ETH DESK GUIDE

Program rules and guidance for the Emergency Solutions Grant (ESG); Housing Program (HP); and the Homelessness Prevention Program (HPP)

State of Wisconsin
Department of Administration
Division of Energy, Housing and Community Resources
PO 7970
Madison WI 53707
IN BRIEF

1. **Coordination with homeless services and mainstream resources** *(24 CFR § 576.400 (b) and (c))*
   The recipient and subrecipient will assist homeless individuals in obtaining permanent housing, appropriate supportive services (including medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living), and other Federal State, local, and private assistance available for such individuals.

2. **Centralized or Coordinated Assessment** *(24 CFR § 576.400 (d))*
   Each local continuum of care is required to develop and/or operate a centralized or coordinated intake or assessment system if any agencies in the continuum of care receive ETH funding. Recipients and subrecipients must participate in the centralized intake for their continuum of care. If there is not yet a centralized intake, a recipient or sub-recipient must participate in its implementation and eventually its use.

3. **Written Standards** *(24 CFR § 576.400 (e))*
   The recipient and subrecipient must establish and consistently apply written standards for providing ESG HP and HPP assistance. The standards must provide a clear policy or instruction for the items listed in *(24 CFR § 576.400 (e)(3))*

4. **Client eligibility** *(24 CFR § 576.401 Evaluation of program participant eligibility and needs)*
   Any individual or family provided with assistance must meet the eligibility requirements specific to the types and kinds of services for which they are applying. The types of services and fund sources each have statutory requirements for eligibility which must be adhered. Generally these pertain to homelessness status, income, and inability to access other resources.

5. **Rent Assistance and Lease Standards** *(24 CFR § 576.106 Short-term and medium-term rental assistance)*
   The rental assistance agreement must set forth the terms under which rental assistance will be provided wherein each participant receiving rental assistance must have a legally binding, written lease (between the owner and participant) for the rental unit, unless the assistance is solely for rental arrears. 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 recipient or subrecipient must make timely payments to owners in accordance with the rental assistance agreement and the recipient or subrecipient is solely responsible for paying (with non-ESG funds) late payment penalties that it incurs.
   Assistance cannot be provided to a household receiving rental assistance from another public source for same time period (except arrears) and the total period for which any program participant may receive the services must not exceed 24 months during any 3-year period. This includes arrearages.

6. **Participation in WISP and Data Collection** *(24 CFR § 576.400 (c))*
   All Recipients and subrecipients must be compliant with HMIS participation requirements. Those requirements are further enumerated in 24 CFR Parts 91, 576, 580, and 583.

7. **Evaluation of Participant’s Need** *(24 CFR § 576.401 Evaluation of program participant eligibility and needs)*
   Any individual or family provided with assistance must have at least an initial consultation with a case manager or other authorized representative who can determine the appropriate type of assistance to meet their needs. Any individual or family provided with assistance for Homelessness Prevention or Rapid Re-Housing must comply with re-evaluation and case management requirements. Recipients and subrecipients should strive to have a process in place to refer persons ineligible to the appropriate resources or service providers that can assist them.
8. **Rent Reasonableness** (24 CFR 982.503 and 982.507)
Recipient and Subrecipients providing rental assistance must ensure that the actual rental costs of units assisted are in compliance with HUD’s standard of “rent reasonableness.” For purposes of calculating rent under this section, the rent shall equal the sum of the total monthly rent for the unit, any fees required for occupancy under the lease (other than late fees and pet fees) and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.

9. **Terminating Assistance** (24 CFR 576.56 (a)(3))
To terminate assistance the recipient/subrecipient must establish and follow their formal process that meets all statutory requirements.

10. **Confidentiality** (24 CFR § 576.500 (v) Subrecipients and contractors)
The recipient and subrecipient will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project, except with the written authorization of the person responsible for the operation of that shelter.

11. **Involuntary Family Separation** (24 CFR § 576.102 Prohibition against involuntary family separation)
The age of a child under 18 must not be used as a basis for denying any family’s admission to a program that uses ESG or HP funding or services if those programs serve families with children under age 18.

12. **Nondiscrimination and Equal Opportunity** (24 CFR 5.105(a) Nondiscrimination and equal opportunity)
Individuals or groups of individuals regardless of age, gender identification, sexual orientation, or marital status must be served. Households identifying as a family at a family shelter must be served as a family. There can be no inquiry or documentation requirement or “proof” related to family status, gender identification and/or sexual orientation. The prohibition on inquiries or documentation does not prohibit inquiries related to an individual’s sex for the limited purpose of determining placement in temporary, emergency shelters that are limited to one sex because they have shared bedrooms or bathrooms, or for determining the number of bedrooms to which a household may be entitled.

13. **Shelter and Housing Standards** (24 CFR 576.403 Shelter and housing standards)
All shelters and any unit assisted with funds must meet basic habitability standards. Units should be re-inspected upon a change of tenancy.

14. **Lead Safety** (24 CFR § 576.403 (a) Lead-based paint remediation and disclosure and §35, subparts A, B, H, J, K, M, and R) For Renovation -- any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is lead-safe and sanitary. The requirements pertaining to rehabilitation differ according to level of federal support. For shelter -- the facility must be free from lead-based paint contamination wherein clients may potentially stay for more than 100 days unless the facility is such that it is statutorily exempted. For homelessness prevention and rapid re-housing - every assisted unit must be free from lead-based paint contamination wherein that assistance lasts more than 100 days, or is for first month rent payment and/or security deposit assistance, or where the residents select their own housing. When Lead-Based Paint requirements do apply the requirements around notice of evaluation, presumption, hazard reduction activities and the provision of an information pamphlet apply (see the procedures manual).

15. **Major Facility Rehabilitation** (24 CFR § 576.102(i) Major rehabilitation)
If an emergency shelter’s rehabilitation costs exceed 75 percent of the value of the building before rehabilitation, the building will be maintained as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed rehabilitation. If the cost to convert a building into an emergency shelter exceeds 75
percent of the value of the building after conversion, the building will be maintained as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed conversion. In all other cases where ESG funds are used for renovation, the building will be maintained as a shelter for homeless individuals and families for a minimum of 3 years after the date the building is first occupied by a homeless individual or family after the completed renovation.

16. **Conflict of Interest** *(24 CFR § 576.404 Conflicts of interest)*
Recipients and subrecipients must not condition ESG HPP financial assistance on a participant’s acceptance of housing when it is owned by the organization or is a parent or subsidiary of that organization and recipient or subrecipient must not conduct initial evaluations or provide homelessness prevention assistance to persons living in property owned by them, a parent or a subsidiary. For procurement of goods and services, recipients and subrecipients must comply with HUD’s Administrative Requirements *(24 CFR part 85.36 for governments or part 84.42 for private nonprofits)*. For all other transactions and activities, restrictions on financial interests and benefits apply to employees, agents, consultants, officers, and elected or appointed officials of the recipient or subrecipient if they have certain types of responsible positions. Also restrictions pertain to financial gain for self, family, or those with business ties.

17. **Homeless Participation Involvement** *(24 CFR § 576.405 Homeless Participation)*
To the maximum extent practicable, the recipient and subrecipients will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities, in providing services assisted under the ESG program, and in providing services for occupants of facilities assisted ESG.

18. **Section 3 & Employing LMI Individuals** *(24 CFR § 135 Section 3)*
To the maximum extent practicable, the recipient and subrecipients will involve through employment, low to moderate income individuals and families in constructing, renovating, maintaining, and operating facilities, in providing services assisted under the ESG program, and in providing services for occupants of facilities assisted ESG. Furthermore, recipients and subrecipients will comply the reporting as established by Division.

19. **Faith-Based Activities** *(24 CFR § 576.406 Faith-based activities)*
All eligible activities are to be administered in a manner that is free from religious influences and in accordance with the following principles. It will not discriminate against any employee or applicant for employment and will not limit employment or give preference in employment to persons on the basis of religion; It will not discriminate against any person applying for shelter or services and will not limit shelter or services or give preference to persons on the basis of religion; It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision the programs or services funded under ESG HP HPP. If an organization conducts these activities, the activities must be offered separately, in time or location, from the programs or services funded under ESG HP HPP, and participation must be voluntary for program participants.

20. **Employment Non Discrimination and Equal Opportunity** *(24 CFR § 5.105 (a) Non-discrimination and equal opportunity and 24 CFR 5.105(a))*
The Recipient and Sub-recipients does not and will not discriminate in employment and personnel practices on the basis of race, sex, age, handicap, religion, national origin, gender or sexual preference or any other basis prohibited by applicable law. Hiring, transferring and promotion practices are performed without regard to the above listed items.

21. **Anti-Lobbying** *(24 CFR § 5.105 (b) Disclosure requirements)*
The Recipient and Subrecipient will not use Federal appropriated funds to pay, by or on behalf of it, any person for influencing or attempting to influence any governmental of affiliated governmental officer or employee. If any funds other than Federal appropriated funds are used influencing or attempting to influence the Recipient or Subrecipient must both complete and submit Standard Form-LLL, "Disclosure
Form to Report Lobbying," in accordance with its instructions and in all sub-award documents disclose to subrecipients the lobbying activity accordingly.

22. **Debarred or Suspended Subrecipients** *(24 CFR § 5.105 (c) Debarred, suspended, or ineligible participants)* Federal funds may not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension or placement of ineligibility status. Recipients and subrecipients may not be listed in the federal publication that lists debarred, suspended and ineligible contractors.

