

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.157 SUPPORTIVE HOUSING FOR THE ELDERLY****I. PROGRAM OBJECTIVES**

The objective of Supportive Housing for the Elderly Program is to provide federal capital advances and project rental assistance under Section 202 of the National Housing Act of 1959 for development of housing projects serving very low-income elderly persons residing in projects financed by the Act.

II. PROGRAM PROCEDURES**A. Overview**

Section 202 funds are awarded to private nonprofit groups (sponsors) and, in some cases, for-profit limited partnerships, provided that the sole general partner is either an otherwise qualifying nonprofit or a corporation wholly owned and controlled by the nonprofit. Only a sponsor may obtain a Section 202 capital advance fund reservation, which will be transferred to an owner entity to be organized by the sponsor after award. Capital advances (direct payments) are provided to finance the construction, reconstruction, moderate or substantial rehabilitation, or acquisition (with or without rehabilitation) of structures that will serve as supportive housing for very low-income elderly persons. HUD holds a non-amortizing mortgage on the property under the terms of the capital advance. No repayment is required, as long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low-income elderly for at least 40 years (24 CFR section 891.170). Failure to comply with the terms of the capital advance and HUD's statutory and regulatory requirements may result in foreclosure under the mortgage.

Capital advance funds will be advanced on a monthly basis during construction for work in progress; however, projects that utilize tax credits may release the capital advance upon completion of the project. Projects are expected to start construction/rehabilitation within 18 months of the date of the fund reservation, with limited provision for extensions.

Operating subsidies are provided for the projects to help make them affordable. Project-based rental assistance is used to cover the difference between the HUD -approved operating costs of the project and the tenants' contributions toward rent (24 CFR section 891.410). Project rental assistance is provided under a Project Rental Assistance Contract (PRAC) and the initial rent is calculated based on operating cost standards established by HUD (24 CFR Section 891.150). The initial PRAC term is up to five years. Subsequent contracts are renewable for up to a five-year term subject to the availability of funds. Rents are adjusted annually on the anniversary of the PRAC Contract based on a budget-based rent increase in accordance with [Housing Notice 2022-05](#).

The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)). Tenants generally are required to pay rent in accordance with a PRAC. The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of operating expense for a unit under PRAC (PRAC paragraph 2.4(b)) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

This program is exempt from 2 CFR part 200, except subpart F and 2 CFR section 200.425, based on the 24 CFR section 84.2 definition of “Award,” and 2 CFR section 200.40 definition of “federal financial assistance.”

B. Financial Reporting

In accordance with HUD’s Uniform Financial Reporting Standards rule, annually, an owner is required to submit a financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due three months after the owner’s fiscal year end and the audited financial statement is due nine months after its fiscal year-end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

C. Cost Certifications

Owners are required to submit one or two detailed cost certifications at the end of each project. These reports provide information on actual development cost breakdown and operating costs. The reports are HUD-92330, Mortgagor’s Certificate of Actual Costs (OMB No. 2502-0112) and HUD-92330-A, Contractor’s Certificate of Actual Costs (OMB No. 2502-0044). The HUD-92330-A is only required when there is an identity of interest between the mortgagor and the general contractor and when a cost-plus contract is required in nonprofit contracts.

Source of Governing Requirements

This program is authorized under Section 202 of the Housing Act of 1959, as amended (12 USC 1701q). Program regulations are in 24 CFR part 891.

Availability of Other Program Information

Other information about the Section 202 program, can be found in Supportive Housing for the Elderly (HUD Handbook 4571.3), Supportive Housing for the Elderly—Conditional Commitment—Final (HUD Handbook 4571.5), HUD Notice H96-102, and Housing Notice H 2014-10, Update to Housing Notice 2011-18, Process Guidance for the Section 202 Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs. These are available at HUD’s Client Information Policy Systems (HUDCLIPS) https://www.hud.gov/program_offices/administration/hudclips or from the HUD Multifamily Clearinghouse at 1-800-685-8470.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

B. Allowable Costs/Cost Principles

1. HUD shall ensure that Owners have the managerial capacity to perform the coordination of services described in 12 U.S.C. 17011(g)(2). Any cost associated with the employment of a service coordinator shall also be an eligible cost. Additionally, HUD-approved service costs will be an eligible expense to be paid from the project rental assistance. The balance of service costs shall be provided from other sources, which may include co-payment by the tenant receiving the service. Such co-payments shall not be included in the Total Tenant Payment. The project shall provide the necessary services for the occupants, which may include, but are not limited to, health, continuing education, welfare, informational, recreational, homemaking, meal and nutritional services, counseling, and referral services as well as transportation where necessary to facilitate access to these services. (12 USC 1701q; 24 CFR sections 891.225 and 891.500).
2. PRAC project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner.

3. Project facilities may not include infirmaries, nursing stations, or spaces for overnight care (24 CFR section 891.220).
4. Project must be modest in design. In supportive housing for the elderly, amenities not eligible for HUD funding in individual units include balconies and decks, atriums, bowling alleys, swimming pools, saunas, Jacuzzis, trash compactors, washers, and dryers. Sponsors may include certain excess amenities but must pay for them from sources other than Section 202 capital advance funds. They must also pay for the continuing operating costs associated with any excess amenities from sources other than the Section 202 project rental assistance contract (24 CFR section 891.120).

E. Eligibility

1. Eligibility for Individuals

Section 202 of the Housing Act of 1959 provides housing for the elderly. To qualify as elderly, one or more members of the household must be 62 years of age or more at the time of initial occupancy. Residents must also qualify as very low-income households, i.e., 50% of Area Median Income or below, to be eligible (24 CFR section 891.205 and section 891.105).

The owner, as applicable, must:

- a. Verify the eligibility of applicants by (a) obtaining signed applications that contain the information needed to determine eligibility (including designation as elderly, disabled, or homeless, if applicable), income, rent, and order of selection; (b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties; (c) documenting inspections and tenant certifications, as appropriate; and, (d) determining that tenant income did not exceed the maximum limit set by HUD for the PHA's jurisdiction, as shown in HUD's published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937, [Income Limits](#).
- b. Determine the total tenant rent payment in accordance with 24 CFR section 5.628.
- c. Select participants from the waiting list in accordance with the admission policies in its administrative plan and maintain documentation which shows that, at the time of admission, the family actually met the preference criteria that determined the family's place on the waiting list. (24 CFR section 891.410)
- d. Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR section 891.410).

The owner is responsible for annually reexamining incomes of households occupying assisted units and making appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

2. Eligibility of Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

- a. *HUD-50059, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (OMB No. 2502-0204)* – This report is submitted electronically to HUD. A blank copy of the report can be found at <https://www.hud.gov/sites/documents/50059.PDF>

Key Line Items – The following line items contain critical information which is documented in the client file:

- 1. Section B, Item 12 – *Effective Date of Action*
- 2. Section B, Item 21 – *Unit Number*
- 3. Section B, Item 29 – *Contract Rent*
- 4. Section B, Item 30 – *Utility Allowance*
- 5. Section F, Item 108 – *Total Tenant Payment*
- 6. Section F, Item 112 – *Assistance Payment*
- b. *HUD-50058, Family Report (OMB No.2577-0083)* – This is only applicable to Public Housing Agencies (PHA). The PHA is required to submit this form

electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability. A blank copy of the report can be found at <https://www.hud.gov/sites/documents/50058.PDF>.

Key Line Items – The following line items contain critical information which is documented within the client file:

1. Line 2a – *Type of Action*
2. Line 2b – *Effective Date of Action*
3. Line 3b, 3c – *Names*
4. Line 3e – *Date of Birth*
5. Line 3n – *Social Security Numbers*
6. Line 5a – *Unit Address*
7. Line 5h, 5i – *Unit Inspection Dates*
8. Line 7i – *Total Annual Income*
9. Line 13h – *Contract Rent to Owner*
10. Line 13k or 13x – *Tenant rent*

4. Special Reporting for Federal Funding Accountability and Transparency Act
See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements This applies to all Section 202 Capital Advance projects that are under construction. All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this program shall be paid wages at rates not less than those prevailing in the locality, as determined by the secretary of labor in accordance with the Wage Rate Requirements. A group home for persons with disabilities is not covered by these labor standards (24 CFR section 891.155(d)). See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Use of Project Funds

Compliance Requirements Owners are required to establish and maintain a separate project interest bearing account in federally insured depository. All rents, charges, income, and revenues arising from the project operation shall be deposited into this account. Project funds must be used for the operation of the project (including required insurance coverage) and to make required deposits to replacement reserve and the residual receipts accounts (24 CFR sections 891.400(e) and 891.600(e)).

Audit Objectives Determine whether the project fund was established in a federally insured depository account and the required deposits were made into this fund, and disbursements were only for allowed purposes.

Suggested Audit Procedures

- a. Ascertain if the project funds receipts account has been established in a federally insured depository.
- b. Select a sample of receipts to perform tests to ascertain if all rents, charges, income, and revenues arising from the project operation were deposited into the fund.
- c. Test a sample of disbursements from the fund to ascertain if they were used only for the operation of the project or to make required deposits to the replacement reserve or the residual receipts account.

3. Contract Rent Adjustments

Compliance Requirements Owners must submit an operating budget on HUD Form 92457-A, Budget Worksheet (OMB No. 2502-0324), for all projects with an expiring PRAC. The owner applies or ensures annual adjustments to contract rents are applied. The annual adjustments methods are established by HUD (24 CFR 891.150). The PRAC contract specifies the method to be used to determine rent adjustments along with Housing Notice 2022-05.

Audit Objectives Determine whether contract rents are being adjusted in accordance with the approved annual adjustments.

Suggested Audit Procedures

- a. Evaluate the documentation supporting the last annual adjustment included in the operating budget submission to determine if the owner complied with the contract and the rent increase requirements. Review the supporting data and certifications that were submitted to support the rent adjustments. Evaluate the owner's timeliness of submission of the rent increase and compliance with the PRAC Contract.
- b. Select a sample of PRAC contract files and tenant files to verify that annual adjustments were applied correctly, appropriately vouchered.

4. Tenant Utility Allowances

Compliance Requirements The owner must (a) submit an analysis of any utility allowances applicable. Such data as changes in utility rates and other facts affecting utility consumption must be provided as part of this analysis to permit appropriate adjustments in the utility allowances for assisted units, (b) make an annual review of tenant utility allowances to determine their reasonableness, and (c) adjust the allowances, when appropriate (24 CFR section 891.440).

Audit Objectives Determine whether tenant utility allowances are established in accordance 24 CFR 891.440 and [Housing Notice 2015-04](#).

Suggested Audit Procedures

- a. Select a sample of units with tenant utility allowances and their related tenant files for review.
 1. Test owner requests, HUD determinations, and supporting documentation for utility determinations.
 2. Verify that the allowances were applied to tenants in accordance with HUD determinations.

5. Vacant Units

Compliance Requirements There are instances where special claims are allowed for vacancy losses, unpaid rent, and tenant damages on eligible units (24 CFR section 891.445).

Audit Objectives Determine whether payments to owners are reduced for vacant units and whether payments for special claims are in accordance with 24 CFR 891.445.

Suggested Audit Procedures

- a. Select a sample of units that were vacated during the audit period and verify that payments to owners were reduced, as prescribed.
- b. Select a sample of payments for special claims and verify that documentation exists to support the payments.

6. Replacement Reserve Account

Compliance Requirements Owners shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in a federally insured depository in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. An amount as required by HUD will be deposited monthly in the reserve fund (Regulatory

Agreement, item 5 A). All disbursements from the reserve must be approved by HUD (24 CFR sections 891.405 and 891.605).

Audit Objectives Determine whether the replacement reserve was properly established, required monthly deposits were made, and disbursements were only for HUD approved purposes.

Suggested Audit Procedures

- a. Ascertain if a replacement reserve account has been established in a federally insured depository in an interest-bearing account.
- b. Ascertain if the required monthly deposits have been made to the replacement reserve account.
- c. Ascertain if interest earnings from the reserve were retained in the replacement reserve account.
- d. Test a sample of disbursements from the replacement reserve account and ascertain if they were approved by HUD and were made for the approved purpose.

7. Residual Receipts Account

Compliance Requirements Any Surplus Cash in the project funds account (including earned interest) at the end of the fiscal year shall be deposited in a federally insured account within 90 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD (24 CFR sections 891.400(e) and 891.600(e)).

Additionally, owners are allowed to maintain \$250 per unit in this account, any amount over this threshold upon expiration and/or renewal of the PRAC must be remitted back to HUD in accordance with the [Benjamin Metcalf Memorandum of September 30, 2015](#).

Audit Objectives Determine whether the residual receipts account was properly established, the required deposit was made within 90 days following year-end, and disbursements were only for project purposes and the approval of HUD.

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in a federally insured depository.
- b. Ascertain if the required annual deposit was made within 90 days following year-end.

- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.
- d. Determine if the residual receipts balance exceeded \$250 per unit on the date of the last contract expiration and/or renewal and if the funds in excess of this threshold were remitted to HUD.

IV. OTHER INFORMATION

1. *Capital Advance*

To protect its interest in a capital advance, HUD requires a note and mortgage for a 40-year term. The owner is not required to repay the principal or pay interest and the note is forgiven at maturity, as long as the owner provides housing for the designated class of people in accordance with applicable HUD requirements. However, the full outstanding balance on the note should be considered federal awards expended, included in determining Type A programs, and reported as loans on the Schedule of Expenditures of Federal Awards or accompanying notes in accordance with 2 CFR part 200, subpart F.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.181 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES****I. PROGRAM OBJECTIVES**

The objective of Supportive Housing for Persons with Disabilities is to expand the supply of supportive housing for very low-income persons with disabilities through (1) providing federal capital advances under Section 811 of the Cranston-Gonzalez National Affordable Housing Act (Act) for development of housing projects serving persons with disabilities; and (2) providing rental assistance to very low-income (within 50 percent of the median income for the area) persons with disabilities residing in projects financed by the Act.

II. PROGRAM PROCEDURES**A. Overview**

Section 811 funds are awarded to private nonprofit groups (sponsors) and, in some cases, for-profit limited partnerships, provided that one or more private nonprofit organizations hold all general partner interests. Only a sponsor may obtain a Section 811 capital advance fund reservation, which will be transferred to an owner entity to be organized by the sponsor after award. Capital advances (direct payments) are provided to finance the construction, reconstruction, moderate, or substantial rehabilitation, or acquisition of (with or without rehabilitation) structures to be used as supportive housing for persons with disabilities. The U.S. Department of Housing and Urban Development (HUD) holds a non-amortizing mortgage on the property under the terms of the capital advance. No repayment is required, as long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low-income persons with disabilities for at least 40 years (24 CFR section 891.170). Failure to comply with the terms of the capital advance and HUD's statutory and regulatory requirements may result in foreclosure under the mortgage.

Capital advance funds will be advanced on a monthly basis during construction for work in progress; however, projects that utilize tax credits may release the capital advance upon completion of the project. Projects are expected to start construction/rehabilitation within 18 months of the date of the fund reservation, with limited provision for extensions.

Operating subsidies are provided for the projects to help make them affordable. Project rental assistance is used to cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent (24 CFR section 891.410). Project rental assistance is provided under a project rental assistance contract (PRAC) and the initial rent is calculated based on operating cost standards established by HUD (24 CFR section 891.150). Subsequent contracts are renewable annually for a one-year term subject to the availability of funds. Rents are adjusted annually on the anniversary of the PRAC

Contract based on a budget-based rent increase in accordance with Housing Notice 2022-05.

The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)). Tenants generally are required to pay rent in accordance with a project rental assistance contract. The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of operating expense for a unit under PRAC (PRAC paragraph 2.4(b)) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

This program is exempt from 2 CFR Part 200 except Subpart F and 2 CFR section 200.425 based on the 24 CFR section 84.2 definition of “Award” and 2 CFR section 200.40 definition of “federal financial assistance.”

B. Financial Reporting

In accordance with HUD’s Uniform Financial Reporting Standards rule, annually, an owner is required to submit a financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement, is due three months after the owner’s fiscal year-end, and the audited financial statement is due nine months after its fiscal year-end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

C. Cost Certifications

Owners are required to submit one or two detailed cost certifications at the end of each project. These reports provide information on actual development cost breakdown and operating costs. The reports are HUD-92330, Mortgagor’s Certificate of Actual Costs (OMB No. 2502-0112) and HUD-92330-A, Contractor’s Certificate of Actual Costs (OMB No. 2502-0044). The HUD-92330-A is only required when there is an identity of interest between the mortgagor and the general contractor and when a cost-plus-contract is required in nonprofit contracts.

Source of Governing Requirements

This program is authorized under Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 USC 8013). Implementing regulations for this program are 24 CFR Part 5, Subpart H, and Part 891, subparts A, C, and D.

Availability of Other Program Information

Other information about the Section 811 program, can be found in Supportive Housing for Persons with Disabilities (HUD Handbook 4571.2), Supportive Housing for Persons with Disabilities—Conditional Commitment—Final (HUD Handbook 4571.4), HUD Notice H96-102, and Housing Notice H 2014-10, Update to Housing Notice 2011-18, Process Guidance for the Section 202

Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs. These are available at HUD’s Client Information Policy Systems (HUDCLIPS) https://www.hud.gov/program_offices/administration/hudclips or from the HUD Multifamily Clearinghouse at 1-800-685-8470.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. PRAC project funds must be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner (24 CFR section 891.400(e)).
2. Project facilities may not include infirmaries, nursing stations, spaces dedicated to the delivery of medical treatment or physical therapy, padded rooms, or space for respite care or sheltered workshops, even if paid for from sources other than the HUD capital advance. Except for office space used by the owner exclusively for the administration of the project, project facilities may not include office space (24 CFR section 891.315).

3. Project must be modest in design. In independent living facilities for persons with disabilities, amenities not eligible for HUD funding in individual units include balconies and decks, atriums, bowling alleys, swimming pools, saunas, Jacuzzis, trash compactors, washers, and dryers. However, HUD funding is eligible to pay for washers and dryers in group homes for persons with disabilities. Sponsors may include excess amenities but must pay for them from sources other than Section 811 capital advance funds. They must also pay for the continuing operating costs associated with any excess amenities from sources other than the Section 811 PRAC (24 CFR section 891.120).

E. Eligibility

1. Eligibility for Individuals

Section 811 of the National Affordable Housing Act provides funding for housing for persons with disabilities. To qualify as disabled, the household must consist of at least one person who is an adult (18 years or older) with a disability, two or more persons with disabilities living together, or a surviving household member under certain circumstances (24 CFR section 891.305). Residents must also qualify as very low-income households (within 50 percent of the median income for the area) to be eligible (42 USC 8013).

The owner is responsible for annually reexamining incomes of households occupying assisted units and making appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

The owner, as applicable, must:

- a. Verify the eligibility of applicants by
 - (a) obtaining signed applications that contain the information needed to determine eligibility (including designation as disabled, or homeless, if applicable), income, rent, and order of selection;
 - (b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties;
 - (c) documenting inspections and tenant certifications, as appropriate; and,
 - (d) determining that tenant income did not exceed the maximum limit set by HUD for the Public Housing Authority's (PHA) jurisdiction, as shown in HUD's published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937.
- b. Determine the total tenant rent payment in accordance with 24 CFR section 5.628.

- c. Make selections in a nondiscriminatory manner without regard to considerations such as race, religion, color, sex, national origin, familial status, or disability. An Owner may, with the approval of the Secretary, limit occupancy within housing developed under this part 891 to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment. However, the Owner must permit occupancy by any qualified person with a disability who could benefit from the housing and/or services provided regardless of the person's disability. (24 CFR section 891.410)
- d. Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR section 891.410). An [owner](#) may elect to follow the provisions of [24 CFR 5.657\(d\)](#): **Streamlined income determination**—(1) *General*. An [owner](#) may elect to apply a streamlined income determination to families receiving fixed income as described below:
Definition of “fixed income”. For purposes of this section, “fixed income” means periodic payments at reasonably predictable levels from one or more of the following sources:
 - (i) Social Security, Supplemental Security Income, Supplemental [Disability Insurance](#).
 - (ii) Federal, state, local, or private pension plans.
 - (iii) Annuities or other retirement benefit programs, insurance policies, [disability](#) or death benefits, or other similar types of periodic receipts.
 - (iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

- a. *HUD-50059, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (OMB No. 2502-0204)* – This report is submitted electronically to HUD. A blank copy of the report can be found at <https://www.hud.gov/sites/documents/50059.PDF>
- b. *Key Line Items* – The following line items contain critical information which is documented in the client file:
 1. Section B, Item 12 – *Effective Date of Action*
 2. Section B, Item 21 – *Unit Number*
 3. Section B, Item 30 – *Utility Allowance*
 4. Section F, Item 108 – *Total Tenant Payment*
 5. Section F, Item 112 – *Assistance Payment*

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements. This applies to all Section 811 Capital Advance projects that are under construction. All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR Part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this program shall be paid wages at rates not less than those prevailing in the locality, as determined by the secretary of labor in accordance with the Wage Rate Requirements.

A group home for persons with disabilities is not covered by these labor standards (24 CFR section 891.155(d)).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Use of Project Funds

Compliance Requirements Owners are required to establish and maintain a separate project interest bearing account in federally insured depository. All rents, charges, income, and revenues arising from the project operation shall be deposited into this account. Project

funds must be used for the operation of the project (including required insurance coverage), and to make required deposits to replacement reserve and the residual receipts accounts (24 CFR section 891.400(e)).

Audit Objectives Determine whether the project fund was properly established in a federally insured depository account and the required deposits were made into this fund, and disbursements were only for allowed purposes.

Suggested Audit Procedures

- a. Ascertain if the project funds receipts account has been established in an interest-bearing account in a federally insured depository.
- b. Select a sample of receipts to perform tests to ascertain if rents, charges, income, and revenues arising from the project operation were deposited into the fund.
- c. Select a sample of disbursements from the fund to ascertain if they were used only for the operation of the project or to make required deposits to the replacement reserve or the residual receipts account.

3. Contract Rent Adjustments

Compliance Requirements Owners must submit an operating budget on HUD Form 92457-A, Budget Worksheet (*OMB No. 2502-0324*), for all projects with an expiring PRAC. The owner applies or ensures annual adjustments to contract rents are applied. The annual adjustments methods are established by HUD (HUD Handbook 4350.1, Chapter 7 *Project Servicing Handbook*). The PRAC contract and Housing Notice 2022-05 discuss the method to be used to determine rent adjustments and the supporting documentation needed by the owner.

Audit Objectives Determine whether contract rents are being adjusted properly in accordance with the approved annual adjustments.

Suggested Audit Procedures

- a. Evaluate the documentation for the last annual adjustment included in the operating budget submission to determine if the owner complied with the contract and the rent increase requirements. Review the supporting documentation and certifications that were submitted to support the rent adjustments. Evaluate the owner's timeliness of submission of the rent increase and compliance with the PRAC Contract.
- b. Select a sample of PRAC contract files and tenant files to verify that annual adjustments were applied correctly, appropriately vouchered.

4. Tenant Utility Allowances

Compliance Requirements The owner must (a) submit an analysis of any utility allowances applicable. Such data as changes in utility rates and other facts affecting utility consumption must be provided as part of this analysis to permit appropriate adjustments in the utility allowances for assisted units, (b) make an annual review of tenant utility allowances to determine their reasonableness, and (c) adjust the allowances, when appropriate (24 CFR sections 5.603, 880.610, 881.601, 882.510, 882.808(k), 883.701, 884.220, 886.126, 891.440 and 886.326).

Audit Objectives Determine whether tenant utility allowances are properly established in accordance 24 CFR 891.440 and [Housing Notice 2015-04](#).

Suggested Audit Procedures

- a. Select a sample of units with tenant utility allowances and their related tenant files for review.
 1. Test owner requests, HUD determinations, and supporting documentation for utility determinations.
 2. Verify that the allowances were applied to tenants correctly in accordance with HUD determinations.

5. Vacant Units

Compliance Requirements

The PHA or owner must reduce claims for assistance on vacant units under certain circumstances. However, there are instances where special claims are allowed for vacancy losses, unpaid rent, and tenant damages on eligible units (24 CFR sections 880.611, 881.601, 882.411, 882.808(f), 883.701, 884.106, 886.109, and 886.309).

Audit Objectives

Determine whether payments to owners are reduced for vacant units and whether payments for special claims are proper in accordance with 24 CFR 891.445.

Suggested Audit Procedures

- a. Select a sample of units that were vacated during the audit period and verify that payments to owners were reduced, as prescribed.
- b. Select a sample of payments for special claims and verify that documentation exists (e.g., *HUD-52670-A Part 2, Schedule of Special Claims* or *HUD-52671-C Special Claims for Regular Vacancies*) to support the payments.

6. Replacement Reserve Account

Compliance Requirements Owners shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in a federally insured depository in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. An amount as required by HUD will be deposited monthly in the reserve fund (Regulatory Agreement, item 5 (a)). All disbursements from the reserve must be approved by HUD (24 CFR section 891.405).

Audit Objectives Determine whether the replacement reserve was properly established, required monthly deposits were made, and disbursements were only for HUD-approved purposes.

Suggested Audit Procedures

- a. Ascertain if a replacement reserve account has been established in a federally insured depository in an interest-bearing account.
- b. Ascertain if the required monthly deposits have been made to the replacement reserve account.
- c. Ascertain if interest earnings from the reserve were retained in the replacement reserve account.
- d. Select a sample of disbursements from the replacement reserve account and ascertain if they were approved by HUD and were made for the approved purpose.

7. Residual Receipts Account

Compliance Requirements Any surplus funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited in a federally insured account within 60 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD (24 CFR section 891.400(e)).

Audit Objectives Determine whether the residual receipts account was properly established, the required deposit was made within 60 days following year-end, and disbursements were only for project purposes and the approval of HUD.

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in a federally insured depository.
- b. Ascertain if the required annual deposit was made within 60 days following year-

end.

- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.
- d. Determine if the residual receipts balance exceeded \$250 per unit on the date of the last contract expiration and/or renewal and if the funds in excess of this threshold were remitted to HUD.

IV. OTHER INFORMATION

1. *Capital Advance*

To protect its interest in a capital advance, HUD requires a note and mortgage for a 40-year term. The owner is not required to repay the principal or pay interest and the note is forgiven at maturity, as long as the owner provides housing for the designated class of people in accordance with applicable HUD requirements. However, the full outstanding balance on the note should be considered federal awards expended, included in determining Type A programs and reported as loans on the Schedule of Expenditures of Federal Awards or accompanying notes in accordance with 2 CFR Part 200, Subpart F.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.195 PROJECT BASED RENTAL ASSISTANCE (PBRA)****ASSISTANCE LISTING 14.249 SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY****ASSISTANCE LISTING 14.856 LOWER INCOME HOUSING ASSISTANCE PROGRAM – SECTION 8 MODERATE REHABILITATION****I. PROGRAM OBJECTIVES**

The objective of the Section 8 project-based rental assistance programs is to aid low-, very low- and extremely low-income families in obtaining decent, safe, and sanitary rental housing through the provision of housing assistance payments to participating owners on behalf of eligible tenants.

II. PROGRAM PROCEDURES**A. Overview**

Housing assistance payments are used to make up the difference between the approved rent due to the owner for the dwelling unit and the occupant family's required contribution toward rent. Assisted families must pay the highest of (a) 30 percent of their monthly adjusted family income, (b) 10 percent of gross family income, or (c) the portion of welfare assistance designated for housing toward rent. Under these project-based programs, the rental subsidy is tied to a specific unit; when a family moves from the unit, it has no right to continued assistance (unless the owner opts out of the Section 8 contract, in which case the individual is entitled to enhanced vouchers). The project-based Section 8 Housing Assistance Payments (HAP) contracts are administered by the Department of Housing and Urban Development (HUD) or state, local, or other governmental entities or instrumentalities thereof qualifying as public housing agencies (PHAs). When a PHA is the contract administrator, HUD enters into annual contributions contracts with PHAs that enter into HAP contracts with private owners.

Contract administrators are required to maintain a HAP contract register or similar record in which to record the PHA's obligation for monthly housing assistance payments. This record provides information as to the name and address of the family; the name and address of the owner; dwelling unit size; the effective and expiration dates of the lease; the monthly contract rent payable to the owner; monthly rent payable by the family; and the monthly housing assistance payment. The record also provides data as to the date the family vacates and the number of days the unit is vacant, if any. This requirement is applicable to PHAs that are administering HAP program projects pursuant to the provisions of Annual Contributions Contracts. It is not applicable to Section 8 projects on which HUD has executed a HAP contract directly with an owner or PHA.

