risk of Homelessness OR</p> <p>Category 2 – Imminent Risk</p> <p>Category 4 – Fleeing/Attempting to Flee Domestic Violence</p>	<p>Category 1 – Literally Homeless OR</p> <p>Category 4 – Fleeing/Attempting to flee Domestic Violence <u>and</u> residing in an emergency shelter or other literal homeless situation³⁰</p>
Purpose	<ul style="list-style-type: none"> To <u>prevent</u> persons who are housed from becoming homeless; To help such persons regain <u>stability</u> in their current housing or other permanent housing. 	<ul style="list-style-type: none"> To help homeless persons living on the streets or in an emergency shelter <u>transition</u> as quickly as possible into permanent housing; and To help such persons <u>achieve stability</u> in that housing.
Initial Evaluation	<ul style="list-style-type: none"> Initial evaluations required for all households seeking assistance. Must have income <u>below 30% AMI</u>; AND Lack resources and support network to retain housing. 	Initial evaluations required for all households seeking assistance.

³⁰ 576.104: This assistance, referred to as rapid re-housing assistance, may be provided to program participants who meet the criteria under paragraph (1) of the “homeless” definition in § 576.2 or who meet the criteria under paragraph (4) of the “homeless” definition and live in an emergency shelter or other place described in paragraph (1) of the “homeless” definition.

	HP	RRH
Re-evaluation	<p>Every 3 months; Must have income <u>at or below 30% AMI</u>; AND Lack resources and support network to retain housing.</p>	<ul style="list-style-type: none"> • Re-evaluation of eligibility required at least annually; • Must have income <u>at or below 30% AMI</u>; AND • Lack resources and support network to retain housing.
Eligible Activities	Housing Relocation and Stabilization Services and Financial Assistance	Housing Relocation and Stabilization Services and Financial Assistance
	Short- and Medium-Term Rental Assistance	Short- and Medium-Term Rental Assistance

Federal Procurement Checklist

- Maintain oversight to ensure contractors perform according to the terms, conditions, and specifications of their contracts or purchase orders (2 CFR §200.318(b))
- Maintain written standards of conduct covering conflicts of interest and governing the performance of employees who engage in the selection, award, and administration of contracts (2 CFR §200.318(c))
- Award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources (2 CFR §200.318(h))
- Maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (2 CFR §200.318(i))
- If using a time-and-materials contract, ensure that no other contract type is suitable and the contract includes a ceiling price that the contractor exceeds at their own risk (2 CFR §200.318(j))
- Conduct procurements in a manner providing for full and open competition (2 CFR § 200.319)
- Use allowable procurement methods, including procurement by micro-purchases, small purchases, sealed bidding, competitive proposals, and non-competitive proposals and ensure corresponding standards are met (2 CFR § 200.320).
- Take the following six necessary steps to assure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible (2 CFR § 200.321)

- Place qualified small and minority businesses and women's business enterprises on solicitation lists
- Ensure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources
- Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises
- Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises
- Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce
- Require prime contractor to take the above affirmative steps if subcontracting.
- Comply with the procurement of recovered materials guidelines (2 CFR §200.323).
- Perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold, including contract modifications (2 CFR §200.324).
- Follow the bonding requirements for all facility and improvement projects (2 CFR §200.326)
- Must include applicable contract provisions in all contracts awarded (2 CFR §200.327)

Additional Resources

[Emergency Solutions Grant Program 24 CFR Part 576](#)

[Rapid Re-housing: Creating Programs that Work.](#)

[The New ESG: Using the Lessons of HPRP and Other Initiatives to Inform ESG Implementation](#)

[Coordinated Entry Policy Brief \(PDF\)](#)

[Progressive Engagement Overview](#)

www.endhomelessness.org/library/entry/rapid-re-housing-housemate-upside-and-downsides

www.endhomelessness.org/library/entry/rapid-re-housing-shared-housing-agreement-form

www.endhomelessness.org/library/entry/sample-housing-specialist-job-description

www.endhomelessness.org/library/entry/webinar-recording-rapid-re-housing-core-component-housing-identification

[HCD Website Resources Tab](#)