23. **Drug Free Work Place** *(24 CFR § 5.105 (d) Drug-free workplace)* The Recipient and Subrecipients will or will continue to provide a drug-free workplace by complying with the implementation of rules around drug prohibition, notification to employees of the rules and disclosure of violations in accordance the rule.

24. **Affirmative Outreach** *(24 CFR § 576.407 (b) Affirmative outreach and §808(e)(5) of the Fair Housing Act)* Recipients and sub-recipients have a statutory duty to affirmatively further fair housing by ensuring that Fair Housing rules are maintained in that in no one may take any of the following actions based on race, color, national origin, religion, sex, gender orientation, sexual orientation, familial status, or handicap. These activities include refusing to rent or sell housing, refusing to negotiate for housing; making housing unavailable; denying a dwelling; setting different terms, conditions or privileges for sale or rental of a dwelling; providing different housing services or facilities; falsely denying that housing is available for rental. Furthermore recipients and subrecipients will ensure the provision of their service in line with the demographic trends of their communities which means at least once during the contract period there should be an analysis of impediments to fair housing choice within the jurisdiction and appropriate actions to overcome the effects of any impediments identified through that analysis. Records reflecting the analysis and actions in this regard should be maintained.

25. **Financial Management** *(24 CFR §84.21 Standards for financial management systems)* Recipients and subrecipients must ensure compliance with regulations and requirements pertaining to the following key areas of financial management: Allowable costs, source documentation, internal controls, budget controls, cost allocation plans, cash management, accounting records, procurement, property asset controls, and audits. Furthermore, recipients and subrecipients must use ESG HP HPP program funds only for eligible activities and in accordance with the Division of Energy, Housing and Community Resources approved program budget. Any changes from the planned expenditures must be approved in advance by the Division of Energy, Housing and Community Resources. ESG HP HPP funds may not be used for activities other than those authorized in the regulations and approved by the Division of Energy, Housing and Community Resources. Furthermore, all expenditures must be in accordance with conditions such as funding ceilings and other limitations on ETH eligible costs.

26. **Payment Request Criteria** *(24 CFR §84.22(d) and (e) Payment.)* Special instruction from HUD is that ESG grants are to paid by reimbursement. Therefore grantees are required to draw down funds on a cost reimbursement basis. That is, the grantee or recipient organization must have already used its own financial resources to pay for the eligible direct costs of the project, and is drawing down federal funds to reimburse itself. The only modification of this ESG cost reimbursement principle is for HUD-approved pre-agreement costs.

27. **Environmental Review** *(24 CFR § 576.407 (d) Environmental review responsibilities)* 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 until HUD and the Division of Energy, Housing and Community Resources has performed an environmental review under 24 CFR part 50 and the recipient has received HUD approval of the property.

28. **Match** *(24 CFR § 576.201 Matching requirement)*
The recipient and subrecipient must match 100% of the amount allocated to them in both Emergency Solutions Grant and Transitional Housing Program funding. Matching contributions may be obtained from any source, including any Federal source other than the ESG program, as well as state, local, and private sources. However, if ESG funds are used to satisfy the matching requirements of another Federal program, then funding from that federal program may not be used to satisfy the matching requirement.

29. **Program Income** *(24 CFR § 84.24 and § 576.200 (f) Costs paid by program income)*

Program income includes any amount of a security or utility deposit returned to the recipient or subrecipient. Program income must be used as match and documented correctly. Recipients and sub-recipients are prohibited from requiring or suggesting repayment of any service or financial assistance except for security and utility deposit.

30. **Record Keeping** *(24 CFR § 576.500 Recordkeeping and reporting requirements)*

In general, the recipient and subrecipients must have policies and procedures in place to ensure that all record keeping requirements of 24 CFR § 576.500 are met. 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 these requirements. In addition, sufficient records must be established and maintained to enable the Division of Energy, Housing and Community Resources and HUD to determine whether ESG requirements are being met. The Recipient must maintain a copy of any executed contract with any subrecipients which relates to project activities funded under this contract. The program records for Recipients and Subrecipients must maintained for a minimum of 5 years after the final expenditure under this contract.

31. **Procurement** *(24 CFR 84.42 for private nonprofit organizations and 85.36 for governments)*

All recipient and subrecipients must have written procurement procedures that seek to avoid purchasing unnecessary items, mandate an analysis as to whether leasing or purchasing is more economical, and that meet the statutory solicitation requirements when seeking bids. Any cost over $2,000 must be approved in writing by the Department prior to the purchase and will be subject to other administrative rules. Purchases of services from contractors or vendors by nonprofit grantees with ESG funds are subject to the federal regulations governing procurement procedures.

32. **WBE /MBE** *(24 CFR 84 and 85 and Section 16.75(3m)(b) Wis. Stats)*

Recipients and subrecipients should utilize small business and women- and minority-owned firms to the greatest extent practicable. In procuring goods or services, recipients and subrecipients are encouraged to use the women and minority vendor lists maintained by the Department of Administration. Recipients may purchase materials, supplies and equipment and contractual services from any (certified) minority and women businesses submitting a qualified responsible competitive bid or competitive proposal that is no more than 5% higher than the most advantageous offer. The price preference is permissive and excludes purchases made for printing and stationary.

33. **Transitional Housing** *(24 CFR § 576.2 Definitions)*

HEARTH Statutes define the emergency shelter as follows: "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 emergency shelter under a Fiscal Year 2010 Emergency Solutions grant may continue to be funded under ESG."

34. **Performance Measures** *(24 CFR §91.520 (g) Performance Report ESG)*

There must be performance measures report, in a form prescribed by HUD, that includes the number of persons assisted, the types of assistance provided, and the project or program outcomes data measured under the performance standards which were developed in consultation with the each Continuum of Care. HUD shall review the performance report and determine whether it is satisfactory. If a satisfactory report is not submitted in a timely manner, HUD may suspend funding until a satisfactory report is submitted, or may withdraw and reallocate funding if HUD determines, after notice and opportunity for a hearing, that the
jurisdiction will not submit a satisfactory report. The report must include a comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives.

35. **Local Unit of Government** *(24 CFR §576.202 (a)(2))*
   Each local continuum must obtain a certification of approval from the unit of general purpose local government for the geographic area in which the ESG activities are to be carried out.

36. **Terms and Conditions**
   In the event of a conflict between the ETH Program Guide and the Agreement between the sub-recipient and the Division, the terms of the Agreement shall take precedence.
COORDINATION WITH HOMELESS SERVICES AND MAINSTREAM RESOURCES

(24 CFR § 576.400 (b) and (c))

RULE

The recipient and subrecipient will assist homeless individuals in obtaining permanent housing, appropriate supportive services (including medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living), and other Federal State, local, and private assistance available for such individuals.

SOP

Recipients and subrecipients should coordinate ETH-funded activities with other programs targeted to serving homeless people.

Examples of Targeted Homeless Services: • CoC Programs • HUD-VASH • PATH Program • Healthcare for the Homeless

Examples of Mainstream Resources • Housing Programs • Health Services • Social Services • Employment Programs • Education Programs • Youth Programs

The list of homeless and mainstream resources for which, if eligible, a client should be assisted in obtaining is as follows:

<p>| a. | Women, Infants and Children (WIC) (7 CFR part 246) |
| b. | Supplemental Nutrition Assistance Program (7 CFR parts 271– 283); |
| d. | Social Security Disability Insurance (SSDI) (20 CFR part 404) |
| e. | Supplemental Security Income (SSI) (20 CFR part 416) |
| f. | Child and Adult Care Food Program (42 U.S.C. 1766(t) (7 CFR part 226)) |
| g. | Shelter Plus Care Program (24 CFR part 582) |
| h. | Section 8 Moderate Rehabilitation Program for SRO Program for Homeless Individuals (24 CFR part 882) |
| j. | Programs funded by 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.)) |
| k. | Programs funded by grants for the Benefit of Homeless Individuals (section 506 of the Public Health Services Act (42 U.S.C. 290aa– 5)) |
| l. | Healthcare for the Homeless (42 CFR part 51c) |
| m. | Programs for Runaway and Homeless Youth (Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.)) |
| n. | Projects for Assistance in Transition from Homelessness programs (PATH) (part C of title V of the Public Health Service Act (42 U.S.C. 290cc–21 et seq.)) |
| o. | Emergency Food and Shelter Program (title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.)) |
| q. | Homeless Veterans Reintegration Program (section 5(a)(1)) of the Homeless Veterans Comprehensive Assistance Act (38 U.S.C. 2021) |</p>
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<td>Programs funded with VA Homeless Providers grant and Per Diem Program (38 CFR part 61)</td>
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s. | Health Care for Homeless Veterans Program (38 U.S.C. 2031)                  |
t. | Domiciliary Care for Homeless Veterans Program (38 U.S.C. 2043)             |
u. | Homeless Veterans Dental Program (38 U.S.C. 2062);                          |
v. | Supportive Services for Veteran Families Program (38 CFR part 62)           |
w. | Veteran Justice Outreach Initiative (38 U.S.C. 2031)                         |
x. | 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); |
y. | 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) |
z. | Supportive Housing for Persons with Disabilities (Section 811) (24 CFR part 891) |
|aa.| HOME Investment Partnerships Program (24 CFR part 92)                      |
|ab.| Temporary Assistance for Needy Families (TANF) (45 CFR parts 260–265)      |
|ac.| Health Center Program (42 CFR part 51c)                                    |
|ad.| State Children’s Health Insurance Program (42 CFR part 457)                |
|ae.| Head Start (45 CFR chapter XIII, subchapter B)                              |
|af.| Mental Health and Substance Abuse Block Grants (45 CFR part 96)            |
|ag.| Services funded under the Workforce Investment Act (29 U.S.C. 2801 et seq.)|
|ah.| SSI/SSDI Outreach, Access and Recovery(SOAR) (SAMHSA)                       |
|ai.| Community Support Programs for Persons with Severe and Persistent Mental Illnesses in Wisconsin (CSP) (63 WI §51.421) |
CENTRALIZED OR COORDINATED INTAKE OR ASSESSMENT

(24 CFR § 576.400 (d))

RULE

Each local continuum of care is required to develop and/or operate a centralized or coordinated intake or assessment system if any agencies in the continuum of care receive ETH funding. Recipients and subrecipients must participate in the centralized intake for their continuum of care. If there is not yet a centralized intake, a recipient or sub-recipient must participate in its implementation and eventually its use.