B. Subprograms/Program Elements

The Moderate Rehabilitation (Mod Rehab) program (including the Single Room Occupancy (SRO) program for homeless individuals) assists low-income families in affording decent, safe, and sanitary housing by encouraging property owners to rehabilitate substandard housing and lease the units with rental subsidies to low-income families. The PHA and the owner execute an Agreement to Enter into Housing Assistance Payments Contract under which the owner agrees to rehabilitate the unit to be subsidized and the PHA agrees to subsidize the units upon satisfactory completion of rehabilitation. Upon completion of the rehabilitation, the PHA and the owner execute a HAP contract. The PHA refers interested eligible families on its Section 8 waiting list to the owner to fill vacancies in moderate rehabilitation units.

Mod Rehab program assistance is considered a project-based subsidy because the assistance is tied to specific units under an assistance contract with the owner for a specified term. A family that moves from a unit with project-based assistance does not have any right to continued assistance, except in the case of certain “housing conversion actions,” such as when the owner chooses to opt out of the Section 8 program. In such cases, tenants are entitled to enhanced vouchers.

Under the Mod Rehab SRO program, eligible applicants are PHAs or nonprofit organizations, which must contract with a PHA to administer the rental assistance. Eligible individuals must be homeless according to HUD’s definition and may be located through owner outreach as well as from the PHA waiting list (24 CFR section 882.808). No single project may contain more than 100 assisted units. The SRO program is administered under an initial 10-year HAP term, with the possibility of subsequent one- year renewals. The program is administered at HUD Headquarters by the Office of Community Planning and Development (CPD).

C. Other

1. Financial Reporting

In accordance with HUD’s Uniform Financial Reporting Standards rule, annually, a PHA or owner is required to submit its financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due three months after the PHA’s or owner’s fiscal year-end and the audited financial statement is due nine months after its fiscal year-end (24 CFR section 5.801). The financial statement must include the financial activities of the programs in this cluster.

2. Contract Renewals for Project Based Rental Assistance Contracts

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), Title V of the HUD Fiscal Year 1998 Appropriations Act, Pub. L. 105-65, was enacted on October 27, 1997. MAHRA established policies for the renewal

of Section 8 project-based contracts based on market rents instead of the Fair Market Rent (FMR) standard. In general, MAHRA originally required that expiring Section 8 project-based contract be renewed under Section 524(a)(1) or 524(a)(2).

- a. Section 524(a)(1) renewal required a Rent Comparability Study (RCS). If the RCS indicated rents were at or below comparable market rents, the contract was renewed at current rents adjusted by the Operating Cost Adjustment Factor (OCAF), unless the owners submitted documentation justifying a budget-based rent increase or participation in Mark Up to Market. In no case could renewal rents exceed comparable market rents. If the RCS indicated rents above comparable market rents, the contract was referred to the Office of Recapitalization for debt restructuring and/or rent reduction.
- b. Section 524(a)(2) renewals were for projects identified as “exception” projects that were not eligible for debt restructuring. In some cases, these projects had rents greater than market. Examples of projects that do not qualify as eligible multifamily housing projects pursuant to Section 512(2) of MAHRA include a project that is not subject to a HUD-held or insured mortgage; or a project that has FHA Mortgage insurance or is HUD-held with rents at or below comparable market rents
- c. At the time of renewal, an owner must choose from any of six renewal options for which the project is eligible. All provisions of the original Section 8 HAP contract are renewed except the rent increase provisions which are defined in the renewal contract. See the Section 8 Renewal Guide at:
https://www.hud.gov/sites/dfiles/Housing/documents/Section_8_Renewal_Guidebook-%20March_2023.pdf for more information about renewal options.
 - (1) Option One is Mark Up to Market
 - (2) Option Two: Contract Renewals for Other Projects with Current Rents at or Below Comparable Market Rents (existing rents adjusted by an OCAF or based on a budget not to exceed the comparable market rent).
 - (3) Option Three is referral to the Office of Recapitalization for processing because the contract rents are greater than market rents and the project has a HUD-insured or HUD-held mortgage.
 - (4) Option Four is renewal of contracts for “exception” projects under Section 524(b)(91) of MAHRA.
 - (5) Option Five is the renewal of contracts for a) Portfolio Reengineering Demonstration project or b) Preservation project under Title II, Emergency Low Income Housing Preservation Act of 1987 (ELIHPA); or Title VI, Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRA).

- (6) Option Six is Opt-Out of the contract. Opt-outs are expiring Section 8 project-based contracts whose owners elect not to renew the contracts. Owners are required to provide one-year tenant notification of their intent to Opt-Out of the contract.

3. **Annual Adjustments**

Annual Adjustment Factor (AAF) for Original Term Contracts: The US Housing Act of 1937 requires that assistance contracts signed by owners participating in the Section 8 housing assistance payments programs provide for annual adjustment in the monthly rentals for units covered by the original Section 8 HAP contract. Each year there are revised annual adjustment factors (AAF) for adjustment of contract rents on assistance contract anniversaries, which are applied for those calendar months commencing after the effective date of the annual notice of the change in monthly rental. The AAF are based on a formula using data on residential rent and utilities cost changes from the most current annual Bureau of Labor Statistics Consumer Price Index survey.

Technical details and requirements related to AAF are described in HUD notices H 2002-10 (Section 8 Project-Based Rent Adjustments Using the Annual Adjustment Factor (AAF)), PIH 97-57 (Operating Cost Adjustment Factors (OCAF)), and the Section 8 Renewal Guide.

MAHRA Renewal Rent Adjustments: For projects for which the original Section 8 HAP contract has been renewed under the Multifamily Assisted Housing Reform and Affordability Act of 1997, Pub. L. No. 105-65, 111 Stat. 1384 (MAHRA), rent adjustments are governed by MAHRA rather than by the AAF.

- a. Operating Cost Adjustment Factor (OCAF): Each year HUD publishes the new OCAF in the Federal Register. The application of an OCAF shall not result in a negative rent adjustment. FY24 OCAF: <https://www.federalregister.gov/documents/2023/11/30/2023-26331/notice-of-certain-operating-cost-adjustment-factors-for-2024>
- b. Budget Based Rent Adjustment: An owner may prepare a budget-based adjustment request in connection with certain MAHRA contract renewal options and annual rent adjustments. Requirements are listed in Handbook 4350.1, Multifamily Asset Management Project Servicing, as modified by the Section 8 Renewal Guide Paragraph 2-15.
- c. Fifth Year Rent Adjustments for Multiterm Contracts: Under Option one, Mark-Up-To-Market, Option Two, Contract Renewals for Other Projects with Current Rents at or Below Comparable Market Rent, and Option Five, Portfolio Re-engineering Demonstration Program contracts, if the contract is for a period greater than five years:
- d. The owner submits a new Rent Comparability Study (RCS) at the end of each

5-year cycle of the RCS. The new RCS must be reviewed in accordance with the instructions found in Chapter 9 of the Section 8 Renewal Guide.

- (1) If rents are:
 - (a) Above market, the Account Executive/Contract Administrator will reduce the rent to the comparable market rent.
 - (b) Below market, the Account Executive/Contract Administrator will increase the rents to the comparable market rent.

Utility Allowance Analysis: Multifamily property owners must establish baseline utility allowances for each of their bedroom sizes once every third year, which are determined using the baseline utility analysis described in Housing Notice 2015-04 <https://www.hud.gov/sites/documents/15-04HSGN.PDF>. For the two years after the baseline is established, O/As have the option to perform a factor-based analysis as described in the same Notice based on the utility allowance factors published by HUD annually at <https://www.huduser.gov/portal/datasets/muaf.html>.

Source of Governing Requirements

These programs (other than the Mod Rehab SRO program) are authorized by the US Housing Act of 1937, as amended (42 USC 1437a, c, and f; 42 USC 3535(d); 42 USC 12701; and 42 USC 13611 through 13619). Implementing regulations for post-1980 Section 8 contracts are 24 CFR parts 880 through 883, for Section 515 Rural Rental Housing Section 8 contracts are 24 CFR Part 884, and for Loan Management Set-Aside contracts are 24 CFR Part 886. The Mod Rehab SRO program is authorized under Section 441 of the McKinney-Vento Homeless Assistance Act, 42 USC 11401, and is subject to program regulations at 24 CFR Part 882, Subpart H.

Availability of Other Program Information

HUD maintains pages on its website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8 and <https://www.hudexchange.info/programs/sro/> that provides general information about these programs. HUD notices are available at <https://www.hud.gov/guidance>

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement

(which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. HAP project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the HAP contract and/or Regulatory Agreement between HUD and the project owner. Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with 24 CFR Part 880.602 and to provide distributions to the owner as provided in 24 CFR Part 880.205, 881.205 or 883.306 as appropriate.
2. Replacement reserves and residual receipts deposits must be made for the approved purpose.

C. Cash Management

1. Residual Receipts Deposits – for certain projects, any remaining funds must be deposited with the mortgagees or other HUD approved depository in an interest-bearing residual receipts account within 90 days following year-end purposes. Disbursements from this account will be made only for project purposes and with HUD approval.
 - a. Residual receipts are generally required for projects that have a "new regulation" Section 8 Housing Assistance Payments (HAP) contract, meaning the contract contains a provision specifically stating that a residual receipts account must be maintained if the project generates surplus funds; this is usually found in Section 2.6(b) of the contract that contains a section captioned “Financial Requirements”.

- b. Most other HUD projects do not require a residual receipts account, especially older contracts that may not fall under the "new regulation" category. There may be an exception, although rare, if an AHAP or a HAP contract was amended to include a limitation on distributions, as authorized pursuant to 24 CFR §§ 880.104(b)(2), 881.104(b)(2), or 883.105(b)(2) of the new regulations, then the old regulation projects would be subject to a residual receipts account requirement.
2. Replacement Reserves - The owner shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve account. All disbursements from the reserve must be as approved or directed by HUD or the state agency for 24 CFR Part 883 projects, as applicable. An amount as required by HUD or the state agency for 24 CFR Part 883 projects, as applicable, shall be deposited monthly in the reserve fund in accordance with the Regulatory Agreement or HAP contract (24 CFR sections 880.601, 880.602, 881.601 and 883.701).

E. Eligibility

1. Eligibility for Individuals

The PHA or owner, as applicable, must:

- a. Verify the eligibility of applicants by (a) obtaining signed applications that contain the information needed to determine eligibility (including designation as elderly, disabled, or homeless, if applicable), income, rent, and order of selection; (b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties the PHA or owner must use HUD's Enterprise Income Verification (EIV) system in its entirety: (i) as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income, and to reduce administrative and subsidy payment errors 24 CFR 5.233; (c) documenting inspections and tenant certifications, as appropriate; and, (d) determining that tenant income did not exceed the maximum limit set by HUD for the PHA's jurisdiction, as shown in HUD's published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937. For the Mod Rehab SRO program, eligible individuals must be homeless upon entry into the program (24 CFR sections 880.603, 881.601, 882.514, 882.808, 883.701, 884.214, 886.119, and 886.318).
- b. Determine the total tenant rent payment in accordance with 24 CFR section 5.628.

- c. Select participants from the waiting list in accordance with the admission policies in its administrative plan and maintain documentation which shows that, at the time of admission, the family actually met the preference criteria that determined the family's place on the waiting list.

For the Mod Rehab SRO program, eligible individuals may be referred to the PHA for eligibility determination as a result of the owner's/sponsor's outreach or through the PHA waiting list (24 CFR sections 880.603, 881.601, 882.514, 882.808(b)(2), 883.701, 884.214, and 886 subparts A and C).

- d. Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR sections 5.657, 880.603, 881.601, 882.515, 883.701, 884.218, 886.124, and 886.324). The PHA or owner may elect to apply a streamlined income determination to families receiving fixed income as described in 24 CFR 5.657 (d)(3). Definition of "fixed income". For purposes of this section, "fixed income" means periodic payments at reasonably predictable levels from one or more of the following sources:
 - (i) Social Security, Supplemental Security Income, Supplemental [Disability](#) Insurance.
 - (ii) Federal, state, local, or private pension plans.
 - (iii) Annuities or other retirement benefit programs, insurance policies, [disability](#) or death benefits, or other similar types of periodic receipts.
 - (iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable
- d. In lieu of the standard reports, the following reports are required on Section 8 project-based programs involving private-owners and HUD.

1. HUD-52670, *Housing Owner's Certification and Application for Housing Assistance Payments (OMB No. 2502-0182)* – submitted monthly.
- e. In lieu of the standard reports, the following reports are required on Section 8 project-based programs involving PHA/private-owners and HUD/PHA owners.
 1. HUD-52663, *Requisition for Partial Payment of Annual Contributions (OMB No. 2577-0169)* – submitted quarterly
 2. HUD-52681, *Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169)* – submitted annually

2. Performance Reporting

Not Applicable

3. Special Reporting

- a. HUD-50059, *Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (OMB No. 2502-0204)* – This report is submitted electronically to HUD. A blank copy of the report can be found at <https://www.hud.gov/sites/documents/50059.PDF>

Key Line Items – The following line items contain critical information which is documented in the client file:

1. Section B, item 16. – *Certification Type*
2. Section B, Item 12 – *Effective Date of Action*
3. Section B, Item 29 – *Contract Rent*
4. Section B, Item 30 – *Utility Allowance*
5. Section C, Item 34 & 35 – *Names*
6. Section C, Item 41 – *Date of Birth*
7. Section C, Item 44 – *Social Security Numbers*
8. Section B, Item 21 – *Unit Number*
9. Section F, Item 86 – *Total Annual Income*

10. Section F, Item 106 - *Total Deduction*
11. Section F, Item 108 – *Total Tenant Payment*
12. Section F, Item 112 – *Assistance Payment*
- b. HUD-50058, *Family Report (OMB No.2577-0083)* – The PHA is required to submit this form electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA’s jurisdiction under portability. A blank copy of the report can be found at <https://www.hud.gov/sites/documents/50058.PDF>.

Key Line Items – The following line items contain critical information which is documented within the client file:

1. Line 2a – *Type of Action*
2. Line 2b – *Effective Date of Action*
3. Line 3b, 3c – *Names*
4. Line 3e – *Date of Birth*
5. Line 3n – *Social Security Numbers*
6. Line 5a – *Unit Address*
7. Line 5h, 5i – *Unit Inspection Dates*
8. Line 7i – *Total Annual Income*
9. Line 13h – *Contract Rent to Owner*
10. Line 13k or 13x – *Tenant rent*

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Contract Rent Adjustments

Compliance Requirements

The PHA or owner applies or ensures annual adjustments to contract rents are applied. The

HAP original term contract or renewal contract specifies the method to be used to determine rent adjustments. Adjustments must not result in material differences between rents charged for assisted units and comparable unassisted units except as those differences existed at contract execution.

Special adjustments to contract rents, within the original contract term, may also be made to the extent deemed necessary by the PHA or HUD (24 CFR sections 880.609, 881.601, 882.410, 882.808(e), 883.701, 884.109, 886.112, 886.312(c) and Section 524 of Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) Title V of the HUD Fiscal Year 1998 Appropriations Act, Pub. L. 105-65, as amended).

Audit Objectives

Determine whether contract rents are being adjusted properly in accordance with the approved annual adjustments, in pursuant to the Section 8 Renewal Policy Guide.

Suggested Audit Procedures

- a. Evaluate the documentation for the last adjustment included in the operating budget submission to determine if the owner complied with the contract and the rent increase requirements. Review the supporting documentation and certifications that were submitted to support the rent adjustments. Evaluate the owner's timeliness of submission of the rent increase and compliance with the PBRA Section 8 HAP Contract.
- b. Select a sample of HAP contract files and tenant files to verify that annual adjustments were applied correctly, appropriately vouchered.

2. Tenant Utility Allowances

Compliance Requirements

The PHA or owner must (a) submit an analysis of any utility allowances applicable. Such data as changes in utility rates and other facts affecting utility consumption must be provided as part of this analysis to permit appropriate adjustments in the utility allowances for assisted units, (b) make an annual review of tenant utility allowances to determine their reasonableness, and (c) adjust the allowances, , when appropriate (24 CFR sections 5.603, 880.610, 881.601, 882.510, 882.808(k), 883.701, 884.220, 886.126, 891.440 and 886.326).

Audit Objectives

Determine whether tenant utility allowances are properly established in accordance 24 CFR 891.440 and [Housing Notice 2015-04](#).

Suggested Audit Procedures

- a. Select a sample of units with tenant utility allowances and their related tenant files for review.
- b. Test owner requests, PHA determinations, and supporting documentation for utility

determinations.

- c. Verify that the allowances were applied to tenants correctly in accordance with HUD determinations.

3. Housing Quality Standards

Compliance Requirements

The PHA or owner must provide housing that is decent, safe, and sanitary. To achieve this end, the PHA or owner must perform housing quality inspections at the time of initial occupancy and at least annually thereafter to ensure that the units are decent, safe, and sanitary (24 CFR sections 574.310(b)(1)-(2)).

Audit Objectives

Determine whether the PHA or owner performs the required inspections to ensure that units meet housing quality standards.

Suggested Audit Procedures

- a. Review the procedures used by the PHA or owner to identify those units on which housing quality inspections are due.
- b. Select a sample of units on which HAP contracts were executed and examine inspection reports.
- c. Examine records and ascertain that the PHA or owner ensures that the inspections and any needed repairs are completed timely.
- d. Verify that the PHA reviewed the evidence of completion submitted by the owner on newly constructed or rehabilitated units accepted for occupancy.

4. Vacant Units

Compliance Requirements

The PHA or owner must reduce claims for assistance on vacant units under certain circumstances. However, there are instances where special claims are allowed for vacancy losses, unpaid rent, and tenant damages on eligible units (24 CFR sections 880.611, 881.601, 882.411, 882.808(f), 883.701, 884.106, 886.109, and 886.309).

Audit Objectives

Determine whether payments to owners are reduced for vacant units and whether payments for special claims are proper in accordance with 24 CFR 891.445.

Suggested Audit Procedures

- a. Select a sample of units that were vacated during the audit period and verify that payments to owners were reduced, as prescribed.

- b. Select a sample of payments for special claims and verify that documentation exists (e.g., *HUD-52670-A Part 2, Schedule of Special Claims* or *HUD-52671-C Special Claims for Regular Vacancies*) to support the payments.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.218 COMMUNITY DEVELOPMENT BLOCK GRANTS/ENTITLEMENT GRANTS****ASSISTANCE LISTING 14.225 COMMUNITY DEVELOPMENT BLOCK GRANTS/SPECIAL PURPOSE GRANTS/INSULAR AREAS****I. PROGRAM OBJECTIVES**

The primary objective of the Community Development Block Grant (CDBG) Entitlement Program (metropolitan cities and urban counties) (24 CFR Part 570 Subpart D) is to develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low- and moderate-income (24 CFR sections 570.1, 570.200, 570.420, and 570.429).

The program is authorized under Title I of the Housing and Community Development Act (HCDA) of 1974, as amended. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act provided an emergency supplemental appropriation of CDBG funding for states, entitlement communities, and insular areas. This appropriation, referred to as CDBG-CV program funds, to distinguish it from the annual formula CDBG program, is to be used similarly as annual formula grants, but specifically to prevent, prepare for, and respond to coronavirus.

This supplement also includes CDBG Disaster Recovery (CDBG-DR) funds, CDBG Mitigation (CDBG-MIT) funds, and Neighborhood Stabilization Program (NSP1, NSP3) funds. All of the above-referenced programs, appropriations, and funding have as their core statutory basis Title I of the Housing Community Development Act (HCDA) of 1974, as amended. Unless amended by statute, regulation, or notice, specific to the particular CDBG award, recipients of any and all CDBG funds must ensure that CDBG funds are used in accordance with all program requirements as promulgated in the HCDA and in the program regulations in Part 570.

II. PROGRAM PROCEDURES**A. Overview**

The primary objective of CDBG is the development of viable urban communities. These viable communities are achieved by providing the following, principally for persons of low and moderate income:

1. Decent housing;
2. A suitable living environment; and
3. Expanded economic opportunities.

To achieve these goals, the CDBG statute and regulations set forth eligible activities and the national objectives that each activity must meet. As recipients of CDBG funds, grantees are charged with ensuring that these requirements are met.

The program objective is to be achieved in two ways. First, a grantee can only use funds to assist eligible activities that meet one or more of the following three CDBG national objectives: benefit low- and moderate-income persons, aid in the prevention of slums and blight or meet community development needs having a particular urgency. Every CDBG-CV funding recipient must document how each CDBG-CV funded activity prevents, prepares for, and responds to coronavirus. Second, the grantee must spend at least 70 percent of its funds, over a period of one, two, or three years as specified by the grantee in its certification, for activities that address the national objective of benefitting low- and moderate-income persons. For CDBG-CV, this 70 percent overall benefit test applies to total expenditures over the life of the grant, regardless of program year of expenditure and compliance is determined separately from the annual formula CDBG program.

Metropolitan cities and urban counties must submit certain certifications and a three- to five-year Consolidated Housing and Community Development Strategy and Plan (the “Consolidated Plan” or “Con Plan”) describing how they propose to use the funds for housing and community development activities. They also must submit annually the certifications identified at 24 CFR section 91.225 and a one-year Action Plan indicating how they propose to use the funds to further their three- to five-year goals and objectives. The grant amount is determined by the higher of two formulas that consider a community’s population, poverty level, extent of overcrowded housing, age of housing, and growth lag (42 USC 5306(b)). Insular areas, including American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the US Virgin Islands, may submit an abbreviated consolidated plan pursuant to 24 CFR 91.235.

Except for the following differences, non-entitlement counties in Hawaii (see Assistance Listing 14.228, II, “Program Procedures”) must follow the requirements of CDBG Entitlement Grants (Assistance Listing 14.218): (1) their funding comes from Section 106(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR section 570.429(c); (3) reallocations due to grant reductions, or funds not applied for, go to the other non-entitlement counties in Hawaii on a pro rata basis (24 CFR section 570.429(d)); (4) non-entitlement counties are not eligible to use the exception criteria in 24 CFR section 570.208(a)(1)(ii); and (5) 24 CFR section 570.307 (Urban Counties) and 24 CFR section 570.308 (Joint Requests) would not apply to non-entitlement counties in Hawaii.

B. Subprograms/Program Elements

1. CDBG-DR and CDBG-MIT Funding

The primary objective for CDBG-DR is to provide disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster, declared

pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

Congress may appropriate funding for CDBG-DR grants to address disaster recovery needs that are not met by other sources of Federal disaster assistance. When available, HUD provides CDBG-DR grants to states, territories, and local governments particularly to be used for specific disaster recovery purposes.

Generally, all CDBG-DR activities must:

- a. Be CDBG-eligible (or eligible under a waiver or alternative requirement);
- b. Meet a CDBG national objective; and
- c. Meet an unmet recovery need that addresses a direct or indirect impact from an eligible disaster.

Additionally, for informational awareness, CDBG-DR grantees, with the exception of local government grantees, must use at least 80 percent of their allocations to address unmet disaster needs or mitigation activities in the HUD-identified “most impacted and distressed” (MID) areas resulting from a qualifying major disaster. Local government grantees must use 100 percent of their allocations in the HUD-identified MID areas.

For CDBG Mitigation (CDBG-MIT), Congress appropriated \$16,121,297,000 in CDBG funds specifically for mitigation activities for qualifying disasters in 2015, 2016, 2017, and 2018 under Public Law 115–123 and Public Law 116–20. CDBG-MIT is a unique and significant opportunity for eligible grantees to use this assistance in areas impacted by specific disasters to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

For CDBG-MIT, mitigation activities are defined as activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters. The mitigation objectives and efforts align with other federal programs that address hazard mitigation to create a more cohesive effort at the federal, state, and local level.

Similar to CDBG-DR funds, the use of CDBG-MIT funds must also occur within the CDBG framework. All CDBG-MIT activities must: (1) Meet the definition of mitigation activities above; (2) address current and future disaster risks; (3) be CDBG-eligible (or eligible under a waiver or alternative requirement); and (4) meet a CDBG national objective.

For informational awareness, at least 50 percent of all CDBG-MIT funds must be

used for mitigation activities that address identified risks within the HUD-identified “most impacted and distressed” (MID) areas.

The national objectives of the CDBG program are: (a) Providing benefit to low- and moderate-income persons; (b) preventing or eliminating slum and blighting conditions; or (c) addressing a severe and recently arising urgent community welfare or health need. Unlike other forms of Federal disaster recovery assistance, CDBG-DR and CDBG-MIT grants have a statutory focus on benefiting vulnerable lower-income people and communities and targeting the most impacted and distressed areas.

2. *Declared Disaster Recovery Fund (DDRF)*

Pursuant to 42 USC 5306(c)(4), in the event of a major disaster declared by the President, HUD may make available to metropolitan cities and urban counties located or partially located in areas affected by the disaster, any amounts that become available as a result of actions under 42 USC 5304(e) or 5311. These funds shall give priority to providing emergency assistance and recovery from the disaster and grant agreements or amendments for such funds may include special conditions governing their use. In all other respects, these reallocated funds shall follow the requirements of CDBG Entitlement Grants.

3. *Neighborhood Stabilization Program (NSP)*

The Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008) provided funds for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA provides otherwise, the grants are to be considered CDBG funds. The grant program under Title III of HERA is referred to as the Neighborhood Stabilization Program (NSP). The NSP funding covered in this cluster is the funding provided under HERA. These HERA funds are also referred to as NSP1. Additional funding for NSP was authorized by Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. No. 111-203, July 21, 2010), and is referred to as NSP3. NSP funding provided under the American Recovery and Reinvestment Act of 2009 (ARRA) is referred to as NSP2 and NSP-TA, which are covered by the Neighborhood Stabilization Program (Recovery Act Funded) (Assistance Listing 14.256) has its own separate Compliance Supplement section and is audited separately.

The NSP1 and NSP3 grants are special CDBG allocations to address the problem of abandoned and foreclosed homes. HERA and the Dodd-Frank Act established the need, targets the geographic areas, and limits the eligible uses of NSP funds. NSP3 requirements are in the NSP notice published on October 19, 2010 (75 FR 64322-64348), which lists allocations, requirements, and waivers. The NSP3 Notice incorporates the NSP1 Bridge Notice, changes made by ARRA, and

addition changes and clarification. The notices are available at <https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/>.

4. *FY 2020 Emergency, Supplemental Appropriation – CDBG-CV*

The Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136, March 27, 2020) provided an emergency supplemental appropriation of CDBG funding for states, entitlement communities, and insular areas. Recipients may undertake a wide range of activities directed toward assisting their community to prevent, prepare for, and respond to coronavirus. Examples include, but are not limited to, public services designed to increase the capacity of the local health system to address the pandemic; emergency income payment programs to assist low- and moderate-income individuals and families with items such as food, clothing, housing, or utilities for a period of up to six consecutive months; interim assistance activities to address the public health emergency, such as “pop-up,” temporary coronavirus testing sites; grants or loans to businesses to avoid or mitigate job losses caused by business loss due to social distancing guidelines; assistance to microenterprises or other for-profit entities when the recipient determines that the provision of such assistance is appropriate to carry out critical medical, food delivery, cleaning, and other services to support home health and quarantine; assistance for the acquisition, rehabilitation, or construction of facilities for coronavirus testing, diagnosis, or treatment; and coronavirus planning and capacity building activities.

Additional activities that address coronavirus were identified in the April 30, 2021, Quick Guide, CDBG-CV PPR Tieback Flexibilities. These include but are not limited to: providing technical assistance, grants, loans, and other financial assistance to establish, stabilize, and expand microenterprises to revitalize communities and local economies affected by coronavirus or to prepare for and prevent future outbreaks; providing working capital assistance to small businesses or entrepreneurs to enable creation and retention of jobs held by low- and moderate-income persons caused by business closures related to community mitigation measures or other job loss and economic disruption resulting from coronavirus; increasing the capacity and availability of daycare or after-school services serving low/mod areas in which parents have dropped out of the workforce since January 2020 to enable workers to rejoin the workforce as a public service; rehabilitation of single unit and multifamily housing units to respond to living conditions (such as mold, lead-based paint, and poor ventilation) associated with more severe coronavirus disease or poorer post-COVID health advice; conversion of public/commercial buildings into affordable housing and acquisition of property for housing to respond to residential over-crowding associated with coronavirus spread and with more severe coronavirus disease and poorer post-COVID health outcomes; new housing construction carried out by a qualified Community Based Development Organization (CBDO) to respond to residential over-crowding associated with coronavirus spread and with more severe coronavirus disease and

poorer post-COVID health outcomes; constructing a public facility such as a park serving a low and moderate income area to provide suitable outdoor fitness, and social space where insufficient facilities are available to support social distancing guidance; preventing or addressing the spread of coronavirus in a vulnerable population by acquiring and rehabilitating, or constructing, a group living facility for persons recovering from substance abuse disorder; and constructing a public improvement, such as extending broadband infrastructure in an underserved area or reconstructing degraded water lines, to support tele-school and telemedicine and to ensure potable water to homes, schools, and health providers.

Entitlement communities develop their own programs and funding priorities so long as programs/activities conform to the statutory standards and program regulations. Specific statutory provisions of CDBG-CV funds include the suspension of the Housing and Community Development Act provision that caps expenditures for public services activities; the submission of an amended Consolidated Plan, 2019 Action Plan, or 2020 Action Plan for use of CDBG-CV funds no later than August 16, 2021; the ability of a grantee to adopt and use expedited procedures to prepare, propose, modify, or amend its annual statement of activities (Annual Action Plan) to provide citizens with notice and a reasonable opportunity to comment of no less than five days; the suspension of in-person public hearings and the adoption of virtual public hearings to fulfill public hearing requirements for the use of all funds made available under the CARES Act as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons; and the requirement that adequate procedures are in place to prevent duplication of benefits as required by the Stafford Act and in accordance with Disaster Recovery Reform Act of 2018.

Recipients may contract with other local agencies or nonprofit organizations to carry out part or all of their programs. CBDOs may carry out neighborhood revitalization, community economic development or energy conservation projects to further achieve the national objectives of the CDBG program. CDBG-CV funds may be used to cover or reimburse allowable costs consistent with preventing, preparing for, and responding to coronavirus incurred by a locality for costs incurred on or after January 21, 2020. All eligible activities must either benefit low- and moderate-income persons, aid in the prevention or elimination of slums or blight or meet other community development needs having a particular urgency that the grantee is unable to finance on its own.

Source of Governing Requirements

These programs are authorized by Title I of the Housing and Community Development Act of 1974, as amended (Pub. L. No. 93-383) (42 USC 5301). Implementing regulations are located at 24 CFR Part 570.

The Community Development Block Grant disaster recovery (CDBG-DR) and Community Development Block Grant mitigation (CDBG-MIT) are not codified programs. Congress appropriates disaster recovery funds on a periodic basis following major disasters. Funding is authorized under Title I of the HCDA. The following public laws were the appropriation acts that

provided funding for each disaster: Pub. L. nos. 117-328; 117-180; 117-43; 116-20; 115-254; 115-123; 115-72; 115-56 (Division B); 115-31 (Sec. 421); 114-254; 114-223; 114-113; 113-2; 112-55; 111-212; 110-329; 110-252; 110-116; 109-234; 109-148; 108-324; 107-206; 107-117; 107-73; and 107-38. HUD is authorized to administer CDBG-MIT under Title I of the HCDA. The public laws that appropriated funds for this purpose include Pub. L. nos. 115-123 (Division B) and 116-20 (Division B). The rules and regulations governing CDBG funds apply to CDBG-DR and CDBG-MIT funds unless otherwise waived or altered in a *Federal Register* notice. The auditor must consult the relevant public law and *Federal Register* notices for the CDBG-DR or CDBG-MIT award. The auditor can find links to the appropriate public laws and *Federal Register* notices at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NSP1 is authorized by Title III of Division B of HERA. HUD published a “*Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008*” (NSP Notice) that advises the public of the allocation formula, allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations provided to grantees (October 6, 2008, *Federal Register*, 73 FR 58330-58349). NSP3 is authorized by Title XII of ARRA (123 Stat. 217). The requirements of HERA have been updated by (1) a notice in the *Federal Register*, Docket No. FR-5255-N-02 (NSP1 Bridge Notice) on June 19, 2009 (74 FR 29223-29229), which provided revisions and technical corrections to the NSP Notice and changes to NSP made by ARRA; (2) a notice in the *Federal Register*, Docket No. 5321-N-03 (NSP Notice) on April 9, 2010 (75 FR 18228-18231) to note a change in definitions and modification to the NSP; (3) the Dodd-Frank Wall Street Reform and Consumer Protection Act of July 21, 2010 (Pub. L. No. 111-203); and (4) a notice in the *Federal Register*, Docket No. FR-5447-N-01 (NSP3 Notice) on October 19, 2010 (75 FR 64322-64348) to incorporate the bridge notice, the changes made by ARRA, and additional changes and clarifications. Most of these requirements were incorporated into the NSP3 Notice.

CDBG-CV is authorized in title 12 of Division B of the CARES Act. HUD published a “*Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs*” (CDBG-CV Notice) that advises the public of the program rules, alternative requirements, and the waivers of regulations provided to grantees (August 20, 2020, *Federal Register*, 85 FR 51457-51475).

Availability of Other Program Information

Additional information about CDBG-DR and CDBG-MIT is available at the HUD CDBG-DR website at https://www.hud.gov/program_offices/comm_planning/cdbg-dr.

Additional information about the NSP laws, regulations, and notices are available at <https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/>.

Specific NSP notices are available at:

NSP Notice (Docket No. FR-5255-N-01) at <https://www.govinfo.gov/content/pkg/FR-2008-10-06/pdf/E8-23476.pdf>

NSP1 Bridge Notice (Docket No. FR-5255-N-02) at

<https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14360.pdf>

NSP “Definition and Modification” Notice (Docket No. 5321-N-03) at <https://www.govinfo.gov/content/pkg/FR-2010-04-09/pdf/2010-8131.pdf>

NSP3 Notice (Unified NSP1 and NSP3 Notice) (Docket No. FR-5447-N-01) at <https://www.govinfo.gov/content/pkg/FR-2010-10-19/pdf/2010-26292.pdf>

NSP Closeout Notice (November 27, 2012) at <https://www.govinfo.gov/content/pkg/FR-2012-11-27/pdf/2012-28642.pdf>

Notice of Formula Allocations and Program Requirements for NSP1 and NSP3 Formula Grants; Amendment: Updated Foreclosure Data (May 21, 2013) at <https://www.govinfo.gov/content/pkg/FR-2013-05-21/pdf/2013-11999.pdf>

Notice of Changes to NSP Closeout Requirements Related to Program Income (June 14, 2016) at <https://www.govinfo.gov/content/pkg/FR-2016-06-14/pdf/2016-14062.pdf>

Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (September 12, 2019) at <https://www.govinfo.gov/content/pkg/FR-2019-09-12/pdf/2019-19708.pdf>

Additional information about CDBG-CV, including the latest grantee guidance and any additional waivers or program flexibilities available to grantees are available at https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	Y	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. All activities undertaken must meet one of three national objectives of the CDBG Entitlement Grants program (i.e., benefit low- and moderate-income persons, prevent or eliminate slums or blight, or meet community development needs having a particular urgency) (24 CFR sections 570.200, 570.208, and 570.420). Section III.B.5(f) of the CDBG-CV Notice, *Eligible Activities*, further specifies that a grantee may use CDBG–CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable. Some funded activities may respond to the direct effects of the virus, others to the indirect effects. Some CDBG-eligible activities, such as public services, economic development and microenterprise assistance, and public facilities and improvements clearly tie back to the purposes of the CARES Act. HUD is not prohibiting grantees, however, from carrying out any particular CDBG eligible activity described in the HCDA and 24 CFR 570, because other CDBG eligible activities, such as acquisition of real property, can justifiably be used to fulfill the CARES Act purposes depending upon the circumstances.

CDBG funds are to be used for the following activities:

- a. the acquisition of real property;
- b. the acquisition, construction, reconstruction, rehabilitation or installation of public works, facilities and sites, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons;
- c. clearance, demolition, and removal of buildings and improvements;
- d. payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated;
- e. disposition of real property acquired under this program;
- f. provision of public services (subject to limitations contained in the CDBG regulations);
- g. payment of the nonfederal share for another grant program for activities that are otherwise eligible;
- h. interim assistance where immediate action is needed prior to permanent improvements or to alleviate emergency conditions threatening public health and safety;

- i. payment to complete a Title 1 Federal Urban Renewal project;
 - j. relocation assistance;
 - k. planning activities and program administrative costs, subject to the limitations at 24 CFR section 570.200(g);
 - l. acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings;
 - m. assistance to community-based development organizations;
 - n. activities related to privately owned utilities;
 - o. assistance to private, for-profit businesses, when appropriate to carry out an economic development project;
 - p. construction of housing assisted under Section 17 of the United States Housing Act of 1937;
 - q. reconstruction of properties;
 - r. direct homeownership assistance to facilitate and expand homeownership;
 - s. technical assistance to public or private nonprofit entities for capacity building;
 - t. housing services related to housing counseling or activity delivery costs that may include energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, and management of HOME tenant-based rental assistance (TBRA);
 - u. assistance to institutions of higher education to carry out eligible activities;
 - v. assistance to public and private entities (including for-profits) to assist micro-enterprises;
 - w. payment for repairs and operating expenses for acquired “in Rem” properties;
 - x. residential housing rehabilitation;
 - y. code enforcement in deteriorated or deteriorating areas,
 - z. lead-based paint hazard evaluation and removal;
 - aa. construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement (42 USC 5305(a); 24 CFR sections 570.201 through 570.206, as well as 570.207 for ineligible activities).
2. Entitlement grantees and Insular Area grantees may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, (42 USC 5308). The guaranteed loan funds are to be used only for the following activities:
- a. acquisition of real property;
 - b. housing rehabilitation;
 - c. rehabilitation of publicly owned real property;
 - d. eligible CDBG economic development activities;
 - e. relocation payments,
 - f. clearance, demolition, and removal;
 - g. payment of interest on Section 108 guaranteed obligations;
 - h. payment of issuance and other costs associated with private sector financing under this subpart;

- i. site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes;
- j. construction of housing by nonprofit organizations for home ownership under Section 17(d) of the US Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987;
- k. debt service reserve;
- l. acquisition, construction, reconstruction, rehabilitation, or installation of public works and site or other improvements, which serve “colonias” (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992); and
- m. acquisition, construction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements, and public utilities (24 CFR sections 570.700 through 570.710).

Under the Section 108 Loan Guarantee Program, CDBG grantees can borrow up to five times their most recent CDBG grant by issuing federally guaranteed notes.

To ensure that CDBG–CV funds are used for the purposes authorized by the CARES Act, HUD issued the following alternative requirement to sections 108(b) and (c) of the HCD Act (42 USC 5308(c)): CDBG–CV funds shall not be factored into a grantee’s Section 108 borrowing authority. Regarding the use of CDBG–CV funds, A grantee may use CDBG–CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus. The necessity of such use shall be documented by the grantee or the subrecipient that provided the assistance (e.g., if Section 108 funds were used by the grantee to provide assistance to a for-profit business in the form of a loan and the business is unable to make a payment due to the reduction in revenue caused by coronavirus, any restructuring of that loan must be supported by modification to loan documents that document the relationship to coronavirus). When CDBG–CV funds are used to subsidize or replace principal, interest, or fees due under a loan previously made with guaranteed loan funds as part of an activity to assist a for-profit or a subrecipient, and the CDBG–CV assistance is necessary to respond to the impact of coronavirus (e.g., a third-party business borrower whose loan is the intended source for repayment of a Section 108 loan is not collecting sufficient revenue due to local public health conditions), the documentation that the original assisted activity satisfies national objective criteria shall be sufficient to demonstrate that the use of the guaranteed loan funds and the additional CDBG–CV assistance meet a CDBG national objective.

3. All activities that a grantee undertakes during its CDBG program year must be identified in an annual action plan or an amended action plan. Plan amendments are required to reflect changes in activities or funding decisions (24 CFR Part 91, Subpart C, and 24 CFR section 91.505). A grantee was required to apply for CDBG–CV funds by submitting a substantial amendment to its most recently approved annual action plan (either the 2019 or 2020 Action Plan). As part of the application

submission, HUD temporarily waived the requirements (found at 42 USC 12706 and 91.225(a)(5)) that grantees certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan portion of the consolidated plan. HUD imposed a related alternative requirement that allowed grantees to submit those certifications when the grantees submit their next full (three–five year) consolidated plan due after the 2020 program year. Grantees may not have considered the needs associated with CDBG-CV funds when developing their current consolidated plan strategic plan and needs assessment. In conjunction, HUD temporarily waived 42 USC 5304(e) to the extent that it requires HUD to annually review grantee performance under the consistency criteria. This waiver also only applies until the grantee submits its next full (three–five year) consolidated plan due after the 2020 program year.

When the CDBG-CV application was submitted as a substantial amendment to either the 2019 or 2020 Action Plan, the substantial amendment must have included the CDBG-CV allocation as an available resource for the year. The amendment must have identified the proposed use of all funds and how the funds would be used to prevent, prepare for, and respond to coronavirus. To permit an expedited application process, HUD waived statutory provisions at 42 USC 12705(a)(2) to the extent they require updates to the housing and homeless needs assessment, (24 CFR 91.205 and 91.405), housing market analysis (24 CFR 91.210 and 91.410), and strategic plan (24 CFR 91.215 and 91.415. HUD also waived 24 CFR 91.220 (entitlements), to the extent those regulations limit the action plan to a specific program year, to permit grantees to prepare substantial amendments to either the 2019 or 2020 annual action plan).

HUD also issued a waiver and alternative requirement to 24 CFR 91.505 to facilitate the use of the CDBG-CV funds to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with 24 CFR 91.500, and required that, to receive a CDBG-CV grant, a grantee must also submit a SF-424, SF-424D, and the certifications at 24 CFR 91.225(a) and (b).

When CDBG-CV funds were included in a substantial amendment to either the 2019 or 2020 Action Plan, existing cooperation agreements between a local government and an urban county governing other CDBG funds in the most recently submitted annual action plan (for purposes of either an urban county or a joint program) automatically covered CDBG-CV funding as well. These cooperation agreements will continue to apply to the use of CDBG-CV funds for the duration of the CDBG-CV grant.

The action plan submission procedures in 24 CFR Part 91 (including consultation and a public hearing) apply to grantees that choose to submit CDBG-CV applications by including CDBG-CV funds in a new annual action plan submission (2020 Action Plan). Content of action plans is described at 24 CFR 91.220.

The waivers and alternative requirements apply to all allocations of CDBG-CV

funds. HUD encourages grantees to apply for additional allocations of CDBG- CV funds as they are announced by submitting substantial amendments to the same annual Action Plan that they used to apply for the first CDBG-CV allocation.

An application submitted as a substantial amendment must include the CDBG- CV allocation as an available resource for the year and include the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

HUD strongly encouraged grantees to apply for allocations through substantial amendments as they were announced. However, grantees that had not submitted applications for CDBG-CV funds when additional allocations were announced may submit a single application for all allocations as a substantial amendment to either the 2019 or 2020 annual Action Plan.

The CARES Act and the CDBG-CV Notice amend the submission deadline for the Consolidated Housing and Community Development Strategy and Plan (Consolidated Plan) or annual action plan amendment for the use of CDBG-CV funds and 2019 and 2020 federal fiscal year annual formula CDBG funds to no later than August 16, 2021. Please see III.N. “Special Tests and Provisions” of the Compliance Requirements below for additional waivers and alternative requirements regarding citizen participation prior to plan or plan amendment submission.

4. In compliance with the HCDA, CDBG funds are not to be used to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance. HUD has concluded, however, that when CDBG funding is used for purposes of the CARES Act, it is not considered to substantially replace the amount of local financial support previously provided to community development activities.

All CDBG-CV grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits for assisted activities (as discussed in Section III.B.9. of the CDBG-CV Notice). To demonstrate that no financial assistance has been received or is available to pay costs charged to a CDBG-CV grant, a grantee may demonstrate that no other funds are available for an activity by maintaining records of compliance with mandatory duplication of benefits requirements described in Section III.B.9.

5. The CARES Act and the CDBG-CV Notice eliminated the 15 percent limitation on the use of CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds to prevent, prepare for, and respond to coronavirus for public service activities (i.e., those activities set forth in Section 105(a)(8) of the HCDA and 24 CFR 570.201(e) of the CDBG entitlement regulations). The cap is still routinely applied to all other 2019 and 2020 federal fiscal year CDBG-funded public service activities that do not address coronavirus.

CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act, and which are expressly prohibited by 24 CFR 570.207(b)(4) in the Entitlement CDBG regulations. The phrase income payments means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family. HUD has waived section 105(a)(8) of the HCD Act and 24 CFR 570.207(b)(4) only to the extent necessary to establish the following alternative requirement: CDBG-CV funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months. Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. CDBG-CV grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable. This waiver is also applicable to 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus.

6. CDBG funding can only be used for special economic development projects that meet the criteria in 24 CFR section 570.203. Grantees must have data to support that assistance provided to carry out special economic development projects is appropriate by meeting the public benefit standards for job creation and provision of goods and services described in 24 CFR section 570.209. CDBG-CV grantees providing assistance to for-profit entities are still required to adopt financial underwriting policies and procedures in accordance with the guidelines for evaluating project costs and financial requirements found in Appendix A of 24 CFR Part 570. To facilitate the use of CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus for economic development activities, HUD has instituted the following alternative requirements to demonstrate national objective compliance:
 - a. Removing the higher poverty rate required in some cases for central business districts, which is not required by statute. HUD is instituting an alternative requirement to modify the regulations at 24 CFR 570.208(a)(4)(v) by deleting the criteria at 24 CFR 570.208(a)(4)(v)(B). Under this alternative requirement, for purposes of the LMI job creation/retention national objective at 24 CFR 570.208(a)(4), a census tract qualifies for the presumptions under the criteria established in regulations at 24 CFR 570.208(a)(4)(v) if the poverty rate is at least 20 percent and if it evidences pervasive poverty and general distress using the criteria described in 24 CFR 570.208(a)(4)(v)(C).
 - b. Notwithstanding that the definitions of low-income person and moderate-

income person in 24 CFR 570.3 are based on family income, for purposes of meeting the national objective criteria for job creation or retention at 24 CFR 570.208(a)(4), grantees and employers may consider individuals that apply for or hold jobs to be members of one-person families for activities that prevent, prepare for, and respond to coronavirus. HUD is also modifying related recordkeeping requirements at 24 CFR 570.506(b)(7) by adding the following additional presumption: the recipient may substitute records showing the type of job and the annual wages or salary of the job in lieu of maintaining records showing the person's family size and income to demonstrate that the person who filled or held/retained the job was a low- or moderate-income person, when required by paragraph 24 CFR 570.506(b)(5)(i)(B), (b)(5)(ii)(C), (b)(6)(iii) or (b)(6)(v). HUD will consider the person income-qualified if the annual wages or salary of the job is equal to or less than the Section 8 low-income limit established by HUD for a one-person family. Grantees will typically obtain such information from assisted businesses rather than each person who received a job.

In addition, for CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus, HUD eliminated the aggregate public benefit standard and modified the individual public benefit standards for job creation and retention. HUD waived the individual standards at 24 CFR 570.209(b)(3) and imposed the following alternative requirement:

For activities subject to the public benefit standards, grantees must document that: a) the activity will create or retain at least one full-time equivalent, permanent job per \$85,000 of CDBG funds used; b) the activity will provide goods or services to residents of an area such that the number of LMI persons residing in the area served by the assisted businesses amounts to at least one LMI person per \$1,700 of CDBG funds used; or c) the assistance was provided due to business disruption related to coronavirus (in which case, no monetary standard applies because HUD has determined that there is sufficient public benefit derived from the provision of assistance to stabilize or sustain businesses in the grantee's jurisdiction that suffer disruption due to coronavirus).

Finally, through the CDBG-CV Notice, HUD clarifies an existing requirement of economic development activities that grantees may carry out pursuant to 24 CFR 570.203(b). Grantees may provide assistance, with CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus, to an economic development project through a for-profit entity that passes the funds through a financing mechanism (e.g., Qualified Opportunity Funds and New Markets Tax Credit (NMTC) investment vehicles). The regulations at 24 CFR 570.203(b) already list forms of support by which grantees can provide assistance to private, for-profit businesses where the assistance is appropriate to carry out an economic development project. HUD has previously interpreted this provision to allow for CDBG assistance to NMTC investment vehicles. This

clarification makes clear that such assistance through any financing mechanism (which is not limited to NMTC investment vehicles) is eligible under 24 CFR 570.203(b). The regulation also does not apply to states, but states may consider 24 CFR 570.203(b), as clarified by the following alternative requirement, as guidance in the same way that they may consider other Entitlement CDBG regulations. HUD is not waiving 24 CFR 570.203(b) and other statutory and regulatory requirements remain in place.

The CDBG-CV Notice also established an alternative requirement, for the same grouping of funds mentioned in the last paragraph, that expanded the authority in section 105(a)(15) of the HCD Act and 24 CFR 570.204 to permit grantees subject to entitlement CDBG regulations to assist nonprofit organizations serving the development needs of their jurisdiction by carrying out community economic development projects through a financing mechanism. The nonprofit may pass assistance through a financing mechanism to another entity based on the language in section 105(a)(15) of the HCD Act. Grantees subject to entitlement regulations must document that the assisted nonprofit is serving the development needs of the jurisdiction and that the assistance is used for a community economic development project that is necessary to prevent, prepare for, and respond to coronavirus.

7. When CDBG funds are used to finance rehabilitation, the rehabilitation is to be limited to privately owned buildings and improvements for residential purposes; low-income public housing and other publicly owned residential buildings and improvements; publicly or privately owned commercial or industrial buildings, subject to the limitations at 24 CFR 570.202(a)(3); and manufactured housing when it constitutes part of the community's permanent housing stock (24 CFR 570.202(a)).
8. For NSP funds, HERA requirements supersede some CDBG requirements (see III.A.1) to allow for the eligible uses in section 2301(c)(3) of HERA. The NSP categories and CDBG entitlement grant regulations are listed in Section II.H.3.a. of NSP3 Notice, 75 FR 64332-64333. The NSP eligible uses are to:
 - a. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.
 - b. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment.
 - c. Establish and operate land banks for homes and residential properties that have been foreclosed upon.
 - d. Demolish blighted structures.
 - e. Redevelop demolished or vacant properties.

9. The NSP3 Notice lists the CDBG-eligible activities HUD has determined best correlate to these specific NSP-eligible uses. Grantees must receive written HUD approval to undertake activities other than those listed in Section II.H., Eligibility and Allowable Costs, of NSP3 Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP3 Notice, 75 FR 64332-64333).

For NSP funds, NSP requirements supersede existing CDBG requirements (see III.A.1) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. A NSP activity may not qualify using the “prevent or eliminate slums and blight” or “address urgent community development needs” national objectives. The HERA redefines and supersedes the definition of “low- and moderate-income,” effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section III.E. of NSP3 Notice, 75 FR 64329-64331). HUD will refer to this new income group as “middle income” and maintain the regular CDBG definitions of “low-income” and “moderate-income” currently in use (Section 2301(f)(3)(A) of HERA).

For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity (a) provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (b) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (c) serves a limited clientele whose incomes are at or below 120 percent of area median income (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP3 Notice, 75 FR 64329-64331).

10. In addition to the activities allowed for State and Entitlement CDBG, the below flexibilities and unique requirements generally apply to CDBG-DR and CDBG-MIT funds:
 - a. Program administrative costs;
 - b. Program planning costs;
 - c. The HUD Secretary may provide waivers or specify alternative requirements if such waiver is not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974. Common CDBG-DR and CDBG-MIT activities that are eligible and/or modified through a waiver and alternative requirement include:
 - (1) *New housing construction*: HUD waives 42 U.S.C. 5305(a) and 24 CFR 570.207(b)(3) to the extent necessary to permit new housing construction.
 - (2) *Buyouts*: HUD waives 42 U.S.C. 5305(a) and establishes an

alternative requirement only to the extent necessary to create a new eligible activity for buyouts. The term “buyouts” means the acquisition of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that is intended to reduce risk from future hazards.

- (3) *Public benefit for activities that support economic revitalization:* HUD waives the public benefit standards for only those economic development activities designed to create or retain jobs or businesses; please consult applicable *Federal Register* notices for additional details.

- d. CDBG-DR and CDBG-MIT grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits (DOB). Grantees must consult their applicable *Federal Register* notices;

As outlined below, some flexibilities and requirements only apply to certain disaster classes of CDBG-DR awards and to CDBG-MIT awards:

- (1) CDBG-DR awards after 2013
 - i. Assistance for rehabilitation and housing incentives to second homes are prohibited.
 - ii. Business assistance is limited to small businesses.
- (2) CDBG-DR awards for 2015 disasters and beyond
 - i. *Use of administrative funds across multiple grants:* The applicable Appropriations Acts authorize special treatment of grant administrative funds. Beginning in 2015, grantees that have received CDBG-DR or CDBG-MIT grants in the past or in any future acts, may use eligible administrative funds appropriated by these acts for the cost of administering any CDBG-DR or CDBG-MIT grant without regard to the particular disaster appropriation from which such funds originated.
- (3) CDBG-DR awards for disasters which occurred in 2017 and beyond
 - i. Disaster funds cannot be used for rehabilitation/reconstruction assistance to persons with incomes that exceed 120 percent area median income or the national median if they are in a floodplain and did not obtain flood insurance for the damaged property.

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- (4) CDBG-DR awards subject to the Consolidated Notice (2020, 2021, 2022 disasters)
- i. *CDBG-DR mitigation set-aside:* The applicable Appropriations Acts require HUD to include in any allocation of CDBG-DR funds for unmet needs an additional amount of 15 percent for mitigation activities, which HUD refers to as the “CDBG-DR mitigation set-aside.” Unlike recovery activities where grantees must demonstrate that their activities “tie-back” to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, activities funded by the CDBG-DR mitigation set-aside do not require such a “tie-back” to the specific qualified disaster that has served as the basis for the grantee’s allocation.
 - ii. *Interchangeability of disaster funds:* The applicable Appropriations Acts give the Secretary authority to authorize grantees that receive an award for 2020, 2021, and 2022 disasters and under prior or future appropriations to use those funds interchangeably and without limitation for the same activities related to unmet recovery needs in the “most impacted and distressed” (MID) areas resulting from a major disaster in the Appropriations Acts or in prior or future appropriation acts, when the MID areas overlap and when the use of the funds will address unmet recovery needs of major disasters in the Appropriations Acts or in any prior or future appropriation acts.
 - iii. *Prioritizing economic revitalization:* Under the Consolidated Notice, grantees are required to prioritize assistance to disaster-impacted businesses that serve underserved communities and spur economic opportunity for underserved communities that were economically distressed before the disaster.
 - iv. *Assistance to utilities:* Contrary to prior awards, the applicable Appropriations Acts provide that funds “may be used by a grantee to assist utilities as part of a disaster-related eligible activity under section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)).”
- (5) CDBG-MIT
- i. Program administrative costs for the cost of administering any of these grants without regard to the particular disaster

appropriation from which such funds originated.

For applicable CDBG-DR and CDBG-MIT waivers or alternative requirements, auditors should consult the CDBG-DR Laws, Regulations, and Federal Register Notices on HUD.gov:

https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

This page includes the relevant Public Laws that appropriated CDBG-DR and CDBG-MIT funds, the applicable *Federal Register* notices governing those funds, and a short description of the subject or purpose of each *Federal Register* notice listed.

B. Allowable Costs/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E, that require prior federal agency approval are allowable without prior approval, except for the following:
 - a. Depreciation methods for fixed assets shall not be changed without the approval of the federal cognizant agency.
 - b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.
 - c. Organization costs require prior HUD approval.
2. Fines, penalties, damages, and other settlements are unallowable (24 CFR section 570.200(a)(5)).
3. Grantees may use CDBG-CV funds only for those activities carried out to prevent, prepare for, and respond to coronavirus. By law, use of funds for any other purpose is unallowable. The CARES Act provides that CDBG-CV funds may be used to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality incurred on or after January 21, 2020. The term “locality” is not defined by the CARES Act, the HCD Act, or the CDBG program regulations. For purposes of CDBG-CV grants, a “locality” shall mean units of general local government, as defined in section 102 of the HCD Act. The CARES Act also requires that all costs reimbursed with CDBG-CV funds be allowable costs, meaning they comply with all grant requirements. Therefore, as set forth in Section III.B.5.(b) of the CDBG-CV Notice, HUD has adopted the following waivers and alternative requirements to 24 CFR 570.200(h) to facilitate the use of CDBG-CV funds to reimburse allowable costs by modifying current regulations that are inconsistent with CARES Act reimbursement authority and imposing safeguards to help ensure the allowability of all costs charged to the CDBG-CV grant:

Grantees shall not reimburse costs incurred before January 21, 2020, without written approval from HUD's Office of Block Grant Assistance (OBGA), by emailing the contact person listed at the beginning of the CDBG-CV Notice. HUD is imposing a presumption that costs of activities undertaken before January 21, 2020, the date the Centers for Disease Control and Prevention confirmed the first case of coronavirus in the United States in the State of Washington, are highly unlikely to be eligible for reimbursement because they likely are not costs to prevent, prepare for, and respond to coronavirus. The need to pay for coronavirus-related costs incurred after this date far exceeds the amount of CDBG-CV funds available. HUD cautions that it will only consider granting written approval in extraordinary cases where the clear link to the purposes of the CARES Act is documented by substantial evidence provided to HUD by the grantee. Inquiries related to this requirement can be submitted to the contact identified in the CDBG-CV Notice.