Recipients and subrecipients must use the CoC’s centralized or coordinated assessment system to evaluate client eligibility. ETH recipients must ensure the CoC’s system is consistent with the written standards for determining ETH assistance. Note that victim service providers that receive ETH funds may opt to not use the CoC’s system.

SOP

Centralized or coordinated intake or assessment refers to a single place or process for people to access the prevention, housing, and/or other services they need. It may be the only “door” for particular kinds of assistance, or there may be other ways to access assistance. It includes the following core components:

- Information so that people will know where or how to access centralized intake;
- A place or means to request assistance, such as a walk-in center or a 211 call center;
- A screening and assessment process and tools to gather and verify information about the person and his/her housing and service needs and program eligibility and priority;
- Information about programs and agencies that can provide housing or services;
- A process and tools for referral of the person to appropriate programs or agencies; and
- In some cases, a process and tools for making program admissions decisions.

Each local continuum of care is required to operate a centralized intake system if any agencies in the continuum of care receive ETH funding. A requirement for recipients and sub-recipients of ETH funding is that they participate in the centralized intake for their continuum of care. If there is not yet a centralized intake, a recipient or sub-recipient must participate in its implementation and eventually its use.

Questions that will periodically be asked about a continuum’s Centralized or coordinated intake or assessment are as follows:

1. What are the specific project goals or objectives?
2. Which populations will be targeted?
3. What level of authority will be exercised?
4. Which program model or approach will be chosen? (Single Location Central Intake; Multiple Location Uniform Intake; 211 Phone Centralized Intake)
5. Who will be the lead agency?
6. Which agencies participate?
7. What specific services will be offered /provided on-site?
8. What specific services will be offered /provided off-site?
9. How will clients know about centralized intake?
10. How will screening, assessment, and verification be conducted?
11. How will data be effectively managed?
12. What policies and procedures will help operate the program?
13. What resources are needed to implement the program?
14. How will ongoing collaboration with stakeholders be supported?
WRITTEN STANDARDS
(24 CFR § 576.400 (e))

RULE

The recipient and subrecipient must establish and consistently apply written standards for providing ESG, HP and HPP assistance. The standards must provide a clear policy or instruction for the items listed in (24 CFR § 576.400 (e)(3)).

SOP

Milwaukee, Madison and Racine continua must submit a standard operating procedure that applies to each ETH sub-recipient. For all other applicants, the Standard Procedures can be submitted as a continuum or as it pertains to each sub-recipient project.

Please note that if a continuum establishes the standards they must apply to all ETH sub-recipients. It is not permissible to have continuum of care standards for some agencies and not for others – it is everyone or no one.

1. Standard policies and procedures for evaluating individuals’ and families’ eligibility for assistance under Emergency Solutions Grant (ESG);
2. Standards for targeting and providing essential services related to street outreach;
3. Policies and procedures for admission, diversion, referral, and discharge by emergency shelters 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;
4. Policies and procedures for assessing, prioritizing, and reassessing individuals’ and families’ needs for essential services related to emergency shelter;
5. Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid rehousing assistance providers; other homeless assistance providers; and mainstream service and housing providers (see § 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);
6. Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid rehousing assistance;
7. Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention or rapid re-housing assistance;
8. 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
9. 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 homelessness prevention or rapid rehousing 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.
CLIENT ELIGIBILITY

(24 CFR § 576.401 Evaluation of program participant eligibility and needs)

RULE

Any individual or family provided with assistance must meet the eligibility requirements specific to the types and kinds of services for which they are applying. The types of services and fund sources each have statutory requirements for eligibility which must be adhered. Generally these pertain to homelessness status, income, and inability to access other resources.

SOP

1) **Street Outreach** project must include documentation that the individuals and families served qualify as homeless under paragraph (1)(i) of the “homeless” definition under § 576.2 which is “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.”

2) **Shelter** projects must include documentation that the individuals and families served are homeless.

3) **Homelessness Prevention** projects must include documentation that individuals and families served meet the criteria in paragraph (2), (3), or (4) of the “homeless” definition in § 576.2. These are individuals and families who will imminently lose their primary nighttime residence, unaccompanied youth under 25 years of age who do not otherwise qualify as homeless, families with children and youth who do not otherwise qualify as homeless and individuals or families fleeing, attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence. There must also be documentation of an annual income below 30 percent of median family income for the area for ESG and 50 percent of median family income for the area for HPP, as determined by HUD, and documentation of a lack of sufficient other resources or support networks to sustain housing without assistance.

4) **Re-Housing** projects must include documentation that the individuals and families served meet the criteria in paragraph (1) or (4) of the “homeless” definition in § 576.2 which are individuals or families who lack a fixed, regular, and adequate nighttime residence and individuals or families who are fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence. There must also be documentation of an annual income 30 percent of median family income for the area for ESG and 50 percent of median family income for the area for HPP, as determined by HUD, and documentation of a lack of sufficient other resources or support networks to sustain housing without assistance.
RULE

The rental assistance agreement must set forth the terms under which rental assistance will be provided wherein each participant receiving rental assistance must have a legally binding, written lease (between the owner and participant) for the rental unit, unless the assistance is solely for rental arrears. 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 recipient or subrecipient must make timely payments to owners in accordance with the rental assistance agreement and the recipient or subrecipient is solely responsible for paying (with non-ESG funds) late payment penalties that it incurs. Assistance cannot be provided to a household receiving rental assistance from another public source for same time period (except arrears) and the total period for which any program participant may receive the services must not exceed 24 months during any 3-year period. This includes arrearages.

SOP

1. Compliance with Rent Reasonableness and HUD Fair Market Rent.

2. Habitability Standards apply for all units assisted with ESG monies, and for any new unit or more than one month of rent assistance going forward with HPP monies.

3. Lead-Based Paint standards apply in that a visual assessment is required for ALL units receiving assistance if constructed before 1978 and a child under 6 or a pregnant woman will live there.

4. There must be a legally binding, written lease between tenant and landlord is required to receive ongoing rental assistance. Note that “Master-leasing” not allowed (recipient/ subrecipient may not sign the lease and sub-lease it to the program participant)

5. There must be rental assistance agreement between recipient/subrecipient and landlord. This can be between property manager or owner and recipient or subrecipient, or sub-subrecipient

6. Cannot be Provided with Other Subsidies
   - No rental assistance can be provided to households receiving rental assistance from another public source for same time period (except arrears). Example: Persons living in public housing units, using housing choice vouchers, or residing in project based assisted units cannot receive monthly rental assistance under ESG.
   - Funds cannot supplant existing mainstream resources.

7. Late Payments
   - 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 recipient or subrecipient must make timely payments to owners in accordance with the rental assistance agreement.
   - The recipient or subrecipient is solely responsible for paying (with non-ESG funds) late payment penalties that it incurs.

8. The total period for which any program participant may receive the services must not exceed 24 months during any 3-year period. This includes arrearages.

9. The recipient may also set a maximum dollar amount and maximum period for which a program participant may receive any of the types of assistance or services described within the regulatory maximums.

10. Utility payment and utility arrearage assistance may not exceed $1000.
11. Lot rent assistance may not be done with ESG; however, lot rent assistance may be done with HPP.

12. Funds cannot be targeted to homeless sub-populations or clients from a specific agency.

13. Assistance is limited to households with incomes at or below 30% CMI for ESG funds and 50% CMI for HPP funds.

14. Assistance is limited to those clients who meet the appropriate part of the homeless definition and where there is documentation of their homelessness.
PARTICIPATION IN WISP AND DATA COLLECTION

(24 CFR § 576.400 (c))

RULE

All Recipients and subrecipients must be compliant with HMIS participation requirements. For the State of Wisconsin ETH program the required HMIS is WISP, Wisconsin Service Point. Other requirements are further enumerated in 24 CFR Parts 91, 576, 580, and 583.

SOP


1. All recipients and subrecipients may use ESG funding to pay for the costs of contributing data to WISP.

2. Victim service providers and legal service providers may use may use ESG funding to pay the costs of establishing and operating a comparable database.

3. HEARTH makes WISP participation a statutory requirement for ESG recipients and subrecipients.

4. Victim service providers cannot, and Legal Services Organizations may choose to not, participate in HMIS. Providers that do not participate in HMIS must use a comparable database that produces unduplicated, aggregate reports instead.

Required HMIS Data Entry and Reports

1. Any client receiving assistance through homeless prevention rapid re-housing, street outreach or emergency shelter projects must have their record of service recorded in Wisconsin Service Point as follows:
   - Emergency Shelter must be tracked in ShelterPoint.
   - Homeless prevention and essential service activities must be tracked in Service Transactions.
   - Entry/Exits will be used in accordance with the forthcoming data standards.