HUD has waived the requirements of 570.200(h) to the extent necessary to authorize a grantee to permit reimbursement of pre-application costs of subrecipients, units of general local government, and itself, in addition to pre-agreement and pre-award costs. However, an environmental review must be performed, and a release of funds must be obtained in accordance with 24 CFR Part 58 prior to committing CDBG-CV funds to reimburse such costs. After the grantee signs a CDBG-CV agreement, it may reimburse a unit of general local government or subrecipient for costs incurred before the unit of general local government or subrecipient applies to the grantee for assistance.

For grantees subject to the entitlement CDBG regulation at 24 CFR 570.200(h), the following waivers and alternative requirements apply:

In lieu of the effective date described at 570.200(h), the grantee shall use the date in Box 4 of Form HUD-7082, Funding Approval/Agreement.

HUD is waiving the requirement at 570.200(h)(1)(i) and (ii) that the activity for which costs are incurred must be included in a consolidated plan action plan or amended consolidated plan action plan before incurring the costs. Instead, the activity for which costs were incurred must be included in the grantee's CDBG-CV application before CDBG-CV funds are used to reimburse those costs. Or, if the use of CDBG-CV funds for reimbursements is not included in the CDBG-CV application, this use may be included in a subsequent amendment to the annual action plan that describes the use of the CDBG-CV funds (following the grantee's citizen participation plan procedures for amendments).

To facilitate the use of funds provided under a one-time grant rather than an annual appropriation, HUD is waiving the time limitation and the monetary limitation on reimbursements in 570.200(h)(1)(v) and (vi) and related provisions at 570.200(h)(2). HUD is not waiving the requirement at 570.200(h)(1)(iii) to comply with the environmental review procedures stated in 24 CFR Part 58.

All grantees may authorize subrecipients to incur pre-award costs in accordance with pre-award cost authority under 24 CFR 570.200(h), as modified above.

F. Equipment and Real Property Management

1. Except for awards to faith-based organizations, the real property requirements at 24 CFR Part 200 do not apply. The requirements that apply are in 24 CFR 570.505 (24 CFR section 570.502(a)(5)).
2. NSP grantees that have established and currently operate land banks for homes and residential properties that have been foreclosed upon shall have in place a land bank management plan that will facilitate management and eventual disposition of the land bank inventory. Please reference *Federal Register* Notice of Neighborhood Stabilization Program; Closeout Requirements and Recapture (77 FR 70799).

The CDBG definition of the eligible activity of disposition, at 24 CFR 570.201(b), includes the “reasonable costs of temporarily managing such property.” HUD interprets this to include ongoing maintenance such as board-up, lawn-mowing, spot repairs, and other related functions that keep the property in a condition that stabilizes the neighborhood. Grantees managing scattered-site properties meeting the CDBG definition of a disposition activity must identify each property as a separate disposition activity in IDIS.

3. When equipment is sold, the proceeds are considered program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient (24 CFR section 570.502(a)(6)).

H. Period of Performance

1. CDBG entitlement funds must be expended by the end of the eighth fiscal year after the fiscal year of appropriation. This requirement applies to annual CDBG appropriations. Funds must be expended by the end of the fifth fiscal year following the period of obligation. Annual appropriations legislation historically has provided an obligation period of three years for CDBG funding; the combined effect is to provide an expenditure period of eight fiscal years from the fiscal year of appropriation (31 USC 1552).
2. As set forth in Section III.B.7. of CDBG-CV Notice, grantees must expend all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) within the six- year period of performance established by the CDBG-CV grant agreement. CDBG-CV funds will not be included in determining compliance with the timely expenditure requirements applicable to annual formula CDBG grants found at 24 CFR 570.902.
3. NSP1 grantees are required to expend an amount equal to or greater than the initial allocation of NSP1 funds within four years of receipt of those funds

(Section II.M. of NSP3 Notice, 75 FR 64336-64337).

4. NSP3 grantees are required to expend an amount equal to or greater than 50 percent of their initial allocation of NSP3 funds within two years of receipt of those funds and 100 percent of their initial allocation of NSP3 funds within three years of receipt of those funds (Section II.M. of NSP3 Notice, 75 FR 64336- 64337).
5. The appropriation accounting provisions in 31 USC 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. No. 101–510), limit the availability of certain appropriations for expenditure. Such a limitation may not be waived. The appropriations acts for NSP1 and NSP3 grants direct that these funds be available until expended. Notwithstanding these provisions, *Federal Register* Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (84 FR 48165) added the following language to Section X. of the Unified NSP1 and NSP3 Notice:

“Note that NSP I and NSP3 grant funds are subject to 31 U.S.C. 1555, which states, ‘An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if (1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and (2) no disbursement has been made against the appropriation for two consecutive fiscal years.’”

6. CDBG-DR grantees are required to expend their grant typically within 180 days or the time period defined in the applicable Federal Register following the execution of a grant agreement with HUD:
 - a. HUD instituted a six-year expenditure deadline on all CDBG-DR grantees. A grantee receiving CDBG-DR grants under the Public Laws listed below is required to expend 100 percent of the grant on eligible activities within six years of HUD’s execution of the initial grant agreement:
 - (1) A CDBG-MIT grantee must expend 50 percent of the grant on eligible activities within six years of HUD’s execution of the grant agreement and 100 percent of its grant within 12 years of HUD’s execution of the agreement;
 - (2) CDBG-DR funds awarded under these public laws are eligible for an expenditure extension at the end of the original grant term for up to two years to provide grantees with flexibility during the COVID-19 pandemic.
 - b. Pub. L. 117–328 provided that CDBG–DR grant obligations made before September 30, 2017, from funds made available under Public Law 113–2are

to remain available until expended. The requirements at 2 CFR 200.211(b) require all Federal awards to include a period of performance and budget period. Therefore, HUD revised the period of performance and budget period for open Federal awards made under Public Law 113-2 with an end date of September 30, 2029. HUD may extend the grant period of performance and budget period administratively.

A grantee receiving CDBG-DR awards prior to Pub. L. 113-2 (or under the Public Laws listed in Section III) must expend 100 percent of the funds within two years of the date its grant agreement with HUD is executed. Generally, a remaining active CDBG-DR grantee has funds available until expended.

The following public laws apply to the corresponding information above and is in the table below.

Section	Public Law(s)	Expenditure Deadline
I.	114-113, 114-223, 114-254, 115-31, 115-56, 115-123, 115-254, 116-20, 117-43, 117-180, 117-328	Expend 100% within six years.
I.a.	115-123 and 116-20	Expend 50% within six years and 100% within 12 years.
I.b.	114-113, 114-223, 114-254, 115-31, 115-56, 115-123	Eligible for an expenditure extension for up to two years to provide grantees with flexibility during the COVID-19 pandemic.
II.	113-2	To remain available until expended.
III.	107-73, 107-38, 107-117, 117-206, 108-324, 109-148, 109-324, 109-148, 109-234, 110-116, 110-252, 110-329, 111-212, 112-55	Expend 100% of the funds within two years of the date its grant agreement with HUD is executed.

For funds appropriated under Pub. L. 114-113, 114-254, 115-31, 115-56, 115-123, 115-254, 116-20, 117-43, 117-180, and 117-328 for CDBG-DR and CDBG-MIT grants, HUD may extend the period of performance administratively, if good cause for such an extension exists, as requested by the grantee, and approved by HUD.

J. Program Income

1. The grantee must accurately account for any program income generated from the use of CDBG funds and must treat such income as additional CDBG funds which are subject to all program rules. Program income does not include income received in a single program year by the grantee and all of its subrecipients if the total amount of

such income does not exceed \$25,000 (24 CFR sections 570.500, and 570.504).

2. Making loans and collecting the payments on those loans can be a significant source of program income for grantees. The use of income derived from loan payments is subject to program requirements. This carries with it the responsibility for grantees to have a loan origination and servicing system in effect which ensures that loans are properly authorized, receivables are properly established, earned income is properly recorded and used, and write-offs of uncollectible amounts are properly authorized (24 CFR sections 570.500 and 570.504).
3. When equipment is sold, the proceeds are considered program income. Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient (24 CFR section 570.502(a)(6))
4. As set forth in Section III.B.6.(a) of the CDBG-CV Notice, the receipt and expenditure of program income that is generated by the use of CDBG-CV funds shall be treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program. Based on this treatment of program income, the use of CDBG-CV funds for float-funded activities or guarantees as described at 24 CFR 570.301(b) and section 104(h) of the HCD Act is not allowed.

A grantee may permit subrecipients to retain program income from the use of CDBG-CV funds if the amount held does not exceed the subrecipient's projected cash needs for CDBG activities including activities to prevent, prepare for, and respond to coronavirus.

As program income to the grantees' annual formula CDBG programs, income generated from CDBG-CV activities will be included in timely expenditure compliance determinations for each entitlement grantee's annual formula CDBG program and be subject to the requirements found at 24 CFR 570.902.

Removing the cap in Section 105(a)(8) of the HCD Act for activities to prevent, prepare for, and respond to coronavirus also removes the public services cap on the use of the program income, and removes the corresponding regulatory cap in 24 CFR 570.201(e) for CDBG-CV funds and fiscal year 2019 and 2020 funds used to prevent, prepare for, and respond to coronavirus.

Program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the public service cap and the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG-CV funds. For purposes of calculating the public services cap, the treatment of program income generated by the CDBG-CV grant and received (i.e., documented in IDIS) by the annual formula CDBG program shall be considered as any other program income received by the

annual formula CDBG program.

5. NSP1 or NSP3 revenue received by a unit of general local government or subrecipient that is directly generated from the use of CDBG funds (which includes NSP1 and NSP3 grant funds) constitutes CDBG program income. The CDBG definition of program income shall be applied to amounts received by units of local government and subrecipients (24 CFR section 570.500; Section II.N. of NSP3 Notice, 75 FR 64337). HERA, however, imposes limitations and requirements that necessitate an alternative requirement to govern the use of program income generated by NSP activities. The limitations and requirements are based on the NSP activity that generated the program income and on the date the income is received (Section 2301(d)(4) of HERA).
 - a. Any revenue from the sale, rental, redevelopment, rehabilitation, or any other eligible use of NSP funds is to be provided to and used by the unit of local general government. This provision includes revenue received by a private individual or other entity that is not a subrecipient (Section 2301(d)(4) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).
 - b. Program income which is generated by NSP activities carried out pursuant to Section 2301(c)(3) of HERA may be retained by the unit of local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301 (Section 2301(c)(3) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).
6. With the advent of *Federal Register* Notice of Changes to NSP Closeout Requirements Related to Program Income (81 FR 38730) and the succeeding NSP closeout notice, Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (84 FR 48165), NSP1 and NSP3 grantees with CDBG annual formula programs may transfer not only NSP program income on hand, but also a future stream of NSP program income for an activity to the annual CDBG program, eliminating the need for multiple written requests to transfer program income that is anticipated, but not yet received.
7. For CDBG-DR and CDBG-MIT, program income is revenue generated from a CDBG or CDBG-DR eligible activity. HUD grantees adhere to the program income requirements in CDBG regulation 24 CFR § 570.504, unless program income is waived by HUD. The *Federal Register* notices include waivers and alternative requirements associated with each grant, thereby waiving program income, or providing an alternative requirement in each applicable notice. The grantee must receipt program income and expenditures in the DRGR system. Program income must be expended in DRGR before drawing additional program funds.

There are several ways the grantee can generate program income. Program income can be generated in the following ways, but not limited to:

- a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- b. Proceeds from the sale or lease of equipment purchased with CDBG funds;
- c. Gross income from the use or rental of real or personal property acquired, constructed or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;
- d. Payments of principal and interest on loans made using CDBG funds; and
- e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds.

As outlined above, the program income requirements for CDBG-DR and CDBG-MIT grants are contained in *Federal Register* notices, which can be viewed at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable (cash status only) (*this is the IDIS PR29 Cash on Hand Quarterly Report made available in IDIS on August 12, 2019, which allows grantees to generate this report by custom date ranges and export data to Excel and PDF*)
- d. *Integrated Disbursement and Information System (IDIS)* (OMB No. 2506-0077) – Grantees may include reports generated by IDIS as part of their annual performance and evaluation report that must be submitted for the CDBG Entitlement program 90 days after the end of a grantee's program year. Section IV.B.2.(c) of the CDBG-CV Notice reiterated the waiver authorized by a May 7, 2020, HUD memorandum (found in the waiver information link noted in IV. *Other Information*, below) that waives the 90 day requirement for program year 2019 annual performance and evaluation reports, subject to the condition that within 180 days after the close of a jurisdiction's program year that it submit its performance report.

Auditors are only expected to test information extracted from IDIS in the following system-generated reports:

- (1) PR26 – CDBG Financial Summary Report (restricted as of September 14, 2020, to run for CDBG annual formula grants only) This report can be used to check program income reported in IDIS (line 05), overall low-mod income benefit compliance (line 22), percent of funds obligated to the public services (line 36), and percent of funds obligated to the planning and administrative activities during the program year (line 46).
 - (2) PR26 – CDBG-CV Financial Summary Report (made available September 14, 2020, to run for CDBG CARES Act grants only) This report can be used to check the overall low-mod income benefit compliance (line 15) and percent of funds expended for the planning and administrative activities (line 21).
 - (3) PR26 – CDBG Activity Summary by Selected Grant this report can be used to check percentage of funds expended for the planning and administrative activities for origin year 2015 and later grants (This is located in ‘column % of CDBG Drawn From Selected Grant for Total Administrative and Planning’).
 - (4) PR29 – CDBG Cash on Hand Quarterly Report can be used to show that the grantee is not carrying a cash on hand balance for the grant funds from quarter to quarter and that grant funds are not drawn if program income funds are available.
 - (5) PR29 – CDBG-CV Cash on Hand Quarterly Report (available in IDIS in July 2021) can be used to show that the grantee is not carrying a cash on hand balance for the grant funds from quarter to quarter.
- e. *Section 15011 of the CARES Act* requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing: information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. This report is limited to CDBG-CV funding and does not include other CDBG funds that may be used to address coronavirus. The requirements have been outlined in OMB memorandum M-20-21, *Implementation Guidance for Supplement Funding in Response to the Coronavirus Disease (COVID-19)* (available at <https://www.whitehouse.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf>). Grantees and subrecipients have reported data meeting the Section 15011 requirements at usaspending.gov. The Pandemic Response Accountability Committee (PRAC), an independent oversight committee within the Council of the Inspectors General on Integrity and Efficiency, has determined that the data

reported in usaspending.gov has fulfilled these reporting requests.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3 – Compliance Requirements, Section L. Reporting, for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements The Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1205 of Pub. L. No. 111-32; 24 CFR section 570.603).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

As with annual formula CDBG grants, CDBG-CV grants are subject to the Wage Rate Requirements, known more popularly as the Davis-Bacon prevailing wage requirements imposed by section 110(a) of the HCD Act. Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where federal assistance is not approved prior to contract award (or the beginning of construction if there is no contract award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications. However, if there is no evidence that the owner intended to apply for the CDBG-CV assistance prior to the contract award or the start of the construction, HUD may request that DOL allow prospective, rather than retroactive, application of the Davis-Bacon wage rates. DOL may allow prospective application of Davis-Bacon requirements when it finds that it is necessary and proper in the public interest to prevent injustice or undue hardship and it finds no intent to apply for the federal assistance before contract award or the start of construction. The CDBG-CV Grantee should contact a HUD Labor Relations Specialist if such a situation arises.

2. Citizen Participation

Compliance Requirements At the time of submission to HUD for its annual grant, the grantee

must certify to HUD that it has met the citizen participation requirements in 24 CFR section 91.105.

The CARES Act modifies some CDBG program requirements to provide immediate support for efforts to address coronavirus. The modifications, which are described in more detail in Section III. of the CDBG-CV Notice, permit the following:

- a. A public comment period of no less than five days when citizen participation is required (detailed in Section III.B.4.(a)(i) of the CDBG-CV Notice)
- b. A grantee to develop expedited citizen participation procedures and to hold virtual public hearings when necessary for public health reasons (Section III.B.4.(a)(i) of the CDBG-CV Notice)

Section III.B.4.(a)(iii) of the CDBG-CV Notice includes a corollary waiver and alternative requirement to permit states to extend these flexibilities to units of general local government and insular areas.

Section III.B.4.(a) of the CDBG-CV Notice applies to all fiscal year 2019 and 2020 annual formula CDBG grants, regardless of the use of funds. This section of the CDBG-CV Notice describes the program flexibilities provided by the CARES Act related to expedited citizen participation and virtual hearings. When this section refers to CDBG-CV funds, it shall apply equally to fiscal years 2019 and 2020 CDBG grants.

HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The provisions of 24 CFR section 91.105 with respect to following the citizen participation plan are waived to allow the jurisdiction to provide no fewer than 15 calendar days for citizen comment, rather than 30 days, for its initial NSP submission (Section II.B.4 of NSP3 Notice, 75 FR 64328).

Grantees must identify what constitutes a substantial amendment to their action plan in their citizen participation plans. Grantees must identify a change in the use of CDBG funds from one activity to another as a substantial amendment, which is subject to the citizen participation process (24 CFR Part 91, Subpart C, and sections 91.105(c) and 91.505).

To permit a more streamlined process and ensure CDBG-DR grants are awarded in a timely manner, HUD waives provisions of 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 570.486, 24 CFR 1003.604, 24 CFR 91.105(b) through (d), and 24 CFR 91.115(b) through (d), with respect to citizen participation requirements, and replaces the provisions with alternative requirements.

For CDBG-DR awards before 2017 disasters, the streamlined requirements require CDBG-DR grantees to publish its action plan for no less than 14 calendar days. For CDBG-DR awards for 2017 disasters and beyond, the streamlined requirements require CDBG-DR grantees provide a reasonable opportunity (at least 30 days) for citizen comment. The

grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in notices providing waivers and alternative requirements). Each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements). Additionally, CDBG-DR awards subject to HUD's Consolidated Notice (2020, 2021, and 2022) must also include public hearings on the proposed CDBG-DR action plan.

For CDBG-MIT grantees, HUD also waives 42 U.S.C. 5304(a)(2) and (3), 42 U.S.C. 12707, 24 CFR 570.486, 24 § 91.105(b) and (c), and 24 CFR 91.115(b) and (c), with respect to citizen participation requirements. The revised requirements mandate public hearings (the number of which is based upon the amount of a grantee's CDBG-MIT allocation) across the HUD-identified MID areas and require the grantee to provide a reasonable opportunity (at least 45 days) for citizen comment and ongoing citizen access to information about the use of grant funds.

While the above waivers and alternative requirements reflect the most recent CDBG-DR citizen participation requirements for grantees subject to the Consolidated Notice and the long-standing CDBG-MIT requirements at 84 FR 45852 of the Main CDBG-MIT Notice published on August 30, 2019, auditors should review the *Federal Register* notices for additional details concerning each grantee's applicable citizen participation requirements at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

Audit Objectives Determine whether the grantee has developed and implemented a citizen participation plan, including identifying what constitutes a substantial amendment.

Suggested Audit Procedures

- a. Verify that the grantee has a citizen participation plan.
- b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.
- c. Verify that the grantee has identified what constitutes a substantial amendment to its citizen participation plan, and a change in the use of CDBG funds from one activity to another is among the criteria for a substantial amendment.
- d. Examine the grantee's citizen participation records, including items such as public hearing records and minutes, sign-in sheets, and mailing lists of interested parties for evidence that the elements of the citizen's participation plan were followed as the grantee certified.

3. Required Certifications and HUD Approvals

Compliance Requirements CDBG funds (and local funds to be reimbursed with CDBG funds) cannot be obligated or expended before receipt of HUD's approval of a Request for

Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR section 58.34 and categorically excluded activities under section 58.35(b) (24 CFR section 58.22).

Audit Objectives Determine whether the grantee is obligating and expending program funds only after HUD's approval of the RROF.

Suggested Audit Procedures

- a. Examine HUD's approval of the RROF and environmental certification and note dates.
- b. Review the expenditure and related records to ascertain when CDBG funds and local funds which were reimbursed with CDBG funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD's approval of the RROF.

4. Environmental Reviews

Compliance Requirements Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR sections 58.1, 58.22, 58.34, 58.35, and 570.604).

As is noted in Section III.B.6.(d)(iii) of the CDBG-CV Notice, HUD's environmental review regulations in 24 CFR Part 58 include two provisions that may be relevant to environmental review procedures for activities to prevent, prepare for, and respond to coronavirus. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of Part 58 or undertake any environmental review, consultation, or other action under National Environmental Policy Act (NEPA) and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially declared or locally declared public health emergency is discussed in the Notice, *Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19* (CPD-20-07) posted at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf>.

CDBG-DR grantees are required to ensure every project/activity undergoes the appropriate level of environmental review and receives clearance and Authorization to Use Grant Funds (AUGF) prior to expending any funds. As a result, special circumstances apply to HUD environmental reviews for disaster recovery efforts, and an environmental review is required accordingly: (a) analysis of impacts of a project on the surrounding environment and vice versa, (b) demonstrates compliance with federal environmental laws and authorities, (c) encourages public participation. Additional CDBG-DR environmental review information and federal regulations can be found on HUD.gov at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/environmental-review and on the HUD Exchange at <https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment/#unified-federal-review>.

Audit Objectives Determine whether environmental reviews are being conducted, when required.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications that the environmental reviews were made.
- b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required. Test whether documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35(b). Some CDBG-DR grantees may use the environmental review for projects that are also funded with FEMA. See *Federal Register* notices.

5. Rehabilitation

Compliance Requirements When CDBG and CDBG-CV funds are used for rehabilitation, the grantee must ensure that the work is properly completed (24 CFR section 570.506). Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, or habitability, in order to sell, rent, or redevelop such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation (Section 2301(d)(2) of HERA; Section II.I. of NSP Notice, 73 FR 58338).

Audit Objectives Determine whether the grantee ensures that rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Verify that pre-rehabilitation inspections are conducted describing the deficiencies to be corrected.

- b. Ascertain that the deficiencies to be corrected are incorporated into the rehabilitation contract.
- c. For NSP projects, review rehabilitation standards.
- d. Verify through a review of documentation that the grantee inspects the rehabilitation work upon completion to assure that it is carried out in accordance with contract specifications, and that NSP projects were carried out in accordance with rehabilitations standards.

6. Section 3 of the HCDA

Compliance Requirements Grantees must establish and maintain documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in IDIS or DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75)

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

- a. Review the grantee's Section 3 policy and procedures.
- b. Review a sample of grant agreements for housing rehabilitation, housing construction, or other public construction projects, **to determine if the grantee notified subrecipients of requirements** to maintain or ensure that a subrecipient, contractor, or subcontractor maintains adequate records demonstrating Section 3 compliance.

IV. OTHER INFORMATION

Further information about CDBG-CV funding and uses of funds may be found at https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19.

Further information about available waivers of program requirements for CDBG-CV and other CPD programs may be found at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

Additional grantee CDBG-CV program implementation resources may be found at <https://www.hudexchange.info/programs/cdbg-cv/>.

Information on CDBG-DR and CDBG-MIT waivers and alternative requirements issued by HUD can be found at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

HUD Compliance Reviews. Auditors may consult HUD's Community Planning and Development Monitoring Handbook for the specific compliance review exhibits that HUD uses to determine compliance. The CDBG-DR monitoring exhibits can be found at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2. CDBG monitoring exhibits can be found in Chapter 3 following the same link.

Further instructions to grantees who report in DRGR on compliance with Section 3 reporting may be found at <https://www.hudexchange.info/resource/6413/drgr-fact-sheet-drgr-guidance-on-reporting-section-3-labor-hours/>.

Guidance on Section 3 compliance and reporting may also be found in CPD Notice 21-09, *Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992, final rule requirements for CDBG, CDBG-CV, CDBG- DR, CDBG-MIT, NSP, Section 108, and RHP projects*, found at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-09cpdn.pdf>.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.228 COMMUNITY DEVELOPMENT BLOCK
GRANTS/STATE'S PROGRAM AND NON-ENTITLEMENT GRANTS IN HAWAII****I. PROGRAM OBJECTIVES**

The Community Development Block Grant (CDBG) program overall objective is to develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income. CDBG Coronavirus Aid, Relief, and Economic Security (CARES) Act (CDBG-CV) funds made available under an emergency appropriation on March 27, 2020, are to be used similarly, but must also prevent, prepare for, and respond to coronavirus.

Additional funds were made available under the Further Consolidated Appropriations Act, 2020 for activities authorized under Section 8071 of the SUPPORT for Patients and Communities Act (Recovery Housing Program) to provide stable, temporary housing to individuals in recovery from a substance use disorder. This supplement also includes CDBG Disaster Recovery (CDBG-DR) funds, CDBG Mitigation (CDBG-MIT) funds, and Neighborhood Stabilization Program (NSP1, NSP3) funds.

This compliance supplement is for State CDBG grantees and their subrecipients. Program regulations may also use the term subgrantee. There is a separate compliance supplement for Entitlement CDBG.

II. PROGRAM PROCEDURES**A. Overview**

The primary objective of CDBG is the development of viable urban communities. These viable communities are achieved by providing the following, principally for persons of low and moderate income: decent housing; a suitable living environment; and expanded economic opportunities. Each activity, except for program administration and planning activities, must meet one of three national objectives. The three national objectives are: benefit to low- and moderate-income (LMI) persons; aid in the prevention or elimination of slums or blight; and meet a need having a particular urgency (referred to as urgent need).

To achieve these goals, the State CDBG program's statutory and regulatory requirements set forth eligible activities and the above national objectives. As recipients of CDBG funds, State CDBG grantees are charged with ensuring that these requirements are met. States are responsible for:

1. Designing the CDBG Program within statutory and regulatory parameters;

2. Setting priorities and deciding what activities to fund;
3. Distributing funding according to the method of distribution;
4. Establishing financial management, recordkeeping, reporting, monitoring, audit and closeout systems for their programs;
5. Ensuring compliance by state grant recipients; and
6. Developing the Consolidated Plan.

Under the annual State CDBG Program, states award grants to non-entitlement units of general local government (UGLGs) that develop and preserve decent affordable housing, to provide services to the most vulnerable in their communities, and to create and retain jobs. Annually, each State develops funding priorities and criteria for selecting projects. A state distributes most of its allocation to non-entitlement UGLG through a method of distribution. Non-entitlement UGLGs are those which do not receive CDBG funds directly from HUD as entitlement grantees. The state is primarily a pass-through entity, as defined by 2 CFR Part 200, except for certain activities a state may carry out directly, such as administration and technical assistance activities.

Forty-nine (49) states and Puerto Rico participate in the State CDBG Program. The State of Hawaii elected not to participate in the State CDBG Program and should be reviewed under Assistance Listing 14.218. Non-entitlement UGLGs are responsible for prioritizing the types of activities they apply for, carrying out eligible activities, complying with federal and state requirements, and handling local citizen participation.

The grantee prepares a Consolidated Plan in accordance with 24 CFR Part 91 and which describes needs, resources, priorities, and proposed activities it will undertake for HUD's Community Planning and Development (CPD) formula programs, including CDBG. A final Consolidated Plan is one which has been accepted by HUD. State CDBG grantees report on accomplishments and progress toward Consolidated Plan goals in the Consolidated Annual Performance and Evaluation Report (CAPER).

The method of distribution (MOD) is part of the Consolidated Plan and describes the kinds of activities the state wants to fund and a process for soliciting funding applications from UGLGs. The MOD must describe how all CDBG resources will be allocated among funding categories.

B. Financial and Performance Requirements

Each State CDBG grantee is required to submit a performance and evaluation report concerning the use of CDBG funds. This required report is the Consolidated Annual Performance and Evaluation Report (CAPER). State CDBG grantees submit the State Performance and Evaluation Report (State PER) as a supplement to the CAPER report

which specifically addresses a number of State CDBG regulatory requirements, such as: the public benefit standards; the overall benefit to low- and moderate-income persons; the maximum allowable costs for administration, technical assistance, and overall planning, management and administration; and the maximum allowable costs for public service activities. These requirements may be modified for subprograms. These differences will be reflected in Section III Compliance Requirements G. Matching, Level of Effort and Earmarking below.

C. Subprograms/Program Elements

1. CDBG-CV

Unlike the annual formula program, a state may use its CDBG-CV funds to act directly to carry out activities through employees, contractors, and subrecipients and may use a portion of its funds in all geographic areas within its jurisdiction, including in entitlement areas and Tribal areas.

2. CDBG-DR and CDBG-MIT

The primary objective for CDBG-DR is to provide disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster, declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

Congress may appropriate funding for CDBG-DR grants to address disaster recovery needs that are not met by other sources of Federal disaster assistance. When available, HUD provides CDBG-DR grants to states, territories, and local governments particularly to be used for specific disaster recovery purposes.

Generally, all CDBG-DR activities must:

1. Be CDBG-eligible (or eligible under a waiver or alternative requirement);
2. Meet a national objective; and
3. Meet an unmet recovery need that addresses a direct or indirect impact from an eligible disaster.

For CDBG-MIT, Congress appropriated \$16,121,297,000 in CDBG funds specifically for mitigation activities for qualifying disasters in 2015, 2016, 2017, and 2018 under Public Law 115–123 and Public Law 116–20. CDBG-MIT is a unique and significant opportunity for eligible grantees to use this assistance in areas impacted by specific disasters to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

For CDBG-MIT, mitigation activities are defined as activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and

loss of property, and suffering and hardship by lessening the impact of future disasters. The mitigation objectives and efforts align with other federal programs that address hazard mitigation to create a more cohesive effort at the federal, state, and local level.

Similar to CDBG-DR funds, the use of CDBG-MIT funds must also occur within the CDBG framework. All CDBG-MIT activities must: (1) meet the definition of mitigation activities above; (2) address current and future risks; (3) be CDBG-eligible (or eligible under a waiver or alternative requirement); and (4) meet a national objective.

CDBG-DR and CDBG-MIT grants have a statutory focus on benefiting vulnerable lower-income people and communities and targeting the most impacted and distressed areas.

3. *Neighborhood Stabilization Program (NSP1 and NSP3)*

The objectives of the Neighborhood Stabilization Program (NSP) are to: (1) Stabilize property values. 2. Arrest neighborhood decline. 3. Assist in preventing neighborhood blight. 4. Stabilize communities across America hardest hit by residential foreclosures and abandonment. These objectives have been achieved through the purchase and redevelopment of foreclosed and abandoned homes and residential properties that allows those properties to turn into useful, safe and sanitary housing. The grants are to be considered CDBG funds. NSP2 and NSP-TA, are covered by the Compliance Supplement Assistance Listing 14.256 and audited separately.

4. *Recovery Housing Program (RHP)*

The objective of the RHP program is to support individuals in recovery from a substance use disorder onto a path to self-sufficiency. By providing stable housing to support recovery, RHP supports efforts for independent living through developing housing or maintain housing for individuals. States may carry out activities directly or through subrecipients or contractors with their RHP funds and in all geographic areas within its jurisdiction, including entitlement areas and tribal populations.

This pilot program authorizes assistance to grantees (states and the District of Columbia) through fiscal year 2024 to provide stable, temporary housing to individuals in recovery from a substance use disorder through fiscal year 2023.

Source of Governing Requirements for Subprograms

The CDBG program is authorized by the Housing and Community Development Act of 1974, Title I, Section 101-122, Pub. L. No. 93-383, Statute 88,633, 42 US Code 5301-5322 (“HCDA”). Program regulations are found in 24 CFR part 570, primarily in Subpart I. Program specific requirements for administrative costs, pre-agreement costs, fiscal controls and accounting procedures, program income and real and personal property (equipment) and cost principles can be found at 24 CFR 570.489.

In addition to federal statutory and regulatory requirements, a state has the authority to issue

rules consistent with federal statutes and regulations. An auditor should review the State CDBG program requirements rules before beginning the audit (24 CFR 570.480 and 570.481). The CDBG loan guarantee component is authorized by Section 108 of the Housing and Community Development Act of 1974. The specific regulations governing the Section 108 Program may be found at 24 CFR 570, Subpart M, Loan Guarantees.

CDBG-CV is authorized in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136, March 27, 2020) title 12 of Division B. HUD published a “Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for CDBG-CV Grants, FY 2019 and 2020 CDBG Grants, and for Other Formula Programs” ([85 FR 51457, August 20, 2020](#)) (“CDBG-CV Notice”) that establishes the program rules, alternative requirements, and the regulatory waivers for the use of CDBG-CV funds. HUD published a “Notice of Change to an Expenditure Deadline Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants” ([88 FR 23683](#), April 18, 2023) (“CDBG-CV Notice 2”) to remove one of the regulatory waivers and alternative requirements applicable to the CDBG-CV funds.

CDBG-DR and CDBG-MIT are not codified programs. Congress appropriates disaster recovery funds on a periodic basis following major disasters. Funding is authorized under Title I of the HCDA. The following public laws were the appropriation acts that provided funding for each disaster: Pub. L. nos. 117-328; 117-180; 117-43; 116-20; 115-254; 115-123; 115-72; 115-56 (Division B); 115-31 (Sec. 421); 114-254; 114-223; 114-113; 113-2; 112-55; 111-212; 110-329; 110-252; 110-116; 109-234; 109-148; 108-324; 107-206; 107-117; 107-73; and 107-38.

HUD is authorized to administer CDBG-MIT under Title I of the HCDA. The public laws that appropriated funds for this purpose include Pub. L. nos. 115-123 (Division B) and 116-20 (Division B).

The rules and regulations governing CDBG funds apply to CDBG-DR and CDBG-MIT funds unless otherwise waived or altered in a *Federal Register* notice. The auditor must consult the relevant public law and *Federal Register* notices for the CDBG-DR or CDBG-MIT award. The auditor can find links to the appropriate public laws and *Federal Register* notices at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NSP1 is authorized by the Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010) authorized additional funding for NSP that is referred to as NSP3.

RHP is authorized in Section 8071 of the SUPPORT for Patients and Communities Act (Pub. L. No. 115-271, October 24, 2018). HUD established the requirements for the RHP program, based on CDBG program requirements, in the “Notice of FY2020 Allocations, Waivers, and Alternative Requirements for the Housing Program” ([85 FR 75361](#), November 25, 2020) (“RHP Program Notice”). Those requirements include waivers and alternative requirements to CDBG regulations and the HCDA for the use of RHP funds appropriated under the FY 20 Appropriations Act (Pub. L. No. 116-94, December 20, 2019). HUD extended those

requirements through the “Notice of Waivers and Alternative Requirements for the Pilot Recovery Housing Program” ([86 FR 38496](#), July 21, 2021) (“RHP Notice 2”) to RHP funds appropriated by the FY 21 Appropriations Act (Pub. L. No. 116-260, December 27, 2020) and any future RHP appropriations.

Availability of Other Program Information

HUD publishes “CPD Notices” which provide interpretive guidance on program requirements.

These Notices may be found at HUDClips,

https://www.hud.gov/program_offices/administration/hudclips/notices/cpd.

The CPD Notice for financial and performance reporting is CPD Notice 2021-11 Reporting Requirements for the State Performance and Evaluation Report (State PER). This Notice provides instructions on the financial statements used by State CDBG grantees in lieu of SF-425.

State CDBG Website: <https://www.hudexchange.info/programs/cdbg-state/>

CDBG-CV website:

https://www.hud.gov/program_offices/comm_planning/cdbg_programs_covid-19

CDBG-CV Notice 1: <https://www.govinfo.gov/content/pkg/FR-2020-08-20/pdf/2020-18242.pdf>

CDBG-CV Notice 2 <https://www.hud.gov/sites/dfiles/CPD/documents/FR-Document-2023-08158.pdf> CDBG-DR Website: https://www.hud.gov/program_offices/comm_planning/cdbg-dr

CDBG-MIT Website: https://www.hud.gov/program_offices/comm_planning/cdbg-dr/cdbg-mit

Information on CDBG-DR and CDBG-MIT waivers and alternative requirements issued by HUD can be found at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NSP website:

https://www.hud.gov/program_offices/comm_planning/nsp

NSP Notice (73 FR 58330, October 6, 2008): <https://www.govinfo.gov/content/pkg/FR-2008-10-06/pdf/E8-23476.pdf>

NSP1 Bridge Notice (74 FR 29223, June 19, 2009): <https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14360.pdf>

NSP Definition and Modification Notice (75 FR 18228, April 9, 2010): <https://www.govinfo.gov/content/pkg/FR-2010-04-09/pdf/2010-8131.pdf>

NSP3 Notice (75 FR 64322, October 19, 2010): <https://www.govinfo.gov/content/pkg/FR-2010-10-19/pdf/2010-26292.pdf>

RHP website: https://www.hud.gov/program_offices/comm_planning/rhp

RHP Program Notice: <https://www.govinfo.gov/content/pkg/FR-2020-11-25/pdf/2020-26017.pdf>

RHP Notice 2: <https://www.govinfo.gov/content/pkg/FR-2021-07-21/pdf/2021-15515.pdf>

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	N	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

States may select those activities that best meet the needs of their communities, in accordance with the national objectives and other requirements of the annual formula CDBG program. States must describe activities in the Consolidated Plan.

To meet a national objective, each activity must: benefit low- and moderate-income families; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available. The state must retain documentation justifying its certifications. The requirements for national

objective criteria are contained in 24 CFR sections 570.483 and 570.490.

The requirements for eligible activities are contained in Section 105(a) of the HCDA (42 USC 5305(a)).

1. *Activities Allowed:*

a. *Housing Activities*

- (1) Housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.], energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act)
- (2) Rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937
- (3) Direct home ownership assistance to facilitate and expand home ownership among persons of low- and moderate-income
- (4) Payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated
- (5) Payment for repairs and operating expenses for acquired “in Rem” properties
- (6) Lead-based paint hazard evaluation and removal
- (7) Construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement

b. *Other Real Property Activities*

- (1) Acquisition of real property
- (2) Disposition of real property acquired under this program
- (3) Clearance, demolition, reconstruction, rehabilitation, and removal of buildings and improvements

- (4) Code enforcement in deteriorated or deteriorating areas
 - (5) Relocation assistance
 - (6) Removal of architectural barriers that restrict accessibility of elderly or severely disabled persons
 - (7) Activities related to development of energy use strategies
- c. Public Facilities and Improvements
 - (1) Acquisition, construction, reconstruction, or installation of public works, facilities and sites, or other improvements, including those that promote energy efficiency
- d. Public Services
 - (1) Provision of public services subject to limitations contained in the CDBG regulations
- e. Economic Development
 - (1) Payment to complete a Title 1 Federal Urban Renewal project
 - (2) Acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings
 - (3) Assistance to private, for-profit businesses, when appropriate to carry out an economic development project
 - (4) Assistance to public and private entities (including for-profits) to assist micro-enterprises
- f. Community Based Development Organization
 - (1) Assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of communities in non-entitlement areas to carry out a neighborhood revitalization or community economic development or energy conservation project
- g. Other types of activities
 - (1) Payment of the nonfederal share for another grant program that is part of the assisted activities

- (2) Assistance to institutions of higher education to carry out eligible activities
- h. Planning and Administration
 - (1) Planning activities
 - (2) Administrative costs
 - (3) Technical assistance to public or private entities for capacity building (exempt from the planning/administration cap)

States and non-entitlement UGLGs may have loans guaranteed by HUD through the Section 108 Loan Guarantee program. HUD may guarantee loan funds in an amount no greater than five times the state's most recent annual CDBG grant, less amounts currently guaranteed or due for repayment.

2. *Activities Allowed - Section 108 loan guarantee*

The requirements for Section 108 loan guarantees are contained in Section 108 of the HCDA and 24 CFR section 570.703. Colonias are defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992.

- a. Housing Activities
 - (1) housing rehabilitation
 - (2) construction of housing by nonprofit organizations for homeownership under Section 17 of the United States Housing Act of 1937 or Title VI of the Housing and Community Development Act of 1987
- b. Other Real Property Activities
 - (1) acquisition of real property
 - (2) clearance, demolition, and removal
 - (3) relocation payments
- c. Public Facilities and Improvements
 - (1) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements that

serve “colonias”

- (2) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements and public utilities
- (3) rehabilitation of publicly owned real property

d. Economic Development

- (1) eligible CDBG economic development activity
- (2) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to subpart M or for economic development purposes

e. Other types of activities

- (1) payment of interest on Section 108 guaranteed obligations
- (2) payment of issuance and other costs associated with private-sector financing under subpart M
- (3) debt service reserve

3. *Activities Allowed or Unallowed - CDBG*

- a. CDBG funds may not be used for income payments, which are not included among eligible activities in section 105(a) of the HCD Act. The phrase income payments means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.
- b. The CDBG public benefit standards require certain activities to meet a defined public benefit, and prohibit funding of the following activities:
 - (1) General promotion of the community as a whole
 - (2) Assistance to professional sports teams
 - (3) Assistance to privately owned recreational facilities that serve a predominately higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or

other benefits to low- and moderate-income persons

- (4) Acquisition of land for which the specific proposed use has not yet been identified; and
- (5) Assistance to a for-profit business while that business or any other business owned by the same person(s)/entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

The requirements for public benefits are contained in 24 CFR section 570.482(f).

4. Activities Allowed and Unallowed for CDBG-CV Program

- a. All eligible State CDBG activities for the annual formula CDBG are allowed; however, all activities must also prevent, prepare for, and respond to coronavirus. In addition, the following modifications apply:
- b. Public Service Activities. The CARES Act and the [CDBG-CV Notice](#) eliminated the fifteen percent limitation on the use of CDBG-CV and 2019 and 2020 federal fiscal year CDBG funds to prevent, prepare for, and respond to coronavirus for public service activities (i.e., those activities set forth in Section 105(a)(8) of the HCDA). The cap is still routinely applied to all other 2019 and 2020 federal fiscal year CDBG-funded public service activities that do not address coronavirus.
- c. Emergency Payments: HUD waived section 105(a)(8) of the HCD Act and 24 CFR 570.207(b)(4) only to the extent necessary to establish the following alternative requirement: CDBG-CV funds may be used to provide emergency payments for individuals or families impacted by coronavirus for items such as food, clothing, housing (emergency rental assistance or mortgage assistance) or utilities for up to six consecutive months. Emergency payments must be made to the provider of such items or services on behalf of an individual or family, and not directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. CDBG-CV grantees and subrecipients must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. Grantees and subrecipients using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable. This waiver is also applicable to 2019 and 2020 federal fiscal year CDBG funds used to prevent, prepare for, and respond to coronavirus.
- d. The requirements for eligible activities are contained in Section III.B.5(f) of the [CDBG-CV Notice](#), Eligible Activities.

- e. All CDBG-CV grantees and subrecipients are required to establish and maintain adequate procedures to prevent any duplication of benefits for assisted activities (as discussed in Section III.B.9. of the [CDBG-CV Notice](#)).
- f. Grantees and subrecipients may use funds to cover or reimburse allowable costs of activities to prevent, prepare for, and respond to coronavirus incurred by a state or locality, including pre-award costs, incurred on January 21, 2020, or later. Any pre-award costs expended before that date must be approved by HUD.
- g. A grantee and subrecipients may use CDBG-CV funds to make a direct payment of principal, interest, or any fees due under a Section 108 note only if the use of funds is to prevent, prepare for, and respond to coronavirus.
- h. The requirements for eligible activities are contained in Section III.B.5(f) of the [CDBG-CV Notice](#), Eligible Activities.

5. *Activities Allowed or Unallowed for CDBG-DR and CDBG-MIT*

In addition to the activities allowed for State CDBG, the below flexibilities and unique requirements generally apply to CDBG-DR and CDBG-MIT funds:

- a. Program administrative. See Compliance Requirement G. Matching, Earmarking, Level of Effort for information on the maximum and/or minimum percentage of funding that grantees may use for these activities;
- b. Program planning. See Compliance Requirement G. Matching, Earmarking, Level of Effort for information on the maximum and/or minimum percentage of funding that grantees may use for these activities;
- c. Public services. See Compliance Requirement G. Matching, Earmarking, Level of Effort for information on the maximum percentage of funding that grantees may use for these activities.
- d. The HUD Secretary may provide waivers or specify alternative requirements if such waiver is not inconsistent with the overall purpose of Title I of the Housing and Community Development Act of 1974. Common CDBG-DR and CDBG-MIT activities that are eligible and/or modified through a waiver and alternative requirement include:
 - (1) *New housing construction*: HUD waives 42 USC 5305(a) and 24 CFR 570.207(b)(3) to the extent necessary to permit new housing construction.
 - (2) *Buyouts*: HUD waives 42 USC 5305(a) and establishes an

alternative requirement only to the extent necessary to create a new eligible activity for buyouts. The term “buyouts” means the acquisition of properties located in a floodway, floodplain, or other Disaster Risk Reduction Area that is intended to reduce risk from future hazards.

- (3) *Public benefit for activities that support economic revitalization:* HUD waives the public benefit standards for only those economic development activities designed to create or retain jobs or businesses; please consult applicable *Federal Register* notices for additional details.
- e. CDBG-DR and CDBG-MIT grantees are required to establish and maintain adequate procedures to prevent any duplication of benefits (DOB). Grantees must consult their applicable *Federal Register* notices.
- f. CDBG-DR awards after 2013
 - (1) Assistance for rehabilitation and housing incentives to second homes are prohibited.
 - (2) Business assistance is limited to small businesses.
- g. CDBG-DR awards for 2015 disasters and beyond
 - (1) Use of administrative funds across multiple grants: The applicable Appropriations Acts authorize special treatment of grant administrative funds. Beginning in 2015, grantees that have received CDBG-DR or CDBG-MIT grants in the past or in any future acts, may use eligible administrative funds appropriated by these acts for the cost of administering any CDBG-DR or CDBG-MIT grant without regard to the particular disaster appropriation from which such funds originated.
- h. CDBG-DR awards for disasters which occurred in 2017 and beyond
 - (1) Disaster funds cannot be used for rehabilitation/reconstruction assistance to persons with incomes that exceed one hundred and twenty percent area median income or the national median if they are in a floodplain and did not obtain flood insurance for the damaged property.
- i. CDBG-DR awards subject to the Consolidated Notice (2020, 2021, 2022 disasters)
 - (1) *CDBG-DR mitigation set-aside:* Unlike recovery activities where

grantees must demonstrate that their activities “tie-back” to the specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, activities funded by the CDBG-DR mitigation set-aside do not require such a “tie-back” to the specific qualified disaster that has served as the basis for the grantee’s allocation.

- (2) *Interchangeability of disaster funds:* The applicable Appropriations Acts give the Secretary authority to authorize grantees that receive an award for 2020, 2021, and 2022 disasters and under prior or future appropriations to use those funds interchangeably and without limitation for the same activities related to unmet recovery needs in the “most impacted and distressed” (MID) areas resulting from a major disaster in the Appropriations Acts or in prior or future appropriation acts, when the MID areas overlap and when the use of the funds will address unmet recovery needs of major disasters in the Appropriations Acts or in any prior or future appropriation acts.
- (3) *Prioritizing economic revitalization:* Under the Consolidated Notice, grantees are required to prioritize assistance to disaster-impacted businesses that serve underserved communities and spur economic opportunity for underserved communities that were economically distressed before the disaster.
- (4) *Assistance to utilities:* Contrary to prior awards, the applicable Appropriations Acts provide that funds “may be used by a grantee to assist utilities as part of a disaster-related eligible activity under section 105(a) of the Housing and Community Development Act of 1974 (42 USC 5305(a)).”

j. CDBG-MIT

- (1) Program administrative costs. See Compliance Requirement G. Matching, Earmarking, Level of Effort for information on the maximum and/or minimum percentage of funding that States may use for these activities.
- (2) At least fifty percent of all CDBG-MIT funds must be used for mitigation activities that address identified risks within the HUD-identified “most impacted and distressed” (MID) areas.

k. All activities undertaken must meet one of the three national objectives of the regular CDBG program.

l. For applicable CDBG-DR and CDBG-MIT waivers or alternative requirements, auditors should consult the CDBG-DR laws, regulations,

and *Federal Register* notices on HUD.gov: https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations. This page includes the relevant Public Laws that appropriated CDBG-DR and CDBG-MIT funds, the applicable *Federal Register* notices governing those funds, and a short description of the subject or purpose of each *Federal Register* notice listed.

6. *Activities Allowed or Unallowed for NSP (NSP1 and NSP3)*

- a. State Grantees may use NSP1 and NSP3 funds to:
 - (1) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties;
 - (2) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment;
 - (3) Establish and operate land banks for homes that have been foreclosed upon (Section A of NSP1 [Bridge Notice](#) clarified that NSP funds can be used to establish and operate land banks);
 - (4) Demolish blighted structures; and
 - (5) Redevelop demolished or vacant properties.
- b. A grantee must receive written HUD approval to undertake activities other than those listed above. An activity may meet the HERA-established low- and moderate-income national objective if the assisted activity:
 - (1) provides or improves permanent residential structures that will be occupied by a household whose income is at or below one hundred and twenty percent of area median income;
 - (2) serves an area in which at least fifty-one percent of the residents have incomes at or below one hundred and twenty percent of area median income; or
 - (3) serves a limited clientele whose incomes are at or below one hundred and twenty percent of area median income. An NSP activity may not meet the “prevent or eliminate slums and blight” or “address urgent community development needs” national objectives.
- c. The requirements for eligible activities are contained in Section 2301(c)(3) of HERA, Section II.H.3.a. of the [NSP3 Notice](#), Section II.A. of the [NSP Definition and Modification Notice](#), and Section 1497(b)(2) of the Dodd-Frank Act. The

requirements for national objective are contained in Section 2301(f)(3)(A) of HERA and Section II.E. of the NSP and NSP3 Notices.

7. *Activities Allowed or Unallowed for RHP*

RHP activities must provide stable, temporary housing to individuals in recovery from a substance use disorder, for a period of not more than two years or until the individual secures permanent housing, whichever is earlier. The requirements for eligible activities are contained in the [RHP Program Notice](#). The following activities are eligible:

- a. Housing
 - (1) Rehabilitation and reconstructions of single-unit residential buildings and improvements
 - (2) Rehabilitation and reconstructions of multi-unit residential buildings and improvements
 - (3) Rehabilitation and reconstruction of public housing and improvements
 - (4) Expansion of existing eligible activities to include new construction
- b. Other Real Property Activities
 - (1) Acquisition of real property
 - (2) Disposition of real property
 - (3) Clearance and demolition
 - (4) Relocations
- c. Public Facilities and Improvements
- d. Public Services
 - (1) lease, rent, and utility payments as eligible public services
- e. Grant Administration; And Technical Assistance
- f. Grantees may use funds for pre-agreement costs incurred by the State or its recipients or subrecipients if they comply with RHP program requirements such as cost principles and environmental review procedures.

B. Allowable Costs/Cost Principles

The requirements are found at 24 CFR section 570.489(p) Cost Principles and Prior Approval. All items of costs listed in 2 CFR Part 200, Subpart E, which require prior federal approval are allowable without prior approval, except the following:

1. Depreciation. Prior written approval from HUD is required for depreciation methods for fixed assets.
2. Fines, penalties, damages and other settlements. Not allowed.
3. Good or services for personal use. Prior written approval from HUD is required for costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses, regardless of whether reported as taxable income to the employees.
4. Organizational costs. Prior written approval from HUD is required.

F. Equipment and Real Property Management

1. 24 CFR 570.489(k) *Accountability for real and personal property*. States are allowed to establish and implement their own requirements governing the use, management, and disposition of real and personal property acquired with CDBG funds. States may adopt 2 CFR Part 200 or set alternative requirements consistent with State law and 24 CFR 570 subpart I.
2. 24 CFR 570.489(j) *Change of use of real property*. Change of use of real property requirements for real property within the unit of general local government's control (including activities undertaken by subrecipients) which was acquired or improved in whole or in part using CDBG funds in excess of the threshold for the simplified acquisition threshold (2 CFR 200.1). These standards shall apply from the date CDBG funds are first spent for the property until five years after closeout of the unit of general local government's grant from the state.
3. 24 CFR 570.489(j) *Change of use of real property held by beneficiaries*. Change of use of real property requirements are not applicable to real property held by beneficiaries. For example, CDBG grantees and subrecipients are not required to place property liens and other resale/repayment provisions upon housing-related assistance provided to low- and moderate-income households, though some grantees and subrecipients may choose to establish and implement such requirements.
4. For State CDBG and CDBG-CV grantees and subrecipients, the requirements for personal property (equipment) and real property management are contained in 24 CFR section 570.489(j) and (k).

5. *NSP (NSP1 and NSP3)*. NSP grantees that have established and currently operate land banks for homes and residential properties that have been foreclosed upon should have in place a land bank management plan that will facilitate management and eventual disposition of the land bank inventory.

Disposition costs include the “reasonable costs of temporarily managing such property.” HUD interprets this to include ongoing maintenance such as board-up, lawn-mowing, spot repairs, and other related functions that keep the property in a condition that stabilizes the neighborhood. Grantees managing scattered-site properties meeting the CDBG definition of a disposition activity must identify each property as a separate disposition activity in the Integrated Disbursement and Information System (IDIS).

The requirements for real property management for land banks are contained in the Federal Register Notice of Neighborhood Stabilization Program; Closeout Requirements and Recapture (77 FR 70799). The requirements for disposition are contained in the definition at 24 CFR 570.201(b).

6. *RHP*. The statutory and regulatory provisions governing the CDBG program shall apply to grantees and subrecipients. For purposes of the RHP program, all references to “unit of general local government” in 24 CFR 570.489(j) shall be read as “state and unit of general local government.”

RHP funds may be used for disposition through sale, lease, or donation, or otherwise of real property acquired with RHP funds subject to 24 CFR 570.201(b) and section 105(a)(7) of the HCD Act (42 USC 5305(a)(7)), for the purpose of providing stable, temporary housing for individuals in recovery from a substance use disorder. Eligible costs may include costs incidental to disposing of the property, such as preparation of legal documents, fees paid for surveys, transfer taxes, and other costs involved in the transfer of ownership of the RHP- assisted property.

G. Matching, Earmarking, Level of Effort

These requirements are for state grantees only. This does not apply to subrecipients.

Auditors can find data in the PR28 Financial Summary Report. The PR28 Financial Summary Report instructions are found in Notice CPD-21-11, which is available at:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-11cpdn.pdf>. This includes checklists (Appendix 4 and 5 for annual formula CDBG and Appendix 6 for CDBG-CV) for the review of the reports. Auditors should find a PR28 Financial Summary for each open grant as an attachment to the Consolidated Annual Performance Report (CAPER) which are published at <https://www.hudexchange.info/programs/consolidated-plan/con-plans-aaps-capers/>.

1. Matching

State Administration Limit: A State may use \$100,000 plus 3 percent of funds

received. State expenditures over \$100,000 must be matched. The requirements for match are contained in 24 CFR part 570.489(a)(1)(i).

2. Level of Effort

Not applicable.

3. Earmarking

As identified below, the State CDBG program includes requirements that specify the minimum and/or maximum percentage of CDBG funding that States may use for specific activities. Subprograms may have different requirements, and they are also identified below.