2. Every Service Transaction must contain the source of funding for that service. Depending on the source of funding used, select: ESG, HP or HPP

3. The HUD Universal Data Elements must be completed for every client (including all members of households served) served.

4. For programs that received funding for case management, rapid re-housing and transitional living programs there must be both a record of what happened to the client upon exiting the program and a record of any change in income and/or mainstream resources. These programs must fill out the Entry and Exits assessment such that they can submit either a HUD APR or an Entry/Exit report.

5. For emergency shelter programs, a client file and service record must be created and maintained for everyone served in the facility or program throughout the entire contract year regardless of available funding.

6. For homeless prevention and rapid re-housing records must be maintained for the duration of the subsidy. Please note program data for the entire contract period regardless of the duration of the subsidy is preferred.

7. All Wisconsin ServicePoint reports must be done through the Advanced Reporting Tool (ART).

8. A continuum must complete a census for the last Wednesday of each month for all emergency shelter (including motel vouchers) and transitional housing and permanent-supported housing programs throughout the year. This data will be
required regardless if the receives funding from the Division or participates in WISP. It will be imperative that bed list on the census be kept up-to-date and accurate each month. The monthly census is part of the Point-in-Time Report. This data, specifically the bed utilization rate per continuum, will be used in allocating ESG, HP and HPP funding.

9. Agencies receiving funding must participate in the annual street counts in both July and January as part of the State’s semi-annual point-in-time counts.

10. Victim Services agencies must submit a copy of the DV Monthly reporting form with their request for payment.

11. With the January and July payment requests, each continuum of care must submit an update to their centralized intake or coordinated assessment plan and the first set of performance measures that were established in the ETH RFP response.

12. At the end of grant year each grantee and subgrantee will need to submit both a Year-end Financial Completion report and the forthcoming HUD Annual Performance Report (still in progress).

13. The Grantee shall make ensure that MBE/WBE Report and the Section 3 Economic Opportunities for Low- and Very-Low Income Persons, HUD Form 6002, are completed and submitted on a timely basis. Both forms posted on the Department’s website.

Note: Agencies participating in the Division of Energy, Housing and Community Resources ETH program will need to adhere to the standards set forth by HUD for HMIS this means that means there maybe changes to the requirements throughout the grant year.
EVALUATION OF PARTICIPANT’S NEED AND CASE MANAGEMENT

(24 CFR § 576.401 Evaluation of program participant eligibility and needs)

RULE

Any individual or family provided with assistance must have at least an initial consultation with a case manager or other authorized representative who can determine the appropriate type of assistance to meet their needs. Any individual or family provided with assistance for Homelessness Prevention or Rapid Re-Housing must comply with re-evaluation and case management requirements. Recipients and subrecipients should strive to have a process in place to refer persons ineligible to the appropriate resources or service providers that can assist them.

SOP

Initial Evaluation

- There must be an initial evaluation of all applicants to determine:
  - Eligibility for ETH assistance, and
  - Amount and type of assistance necessary for household to regain stability in permanent housing.

Re-evaluation for Homeless Prevention and Rapid Re-housing assistance

- Re-evaluations are required for program participants receiving:
  - Homeless Prevention assistance (not less than once every 3 months)
  - Rapid Re-Housing assistance (not less than once a year)
- Re-evaluations are required to determine:
  - Program participants continue to be eligible for assistance
  - The amount and type of assistance needed by the household to retain stability in permanent housing
- To continue to be eligible for Rapid Re- Housing or Homelessness Prevention assistance, a household must:
  - Have an annual income at or below 30% of CMI (county medium income);
  - Lack sufficient resources and support networks to retain housing without ETH assistance

Housing Stability Case Management for Homeless Prevention and Rapid Re-housing assistance

Case management must comply with the recipient’s written standards and the CoC’s centralized or coordinated assessment system.

- When participants receive ESG there must be case-management regardless of the duration of the service.
- When participants receive HPP there must be case-management if there is more than one month of rent payment assistance.
- Program participants receiving case management must meet with a case manager at least once a month.

Program participants receiving services from a victim service provider are exempted from the case management requirement
• For Program participants receiving case management there must be a plan to assist the program participant in retaining permanent housing after the ETH assistance ends

Note: Annual Income must use standard for calculating annual income established in 24 CFR 5.609

Effective case management provides a blend of assessment and coordination services. Good case managers possess in-depth knowledge of communities and available services and housing, mixed with genuine empathy and respect for the families and individuals seeking their assistance. Case managers should use this expertise and empathy to provide services that are “just enough” to help families move through crisis towards stability.

A meeting with a case manager is required in order to receive assistance, although it is not necessarily the first step. Some communities might have a screening, intake, assessment and eligibility determination process that precedes assignment to a case manager, while other communities will have case managers performing the eligibility tasks. Regardless of the arrangement, the meeting with the case manager should be regarded not only as a program requirement, but also as an early opportunity to help a household improve its housing stability during and beyond the period of assistance.

Case management is collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet the client’s health and human service needs. It is characterized by advocacy, communication, and resource management. Within ESG case management focuses on housing stability and placement, with an emphasis on the arrangement, coordination, monitoring, and delivery of services related to housing needs and improving housing stability.

Due to the time-limited nature of ESG services (short or middle term assistance), case management in this context focuses on needs that can be addressed within a set time frame and with available resources.
RENT REASONABLENESS

(24 CFR 982.503 and 982.507)

RULE

Recipient and Subrecipients providing rental assistance must ensure that the actual rental costs of units assisted are in compliance with HUD’s standard of “rent reasonableness.” For purposes of calculating rent under this section, the rent shall equal the sum of the total monthly rent for the unit, any fees required for occupancy under the lease (other than late fees and pet fees) and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.

SOP

MAKING AND DOCUMENTING THE RENT REASONABLENESS DETERMINATION

Rent reasonableness means that the total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private unassisted market and must not be in excess of rents being charged by the owner during the same time period for comparable non-luxury unassisted units.

Recipients and subrecipients must determine and document rent reasonableness for all units for which ESG funds are used for either rental assistance and/or security deposit assistance. This requirement applies whether homelessness prevention assistance or rapid re-housing assistance is provided. In other words, it applies when participants are staying in their units AND when participants are moving into new units. However, the requirement does NOT apply when using ESG funds to pay for rental arrears for a previous unit.

The three most important factors in explaining differences in rents are the location of the unit, number of bedrooms in the unit, and type of unit (e.g., high rise, garden apartment, duplex, single family home). Other factors have varying importance for rent depending upon the marketplace. It is important to really understand what affects rents in its market.

Agencies should focus their considerations on the factors that affect rent rather than try to measure against an arbitrary standard of average rents. The danger in a standard is that poorer quality units are likely to be overpaid and higher quality units underpaid. In addition, ranges or averages should be determined for the submarket areas within the marketplace. The broader the area for the range or average, the more likely is an under/overpayment for particular units. It is better to compare to specific units.

Once the agency has identified the units most comparable to the unit for which rental assistance will be given, the agency should place information on the comparable units in the file. The agency conducting the rent reasonableness verification should provide sufficient information about the process so that an auditor can understand how the comparables were used to determine if the rental amount was appropriate for the units.

In some cases, particularly in areas where there are few rental units, it may be hard to identify units that match on location, building type and number of bedrooms. In these cases, the analyst may need to review a broader geographic range, or look at units that have the same number of bedrooms and are in the same geographic location but are in other types of buildings.
Sample matrix for determining and documenting rent reasonableness:

<table>
<thead>
<tr>
<th>Category of Comparison</th>
<th>Comparable #1</th>
<th>Comparable #2</th>
<th>Comparable #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Census tract or Neighborhood</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of bedrooms</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Published FMR</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit type</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of bathrooms</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Square feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monthly Utility Allowance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monthly Rent</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Terminating Assistance

(24 CFR 576.56 (a)(3))

RULE

To terminate assistance the recipient/subrecipient must establish and follow their formal process that meets all statutory requirements.

SOP

1. Recipients and subrecipients may terminate ETH assistance if participant violates the rules of the program.
   - To terminate assistance the recipient/subrecipient must establish and follow a formal process that:
     - Recognizes individual rights

2. Allows termination in only the most severe cases

3. Termination process for rental assistance or housing relocation and stabilization services must include:
   - Written notice to the program participant, with clear statement of reasons for termination
   - Review of decision to terminate, with opportunity for the program participant to present written or oral objections to third party
   - Prompt written notice to the program participant of final decision

4. Assistance to a program participant who has been terminated from a program may resume at a later date.

5. Only HUD may grant exceptions.
CONFIDENTIALITY

(24 CFR § 576.500 (v) Subrecipients and contractors)

RULE

The recipient and subrecipient will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project, except with the written authorization of the person responsible for the operation of that shelter.

SOP
Amendments made to HUD rules by the LGBT Final Rule regarding the definition of Family and Household, and prohibited inquiries on sexual orientation or gender identity, as well as amendments to HUD’s ESG rules regarding involuntary family separation, mean the following:

1. All individuals or groups of individuals regardless of age, gender identification, sexual orientation, and marriage status identifying as a family at a family shelter must be served as a family.
2. There can be no documentation requirement or need for “proof” of family, gender identification and/or sexual orientation.
3. A family shelter must shelter the family together - there can be no involuntary separation.

The agency must serve clients regardless of gender identification, sexual orientation or family status.

Families at family shelters must not be separated when entering shelter.

The agency must not inquire or require documentation about family status, gender identification or sexual orientation. Examples of prohibited inquiry and documentation include but are not limited to parentage, birth certificates, marriage and marriage certificates.

Families with children under age 18 must not be denied admission to any family shelter based on the age of any child under age 18. An example of prohibited admission policy would be denying a family admission because there is a 16 year-old boy in the family.

(24 CFR § 570.3 Definitions)

**Family** includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1. A single person, who may be an elderly person, displaced person, disabled person, or any other single person; or;
2. 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.
(24 CFR §570.3 Definitions)

Household means all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.

(24 CFR § 576.102 Prohibition against involuntary family separation)

(b) 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 emergency shelter that uses Emergency Solutions Grant (ESG) funding or services and provides shelter to families with children under age 18.

(24 CFR 5.105(a) Nondiscrimination and equal opportunity)

(2) Equal access to HUD-assisted or insured housing.

(i) Eligibility for HUD-assisted or insured housing. A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the Federal Housing Administration shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

(24 CFR 5.105(a) Nondiscrimination and equal opportunity)

(2) Equal access to HUD-assisted or insured housing.

(ii) Prohibition of inquiries on sexual orientation or gender identity. No owner or administrator of HUD-assisted or HUD-insured housing, approved lender in an FHA mortgage insurance program, nor any (or any other) recipient or subrecipient of HUD funds may inquire about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing or housing whose financing is insured by HUD, whether renter- or owner-occupied, for determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for determining the number of bedrooms to which a household may be entitled.
SHELTER AND HOUSING STANDARDS

(24 CFR 576.403 Shelter and housing standards)

RULE

All shelters and any unit assisted with funds must meet basic habitability standards. Units should be re-inspected upon a change of tenancy.

SOP

SHELTER STANDARDS

(1) **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 Water Sense products and appliances.

(2) **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.

(3) **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.

(4) **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.

(5) **Water supply.** The shelter’s water supply must be free of contamination.

(6) **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.

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

(8) **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.

(9) **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.
(10) **Sanitary conditions.** The shelter must be maintained in a sanitary condition.

(11) **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 another emergency.

**PERMANENT HOUSING STANDARDS**

(1) **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.

(2) **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.

(3) **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.

(4) **Water supply.** The water supply must be free from contamination.

(5) **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.

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

(7) **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.

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

(9) **Sanitary conditions.** The housing must be maintained in a sanitary condition.

(10) **Fire safety.** There must be a second means of exiting the building in the event of fire or another 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.
Lead Safety

(24 CFR § 576.403 (a) Lead-based paint remediation and disclosure and §35, subparts A, B, H, J, K, M, and R)

RULE

For Renovation -- any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is lead-safe and sanitary. The requirements pertaining to rehabilitation differ according to level of federal support. For shelter -- the facility must be free from lead-based paint contamination wherein clients may potentially stay for more than 100 days unless the facility is such that it is statutorily exempted. For homelessness prevention and rapid re-housing - every assisted unit must be free from lead-based paint contamination wherein that assistance lasts more than 100 days, or is for first month rent payment and/ or security deposit assistance, or where the residents select their own housing.

When Lead-Based Paint requirements do apply the requirements around notice of evaluation, presumption, hazard reduction activities and the provision of an information pamphlet apply.

SOP

Background

The purpose of these requirements is to ensure that housing built before 1978 receiving federal assistance does not pose lead-based paint hazards to young children. Lead poisoning in children causes permanent damage to the brain and many other organs and results in reduced intelligence, low attention span, reading and learning disabilities, and can be linked to behavioral problems. The Centers for Disease Control and Prevention (CDC) has claimed lead poisoning to be the most common environmental disease that threatens young children today. The most common sources of childhood exposure to lead are deteriorated lead-based paint and lead-contaminated soil in the residential environment.

As such, ESG grantees are subject to both the requirements of the Lead-Based Paint Poisoning Prevention Act (LBPPPA) and the Act’s implementing regulations, 24 CFR Part 35, which was first passed by Congress in 1971 and has been amended several times; and the 1992, Residential Lead-Based Paint Hazard Reduction Act, referred to as Title X, which stressed identification of hazards, notification to occupants of the existence of these hazards, and control of these hazards. In 1999 HUD developed a Final Rule for lead to both implement sections 1012 and 1013 of Title X and to update and consolidate all of its lead-based paint regulations. The provisions of the rules went into effect on September 15, 2000.

Effect of Lead-Based Paint Rules on ESG Projects

Since the ESG program deals primarily with the operation of short-term emergency shelters, rent subsidy and delivery of essential services to persons experiencing homelessness or persons who are imminently-at-risk of homelessness persons -ESG is governed by Subpart K of the Lead-Based Paint Hazard regulations.

The majority of ESG emergency shelter projects, with their relatively short stays in ESG-assisted housing, are exempt from the Lead-based Paint requirements. Most emergency shelters are exempt from
the lead-based paint regulations. Emergency housing using efficiencies, studio apartments, dormitories, single room occupancy units, barracks, group homes, or room rentals in residential dwellings are all excluded from the lead-based paint requirements. The only ESG assisted housing covered under the lead-based paint requirements is longer-term transitional housing for an apartment with one or more bedrooms AND which has family residents who are part of a program requiring continual residence of more than 100 days.

**ESG projects providing essential services only are excluded from the lead-based paint regulations.**

**NOTE:** Any ESG housing or services sites regularly frequented by children less than 6 years of age are encouraged to use ESG funds for testing and may use ESG rehabilitation funds for necessary abatement procedures.

Lead-based paint requirements do not apply to housing assistance for an existing unit unless the assistance lasts more than 100 days.

For housing counseling services, first month rent payment and security deposit assistance, where the residents select their own housing or where they are in existing units, the units selected must be free from lead-based paint hazards.

The requirements pertaining to rehabilitation differ according to level of federal support (see below)

**NOTE:** When Lead-Based Paint requirements do apply the requirements around notice of evaluation, presumption, hazard reduction activities and the provision of an information pamphlet apply (see procedures).

**NOTICE OF EVALUATION, PRESUMPTION, AND HAZARD REDUCTION ACTIVITIES**

When evaluation, or hazard reduction activities (or both) of lead-based paint is undertaken as part of federally funded rehabilitation activities in long-term assisted housing, the recipient must notify occupants of the property. Notification is also required when a presumption is made that lead-paint hazards are present. The recipient should provide notice to occupants within 15 days of the date the evaluation is completed (or a presumption is made) that lead-based paint hazards exist. In a format that it is clear and easy to read (i.e., in the occupant’s primary language), the notice should include:

1. A summary of the nature, scope and results of the evaluation;
2. Contact name, address and telephone number for more information; and
3. The date of the notice.

When hazard reduction activities are undertaken, the responsible party must provide notice to occupants no more than 15 days after the activity is completed. The notice should include the same elements as above, but also include available information on the location of any remaining lead-based paint hazards. The grantee/recipient should also provide the [Protect Your Family from Lead in Your Home](#) available through HUD.

**REHABILITATION, RENOVATION OR CONVERSION**

Requirements differ depending on the level of federal funding provided for these activities. The three categories include: 1) assistance of up to and including $5,000 per unit; 2) assistance of more than $5,000 per unit and up to and including $25,000 per unit; and 3) assistance of more than $25,000 per unit.
For long-term assisted housing properties receiving federal assistance of up to $5,000 per unit, the following requirements apply:

1. Conduct paint testing (or presume the presence of lead-based paint);
2. Implement safe work practices during rehabilitation work if paint testing shows the presence of lead-based paint in surfaces to be disturbed; repair any paint surfaces that are disturbed and if presuming lead-based paint use safe work practices on all surfaces; and
3. Perform a clearance test of the work site after completion on all surfaces that were disturbed.

A clearance is not necessary if the rehab does not disturb painted surfaces.

For long-term assisted housing properties receiving federal assistance of $5,000 and up to $25,000 per unit, the following requirements apply:

1. Conduct paint testing (or presume the presence of lead-based paint);
2. Perform a risk assessment in the units, common areas and exteriors of those being rehabilitated using federal assistance; and
3. Perform interim controls. Interim controls include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above those specified in 24 CFR 35.1320, dust control and lead-contaminated soil control. Paint stabilization means: repair of any defective substrate that is causing paint deterioration, and removal of loose paint and other material using methods such as wet scraping, wet sanding or power sanding in conjunction with use of a HEPA filtered local exhaust attachment (dry sanding or scraping is allowed only for electrical safety reasons) and application of a new protective coating or paint.
4. If presuming that lead based paint and/or lead based paint hazards are present, perform standard treatments

For long-term assisted housing properties receiving federal assistance of above $25,000 per unit, the following requirements apply:

1. Conduct paint testing (or presume the presence of lead-based paint);
2. Perform a risk assessment in the units, common areas and exteriors of those being rehabilitated using federal assistance; and
3. Abate all lead hazards identified in the test or assessment as well as any lead-based paint hazards created as a result of the rehab work.
4. If presuming that lead-based paint and/or lead-based hazards are present, perform abatement on all applicable surfaces (deteriorated, impact, friction, chewable surfaces and surfaces to be disturbed).