- a. *Overall Low- to Moderate-Income Benefit:* Grantees must expend at least seventy percent of their CDBG grant allocation to benefit low- to moderate-income persons on a one-, two-, or three-year basis, as determined by the grantee. Low-income means family or household with an annual income less than fifty percent of the area median income, as established by HUD; median income means family or household with an annual income less than eighty percent of the area median income, as established by HUD. The requirements for overall low- to moderate-income benefit are contained in 24 CFR 570.484(a).
- b. *Overall Planning, Management and Administration Cap:* Planning and administration costs are capped at twenty percent of the sum of grant plus program income that is received during the program year. The requirements for planning, management and administration cap are contained in 24 CFR 570.489(a)(3).
- c. *Technical Assistance Limit:* Technical assistance costs are capped at 3 percent of the annual grant allocation plus program income received during the program year. The requirements for technical assistance are contained in 24 CFR 570.489(a)(1)(ii).
- d. *State Administration and State Technical Assistance Limits:* The total amount spent between state administration, in excess of \$100,000, and technical assistance cannot exceed 3 percent of the current year's allocation plus program income plus reallocated funds. The state can decide how to allocate the 3% among administration and technical assistance. The requirements for administration and state technical assistance are contained in 24 CFR 570.489(a)(1)(iii).
- e. *Public Services Cap:* Public services costs are capped at fifteen percent of the annual grant allocation plus program income received during the prior program year. Public Services include a wide range of public service activities that may include but are not limited to those concerned with:

- (1) employment;
- (2) crime prevention;
- (3) child care;
- (4) health;
- (5) drug abuse;
- (6) education;
- (7) energy conservation;
- (8) welfare or
- (9) recreation needs.

Such services must not have been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding. The requirements for public service are contained in 105(a)(8) section of the HCDA.

- f. *CDBG-CV*: As identified below, the State CDBG-CV program includes requirements that specify the minimum and/or maximum percentage of CDBG funding that States may use for specific activities.

- (1) Overall Low- to Moderate-Income Benefit: Grantees must expend at least seventy percent of their CDBG grant allocation to benefit low- to moderate-income persons on a one-, two-, or three-year basis, as determined by the grantee.
- (2) Overall Planning, Management and Administration Cap: Planning and administration costs are capped at twenty percent of the sum of grant.
- (3) State Administration Limit: A State may use 5 percent of funds received. There is no matching requirement.
- (4) Technical Assistance: Technical assistance costs are capped at 2 percent of the grant allocation.

CDBG-DR and *CDBG-MIT*: As identified below, the *CDBG-DR* program includes requirements that specify the minimum and/or maximum percentage of *CDBG-DR* funding that States may use for specific activities.

- (1) Overall Low- to Moderate-Income Benefit: Unless HUD provided an appropriation or grantee-specific waiver and alternative requirement reducing the required percentage, grantees must expend seventy percent of its *CDBG-CV* funds to benefit low- to moderate-income persons.

- (2) State Administration Limit: A state may expend up to 5 percent of funds received. There is no matching requirement.
- (3) Combined Administration and Planning Limit: Administration and planning cannot exceed 20% of appropriation. If the allocation is split with subrecipients, the total of all administration and planning costs may not exceed the cap.
- (4) *CDBG-DR mitigation set-aside*: The applicable Appropriations Acts require HUD to include in any allocation of CDBG-DR funds for unmet needs an additional amount of fifteen percent for mitigation activities, which HUD refers to as the “CDBG-DR mitigation set-aside.”

As identified below, the CDBG-MIT program includes requirements that specify the minimum and/or maximum percentage of CDBG-MIT funding that States may use for specific activities.

- (1) Overall Low- to Moderate-Income Benefit: Grantees must expend fifty percent of CDBG–MIT funds to benefit low- and moderate-income persons.
- (2) State Administrative Limit: Five percent of the grant plus program income may be used for administrative costs by the grantee, units of general local government, or by subrecipients.
- (3) Combined Technical Assistance and Administrative Expenditures Cap for States only: The aggregate total for administrative and technical assistance expenditures must not exceed five percent of the grant amount plus five percent of program income generated by the grant.

Neighborhood Stabilization Program (NSP1 and NSP3): For the NSP program, HUD is not requiring auditors to review earmarking requirements.

Recovery Housing Program (RHP): As identified below, the RHP program includes requirements that specify the minimum and/or maximum percentage of RHP funding that States may use for specific activities.

- (1) State Administration Limit: A State may expend up to five percent of funds received. There is no matching requirement.
- (2) Technical Assistance: Technical assistance costs are capped at three percent of the grant allocation.

J. Program Income

1. *CDBG*. The grantee must accurately account for any program income generated from the use of CDBG funds and must treat such income as additional CDBG funds which are subject to all program rules.

Program income is the gross income received by the grantee and its subrecipients directly generated from the use of CDBG funds. Per 24 CFR 570.489(e), Program income includes the following:

- a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- b. Proceeds from the sale or lease of equipment purchased with CDBG funds;
- c. Gross income from the use or rental of real or personal property acquired, constructed or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;
- d. Payments of principal and interest on loans made using CDBG funds;
- e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
- f. Interest earned on program income pending its disposition (NOTE: interest earned on CDBG funds held in revolving loan funds is not program income and must be remitted to the U.S. Treasury at least annually); and
- g. Funds collected through special assessments on properties not owned and occupied by LMI households to recover the CDBG portion of a public improvement.

Program income does not include income up to \$35,000 (other than receipts from revolving loan funds) received in a single program year by a UGLG and its subrecipients.

Proceeds from the sale of real property purchased or improved with CDBG funds are not program income if the proceeds are received more than five years after closeout of the grant agreement between the state and the unit of general local government.

A Revolving Loan Fund or State Revolving Fund is set up to carry out specific activities. These activities generate payments for use in carrying out the same types of activities. Per the 24 CFR 570.489(f) HUD regulations, Revolving Loan Funds and State Revolving Funds are not traditional loans but should be treated as program income. These funds originate from CDBG allocations. These funds are

independent of other program accounts.

Per the 24 CFR 570.489(f) HUD regulations, repayments to the Revolving Loan Fund or State Revolving Fund, including principal and interest, are classified as program income rather than independent revenue. This means they must be reinvested into eligible CDBG activities rather than considered general income. Program Income is subject to CDBG requirements; however, there are exceptions to the definition of program income per 24 CFR 570.489(e) and (f) of HUD regulations, which should be considered.

To account for any program income generated by CDBG, repayments to a Revolving Loan Fund or State Revolving Fund should generally be treated as program income on the Schedule of Expenditures for Federal Awards (SEFA).

The requirements for program income for the State CDBG program are contained in 24 CFR section 570.489(e) and (f).

2. *CDBG-CV*

The receipt and expenditure of program income that is generated using CDBG-CV funds is treated as annual formula CDBG program income and recorded as part of the financial transactions of the annual formula CDBG grant program.

Based on this treatment of program income, the use of CDBG-CV funds for float-funded activities or guarantees as described at section 104(h) of the HCDA is not allowed.

The requirements for program income for the CDBG-CV program are contained in Section III.B.6(a) of the [CDBG-CV Notice](#)

3. *CDBG-DR and CDBG-MIT*

Program income is revenue generated from a CDBG or CDBG-DR eligible activity. HUD grantees and subrecipients adhere to the program income requirements in CDBG regulation 24 CFR § 570.504, unless program income is waived by HUD. The *Federal Register* notices include waivers and alternative requirements associated with each grant, thereby waiving program income, or providing an alternative requirement in each applicable notice. The grantee must receipt program income and expenditures in the Disaster Recovery Grant Reporting (DRGR) system. Program income must be expended in DRGR before drawing additional program funds.

There are several ways the grantee can generate program income. Program income can be generated in the following ways, but not limited to:

- a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;

- b. Proceeds from the sale or lease of equipment purchased with CDBG funds;
- c. Gross income from the use or rental of real or personal property acquired, constructed or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;
- d. Payments of principal and interest on loans made using CDBG funds; and
- e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds.

As outlined above, the program income requirements for CDBG-DR and CDBG-MIT grants are contained in *Federal Register* notices, which can be viewed at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

4. *NSP*

NSP revenue received by a state, unit of general local government, or subrecipient that is directly generated from the use of CDBG funds (which includes NSP grant funds) constitutes CDBG program income. The CDBG definition of program income shall be applied to amounts received by states, units of general local government, and subrecipients.

Any revenue from the sale, rental, redevelopment, rehabilitation, or any other eligible use of NSP funds is to be provided to and used by the state or unit of general local government. Revenue received by a private individual or other entity that is not a subrecipient is not required to be returned to the state or unit of general local government.

The requirements for program income for the NSP program are contained in 24 CFR 570.500 and Section II.N. of the [NSP3 Notice](#), and Section B of [NSP1 Bridge Notice](#) and Sections 2301(c)(3) of HERA.

5. *RHP*

Program income includes gross income received by subrecipients that was generated from the use of RHP funds.

Program income excludes any income received and retained by a nonprofit operating within the grantee's jurisdiction whose primary mission includes serving individuals in recovery from substance use disorder. If a grantee chooses to require the nonprofit to return income generated from the use of RHP funds, the income returned by the nonprofit to the grantee would be defined as program income.

Prior to closeout, RHP grantee must transfer RHP program income and assets to another open RHP grant or to its CDBG program. Program income and assets received by a grantee after closeout of all RHP grants must be transferred to the grantee's annual CDBG award. Once transferred to the annual program, the waivers and alternative requirements that apply to the RHP grant no longer apply to the use of transferred program income. Rather, those funds will be subject to the grantee's regular CDBG program rules.

States must require units of general local government to return RHP program income if it will not continue the originally funded RHP activity. States must treat the funds as program income.

Income generated from the use of RHP funds is subject to 42 USC 5304(j) and 24 CFR 570.489(e); however, alternative requirements may be found in the RHP Program Notice.

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable to State CDBG and State CDBG-CV (see CPD Notice 21-11).

For State NSP and RHP grantees, the SF-425 is provided annually.

For CDBG-DR and CDBG-MIT, SF-425, Federal Financial Report – Applicable. This information is reflected in the Disaster Reporting Grant Reporting System (DRGR).

SF-424 forms are submitted within the DRGR system and are auto-generated based on information entered into DRGR.

<https://files.hudexchange.info/resources/documents/DRGR-Fact-Sheet-R-7-15-SF-425.pdf>.

- d. For State CDBG and State CDBG-CV the following reports are required:
 - (1) *CDBG Annual Formula Grants PR28 Performance and Evaluation (PER) Financial Summary Report* (OMB No. 2506-0085) submitted annually, and
 - (2) *CDBG-CV PR28 Grant Financial Summary*, submitted annually.

The PR28 Financial Summary Report instructions are found in Notice CPD-21-11, which is available at:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-11cpdn.pdf>

This includes checklists for the review of the reports (Appendix 4 and 5 for annual formula CDBG and Appendix 6 for CDBG-CV). Auditors should find a PR28 Financial Summary for each open grant as an attachment to the Consolidated Annual Performance Report (CAPER) which are published at

<https://www.hudexchange.info/programs/consolidated-plan/con-plans-aaps-capers/>.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance. The Federal Funding Accountability and Transparency Act of 2006, FFATA is applicable to State CDBG, State CDBG-CV, CDBG-DR, NSP, and RHP.

N. Special Tests and Provisions

1. Wage Rate Requirements

This applies to all programs.

Compliance Requirements: The Wage Rate Requirements apply to the construction and rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Environmental Oversight

A state must assume the environmental oversight responsibilities and functions of HUD under Section 104(g) of the HCDA (42 USC 5304(g)). A state must:

- a. require each of its units of general local government (subrecipients) to perform as a responsible federal official in carrying out all HUD environmental review requirements under 24 CFR Part 58, National

Environmental Policy Act (NEPA), and other applicable authorities;

- b. review and approve each subrecipient's Request for Release of Funds (RROF) in accordance with the procedures provided under 24 CFR Part 58 Subpart H;
- c. ensure that each subrecipient observes the statutory requirement that funds cannot be expended or obligated before the state approves its RROF and environmental certification, except as otherwise provided specifically in regulation or authorized by law; and
- d. monitor and provide technical assistance to its subrecipients to ensure compliance with the environmental authorities (24 CFR Part 58) and the adequacy of environmental reviews.

A state can also manage a CDBG-DR and CDBG-MIT grant but must submit a Request for Release of Funds to HUD. A CDBG-DR and CDBG-MIT grantee is required to ensure every project/activity undergoes the appropriate level of environmental review and receives clearance and Authorization to Use Grant Funds (AUGF) prior to expending any funds. As a result, special circumstances apply to HUD environmental reviews for disaster recovery efforts, and an Environmental Review is required accordingly: (a) analysis of impacts of a project on the surrounding environment and vice versa; (b) demonstrates compliance with federal environmental laws and authorities; and (c) encourages public participation.

Additional CDBG-DR Environmental Review information and federal regulations can be found on HUD.gov at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/environmental-review and on the HUD Exchange at <https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment/#unified-federal-review>.

Audit Objectives: Determine whether a state carries out its environmental oversight responsibilities and functions.

Suggested Audit Procedures

- a. Examine the state's program for monitoring and enforcing compliance with the environmental authorities.
- b. Examine the state's approval of the RROF and environmental certification and note dates.
- c. Verify that the state obtained certifications and that the state's records provide evidence that it obligated and expended the funds after the state's approval of the RROF and environmental certification.

3. Environmental Reviews

Compliance Requirements: Activities must have an environmental review unless they meet criteria specified in the regulations that would exclude them from RROF and environmental certification requirements.

- a. CDBG-CV. HUD's environmental review regulations in 24 CFR Part 58 include two provisions that may be relevant to environmental review procedures for activities to prevent, prepare for, and respond to coronavirus. The first is 24 CFR 58.34(a)(10), which provides an exemption for certain activities undertaken in response to a national or locally declared public health emergency. Except for the applicable requirements of 24 CFR 58.6, a responsible entity does not have to comply with the requirements of Part 58 or undertake any environmental review, consultation, or other action under NEPA and the other provisions of law or authorities cited in 24 CFR 58.5 for exempt activities or projects consisting solely of exempt activities. Exempt activities include assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from imminent threats to public safety.

The second is a streamlined public notice and comment period in the regulation at 24 CFR 58.33, which may apply in some cases for emergency activities undertaken to prevent, prepare for, and respond to coronavirus. The application of these two provisions following a presidentially-declared or locally-declared public health emergency is discussed in CPD Notice 20-07, Guidance on conducting environmental review pursuant to 24 Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19 (August 6, 2020) posted at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-07cpdn.pdf>.

- b. NSP (NSP1 and NSP3). A state that carries out NSP activities directly are considered recipients and must assume environmental review responsibilities for the state's activities and those of any nongovernmental entity that participates in the project. A state that carries out activities directly must submit the RROF and the certifications to HUD for approval (24 CFR 58.4(b)(1), 58.34, and 58.35).
- c. RHP. For RHP activities carried out directly by the state, the state must submit the certification and RROF to HUD for approval.

Audit Objectives: Determine whether the state conducted required environmental reviews and obtained required HUD approvals.

Suggested Audit Procedures

- a. Verify that the state obtained environmental review certifications from the

subrecipient and that the state records provide evidence that the environmental reviews were made.

- b. For any project where an environmental review was not performed, ascertain that the State has a written determination was made that the review was not required.
- c. Ascertain that documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR 58.34 and 58.35.
- d. Verify that states obtained HUD approvals of RROFs and environmental certifications for state activities.
- e. Verify that for state activities funds were obligated and expended after HUD approval of state RROFs and environmental certifications. Some CDBG-DR grantees may use the environmental review for projects that are also funded with FEMA. See *Federal Register* notices.

4. Citizen Participation

Compliance Requirements: Prior to the submission to HUD for its annual grant, a grantee must certify to HUD that it has met the citizen participation requirements for grantees in 24 CFR 91.115 and 570.486 for local governments/subrecipients, as applicable. The primary goal of citizen participation is to provide residents—especially low- and moderate-income (LMI) residents of the community where CDBG-funded activities will take place—the opportunity to actively participate in the planning, implementation, and assessment of the programs and projects.

- a. *CDBG-CV.* HUD issued two waivers to modify citizen participation requirements for consolidated plan substantial amendments for CDBG, ESG, HOME, HTF, and HOPWA. The first provided for a minimum of five days for public comments. The second allowed grantees to determine what constitutes reasonable notice and opportunity to comment, given their circumstances, for the 2020 program year. For as long as national or local health authorities recommend social distancing and limiting public gatherings for public health reasons, states, local governments and eligible subrecipients receiving CDBG, may hold virtual hearings in lieu of in person public hearings to fulfill public hearing requirements. (Section III.B.4.(a)(iii) of the [CDBG-CV Notice](#))

Section III.B.4.(a) of the [CDBG-CV Notice](#) applies to all fiscal year 2019 and 2020 annual formula CDBG grants, regardless of the use of funds. This section of the [CDBG-CV Notice](#) describes the program flexibilities provided by the CARES Act related to expedited citizen participation and virtual hearings. Where this section refers to CDBG-CV funds, it applies equally to fiscal year 2019 and 2020 CDBG grants.

- b. *CDBG-DR and CDBG-MIT*. To permit a more streamlined process and ensure CDBG-DR grants are awarded in a timely manner, HUD waives provisions of 42 USC 5304(a)(2) and (3), 42 USC 12707, 24 CFR 570.486, 24 CFR 1003.604, 24 CFR 91.105(b) through (d), and 24 CFR 91.115(b) through (d), with respect to citizen participation requirements, and replaces the provisions with alternative requirements.

For CDBG-DR awards before 2017 disasters, the streamlined requirements require CDBG-DR grantees to publish its action plan for no less than 14 calendar days. For CDBG-DR awards for 2017 disasters and beyond, the streamlined requirements require CDBG-DR grantees provide a reasonable opportunity (at least 30 days) for citizen comment. The grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.115 or 91.105 (except as provided for in notices providing waivers and alternative requirements). Each local government receiving assistance from a state grantee must follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486 (except as provided for in notices providing waivers and alternative requirements). Additionally, CDBG-DR awards subject to HUD's Consolidated Notice (2020, 2021, and 2022) must also include public hearings on the proposed CDBG-DR action plan.

For CDBG-MIT grantees, HUD also waives 42 USC 5304(a)(2) and (3), 42 USC 12707, 24 CFR 570.486, 24 § 91.105(b) and (c), and 24 CFR 91.115(b) and (c), with respect to citizen participation requirements. The revised requirements mandate public hearings (the number of which is based upon the amount of a grantee's CDBG-MIT allocation) across the HUD-identified MID areas and require the grantee to provide a reasonable opportunity (at least 45 days) for citizen comment and ongoing citizen access to information about the use of grant funds.

While the above waivers and alternative requirements reflect the most recent CDBG-DR citizen participation requirements for grantees subject to the Consolidated Notice and the long-standing CDBG-MIT requirements at 84 FR 45852 of the Main CDBG-MIT Notice published on August 30, 2019, auditors should review the *Federal Register* notices for additional details concerning each grantee's applicable citizen participation requirements at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

- c. *NSP (NSP1 and NSP3)*. HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The provisions of 24 CFR 570.485 and 570.486 with respect to following the citizen

participation plan are waived to allow the jurisdiction to provide no fewer than 15 calendar days for citizen comment, rather than 30 days, for its initial NSP submission (Section II.B.4 of the [NSP Notice](#) and of the [NSP3 Notice](#)).

- d. *RHP*. Section II.H. of the RHP Program Notice provides an overview of the grant process and RHP Action Plan requirements. The grantee develops the proposed RHP Action Plan and publishes it in accordance with the grantee's adopted citizen participation plan it has established in accordance with 24 CFR 91.105 (District of Columbia) or 24 CFR 91.115 (states) and the RHP Program Notice.

Audit Objectives: Determine whether the CDBG grantee has developed and implemented a citizen participation plan.

Suggested Audit Procedures

- a. Verify that the grantee has a citizen participation plan.
- b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.
- c. Examine the grantee's records for evidence that the elements of the citizen's participation plan were followed as the grantee certified.
- d. HUD Compliance Reviews. Auditors may consult HUD's Community Planning and Development Monitoring Handbook for the specific compliance review exhibits that HUD uses to determine compliance. The CDBG-DR monitoring exhibits can be found at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2.

5. Rehabilitation Using NSP Funds

Compliance Requirements: Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, or habitability, in order to sell, rent or redevelopment such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation (Section 2301(d)(2) of HERA; Section II.I. of [NSP3 Notice](#), 75 FR 64333).

Audit Objectives: To determine whether the grantee ensures NSP rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Review rehabilitation standards established for NSP work.
- b. Verify through a review of documentation that the rehabilitation work is inspected upon completion to ensure that it is carried out in accordance with applicable rehabilitation standards.

6. Section 3

Compliance Requirements: Section 3 is a provision of the Housing and Urban and Development Act of 1968 and is found at 12 USC 1701u. It requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. Grantees must establish and maintain (or ensure that a subrecipient, contractor, or subcontractor maintains) documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in IDIS or DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75)

Audit Objectives: Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

- a. Review the grantee's Section 3 policy and procedures.
- b. Review a sample of grant agreements and contracts for housing rehabilitation, housing construction, or other public construction projects, to determine if the grantee notified subrecipients and contractors of requirements to maintain or ensure that a subrecipient, contractor, or subcontractor maintains adequate records demonstrating Section 3 compliance.

IV. OTHER INFORMATION

1. *Hawaii*
The state of Hawaii chose not to administer the non-entitlement funds. Therefore, the non-entitlement counties in Hawaii, which otherwise would have been eligible for funding under the State CDBG program, are generally subject to the CDBG

Entitlement regulations. For State CDBG, CDBG-DR and CDBG-MIT, Hawaii is reviewed under Assistance Listing 14.218 Community Development Block Grants/Entitlement Grants. The requirements for the non-entitlement CDBG grants in Hawaii are set forth in 24 CFR 570.429. In summary, non-entitlement counties in the State of Hawaii follow the requirements of the CDBG Entitlement program, except: (1) funding comes from Section 106(d) of the HCDA (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR 570.429(c); reallocations due to grant reductions, or funds not applied for, are distributed to the other non-entitlement counties in Hawaii on a pro rata basis (24 CFR 570.429(d)); (3) non-entitlement counties are not eligible to use the exception criteria in 24 CFR 570.208(a)(1)(ii); and (4) 24 CFR 570.307 (Urban Counties) and 24 CFR 570.308 (Joint Requests) do not apply to non-entitlement counties in Hawaii. Except for these differences, non-entitlement counties in Hawaii follow the requirements of the CDBG Entitlement program (Assistance Listing 14.218).

This compliance supplement is for the State program. For some subprograms, there may be another compliance supplement that should be used.

2. *14.256 Neighborhood Stabilization Program (Recovery Act Funded)*
NSP funding provided under the American Recovery Reinvestment Act (Dodd-Frank Act) authorized additional funding for NSP that is referred to as NSP2 and NSP-TA, which are covered by the Compliance Supplement Assistance Listing 14.256 and audited separately.
3. *14.269 Hurricane Sandy Community Development Block Grant Disaster Recovery Grants (CDBG-DR)*
This supplement only covers awards made under Public Law Number 113-2 and are audited separately. Other CDBG-DR awards funded under other Public Laws will use this supplement. More information can be found at:
https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations
4. CDBG-DR and CDBG-MIT grants fall under one of four assistance listings, depending on the appropriation and type of grantee.

	Assistance Listing
Hurricane Sandy grants to states and cities under P.L. 113-2	14.269
National Disaster Resilience grants to states and cities under P.L. 113-2	14.272
Other CDBG-DR and CDBG-MIT grants to states and insular areas including tribes	14.228
Other CDBG-DR and CDBG-MIT grants to entitlement communities (cities, counties and local governments)	14.225

5. *Revolving Loan Fund and State Revolving Fund*
Refer to Section III. Compliance Requirements J. Program Income above for

guidance relevant to SEFA presentation of revolving loan funds and state revolving funds.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.231 EMERGENCY SOLUTIONS GRANTS PROGRAM****I. PROGRAM OBJECTIVES**

The Emergency Solutions Grants (ESG) program provides grants to states, metropolitan cities, urban counties, and territories for (1) the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, (2) the payment of certain expenses related to operating emergency shelters, (3) essential services related to emergency shelters and street outreach for the homeless, and (4) homelessness prevention and rapid re-housing assistance.

II. PROGRAM PROCEDURES

ESG program funds are provided under this program according to a formula based on the Community Development Block Grant Program (CDBG) formula. The percentage allocated will be equal to the percentage of the total amount available under CDBG for the prior fiscal year. To receive funds, each eligible entity must submit a Consolidated Plan (including an Annual Action Plan) to the Department of Housing and Development Urban (HUD). Metropolitan cities, urban counties, and territories may subgrant funds to private nonprofit organizations. A list of annual allocations is provided at: https://www.hud.gov/program_offices/comm_planning/budget

The Housing Opportunity Through Modernization Act of 2016, Pub. L. No. 114-201 (HOTMA), July 29, 2016, amended the McKinney-Vento Act to permit metropolitan cities and urban counties receiving ESG funding to subgrant their ESG funds to public housing agencies (PHAs) and local redevelopment authorities (LRAs) for eligible ESG activities. Prior to HOTMA, ESG recipients and subrecipients were not permitted to sub-award ESG program funds to PHAs or LRAs.

An urban county is a county that was classified as an urban county under 42 USC 5302(a) for the fiscal year immediately preceding the fiscal year for which ESG program funds are made available. States must subgrant all of their grant funds (except for funds for administrative costs and, under certain conditions, Homeless Management Information Systems (HMIS) costs) to (1) units of general purpose local government in the state (including metropolitan cities and urban counties that receive direct ESG program grants from HUD); and (2) private nonprofit organizations (provided that, for emergency shelter activities, the state obtains approval from the local government for the geographic area in which those activities are to be carried out). Each recipient must consult with the Continuum(s) of Care operating within the jurisdiction in determining how to allocate ESG program funds.

Source of Governing Requirements

The ESG program is authorized under Title IV, Subtitle B of the McKinney-Vento Homeless Assistance Act, as amended (42 USC 11371-11378). Implementing regulations are at 24 CFR Part 576.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	Y	N	N	Y	Y

A. Activities Allowed or Unallowed

- ESG funds may be used for five program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS; as well as administrative activities. The five program components and the eligible activities that may be funded under each are set forth in 24 CFR 576.101 through 576.107. Eligible administrative activities are set forth in 576.108.

G. Matching, Level of Effort, Earmarking

1. Matching

For ESG, recipients, other than states and territories, must match the funding provided by HUD under its ESG program with an equal amount from sources other than those provided under the ESG program. Territories are exempt from this requirement. A state is exempt from matching the first \$100,000 of its grant but must match the rest with an equal amount from sources other than those provided under the ESG program (24 CFR section 576.201).

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort* Not Applicable

2.2 Level of Effort – *Supplement Not Supplant* For the street outreach and emergency shelter components, if a recipient or subrecipient is a unit of general purpose local government, its ESG program funds cannot be used to replace funds the local government provided for street outreach and emergency shelter services during the immediately preceding 12-month period, unless HUD determines that the unit of general purpose local government is in a severe financial deficit (24 CFR section 576.101(c)).

3. Earmarking

- a. For ESG, the total amount of each recipient's fiscal year grant that may be used for street outreach and emergency shelter activities cannot exceed the greater of: (1) 60 percent of the recipient's fiscal year grant; or (2) the amount of FY 2010 ESG program funds committed for homeless assistance activities (24 CFR 576.100(b)).

The recipient may use up to 7.5 percent of its ESG program project costs for the payment of administrative costs related to the planning and execution of ESG activities (24 CFR section 576.108(a)).

I. Period of Performance

Obligation-ESG (Funds allocated to states): Within 60 days from the date that HUD signs the grant agreement with a state (or grant amendment for reallocated funds), the recipient must obligate the entire grant, except the amount for its administrative costs. Within 120 days after the date that the state obligates its funds to a unit of general-purpose local government, the local government must obligate all of those funds.

Obligation-ESG (Funds allocated to metropolitan cities, urban counties, and territories): Within 180 days after the date that HUD signs the grant agreement (or a grant amendment for reallocation of funds) with a metropolitan city, urban county, or territory, the recipient must obligate all of the grant amount, except the amount for its administrative costs.

Expenditures-ESG: All of the recipient's grant must be expended for eligible activity costs within 24 months after the date HUD signs the grant agreement with the recipient. For the purpose of this requirement, expenditure means either an actual cash disbursement for a direct charge for a good or service or an indirect cost or the accrual of a direct charge for a good or service or an indirect cost.