ESSENTIAL SERVICES AND OPERATIONS

For eligible ESG housing properties that receive federal assistance for essential support services or operations, a number of lead-based paint requirements apply. The grantee/recipient should conduct the following activities:
1. A visual assessment of all painted surfaces to identify deteriorated surfaces;
2. Complete paint stabilization of all deteriorated surfaces.
3. Incorporate ongoing lead-based paint maintenance activities into the regular building maintenance operations; and
4. Notification as described above.
INSPECTION AND ABATEMENT

In addition to complying with the regulations at 24 CFR 35, the grantee must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

1. Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity; and
2. Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

The following chart summarizes the lead-paint requirements applicable to the ESG program by type of program and the building’s period of construction:

<table>
<thead>
<tr>
<th>BUILDING IN WHICH PROGRAM IS TAKING PLACE IN OR WHICH IS EFFECTED BY PROGRAM DOLLARS</th>
<th>CONSTRUCTION PERIOD</th>
<th>REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rehabilitation Property receiving less than $5,000 per unit</td>
<td>Pre-1978</td>
<td>• Provision of Pamphlet • Paint testing of surfaces to be disturbed, or presume LBP. • Safe work practices in rehabilitation • Repair disturbed paint • Clearance of the worksite • Notice to Occupants</td>
</tr>
<tr>
<td>Rehabilitation Property receiving more than $5,000 per unit and up to $25,000 per unit</td>
<td>Pre-1978</td>
<td>• Provision of Pamphlet • Paint testing of surfaces to be disturbed, or presume LBP. • Risk Assessment • Interim Controls • Notice to Occupants</td>
</tr>
<tr>
<td>Rehabilitation Property receiving more than $25,000 per unit</td>
<td>Pre-1978</td>
<td>• Provision of Pamphlet • Paint testing of surfaces to be disturbed, or presume LBP. • Risk Assessment • Abatement of LBP hazards • Notice to Occupants</td>
</tr>
<tr>
<td>Prevention Services and/or Support Services and/or Operation</td>
<td>Pre-1978</td>
<td>• Provision of Pamphlet • Visual Assessment • Paint Stabilization • Notice to Occupants • On-going LBP maintenance</td>
</tr>
</tbody>
</table>

Exemptions from the LBP Regulations – For properties that fall under the following categories, the lead-based paint regulations do not apply:
1. Housing built after January 1, 1978;
2. Housing exclusively for the elderly or person with disabilities, unless a child under age 6 or a pregnant woman is expected to reside there;
3. Zero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks;
4. Property that has been found to be free of lead-based paint by a certified inspector;
If an emergency shelter’s rehabilitation costs exceed 75 percent of the value of the building before rehabilitation, the building will be maintained as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed rehabilitation. If the cost to convert a building into an emergency shelter exceeds 75 percent of the value of the building after conversion, the building will be maintained as a shelter for homeless individuals and families for a minimum of 10 years after the date the building is first occupied by a homeless individual or family after the completed conversion. In all other cases where ESG funds are used for renovation, the building will be maintained as a shelter for homeless individuals and families for a minimum of 3 years after the date the building is first occupied by a homeless individual or family after the completed renovation.
Recipients and subrecipients must not condition ESG HPP financial assistance on a participant’s acceptance of housing when it is owned by the organization or is a parent or subsidiary of that organization and recipient or subrecipient must not conduct initial evaluations or provide homelessness prevention assistance to persons living in property owned by them, a parent or a subsidiary. For procurement of goods and services, recipients and subrecipients must comply with HUD’s Administrative Requirements (24 CFR part 85.36 for governments or part 84.42 for private nonprofits). For all other transactions and activities, restrictions on financial interests and benefits apply to employees, agents, consultants, officers, and elected or appointed officials of the recipient or subrecipient if they have certain types of responsible positions. Also restrictions pertain to financial gain for self, family, or those with business ties.

Organizational

1. Must not condition ETH assistance on participant’s acceptance of housing or shelter owned by:
   – Recipient,
   – Subrecipient, or
   – Parent or subsidiary of subrecipient

2. Subrecipient must not conduct initial evaluation or provide homelessness prevention assistance to persons living in property owned by:
   – Subrecipient or
   – Parent or subsidiary of subrecipient

Individual

1. For procurement of goods and services, recipients and subrecipients must comply with HUD’s Administrative Requirements (24 CFR part 85.36 for governments or part 84.42 for private nonprofits).

2. For all other transactions and activities:
   – Restrictions on financial interests and benefits apply to employees, agents, consultants, officers, and elected or appointed officials of the recipient or subrecipient if they have certain types of responsible positions.
   – Restrictions pertain to financial gain for self, family, or those with business ties.
Homeless Participation Involvement

(24 CFR § 576.405 Homeless Participation)

RULE

To the maximum extent practicable, the recipient and subrecipients will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities, in providing services assisted under the ESG program, and in providing services for occupants of facilities assisted ESG.

The recipient 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 recipient, 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).
To the maximum extent practicable, the recipient and subrecipients will involve through employment, low to moderate income individuals and families. Furthermore, recipients and subrecipients will comply the reporting on these individuals as established by Division.

**SOP**

**When Section 3 Applies:**

The requirements of Section 3 only apply to funding that is used for projects/activities involving construction, rehabilitation and demolition.

When Section 3 applies, it then applies to the entire project or activity regardless of whether the activity was fully or partially funded with ESG assistance.

When it applies the recipient must submit Section 3 annual reports indicating this required information. This form is the Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

When Section 3 applies to a project, should not be construed to mean that recipients and subrecipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

When a project does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered.

However, each project that does result in new employment, contracting, or training opportunities, the requirements of Section 3 are triggered.

**When Section 3 is Triggered:**

The following requirements must be met:

1. Implement procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by construction, rehabilitation and demolition.
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
7. Documenting actions taken to comply with Section 3
FAITH-BASED ACTIVITIES

(24 CFR § 576.406 Faith-based activities)

**RULE**

All eligible activities are to be administered in a manner that is free from religious influences and in accordance with the following principles. It will not discriminate against any employee or applicant for employment and will not limit employment or give preference in employment to persons on the basis of religion; it will not discriminate against any person applying for shelter or services and will not limit shelter or services or give preference to persons on the basis of religion; it will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing and exert no other religious influence in the provision the programs or services funded under ESG HP HPP. If an organization conducts these activities, the activities must be offered separately, in time or location, from the programs or services funded under ESG HP HPP, and participation must be voluntary for program participants.
EMPLOYMENT NON- DISCRIMINATION AND EQUAL OPPORTUNITY

(24 CFR § 5.105 (a) Non-discrimination and equal opportunity and 24 CFR 5.105(a))

RULE

The Recipient and Sub-recipients does not and will not discriminate in employment and personnel practices on the basis of race, sex, age, handicap, religion, national origin, gender or sexual preference or any other basis prohibited by applicable law. Hiring, transferring and promotion practices are performed without regard to the above listed items.
The Recipient and Subrecipient will not use Federal appropriated funds to pay, by or on behalf of it, any person for influencing or attempting to influence any governmental or affiliated governmental officer or employee. If any funds other than Federal appropriated funds are used for influencing or attempting to influence the Recipient or Subrecipient must both complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions and in all sub-award documents disclose to subrecipients the lobbying activity accordingly.
Federal funds may not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension or placement of ineligible status. Recipients and subrecipients may not be listed in the federal publication that lists debarred, suspended and ineligible contractors.
DRUG FREE WORK PLACE

(24 CFR § 5.105 (d) Drug-free workplace)

RULE

The Recipient and Subrecipients will or will continue to provide a drug-free workplace by complying with the implementation of rules around drug prohibition, notification to employees of the rules and disclosure of violations in accordance the rule.

SOP

The recipient and subrecipient will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

2. Establishing an ongoing drug-free awareness program to inform employees about –
   (a) The dangers of drug abuse in the workplace;
   (b) The grantee's policy of maintaining a drug-free workplace;
   (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
   (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;

4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will -
   (a) Abide by the terms of the statement; and
   (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
   (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
   (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.
Recipients and sub-recipients have a statutory duty to affirmatively further fair housing by ensuring that Fair Housing rules are maintained in that in no one may take any of the following actions based on race, color, national origin, religion, sex, gender orientation, sexual orientation, familial status, or handicap. These activities include refusing to rent or sell housing, refusing to negotiate for housing; making housing unavailable; denying a dwelling; setting different terms, conditions or privileges for sale or rental of a dwelling; providing different housing services or facilities; falsely denying that housing is available for rental. Furthermore, recipients and subrecipients will ensure the provision of their service in line with the demographic trends of their communities which means at least once during the contract period there should be an analysis of impediments to fair housing choice within the jurisdiction and appropriate actions to overcome the effects of any impediments identified through that analysis. Records reflecting the analysis and actions in this regard should be maintained.
FINANCIAL MANAGEMENT

(24 CFR §84.21 Standards for financial management systems)

RULE

Recipients and subrecipients must ensure compliance with regulations and requirements pertaining to the following key areas of financial management: Allowable costs, source documentation, internal controls, budget controls, cost allocation plans, cash management, accounting records, procurement, property asset controls, and audits. Furthermore, recipients and subrecipients must use ESG, HP, HPP program funds only for eligible activities and in accordance with the Division of Energy, Housing and Community Resources approved program budget. Any changes from the planned expenditures must be approved in advance by the Division. ESG, HP, HPP funds may not be used for activities other than those authorized in the regulations and approved by the Division. Furthermore, all expenditures must be in accordance with conditions such as funding ceilings and other limitations on ETH eligible costs. In the event of a conflict between the Program Guide and the Agreement between the sub-recipient and the Division, the terms of the Agreement shall take precedence.

All urban counties and metropolitan cities recipients and subrecipients shall be subject to the requirements of 24 CFR part 85 and all Non-profit recipients and subrecipients shall be subject to the requirements of 24 CFR part 84.