J. Procurement and Suspension and Debarment

The debarment and suspension regulations at 2 CFR Part 180 and 2 CFR Part 2424 apply as written, except that, as provided by the CARES Act (referenced in Homeless Assistance Grants section under Community Planning and Development section in H.R. 748-321), the recipient may deviate from the applicable procurement standards (e.g., 24 CFR 576.407(c) and (f) and 2 CFR 200.317-200.326) when procuring goods and services to prevent, prepare for, and respond to coronavirus. As referenced in [CPD-20-08](#), Section F. Program Requirements, 9. Procurement:

If the recipient deviates from its procurement standards, then the recipient must establish alternative written procurement standards, and maintain documentation on the alternative procurement standards used to safeguard against fraud, waste, and abuse in the procurement of goods and services to prevent, prepare for, and respond to coronavirus. This alternative requirement is necessary to ensure that the funds are used efficiently and effectively to prevent, prepare for, and respond to coronavirus.

This alternative requirement applies to ESG recipients only and does not apply to subrecipients.

M. Subrecipient Monitoring**Payments to Subrecipients**

The recipient must pay each subrecipient for allowable costs within 30 days after receiving the subrecipient's complete payment request. This requirement also applies to each subrecipient that is a unit of general-purpose local government (24 CFR section 576.203).

N. Special Tests and Provisions**1. Maintenance as Homeless Shelters****Compliance Requirements**

Any building renovated with ESG program funds for use as an emergency shelter for homeless persons must be maintained as a shelter for homeless persons for not less than a three-year period or, if the renovation constitutes major rehabilitation or conversion of the building, for not less than a 10-year period. The minimum use period begins on the date the building is first occupied by a homeless individual or family after the completed renovation. The minimum period of use of ten years must be enforced by a recorded deed or use restriction (24 CFR section 576.102(c)).

Audit Objectives

Determine whether buildings renovated or converted for use as an emergency shelter with ESG program funds are maintained as emergency shelters for the required time periods and provide the required recorded deed or use restriction.

Suggested Audit Procedures

- a. Verify the existence of the buildings improved with ESG program funds and their current use as a homeless shelter.
- b. Inquire of management whether any buildings improved with ESG program funds in prior years are no longer being used as shelters, and if so, whether the prescribed three- or ten-year period had expired.
- c. Verify that a building where the renovation constituted a major rehabilitation or conversion of the building has a recorded deed or use restriction.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.239 HOME INVESTMENT PARTNERSHIPS PROGRAM****I. PROGRAM OBJECTIVES**

The objectives of the HOME Investment Partnerships (HOME) program include (1) expanding the supply of decent and affordable housing, particularly housing for low- and very low-income Americans; (2) strengthening the abilities of state and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing; (3) providing financial and technical assistance to participating jurisdictions, including the development of model programs for affordable low-income housing; and (4) extending and strengthening partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing (24 CFR section 92.1).

HOME-American Rescue Plan (HOME-ARP)

The American Rescue Plan Act of 2021 provided an additional \$5 billion of which \$4.925 billion was allocated using the HOME formula to meet the needs of those homeless or at risk of homelessness, the development of affordable housing, tenant based rental assistance, supportive services, and acquisition and development of non-congregate shelter units. Unlike HOME, these funds are not available for homebuyer or existing homeowner assistance activities. Also, up to 15 percent of each grant may be used for administrative purposes as opposed to HOME, which is up to 10 percent of each grant.

The HOME-ARP funds are available for certain qualifying populations (QPs) (as defined in Notice CPD-21-10: Requirements for the Use of Funds in the HOME-ARP Program):

1. Homeless (as defined in the McKinney Act definition at 24 CFR 91.5).
2. At-risk of homelessness (McKinney Act definition at 24 CFR 9.1.5).
3. Fleeing/Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking or Human Trafficking (definitions from Violence Against Women Act (VAWA) regulations at 24 CFR 5.2003, except Human Trafficking definition from Trafficking Victims Protection Act of 2000).
4. Other Populations where assistance would: Prevent the family's homelessness or serve those with the greatest risk of housing instability.

II. PROGRAM PROCEDURES

The HOME and HOME-ARP programs are conducted by jurisdictions (states, cities, urban counties, and consortia) that receive an allocation of funds. Participating jurisdictions (PJs) must submit a description of how they propose to use the funds for housing activities, together with

certifications (24 CFR Part 91). The funding amount is based on a formula of six factors established to reflect a jurisdiction's need for an increased supply of affordable housing for low- and very low-income families (24 CFR section 92.50).

A state may carry out its own HOME/HOME-ARP program without active participation of units of general local government or may distribute HOME/HOME-ARP funds to units of general local government to carry out HOME/HOME-ARP programs in which both the state and all or some of the units of general local government perform specified functions. A unit of general local government designated by a state to receive HOME/HOME-ARP funds from a state is a "state recipient." A "subrecipient" is a public agency or nonprofit organization selected by the participating jurisdiction to administer all or some of the participating jurisdiction's HOME/HOME-ARP programs. Before disbursing funds to an entity, each participating jurisdiction is required to enter into a written agreement with the entity. The contents of the agreement may vary depending on the role the entity assumes, or the type of project undertaken (e.g., state recipient, subrecipient, for-profit or nonprofit housing owner, developer, or sponsor, a contractor, or a home buyer, homeowner, or tenant receiving tenant-based rental or security deposit assistance) (24 CFR section 92.504).

Source of Governing Requirements

The HOME program was established by the Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (42 USC 12701–12840 and 3535(d)). Implementing regulations are codified at 24 CFR Part 92.

HOME-ARP was established in section 3205 of the American Rescue Plan Act of 2021 (Pub .L. No. 117-2). Notice CPD-21-10: Requirements for the Use of Funds in the ([HOME-ARP Implementing Notice](https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-10cpdn.pdf)) <https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-10cpdn.pdf> was published September 13, 2021. The Notice established requirements for HOME-ARP funds.

The American Rescue Plan (ARP) provides funds for homelessness and supportive services assistance under the HOME statute of Title II of NAHA (42 USC 12721 et seq.) and authorizes the Secretary of HUD to waive or specify alternative requirements for any provision of NAHA or regulation for the administration of the HOME-ARP program, except requirements related to fair housing, civil rights, nondiscrimination, labor standards, and the environment, upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of HOME-ARP funds. Pursuant to the [HOME-ARP Implementing Notice](#) the per-unit cost limits (42 USC 12742(e), commitment requirements (42 USC 12748(g)), matching requirements (42 USC 12750), and set-aside for housing developed, sponsored, or owned by community housing development organizations (CHDOs) (42 USC 12771) in NAHA do not apply to HOME-ARP funds.

Availability of Other Program Information

On April 10, 2020, the Office of Community Planning and Development (CPD) issued two memoranda containing statutory suspensions and regulatory waivers for the HOME Program to provide flexibility for jurisdictions to address the COVID-19 pandemic. The participating

jurisdictions must request these suspension/and or waivers to implement them. All participating jurisdictions are subject to the compliance requirements listed in Section III. The participating jurisdictions implementing the COVID-19 suspensions and waivers must adhere to the revised application of the requirements set forth in the waivers:

www.hudexchange.info/programs/home/covid-19/#regulatory-resources.

An extension to the original COVID-19 suspensions and waivers, along with additional information is provided in the following document:

<https://www.hud.gov/sites/dfiles/CPD/documents/HOME-General-Susp-and-Waivers-Revisions->

Pertinent information that will assist the auditor in understanding the HOME program is available on the agency website at <https://www.hudexchange.info/home/>.

Information regarding the American Rescue Plan requirements for HOME-ARP Program:

<https://www.hudexchange.info/resource/6479/notice-cpd-2110-requirements-for-the-use-of-funds-in-the-home-arp-program/> and

<https://www.hudexchange.info/resource/6480/home-arp-implementation-notice-fact-sheets/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	Y	N	Y	Y

A. Activities Allowed or Unallowed**1. Activities Allowed****HOME**

- a. HOME funds (including program income generated by activities carried out with HOME funds) may be used by participating jurisdictions to provide for: (a) incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; (b) tenant-based rental assistance, including security deposits; (c) the payment of reasonable administrative and planning costs; and (d) the payment of operating expenses of Community Housing Development Organizations (CHDOs). The housing must be permanent or transitional. The acquisition of vacant land or demolition can only be undertaken with respect to a particular housing project intended to provide affordable housing, and when construction is expected to begin within 12 months. Conversion of an existing structure to affordable housing is rehabilitation unless certain circumstances exist. Manufactured housing may be purchased or rehabilitated and the land upon which it is built may be purchased with HOME funds. HOME funds may be used to pay for development construction hard costs, refinancing costs, acquisition costs, related soft costs, CHDO costs, relocation costs, and costs related to the repayment of loans (24 CFR sections 92.205(a) and 92.206).
- b. A participating jurisdiction may use or “invest” HOME funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies, deferred payment loans, grants, or other forms of assistance approved by HUD. A participating jurisdiction may invest HOME funds to guarantee loans made by lenders and, if required, the participating jurisdiction may establish a loan guarantee account with HOME funds. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans but under no circumstances, may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed, except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay the guaranteed loans are not (24 CFR section 92.205(b)).

HOME-ARP

- a. Affordable Rental Housing: HOME-ARP rental funds may be used to acquire, construct or rehabilitate housing for those that meet the definition

of one or more of the qualifying populations described in the [HOME-ARP Implementing Notice](#). Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide HOME-ARP rental housing within the timeframes provided in Section VI.B. of the [HOME-ARP Implementing Notice](#).

HOME-ARP funds may be used to assist one or more units in a project. Only the eligible development costs of the HOME-ARP units may be charged to the HOME-ARP program. Cost allocation in accordance with 24 CFR 92.205(d)(1) is required if the assisted and non-assisted units are not comparable. HOME-ARP units are identified as such within the IDIS system. After project completion, the number of HOME-ARP units in a project cannot be reduced. During the HOME-ARP minimum compliance period and prior to the end of the HOME-ARP budget period, a PJ may invest additional HOME-ARP funds to provide operating cost assistance but is prohibited from investing additional HOME-ARP funds for capital costs except within the 12 months after project completion. A qualifying household admitted to a HOME-ARP rental unit may still receive HOME-ARP supportive services or Tenant-based Rental Assistance (TBRA) in accordance with the requirement of the HOME- ARP Implementing Notice.

Unlike the HOME program, which targets HOME-assisted rental units based on tenant income, 70 percent of all HOME-ARP-assisted units will admit households based only upon their status as qualifying households. The remaining 30 percent of assisted units may be occupied by low-income households.

HUD used its HOME-ARP statutory authority to permit the use of HOME-ARP funds to provide ongoing operating cost assistance or capitalize a project operating cost assistance reserve to address operating deficits of the HOME-ARP units restrict for qualifying households during the compliance period. HUD also suspended the maximum per-unit subsidy limit for HOME-ARP units, enabling HOME-ARP funds to pay the entire cost to acquire, rehabilitate and/or construct the HOME-ARP rental units.

- b. HOME-ARP Tenant-Based Rental Assistance (HOME-ARP TBRA) may be used to provide rental assistance, security deposit payments, and utility deposit assistance to qualifying households. HOME-ARP funds may be used to pay for up to 100 percent of these eligible costs. A PJ may use HOME-ARP TBRA funds to provide loans or grants to qualifying households for security deposits for rental units regardless of whether the PJ provides any other HOME-ARP TBRA assistance. The amount of funds that may be provided for a security deposit may not exceed the equivalent of two months' rent for the unit. Utility deposit assistance is an eligible cost only if rental assistance or a security deposit payment is

provided. Costs of inspecting the housing are also eligible costs of HOME-ARP TBRA. Administration of HOME-ARP TBRA is an eligible cost **only** if executed in accordance with general management oversight and coordination at 24 CFR 92.207(a), except that the costs of inspecting the housing and determining the income eligibility of the family are eligible project costs under HOME-ARP TBRA.

Funding may also go towards a HOME-ARP sponsor, which is a nonprofit organization that provides housing or supportive services to qualifying households, to facilitate the leasing of a HOME-ARP rental unit or the use and maintenance of HOME-ARP TBRA. A sponsor may make rental subsidy payments and a security deposit payment on behalf of a qualifying household.

- c. Supportive Services- may only be provided to individuals and families who meet the definition of a qualifying population under Section IV.A of the HOME-ARP Implementing Notice and who are not already receiving these services through another program.

There are three categories of supportive services:

- (1) McKinney-Vento Supportive Services, listed in section 401(29) of the McKinney-Vento Homeless Assistance Act (42 USC 11360(29)).
- (2) Homelessness Prevention Services adapted from eligible homelessness prevention services under the Emergency Service Grant regulations at 24 CFR Part 576. See section VI.D of the [HOME-ARP Implementing Notice](#) for list of eligible services and costs.
- (3) Housing Counseling Services defined at 24 CFR 5.100 and 5.111, except for homeowner assistance and related services are not eligible.

- d. Acquisition and Development of Non-Congregate Shelter (NCS): A non-congregate shelter is one or more buildings that provide private units or rooms as temporary shelter to individuals and families and does not require occupants to sign a lease or occupancy agreement. HOME-ARP funds may be used to acquire and develop non-congregate shelter (HOME-ARP NCS) for those that meet one of the qualifying populations defined in the [HOME-ARP Implementing Notice](#). This activity may include new construction or the acquisition and/or rehabilitation of existing structures (such as motels, nursing homes or other facilities). Also, the demolition to existing structures for the purpose of developing HOME-ARP NCS is allowed. HOME-ARP funds may also be used for

improvements to the project site, including the installation of utilities or utility connections, laundry facilities, community facilities, on-site management, or supportive service offices.

Soft Costs allowable are necessary costs incurred by the PJ, subrecipient, or project owner associated with financing, acquisition, and development of HOME-ARP NCS projects.

Also, replacement reserves to cover reasonable and necessary costs of replacing major systems and their components is allowable.

- e. **Nonprofit Operating and Capacity Building Assistance:** A PJ may use up to five percent of its HOME-ARP allocation to pay operating expenses of CHDOs and other nonprofit organizations that will carry out activities with HOME-ARP funds. A PJ may also use up to an additional five percent of its allocation to pay eligible costs related to developing the capacity of eligible nonprofit organizations to successfully carry out HOME-ARP eligible activities.

PJs may award operating expense assistance or capacity building assistance to a nonprofit organization if it reasonably expects to provide HOME-ARP funds to the organization for any of the eligible HOME-ARP activities within 24 months of the award.

Operating expenses are defined as reasonable and necessary costs of operating the nonprofit organization. HOME-ARP funds used for operating expenses must be used for the “general operating costs” of the nonprofit organization. These costs include employee salaries, wages and other employee compensation and benefits; employee education, training, and travel; rent; utilities, communication costs; taxes, insurance; equipment, materials, and supplies.

Capacity Building Assistance expenses are defined as reasonable and necessary general operating costs that will result in expansion or improvement of an organization’s ability to successfully carry out eligible HOME-ARP activities. Eligible costs include salaries for new hires including wages and other employee compensation and benefits; costs related to employee training or other staff development that enhances an employee’s skill set and expertise; equipment (e.g., computer software or programs that improve organizational processes), upgrades to material and equipment, and supplies; and contracts for technical assistance or for consultants with expertise related to the HOME-ARP qualifying populations.

NAHA and the HOME regulations limit the amount of operating expense assistance that an organization can receive annually. ARP extends this

limitation to the capacity building assistance paid with HOME-ARP funds.

- In any fiscal year, operating assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization for that fiscal year or \$50,000.
 - In any fiscal year, capacity building assistance provided to a nonprofit organization may not exceed the greater of 50 percent of the general operating expenses of the organization for that fiscal year or \$50,000.
 - If an organization received both operating assistance and capacity building assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for that fiscal year or \$75,000.
- f. A PJ may use or "invest" HOME-ARP funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies, deferred payment loans, grants, or other forms of assistance approved by HUD. A PJ may invest HOME-ARP funds to guarantee loans made by lenders and, if required, the PJ may establish a loan guarantee account with HOME-ARP funds. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans but under no circumstances, may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed, except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME-ARP funds are subject to all HOME-ARP and HOME (as amended in the HOME-ARP Implementing Notice) requirements, funds which are used to repay the guaranteed loans are not (24 CFR section 92.205(b)).

2. *Activities Unallowed*

HOME

HOME funds may not be used for (a) project reserve accounts or operating subsidies; (b) tenant-based rental assistance for the special purpose of the Section 8 program; (c) nonfederal matching contributions under any other federal program; (d) annual contributions for the operation of public housing; (e) public housing modernization; (f) assistance to prepay low-income housing mortgages; (g) assistance to a project previously assisted with HOME funds during the period of affordability (i.e., the period for which the nonfederal entity must maintain subsidized housing); (h) the acquisition of property owned by the PJ (except for property acquired with HOME funds or in anticipation of a HOME project); and

- (i) payment of delinquent taxes, fees, or charges.

PJs may not charge servicing, origination, or other fees for the purpose of covering costs of administering the HOME program. PJs may charge: (1) owners of rental projects reasonable annual fees for compliance monitoring during the period of affordability; (2) application fees to project owners to discourage frivolous applications; and (3) homebuyers a fee for housing counseling (24 CFR section 92.214).

HOME-ARP

- a. *Affordable Rental Housing:* Emergency shelter, hotels, and motels (including those currently operating as non-congregate shelter), facilities such as nursing homes, residential treatment facilities, correctional facilities, halfway houses. However, housing for students or dormitories do not constitute housing in the HOME-ARP program.

HOME-ARP may not be used for any of the prohibited activities, costs, or fees in 24 CFR 92.214, as revised by the Appendix of the HOME-ARP Implementing Notice.

- b. *HOME-ARP TBRA:* funds may not be used to pay for the homebuyer program as defined at 24 CFR 92.209(c)(2)(iv).
- c. *Supportive Services:* HOME-ARP funds may not be used to provide supportive services to individuals or families that do not meet the definition of a qualifying population defined in Section IV.A. of the HOME-ARP Implementing Notice.

Costs for the provision of services to existing homeowners related to homeownership and mortgages to existing homeowners are not eligible. (If a program participant is a candidate for homeownership, costs associated with pre-purchase homebuying counseling, education and outreach are eligible.)

No duplication of services; PJs are responsible for establishing requirements that allow a program participant to receive only the HOME-ARP services needed.

- d. *Non-Congregate Shelter:* HOME-ARP funds may not be used to pay ongoing costs of operating HOME-ARP NCS (such as allocable overhead and staffing costs, insurance, utilities) or to convert NCS to housing.

HOME-ARP funds may not be used to pay the operating costs of HOME-ARP NCS. The PJ is prohibited from investing additional HOME-ARP funds to pay for the cost of converting the NCS project from HOME-ARP

NCS to permanent affordable housing or to pay for operating the project as permanent affordable housing.

E. Eligibility

1. Eligibility for Individuals

HOME

- a. The HOME program has income targeting requirements. Only low-income or very low-income persons, as defined in 24 CFR section 92.2, can receive housing assistance (24 CFR section 92.1). Therefore, the PJ must determine if each family is income eligible by determining the family's annual income, including all persons in the household, as provided for in 24 CFR section 92.203. PJs must maintain records for each family assisted (24 CFR section 92.508).
- b. HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet certain limits on the rents that can be charged. The requirements also apply to the HOME-assisted non-owner-occupied units in single-family (one–four unit) housing purchased with HOME funds. The maximum HOME rents, which include utilities or the utility allowance, are the lesser of the fair market rent for comparable units in the area, as established by HUD under 24 CFR section 888.111, or a rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area as determined by HUD, with adjustments for the number of bedrooms. Rental projects with five or more units have additional rent limitations. Twenty percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements: (1) the rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for larger or smaller families; or (2) the rent does not exceed 30 percent of the families adjusted income (24 CFR sections 92.216 and 92.252).
- c. A PJ may use HOME funds for tenant-based rental assistance, as provided for in 24 CFR section 92.209(b). The PJ must select families in accordance with policies and criteria consistent with those provided in 24 CFR section 92.209(c).

HOME-ARP

- a. HOME-ARP requires that funds be used to primarily benefit individuals and families that meet the following specified “qualifying populations.” Any individual or family who meets the criteria for these populations is

eligible to receive assistance or services funded through HOME-ARP without meeting additional criteria (e.g., additional income criteria). All income calculations to meet income criteria of a qualifying population or required for income determination in HOME-ARP eligible activities must use the annual income definition in 24 CFR 5.609 in accordance with the requirements of 24 CFR 92.203(a)(1).

The following are the specified “qualifying populations” (see the [HOME-ARP Implementing Notice](#) section IV for detailed definitions):

- (1) Homeless, as defined in 24 CFR 91.5 *Homeless* (1), (2), or (3) (see section IV.A.1.);
- (2) At risk of homelessness, as defined in 24 CFR 91.5 *At risk of homelessness*; (see section IV A.2)
- (3) Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD.(see section IV A.3) Other Populations where providing supportive services or assistance under section 212(a) of NAHA (42 USC 12742(a)) would prevent the family’s homelessness or would serve those with the greatest risk of housing instability. (see section IV.A.4 (1) (2).)

- b. HOME-ARP-assisted units in a rental housing project must be occupied only by households of individuals and families that meet the definition of one or more of the qualifying populations described in Section IV.A of the HOME-ARP Implementing.

Occupancy Requirements –

- (1) *Qualifying Households*. Units restricted for occupancy qualifying households must be occupied by households that meet the definition of qualifying population at the time of admission to the HOME-ARP unit. A qualifying household after admission retains its eligibility to occupy a HOME-ARP rental unit restricted for qualifying populations, irrespective of the qualifying household’s changes in income or whether the household continues to meet the definition of a qualifying population.
- (2) *Low-Income Households*. At initial occupancy, units restricted for low-income households must be occupied by households that meet the definition of low-income in 24 CFR 92.2. If a tenant’s income increases above the applicable low-income limit during the compliance period, the unit will be considered temporarily out of compliance. Noncompliance requires the PJ to take action in accordance with the rent and unit mix requirements in

Section VI.B.15 and VI.B.17 of the HOME-ARP Implementing Notice, respectively.

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

J. Program Income

HOME

When program income is generated by housing that is only partially assisted with HOME funds or matching funds, the income must be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

- a. Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;
- b. Gross income from the use or rental of real property owned by the PJ, state recipient, or a subrecipient, that was acquired, rehabilitated, or constructed with HOME funds or matching contributions, less costs incidental to generation of the income (program income does not include gross income from the use, rental or sale of real property received by the project owner, developer, or sponsor, unless the funds are paid by the project owner, developer, or sponsor to the PJ, subrecipient or state recipient);
- c. Payments of principal and interest on loans made using HOME funds or matching contributions;
- d. Proceeds from the sale of loans made with HOME funds or matching contributions;
- e. Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
- f. Interest earned on program income pending its disposition; and
- g. Any other interest or return on the investment permitted under 24 CFR section 92.205(b) of HOME funds or matching contributions (24 CFR sections 92.2 and 92.505).

HOME-ARP

Program income earned as a result of the use of HOME-ARP funds is HOME program income and must be used in accordance with the requirements of 24 CFR Part 92.

Program income includes, but is not limited to, principal and interest payments from a loan made with HOME-ARP funds, or other income or fees received from project owners in connection with HOME-ARP funds, and interest earned by the PJ on program income before disposition.

The PJ must retain the funds in their HOME-ARP Investment Trust Fund local account (local account) and enter the program income into IDIS as HOME program income, and also must subgrant the program income to the state recipient or subrecipient that retained the program income.

M. Subrecipient Monitoring

Each participating state is responsible for distributing HOME/HOME-ARP funds throughout the state according to the state's assessment of the geographical distribution of housing need within the state. A state may carry out its HOME/HOME-ARP program without active participation of units of general local government or may distribute HOME funds to units of general local government to carry out HOME programs in which both the state and all or some of the units of general local government perform specified program functions. A state that uses state recipients to perform program functions shall ensure that the state recipients use HOME/HOME-ARP funds in accordance with applicable laws and requirements. A state shall include in its written agreements with its state recipients such additional provisions as may be appropriate to ensure compliance and to enable the state to carry out its responsibilities under the HOME/HOME-ARP program. The state is to conduct such reviews and audits of its state recipients as may be necessary or appropriate to determine whether the state recipient has committed and expended the HOME/HOME-ARP funds, as required by 24 CFR section 92.500, and has met HOME/HOME-ARP program requirements particularly as they relate to eligible activities, income targeting, affordability, and matching contribution requirement (24 CFR section 92.201(b)).

Before disbursing funds to a subrecipient, each PJ is required to enter into written agreements with the entity, which includes provisions dealing with the use of HOME/HOME-ARP funds, program income, uniform administrative requirements, other program requirements, affirmative marketing, requests for disbursement of funds, reversion of assets, records and reports, and enforcement of the agreement. Further, if the subrecipient provides HOME/HOME-ARP funds to for-profit owners or developers, nonprofit organizations, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors—as applicable—the subrecipient must have a written agreement that contains the applicable provisions in 24 CFR section 92.504(c).

Regarding HOME-ARP funds: The same requirements for subrecipient monitoring applies except that activities for homeowners and homebuyers are excluded from HOME-ARP funding.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements Contracts for the construction of affordable housing with 12 or more HOME-assisted units are required to comply with the Wage Rate Requirements (42 USC 12836).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

Regarding HOME-ARP funds: The same wage rate requirements apply.

2. Maximum Per-Unit Subsidy

Compliance Requirements The per-unit investment of HOME funds may not exceed the Federal Housing Administration (FHA) mortgage limits in Subsection 221(d)(3) of the National Housing Act, including any area-wide high cost exceptions approved by HUD. This information should be available from the grantee or the local HUD field office. In mixed-income or mixed-use projects, the average per-unit investment in HOME-assisted units may not exceed the applicable Subsection 221(d)(3) (i.e., 234) limit.

Note: The maximum per-unit subsidy limits established in NAHA do not apply to HOME-ARP units. PJs may pay up to 100 percent of the eligible and reasonable HOME-ARP costs allocated to a HOME-ARP unit, including operating cost assistance associated with units restricted for occupancy by qualifying households. All costs paid by HOME-ARP funds must comply with the [HOME-ARP Implementing Notice](#) requirements and the Cost principles at 2 CFR Part 200 Subpart E of the Uniform Administrative Requirements, as amended.

Audit Objectives Determine whether the grantee performs the required analysis to ensure that the per-unit investment of HOME funds being provided does not exceed the FHA mortgage limits in Subsection 221(d)(3).

Suggested Audit Procedures

- a. Review a sample of projects to verify that the HOME per-unit investment amounts are supported by the participating jurisdiction's records.

3. Underwriting Requirements

HOME

Compliance Requirements PJs are required to evaluate each housing project in accordance with guidelines that it adopts to ensure that the combination of federal assistance to the project is not any more than is necessary to provide affordable housing that is financially viable. Prior to the commitment of HOME funds to a project, PJs must evaluate the project in accordance with guidelines that it has adopted, which must include (a) an examination of the sources and uses of funds for the project and a determination that the costs are reasonable; (b) an assessment of the current market demand in the neighborhood in which the project will be located; (c) an assessment of the experience

and financial capacity of the developer; and (d) an assessment of the firm written financial commitments for the project (24 CFR section 92.250).

Audit Objectives Determine whether the grantee performs the required analysis to ensure that HOME subsidies being provided are not more than necessary to provide affordable housing and that such analysis appears reasonable and is properly supported.

Suggested Audit Procedures

- a. Review a sample of projects to verify that the HOME subsidy amounts are supported by the PJ's records.
- b. Review PJ records to verify that each housing project was evaluated in accordance with its guidelines and to ensure that the combination of federal assistance to the project is not any more than is the FHA mortgage limits in Subsection 221(d)(3) (i.e., 234) of the National Housing Act necessary to provide affordable housing.

HOME-ARP

Compliance Requirements HOME-ARP must have standardized guidelines that include the following:

- a. Examination of the source and uses of funds for the project and a determination that costs are necessary and reasonable. The PJ must determine the amount of HOME-ARP development subsidy required to fill the gap between other committed funding sources and the cost to develop the project.
- b. A demonstration of unmet need among qualifying populations for the type of housing proposed.
- c. Market assessment is necessary if project contains units restrict for low-income or market-rate households per 24 CFR 92.250(b)(2).
- d. Documented review of the developer's experience and financial capacity are satisfactory based on the size and complexity of the project.
- e. Firm written financial commitments for the project.
- f. Review of the operating budget especially as it pertains to the operating cost assistance during the compliance period of the project.
- g. Overall assessment of the project viability thought the compliance period.

Audit Objectives Determine whether the grantee performs the required analysis to ensure that HOME-ARP underwriting guidelines are followed, and that such analysis appears reasonable and is properly supported.

Suggested Audit Procedures

- a. Review a sample of projects to verify that the HOME-ARP document list and analysis above is included in the participating jurisdiction's records.