SOP

Recipients and subrecipients must ensure compliance with regulations and requirements pertaining to the following key areas of financial management:

– Allowable costs
– Source documentation
– Internal controls
– Budget controls
– Cost allocation plans
– Cash management
– Accounting records
– Procurement
– Property asset controls
– Audits

Recipients and subrecipients must use ETH program funds only for eligible activities and in accordance with the Division of Energy, Housing and Community Resources approved program budget. Any changes from the planned expenditures must be approved in advance by the Division of Energy, Housing and Community Resources. ETH funds may not be used for activities other than those authorized in the regulations and approved by the Division of Energy, Housing and Community Resources. Furthermore, all expenditures must be in accordance with conditions such as funding ceilings and other limitations on ETH eligible costs.

Internal Controls

Internal controls refer to the combination of policies, procedures, defined responsibilities, personnel and records that allow an organization (or an agency) to maintain adequate oversight and control of its finances. Internal
controls reflect the overall financial management system of an organization or agency. Budget controls, cash management, accounting controls, procurement and property controls are sub-parts of the overall financial system.

The regulatory guidance on financial management is as follows: Recipients and subrecipients’ financial management systems shall provide for the following:

- **Accurate, current, and complete disclosure of the financial results of each federally-sponsored project.**
- **Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income, and interest.**
- **Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.**
- **Comparison of outlays with budget amounts for each award.**
- **Written procedures to minimize the time elapsing between the receipt of funds… and the issuance or redemption of checks… for program purposes by the recipient.**
- **Written procedures for determining the reasonableness and allowability of costs in accordance with the provisions of Federal cost principles and the terms and conditions of the award.**
- **Accounting records including costs accounting records that are supported by source documentation.**

As system of accounting controls should have in place the following practices:

1. An organizational chart showing titles and lines of authority for all individuals involved in approving or recording financial (and other) transactions.
2. Written position descriptions that describe the responsibilities of all key employees.
3. A written policy manual specifying approval authority for financial transactions and guidelines for controlling expenditures.
4. Written procedures for the recording of transactions, as well as an accounting manual and a chart of accounts.
5. Adequate separation of duties to assure that no one individual has authority over an entire financial transaction.
6. Hiring policies to ensure that staff qualifications are equal to job responsibilities and that individuals hired are competent to do the job.
7. Control of access to accounting records, assets, blank forms, and confidential records are adequately controlled, such that only authorized persons can get access to them.
8. Procedures for regular reconciliation of its financial records, comparing its records with actual assets and liabilities of the organization.

**Budget Controls**

The standard for budget controls, is that actual expenditures or outlays must be compared with budgeted amounts for each grant or sub-grant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or sub-grant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

A system of budget controls means that the recipient and subrecipient have adequate procedures in place to monitor ESG project expenditures and obligations against the approved ESG budget.
**Accounting Controls**

The standard for accounting controls is that recipients and subrecipients must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant or sub-grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and sub-grant award documents, etc.

As system of accounting controls should have in place the following practices:

1. Records for the organization (or agency) identify the source and use of all funds such that there can be a complete audit trail documenting when a purchase was requested and by whom, how it was formally approved, what funds were used to pay for it, when it was paid and for how much. Records should be maintained for the following information:
   - all grant awards received;
   - authorizations or obligations of ESG funds;
   - unobligated balances;
   - assets and liabilities;
   - program income; and
   - total actual outlays or expenditures to date.

2. Direct Service employee time sheets should reflect actual hours (not percentages) worked and administrator’s time sheets and indirect costs should be based on the cost allocation plan. Time sheets should be signed and dated (or equivalent electronic approval) by the employee and the supervisor having first-hand knowledge of the work performed. If the expenditures are paid for by more than one source (e.g., federal, United Way, private donations) the split costs should be accurately tracked within the recipients or subrecipients accounting system.

**Audits**

Recipients and subrecipients are required to have annual audits conducted in compliance with the Omni Circular standards. Annual audits and financial statements, whichever is appropriate, must be within six months following the end of the sub-recipient’s fiscal year.
PAYMENT REQUEST CRITERIA

(24 CFR §84.22(d) and (e) Payment.)

RULE

Special instruction from HUD is that ESG grants are to be paid by reimbursement. Therefore, grantees are required to draw down funds on a cost reimbursement basis. That is, the grantee or recipient organization must have already used its own financial resources to pay for the eligible direct costs of the project, and is drawing down federal funds to reimburse itself. The only modification of this ESG cost reimbursement principle is for HUD-approved pre-agreement costs.

SOP

The grantee may draw on Department funds as reimbursement of actual projected reported expenditures and only for the approved spending categories. Expenditure reports shall reflect summary detail by approved budget category of the actual costs. Details of how the costs were calculated may be reported on an attached sheet. Grantees shall submit monthly expenditure reports. The grantee shall then have 21 days after receiving funds as a reimbursement to distribute those funds to its subgrantees on whose behalf the expenditure report was submitted. Amendments or changes to the approved cost categories must be requested in writing and approved by the Division of Energy, Housing and Community Resources.
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 until HUD and the Division of Energy, Housing and Community Resources has performed an environmental review under 24 CFR part 50 and the recipient has received approval of the property.
MATCH

(24 CFR § 576.201 Matching requirement)

RULE

The recipient and subrecipient must match 100% of the amount allocated to them in both Emergency Solutions Grant and Transitional Housing Program funding. Matching contributions may be obtained from any source, including any Federal source other than the ESG program, as well as state, local, and private sources. However, if ESG funds are used to satisfy the matching requirements of another Federal program, then funding from that federal program may not be used to satisfy the matching requirement.

SOP

1. 100% match or leverage is statutorily required of all federal HEARTH funds and State HP funds. Before a final grant contract can be signed, the applicant will have to demonstrate adequate match.

2. Funds used to match a previous ESG/HP/HPP grant may not be used to match a grant under this allocation.

3. State HPP can be used as a match.

4. Matching funds also include the following: the value of any donated material or building; the value of any lease on a building, the time and services contributed by volunteers to carry out the program that will be funded by the grant currently determined at the rate of $5 per hour or if the service is professional – the hourly rate charged by that professional.

5. Document match accordingly:
   - If funds received from units of local government, churches, foundations, United Way, or state government agencies will be used to match ESG funds, copies of funding award and/or commitment letters from these sources on their official letterhead and signed by their authorized official.
   - If the value of donated volunteer hours, donations from businesses or individuals, client rent/boarding fees or client program service fees will be used to match ESG funds, the applicant organization must provide a letter on its official letterhead signed by its board chairperson describing the records which will be maintained on these match sources, the total amount of the match expected to be received and, in the case of volunteer hours, the number of hours expected to be donated.
   - If the value of a donated building or any lease will be used to match ESG funds, provide documentation of the fair market value of the building or lease.
   - If staff salaries are used, the source of the funds for these salaries should be identified by the applicant organization in a letter on its official letterhead with the exact amount of match available and signed by its board chairperson.
   - For HPP funding, no documentation is required.
PROGRAM INCOME

(24 CFR § 84.24 and §§ 576.200 (f) Costs paid by program income)

RULE

Program income includes any amount of a security or utility deposit returned to the recipient or subrecipient. Program income must be used as match and documented correctly. No other program income is allowed to be derived from ESG, HP or HPP. Recipients and sub-recipients are prohibited from requiring or suggesting repayment of any service or financial assistance except for security and utility deposit.

SOP

Program income is to be used as a match, rather than being treated as an addition to the (ESG) grant, because of the sizable matching requirement in Emergency Solutions Grant (ESG).
In general, the recipient and subrecipients must have policies and procedures in place to ensure that all record keeping requirements of 24 CFR § 576.500 are met. 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 these requirements. In addition, sufficient records must be established and maintained to enable the Division of Energy, Housing and Community Resources and HUD to determine whether ESG requirements are being met.

The Recipient must maintain a copy of any executed contract with any subrecipients which relates to project activities funded under this contract.

The program records for Recipients and Subrecipients must maintained for a minimum of 5 years after the final expenditure under this contract.

### SOP

<table>
<thead>
<tr>
<th>Type of Information</th>
<th>Record Retention Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>All program records for each fiscal year of ETH funds</td>
<td>5 years or longer</td>
</tr>
<tr>
<td>Program participant records</td>
<td>5 years or longer</td>
</tr>
<tr>
<td>Emergency shelter renovation, if costs are &gt; 75% of pre-renovation value</td>
<td>5 years or longer</td>
</tr>
<tr>
<td>Emergency shelter conversion costs &gt;75% of post-conversion value</td>
<td>10 years from initial obligation</td>
</tr>
</tbody>
</table>

The required information can be documented through intake forms, certifications, HMIS, procedural documents, payment requests, etc., but the recipient or subrecipients will be responsible for demonstrating how each requirement for documentation is met, maintained and monitored.

1. **Minimum documentation requirements for each client.** The recipient or subrecipients will be responsible for demonstrating how each requirement for documentation is met, maintained and monitored. Regardless of how the documentation is maintained it must consistent for each client within the project.

   A. **Demonstration of eligibility.** This requirement differs for each type of project in which an individual or family may qualifies, the requirements are as follows:

   1. **Street Outreach** project must include documentation that the individuals and families served qualify as homeless under paragraph (1)(i) of the “homeless” definition under § 576.2 which is “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.”

   2. **Shelter** projects must include documentation that the individuals and families served are homeless.

   3. **Homelessness Prevention** projects must include documentation that individuals and families served meet the criteria in paragraph (2), (3), or (4) of the “homeless” definition in § 576.2. These are individuals and families who will imminently lose their primary nighttime residence, unaccompanied youth under 25 years...
of age who do not otherwise qualify as homeless, families with children and youth who do not otherwise qualify as homeless and individuals or families fleeing, attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence. There must also be documentation of an annual income below 30 percent of median family income for the area, as determined by HUD, and documentation of a lack of sufficient other resources or support networks to sustain housing without assistance.

4) **Re-Housing** projects must include documentation that the individuals and families served meet the criteria in paragraph (1) or (4) of the “homeless” definition in § 576.2 which are individuals or families who lack a fixed, regular, and nighttime residence and individuals or families who are fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence. There must also be documentation of an annual income below 30 percent of median family income for the area, as determined by HUD, and documentation of a lack of sufficient other resources or support networks to sustain housing without assistance.

**B. Homeless status or at-risk-of-homelessness status** which documents which part of the definition of homelessness a client meets and which has all the corresponding pieces of documentation.

**C. Annual income** for **homelessness prevention assistance or for those who receive rapid re-housing assistance longer than one year** wherein there must be an income evaluation form, source documentation of the amounts and kinds of assets. In the absence of source documentation, there may be third-party verification and in the absence of third-party verification there must be at least certification from the client.

**D. Re-evaluation of income, other resources and support networks** for **homelessness prevention assistance or for those who receive rapid re-housing assistance** which is documentation that not less than once every three months for prevention and once annually for rapid re-housing there is a re-evaluation that annual income is still at or below 30 percent of median family income for the area as determined by HUD and that they still lack of sufficient other resources or support networks to sustain housing without assistance.

**E. Determinations of ineligibility** when applicable, documentation as to why an individual or family was determined to be not eligible for a service.

**F. Type of Service** which is the amount and type of assistance provided to that program participant, including, as applicable, the security deposit, rental assistance, and utility payments made on behalf of the program participant.

**G. Demonstration of Compliance with coordinated assessment and standard procedures** which is documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system developed by the local Continuum of Care.

**H. Termination Procedure Rules** which include something signed by the client demonstrating they have been informed of their rights and of the procedure and any correspondence related to a termination proceeding, if applicable.

**I. Demonstration of referral and connection to homeless and mainstream services** specifically as it relates to the following program where applicable 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)); and other that are applicable.

**J. Case-management for Prevention and Re-Housing participants** which includes both demonstration of a monthly meeting and a plan to assist the program participant to retain permanent housing after the ESG assistance ends.

**K. Rental assistance agreements and payments** which must include copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the
provide rental assistance, and supporting documentation for these payments, including dates of occupancy by program participants and/or lease.

L. **Utility allowance** which documents the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.

M. **Shelter and housing standards** must include documentation of compliance with the shelter and housing standards in § 576.403, including inspection reports. For housing standards this requirement is met by the completed and signed Habitability Standards Checklist.

2. **Agency-wide documentation requirements.** There is no documentation format. The requirement is that sufficient records must be established and maintained to enable the Division of Energy, Housing and Community Resources and HUD to determine whether ESG, HP, and HPP requirements are being met.

   A. **Centralized or coordinated assessment systems and procedures** which is documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system. This should also include a copy of the MOU or related agreements signed by the recipient and other continuum of care members.

   B. **Shelter facilities** which are of the value of the facility as a shelter and copies of the recorded deed or use restrictions.

   C. **Matching** which are the records of the source and use of contributions made to satisfy the matching requirement in § 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.

   D. **Conflicts of interest.** which are records to show compliance with the organizational conflicts-of-interest requirements in § 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.

   E. **Homeless participation** which documents compliance with the homeless participation requirements under § 576.405.

   F. **Faith-based activities** which documents compliance with the faith-based activities requirements under § 576.406.

   G. **Non-discrimination and equal opportunity** which documents compliance with requirements under § 576.407(a) and the affirmative outreach requirements in § 576.407(b). These records may include the analysis of impediments to fair housing choice within the continuum and appropriate actions to overcome the effects of any impediments identified through that analysis.

   H. **Uniform Administrative Requirements** which document compliance with 24 CFR part 85 (for governments) and 24 CFR part 84 (for nonprofit organizations).

   I. **Environmental Review Requirements** which includes include documentation of approval from HUD for non-exempted activities and flood insurance requirements when applicable.

   J. **Certifications and disclosure forms** which includes include documentation of the lobbying and disclosure requirements in 24 CFR part 87.

   K. **Financial records** which include documentation for all costs charged to the ESG grant and compliance with requirements for eligible activities under § 576.101-§ 576.109 and the cost principles in OMB Circulars A–87 (2 CFR part 225) and A–122 (2 CFR part 230), records of the receipt and use of program income, and documentation of compliance with the expenditure limits in § 576.100 and the expenditure deadline in § 576.203.
L. **Lead Agency responsibilities** which include copies of all 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, if applicable. *(Note – this requirement is for lead agencies only.)*

M. **Procurement** which include documentation for all contracts and documentation of compliance with the procurement requirements in 24 CFR 85.36 and 24 CFR 84.40–84.48.

N. **Confidentiality** which include a copy of written procedures to ensure that 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, and that 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.
PROCUREMENT

(24 CFR 84.42 for private nonprofit organizations and 85.36 for governments)

RULE

All recipient and subrecipients must have written procurement procedures that seek to avoid purchasing unnecessary items, mandate an analysis as to whether leasing or purchasing is more economical, and that meet the statutory solicitation requirements when seeking bids. Any cost over $2,000 must be approved in writing by the Department prior to the purchase and will be subject to other administrative rules. Purchases of services from contractors or vendors by nonprofit grantees with ESG funds are subject to the federal Omni Circular regulations governing procurement procedures.

SOP

The Code of Federal Regulations (http://www.access.gpo.gov/nara/cfr/) 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;
- affirmative efforts to hire minority- and women-owned enterprises;
- maintenance of selection documentation; and
- a contract administration system that provides sufficient monitoring

The guidelines on procurement are summarized as follows:

- All recipient and subrecipients may use their own procurement procedures as long as those procedures conform to the provisions of the regulations.

- All recipient and subrecipients must maintain a system to handle disputes, protests, and other matters arising out of its contracts; maintain a code of conduct to prevent conflicts of interest (personal, financial, and organizational); and use solicitations which are clear and accurately describe the materials, products, or services being procured.

- All recipient and subrecipients must use some form of cost or price analysis in connection with each of its procurements. They must be able to justify procurements awarded on a non-competitive basis and justify the awarding of procurements by bid on the basis of other than the lowest bid.

- All recipient and subrecipients must initiate positive efforts to use small and minority-owned businesses to the maximum extent possible; include all applicable contract provisions in contracts; and not use the cost-plus-percentage of cost contracts.
RULE

Recipients and subrecipients should utilize small business and women- and minority-owned firms to the greatest extent practicable. In procuring goods or services, recipients and subrecipients are encouraged to use the women and minority vendor lists maintained by the Department of Administration. Recipients may purchase materials, supplies and equipment and contractual services from any (certified) minority and women businesses submitting a qualified responsible competitive bid or competitive proposal that is no more than 5% higher than the most advantageous offer. The price preference is permissive and excludes purchases made for printing and stationary.
HEARTH Statutes define the emergency shelter as follows: “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 emergency shelter under a Fiscal Year 2010 Emergency Solutions grant may continue to be funded under ESG.”

Only facilities which do not require occupants to sign leases or occupancy agreements and which do receive require program income are eligible for Emergency Solutions Grant funding. Ostensibly transitional housing is no longer eligible to receive ESG program funds.

The exception to this rule is those agencies that are transitional housing projects that received ESG money in 2010. They are exempted from this rule. Listed below are the agencies or programs that are eligible to apply for ETH funds for Transitional Housing:

- ADVOCAP Appleton
- ADVOCAP Fond du Lac
- ADVOCAP Oshkosh
- Advocates of Ozaukee
- Bolton Refuge House (Buffalo, Jackson & Trempealeau)
- Bolton Refuge House (Eau Claire)
- Brighter Tomorrows
- CACSCW Jefferson
- CAP Services Portage
- CAP Services Waushara and Waupaca
- Community Action Inc. Rock / Walworth (Rock)
- Community Action Inc. Rock / Walworth (Walworth)
- COTS
- Eau Claire Interfaith Hospitality Network, Inc.
- Family Services of NE WI
- Forward Services
- Housing Partnership of the Fox Cities
- ICS
- Independent Living Resources of La Crosse
- KHDS
- Lazarus Foundation
- Manitowoc Co. Domestic Violence Center
- Northwood’s Homeless Shelter
- NWCSA
- Our Neighbor’s Place
- Porchlight Inc.
- Pregnancy Support Connection
- Red Road House
- Richard’s Place
- Safe Harbor
- Salvation Army of Polk Co.
- St. Vincent de Paul
- Starting Points
- Tellurian UCAN
- The Salvation Army of Sheboygan
- The Salvation Army of Dane County
- The Salvation Army of Milwaukee
- The Salvation Army of the Fox Cities
- The Women’s Center
- The Youth & Family Project (Washington)
- The Youth and Family Project (Ozaukee)
- VAP (Union Grove)
- Walker’s Point
- West CAP
- Western Dairyland Eau Claire
RULE

Each local continuum must obtain a certification of approval from the unit of general purpose local government for the geographic area in which the ESG activities are to be carried out.

SOP

This certification should be used by non-profit organizations receiving Emergency Solutions Grants (ESG) Program funds from State sub-recipients.