4. Drawdowns of HOME/HOME-ARP Funds

Compliance Requirements The Integrated Disbursement and Information System (IDIS) is used both to collect information on compliance with program requirements and to disburse HOME funds to local jurisdictions (24 CFR section 92.502).

Audit Objectives Determine whether the drawdowns of HOME funds using IDIS (HOME payment certification amounts) are supported by local jurisdiction records.

Suggested Audit Procedures

- a. Verify that HOME/HOME-ARP payment certification amounts match the amount of the local jurisdiction's expenditures to support the drawdown request.

5. Housing Quality Standards

Compliance Requirements During the period of affordability (i.e., the period for which the nonfederal entity must maintain subsidized housing) for HOME assisted rental housing, the PJ must perform on-site inspections to determine compliance with property standards and verify the information submitted by the owners no less than (a) every three years for projects containing one to four units, (b) every two years for projects containing five to 25 units, and (c) every year for projects containing 26 or more units. The PJ must perform on-site inspections of rental housing occupied by tenants receiving HOME/HOME-ARP-assisted tenant-based rental assistance to determine compliance with housing quality standards (24 CFR sections 92.209(i), 92.251(f), and 92.504(d)).

Regarding HOME-ARP funds: the rental units must comply with the same requirements as HOME per 24 CFR 92.251 for (a) new construction, (b) rehabilitation projects, (c)(1) and (2) acquisition of standard housing, (e) manufactured housing, and (f) on-going property condition standards.

Note: Requirements for the ongoing inspections of HOME-assisted rental housing were established by the HOME rule, published July 24, 2013. These requirements will become effective upon publication of a notice by HUD, which further sets forth these requirements. Once effective, the requirements for completion and ongoing inspections of HOME rental housing must comply with the requirements set forth at 24 CFR 92.504(d)(1).

Audit Objectives Determine whether the grantee performs the required inspections to ensure that property standards are met.

Suggested Audit Procedures

- a. Verify through a review of documentation that the nonfederal entity identifies those units on which housing quality inspections are due.
- b. Verify through a review of documentation that the nonfederal entity performs inspections of units and that any needed repairs are completed timely.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSITANCE LISTING 14.241 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS****I. PROGRAM OBJECTIVES**

The Housing Opportunities for Persons With AIDS (HOPWA) program is designed to provide states and localities with resources and incentives to devise long-term strategies for meeting the housing needs of persons living with the human immunodeficiency virus (HIV), including those with acquired immunodeficiency syndrome (AIDS) or related diseases and their families (24 CFR section 574.3).

II. PROGRAM PROCEDURES

The Department of Housing and Urban Development (HUD) awards funds appropriated for the program in any fiscal year through both a formula allocation and competitive grant process.

Ninety percent of the funds are awarded through formula grants and ten percent through competitive grants. HUD allocates formula funds based on the number of persons living with HIV as reported to and confirmed by the Centers for Disease Control and Prevention (CDC), population data furnished by the US Bureau of the Census, two-bedroom Fair Market Rent data published by HUD, and poverty rate data derived by the American Community Survey (42 USC 12903(c)).

The competitive grants are awarded based on applications, as described in Subpart C of the HOPWA regulations (24 CFR Part 574 Subpart C). Priority is currently given by Congressional authority for the renewal or replacement of expiring permanent supportive housing project grants, per annual appropriation language. If funds remain after renewals or replacements are awarded, they are distributed under a Notice of Funding Opportunity (NOFO) competition. In FY24, the HOPWA program funded permanent supportive housing projects through Notice CPD-24-03. In FY24, the HOPWA program publish a NOFO (FR-6700-N-11) to fund Housing Interventions (HINT) to End the HIV Epidemic special projects of national significance (SPNS) grants. All states and units of general local government and nonprofit organizations are eligible to apply for competitive grants to fund special projects of national significance (SPNS). . Only those states and units of general local government that do not qualify for formula allocations are eligible to apply for competitive grants to fund other projects, as described in 574.200(a)(2). Except for grants involving projects of national significance, nonprofit organizations are not eligible to apply directly to HUD for a grant but may receive funding as a project sponsor (subrecipient) under a contract with a grantee (24 CFR section 574.210).

The Coronavirus Aid, Relief, and Economic Security (CARES) Act included \$65 million in supplemental grant funding for the HOPWA program that the Department distributed in the following manner:

1. \$53.7 million was allocated to formula grantees using the same data elements from the statutory allocation formula (42 USC 12903) used to determine fiscal year (FY)

2020 HOPWA formula allocations;

2. \$10 million in additional one-time, nonrenewable funding was allocated to HOPWA permanent supportive housing competitive renewal grantees that were initially funded with appropriated funds from FY 2010 or earlier and are currently administering grant awards. The supplemental grant funding was allocated to the competitive renewal grantees in a manner proportionate to their existing grants;
3. \$1.3 million in funding was awarded, without competition, to increase prior awards made to existing HOPWA technical assistance (TA) providers. The purpose of TA funding is to provide an immediate increase in capacity building and TA availability to grantees.

The CARES Act funding guidance is included in the FY2025 Compliance Supplemental Package due to it not being closed-out in HUD financial systems. It will be removed in the FY2026 Supplement.

Source of Governing Requirements

The HOPWA program is authorized by the AIDS Housing Opportunity Act, as amended (42 USC 12901 *et seq.*). Implementing regulations are in 24 CFR parts 91 and 574.

HOPWA CARES Act grants are authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136.

Availability of Other Program Information

For additional information that may be helpful to auditors in understanding the HOPWA program, refer to the respective HOPWA program websites at the following links:

HOPWA Program Notices Website:

https://www.hud.gov/program_offices/comm_planning/hopwa/notices

For additional information that may be helpful to auditors in understanding the HOPWA CARES Act grants, available guidance and resources can be accessed here:

https://www.hud.gov/program_offices/comm_planning/hopwa_covid-19.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to

the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. HOPWA funds may be used to assist forms of housing designed to prevent homelessness, including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services must be made available as part of any HOPWA-assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity. The following activities may be carried out with HOPWA funds: housing information services; resource identification to establish, coordinate, and develop housing assistance resources for eligible persons; acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services; new construction for SRO and community residences only; project- or tenant-based rental assistance, including assistance for shared housing arrangements; short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling; permanent housing placement including security deposits of up to two months' rent; supportive services; operating costs for housing; technical assistance in establishing and operating a community residence; administrative expenses; and, for competitive grants only, any other activity proposed by the applicant and approved by HUD (24 CFR section 574.300).
2. The supplemental grant funds authorized under the CARES Act may be used to provide the eligible HOPWA activities identified at 24 CFR Part 574, so long as these funds are used for activities that are consistent with grantees' community needs for COVID-19 preparedness and response.

Grantees may consider using the supplemental grant funds authorized under the CARES Act for the following activities:

- a. Stays at hotels, motels, or other locations to self-isolate, quarantine, or provide other infection control for HOPWA-eligible individuals or their

family members;

- b. Providing transportation services for eligible households to access medical care, supplies, and food or to commute to places of employment;
- c. Assisting HOPWA-eligible households in accessing essential services and supplies such as food, medications, medical care, personal protective equipment (PPE) and information;
- d. Providing nutrition services for eligible households in the form of food banks, groceries, and meal deliveries;
- e. Educating assisted households on ways to reduce the risk of contracting or spreading COVID-19 to others; and
- f. Costs related to infection control measures such as cleaning and disinfectant supplies, gloves, PPE, and other safety-related supplies for staff and assisted households.

B. Allowable Costs/Cost Principles

- 1. Grantees must ensure that grant funds will not be used to make payments for health services for any item or service to the extent that payment was made, or can reasonably be expected to be made, with respect to any item or service:
 - a. under any state compensation program, under an insurance policy, or under any federal or state health benefits program; or
 - b. by an entity that provides health services on a prepaid basis, as provided for in 24 CFR section 574.310(a)(2). Supportive services include such items as alcohol abuse treatment and counseling, day care, and nutritional services (24 CFR section 574.300(b)(7)).
- 2. HOPWA administrative costs do not include costs directly related to carrying out eligible activities, since those costs are eligible as part of the activity delivery costs of such activities (24 CFR section 574.3).
- 3. CARES Act funds may be used to cover or reimburse allowable costs as of the date a grantee or project sponsor began preparing for coronavirus, which HUD shall presume to be no earlier than January 21, 2020—the date the first confirmed case was reported in the United States according to the CDC. Grantees and project sponsors must maintain documentation demonstrating when they began preparing for COVID-19, such as notes on formal planning meetings or calls, and must maintain documentation to support any costs incurred by the recipient that the recipient plans to cover or reimburse with CARES Act grant funding.

4. Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5155) prohibits the duplication of benefits for programs that provide financial assistance to people or entities suffering losses as a result of a federally declared disaster or emergency. The duplication of benefits occurs when federal financial assistance is provided to a person or entity through a program to address losses resulting from a federally declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs. HOPWA grantees must establish and maintain adequate procedures to prevent any duplication of benefits with CARES Act funds.

E. Eligibility

1. Eligibility for Individuals

- a. A person eligible for assistance under this program means a person with HIV or AIDS who is a low-income individual and the person's family, including persons important to their care or well-being, as defined in 24 CFR section 574.3. The eligibility of those tenants who were admitted to the program should be determined by (1) obtaining applications that contain all the information needed to determine eligibility, including diagnosis, documentation of housing need, income, rent, and order of selection; and (2) obtaining third party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information. Personally Identifiable Information (PII) should be redacted.

In response to the COVID-19 pandemic, HUD issued regulatory waivers permitting HOPWA grantees and project sponsors to rely upon a family member's self-certification of income and credible information on their HIV status (such as knowledge of their HIV-related medical care) in lieu of source documentation to determine eligibility for HOPWA assistance of families and grantees affected by COVID-19.

All CPD waiver memoranda are available online at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

HOPWA specific waivers are included in the following memoranda:

- (1) <https://www.hud.gov/sites/dfiles/CPD/documents/Availability-of-Waivers-of-CPD-Grant-Program-and-Consolidated-Plan-Requirements-to-Prevent-the-Spread-of-COVID-19-and-Mitigate-Economic-Impacts-Caused-by-COVID-19.pdf>
- (2) <https://www.hud.gov/sites/dfiles/CPD/documents/Additional-Waivers-for-CPD-Grant-Programs-to-Prevent-COVID-19-Spread-and-Mitigate-COVID-19-Economic-Impacts.pdf>

- (3) https://www.hud.gov/sites/dfiles/CPD/documents/DI-7782-MegaWaiver-5-for-CPD_v2-3-26-2021_JAJ_signed.pdf
 - (4) https://www.hud.gov/sites/dfiles/CPD/documents/signed-2021-MegaWaiver-6_Final.pdf
 - (5) https://www.hud.gov/sites/dfiles/CPD/documents/Additional_Waivers_CPD_COVID19_December_2021.pdf
- b. Except for persons in short-term supportive housing, each person receiving rental assistance under the HOPWA program must pay as rent the higher of: (1) 30 percent of the family's monthly adjusted gross income; (2) 10 percent of the family's monthly gross income; or (3) the portion of the payments that is designated if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs (24 CFR section 574.310).
- c. If grant funds are used to provide rental assistance, the amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between the lower of the rent standard or reasonable rent. Per 24 CFR 574.320(a)(2) the rent standard shall be established by the grantee and shall be no more than the published section 8 fair market rent (FMR) or the HUD-approved community-wide exception rent for the unit size. Per 24 CFR section 574.320(a)(3), the rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units. Rent reasonableness can be determined by telephone surveys, site visits after telephoning, or more extensive market surveys of available rental units to assess the reasonableness of rents being charged based on timeframe when the rent was determined.
- In response to the COVID-19 pandemic, HUD issued regulatory waivers permitting HOPWA grantees to establish rent standards, by unit size, which exceed FMR as long as they meet rent reasonableness requirements at 24 CFR section 574.320(a)(3). The waiver memoranda are available online at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.
- d. A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six-month period. Further a short-term supported housing facility may not provide shelter or housing at any single time for more than 50 families or individuals (24 CFR section 574.330). Short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling may not be provided to such an individual for costs accruing over a period of

more than 21 weeks in any 52-week period.

In response to the COVID-19 pandemic, HUD issued regulatory waivers that provided that, on an individual household basis, grantees or project sponsors may assist eligible households for a period that exceeds the time limit specified in the regulations. The waiver memoranda are available online at

https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

- e. The CARES Act provided that the supplemental grant funding received under the Act may be used to provide Short-Term Rent, Mortgage and Utility (STRMU) assistance payments for a period of up to 24 months. The 24-month limit on STRMU assistance specified by the CARES Act is only applicable to the supplemental grant funds received under the CARES Act and any portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID-19 pandemic.

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – For HOPWA, this form is only partially filled out for submittal at closeout. All of the information captured in this form except for the program income and indirect expenses sections is already provided through HUD's financial and reporting systems. Grantees are required to only complete the sections on Program Income (Part 10. L-O), and Indirect Expenses (Part 11) but may complete additional fields.

This form is available online at:

https://apply07.grants.gov/apply/forms/sample/SF425_3_0-V3.0.pdf

- d. *Integrated Disbursement Information System (IDIS)* (OMB No. 2506- 0077) – HOPWA formula grantees and competitive grantees utilize IDIS Online to

conduct financial transactions. Grantees must set up activities for the grantee and project sponsor in IDIS. An activity corresponds to the eligible HOPWA grant activities and is tied to the operating year. After an activity has been set up, funds are drawn down by creating a voucher that sends the payment request to the line of credit control system (LOCCS). Auditors may request grantees/auditees to supply a copy of the following reports from the MicroStrategy reporting system to compare actual draw information with [local](#) financial management system [data](#)-and receipts on file with the grantee: PR01 (total grant amounts with total draws and balances); PR02 (activity-level funding and drawn amount under a grant); PR05 (draws sorted by project and activity); PR07 (sequential grantee draws, with ability to filter by date, activity and 'completed' voucher status). Discuss with the grantee any impact of potential trailing costs which may include reviewing the grantee-identified Approximate Cost Incurred Date field on the HOPWA PR-07. The Contact Support link within IDIS can be used to get clarification on report variables.

IDIS Online link: <https://www.hudexchange.info/programs/idis/>

2. Performance Reporting

- a. **Report Title:** [HUD-4155, HOPWA Consolidated APR/CAPER](#)

OMB PRA Number: OMB number 2506-0133

Report Authority: 24 CFR 574.520, 24 CFR 574.605

Reporting Period/ Submission date/s: Both HOPWA formula and competitive grantees submitting reports after January 1, 2023, must complete and submit the HUD-4155 "Consolidated APR/CAPER" (OMB number 2506-0133). HOPWA Formula Grantees that accept the supplemental funding authorized under the CARES Act should report on the use of supplemental grant funds in the same performance report as their use of entitlement funds. Both formula and competitive grantees are required to submit their completed HUD-4155 no later than 90 days after the close of their program or operating year. Competitive grantees have 120 days after the end of their grant's last period of performance to submit the final HUD-4155.

Link to report and report instruction:
[HUD-4155, HOPWA Consolidated APR/CAPER](#)

Information pertaining to the amount of HOPWA funds expended in the program year for each HOPWA eligible activity can be found in Form HUD-4155's workbook which includes a tab for each of the following programs: Tenant Based Rental Assistance (TBRA), Permanent Facility Based Housing (P-FBH), Short-term and Transitional Facility-Based Housing (ST-TFBH), Short-Term Rent, Mortgage and Utility (STRMU), Permanent Housing

Placement (PHP), Housing Information Services, and Supportive Services. Please note that the amounts will be found as answers to the questions included under each Program section within HUD-4155, which have been listed under Key Line Items.

Grantees should be able to demonstrate that funds reported in the annual performance report are traceable in local accounts.

Key Line Items – The following line items contain critical information:

Auditors should note that the Key Line Items below are phrased as questions since that is how they are included in the HUD-4115 workbook.

1. Tenant Based Rental Assistance (TBRA)
 - a. TBRA Households Served and Expenditure
 - (1) *What were the total HOPWA funds expended for TBRA rental assistance?*
2. Permanent Facility Based Housing
 - a. Leasing -- Households and Expenditures Served by this Activity
 - (1) *What were the HOPWA funds expended for Permanent Facility-Based Housing Leasing Costs for each facility?*
 - b. Operating -- Households and Expenditures Served by this Activity
 - (1) *What were the HOPWA funds expended for Permanent Facility-Based Housing Leasing Costs for each facility?*
 - c. Other Housing Support -- Households and Expenditures Served by this Activity
 - (1) *What were the HOPWA funds expended for Other types of Permanent Facility-Based Housing for each facility?*
3. Short-Term and Transitional Facility-Based Housing
 - a. Leasing -- Households and Expenditures Served by this Activity

-
- (1) *What were the HOPWA funds expended for Transitional/Short-Term Facility-Based Housing Leasing Costs for each facility?*
 - b. Operating -- Households and Expenditures Served by this Activity
 - (1) *What were the HOPWA funds expended for Permanent Facility-Based Housing Leasing Costs for each facility?*
 - c. Hotel-Motel -- Households and Expenditures Served by this Activity
 - (1) *What were the HOPWA funds expended for Permanent Facility-Based Housing Operating Costs for each facility?*
 - d. Other Housing Support -- Households and Expenditures Served by this Activity
 - (1) *What were the HOPWA funds expended for Other types of Permanent Facility-Based Housing for each facility?*
 - 4. Short-Term Rent, Mortgage and Utility
 - a. STRMU Expenditures
 - (1) *Total STRMU Expenditures*
 - 5. Permanent Housing Placement
 - a. PHP Expenditures for Households Served by this Activity
 - (1) *What were the HOPWA funds expended for PHP?*
 - 6. Housing Information Services
 - a. Housing Information Services Expenditures
 - (1) *What were the HOPWA funds expended for Housing Information Services?*
 - 7. Supportive Services
 - a. Households and Expenditures for Supportive Service Types –

Expenditures Column

- (1) What were the expenditures for each of the following types of supportive services in the program year? (*Adult Day Care and Personal, Alcohol-Drug Abuse, Child Care, Case Management, Education, Employment Assistance and Training, Health / Medical Services, Legal Services, Life Skills Management, Meals/Nutritional Services, Mental health Services, Outreach, and Transportation.*)
- (2) Any other type of HOPWA funded, HUD approved supportive services?

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions**1. Maintenance of Structures**

Compliance Requirements Project-based rental assistance provides a subsidy to a unit specifically reserved for HOPWA-eligible households by paying for the operating costs of the unit. Households do not retain the rental assistance if they move. Unless waived by HUD, any building or structure acquired, constructed, rehabilitated, or repaired with HOPWA funds must be maintained as a facility to provide housing or assistance for individuals with HIV or AIDS: (a) for a period of not less than ten years, in the case of assistance provided under an activity eligible under 24 CFR sections 574.300(b)(3)-(4) involving new construction, substantial rehabilitation, or acquisition of a building or structure; or (b) for a period of not less than three years in cases involving non-substantial rehabilitation or repair of a building or structure (24 CFR sections 574.310(c)(1)-(2)). The disposition requirements at 2 CFR part 200.311 apply if the grantee or project sponsor chooses to change the purpose or sell/transfer the property, even if the minimum use period has been met.

Audit Objectives Determine whether the project sponsor is receiving the proper amount of assistance and is maintaining the assisted buildings and structures for eligible households for the stipulated periods.

Suggested Audit Procedures

- a. Obtain a listing of the buildings or structures acquired, rehabilitated, constructed, or

repaired with HOPWA funds and verify their use.

- b. Examine related agreements to verify that the structures are to provide housing or assistance for the stipulated number of years when new construction, substantial rehabilitation, acquisition, or non-substantial rehabilitation was involved.
- c. Verify from documentation or by observation that the required rehabilitation was performed if the project was accepted for occupancy during the audit period.

2. Housing Quality Standards

Compliance Requirements The PHA or owner must provide housing that is decent, safe, and sanitary. All housing that involves acquisition, rehabilitation, conversion, lease, repair of facilities, new construction, project-or tenant-base rental assistance (including assistance for shared housing arrangements), and operation costs must meet housing quality standards required at 24 CFR sections 574.310(b)(1)-(2). HOPWA grantees must perform housing quality inspections to ensure that the units meet required HOPWA Housing Quality Standards. Grantees must continue to be in compliance with the pre-October 1, 2023 regulations for HOPWA housing quality standards until they begin to implement the National Standards for the Physical Inspection of Real Estate (NSPIRE) rule on or before October 1, 2025, which can be accessed at:

<https://www.federalregister.gov/documents/2024/07/05/2024-14718/economic-growth-regulatory-relief-and-consumer-protection-act-implementation-of-national-standards>.

In response to the COVID-19 pandemic, HUD issued regulatory waivers allowing grantees or project sponsors to visually inspect units using technology, such as video streaming, to ensure units meet HQS before any assistance is provided. The waiver memoranda are available online at https://www.hud.gov/program_offices/comm_planning/waivers_covid-19.

Audit Objectives Determine whether the grantee performs the required inspections before assistance is provided to a unit to ensure the unit meets housing quality standards.

Suggested Audit Procedures

- a. Select a sample of grantee files to verify by a review of documentation that the grantee's system identifies those units on which housing quality inspections are due.
- b. Select a sample of grantee files to verify by a review of documentation that the grantee performs inspections of these units and that any needed repairs were completed.
- c. If documentation If virtual inspections are completed, verify by review of documentation that the grantee notified HUD of its intent to use the waiver and that there are written policies to physically reinspect the unit after health officials determine COVID-19 special measures are no longer necessary.

3. Community Residences

Compliance Requirements A community residence is a multi-unit residence designed for eligible persons to provide a lower cost residential alternative to institutional care, to prevent or delay the need for such care, to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently, and to enable those persons to participate as fully as possible in community life. If grant funds are used to provide a community residence (except for planning and other preliminary expense), the grantee must, prior to the expenditure of such funds, obtain and keep on file certifications relating to the services to be provided, the adequacy of funding and the capabilities of the grantee, project sponsor, or service provider (24 CFR section 574.340).

Audit Objectives Determine whether the required certifications are being maintained and supported.

Suggested Audit Procedures

- a. From the sample selected in a, verify that there is evidence on file to support the certifications that were made.
- b. From the sample selected in a, verify that there is evidence on file to support the certifications that were made.

4. Section 3 of the Housing and Urban Development Act of 1968

Compliance Requirements Grantees must establish and maintain (or ensure that a subrecipient, contractor, or subcontractor maintains) documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in IDIS or DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75).

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

- a. Review the grantee's Section 3 policy and procedures.
- b. Select a sample of grant agreements for housing rehabilitation and/or housing construction projects to determine if the grantee notified subrecipients of requirements to maintain or ensure that a subrecipient, contractor, or subcontractor maintains adequate records demonstrating Section 3 compliance.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.256 NEIGHBORHOOD STABILIZATION PROGRAM
(RECOVERY ACT FUNDED)****I. PROGRAM OBJECTIVES**

The objectives of the Neighborhood Stabilization Program (NSP) are to (1) stabilize property values, (2) arrest neighborhood decline, (3) assist in preventing neighborhood blight, and (4) stabilize communities across America hardest hit by residential foreclosures and abandonment. These objectives have been achieved through the purchase and redevelopment of foreclosed and abandoned homes and residential properties that allows those properties to turn into useful, safe, and sanitary housing.

II. PROGRAM PROCEDURES**A. Overview**

NSP is separated into four categories, two of which are covered by this program section and two that are covered under Assistance Listings 14.218 and 14.228:

NSP1 is authorized under Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008 (Pub. L. No. 110-289, July 30, 2008). NSP1 is not part of Assistance Listing 14.256, and this program supplement does not cover NSP1. NSP1 awards are made under Assistance Listings 14.218 and 14.228 and are covered in the CDBG– Entitlement Grants Cluster section of Part 4.

NSP2 is authorized under the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5). NSP2 provides grants based on competitive factors of need, organizational capacity, soundness of approach, leveraging of other funds, energy efficiency and sustainable development, neighborhood transformation, and economic opportunity to states, local governments, nonprofits, and consortia of nonprofit entities. NSP2 is covered under this program section.

NSP-TA (technical assistance) also is authorized by ARRA. NSP-TA provides grants for technical assistance based on competitive factors of recent experience, organizational capacity, soundness of approach, leveraging resources, and achieving results and program evaluation, to national and local technical assistance providers to support NSP1 and NSP2 grantees to increase their capacity to carry out neighborhood stabilization programs. NSP-TA is covered under this program section.

NSP3 is authorized by Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010)(hereinafter, Dodd-Frank Act). NSP3 is not part of Assistance Listing 14.256 and this program supplement does not cover NSP3. NSP3 awards are made under Assistance Listings 14.218 and 14.228 and are covered in the

CDBG– Entitlement Grants Cluster section of Part 4.

On May 7, 2009, HUD issued Notices of Funding Availability (NOFAs) for NSP2 (FR-5321-N-02) and NSP-TA (FR-5313-N-01) in the *Federal Register* (74 FR 21377). These NOFAs provided information on funds availability, alternative requirements, and waivers issued by HUD.

B. Subprograms/Program Elements

1. NSP2

Unlike the NSP1 and NSP3 formula grants provided to existing Community Development Block Grant (CDBG) annual formula program grantees, NSP2 is a competitive grant program that made \$1.93 billion available to eligible grantees including states, local governments, nonprofits, and consortia of nonprofit entities. NSP funding provided under HERA and the Dodd-Frank Act, referred to, respectively, as NSP1 and NSP3, are covered by the Community Development Block Grants/Entitlement Grants/Insular Areas (Assistance Listings 14.218 and 14.225) and audited separately. NSP2 line of credit funds have been expended, but grantees are still managing program income, the expenditure of which must meet NSP2 purposes. Grant applicants were encouraged to use funds for concentrated investment in carefully chosen target areas. To facilitate the identification of target areas, HUD developed an online mapping application. The mapping tool provided foreclosure and abandonment risk scores for all census tracts, which were updated from the NSP1 risk scores. The methodology used to calculate scores for the NSP2 grants can be found at <https://www.huduser.gov/portal/NSP2datadesc.html>. The mapping tool has not been updated in several years and was replaced by a Foreclosure Need website that HUD required grantees to use, effective May 21, 2013. The September 12, 2019, *Federal Register* NSP Closeout Notice (84 FR 48165) notified grantees that HUD is no longer updating the Foreclosure Need websites and mapping tools. The 2019 Notice amended the NSP2 NOFA to eliminate the requirement that grantees use the HUD Foreclosure Need website. Instead, HUD is requiring that grantees meet the statutory requirement to give priority emphasis and consideration to areas with the greatest need when distributing NSP funds. NSP2 grantees amending their NSP2 applications to serve areas other than those that were previously identified as areas of greatest need must describe the nature and extent of the need for neighborhood stabilization in the amendment. NSP2 grantees must submit any amendments to the field office to forward to HUD Headquarters for review and approval.

The Federal Register notices that govern the use of NSP2 funds are available at <https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/>. This page contains notices for all three rounds of NSP. Auditors are cautioned to refer only to the notices on this page that address NSP2 requirements.

2. NSP-TA

At this stage in the life of this program, barring any future allocations from Congress, NSP-TA is geared toward identifying grantee issues with the Disaster Recovery Grant Reporting System (DRGR), assessing grantee closeout readiness, and resolving any programmatic

issues that are delaying grantees from closing out NSP grants. Depending upon its issue, a grantee requests assistance directly from HUD or through the HUD TA portal found on the HUD Exchange. Grantee steps for requesting assistance may be found at <https://www.hudexchange.info/program-support/technical-assistance/>.

Source of Governing Requirements

NSP2 and NSP-TA are authorized by HERA, as amended by ARRA Unless different requirements are provided in the NSP2 NOFA or the NSP-TA NOFA, the statutory and regulatory provisions governing the CDBG program, including those at 24 CFR Part 570 subparts A, C, D, J, K, and O, as appropriate, apply to the use of NSP2 and NSP-TA funding. In addition, NSP1 activities authorized under HERA apply to NSP2 as well.

Availability of Other Program Information

Additional information about the NSP, including the NSP2 and NSP-TA NOFAs, is available on the HUD Exchange at <https://www.hudexchange.info/programs/nsp/>. HUD has published detailed additional guidance on program income at https://files.hudexchange.info/resources/documents/NSP%20Policy%20Alert_ProgramIncome.pdf.

Additional information about the NSP laws, regulations, and notices are available at <https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/>.

Specific NSP2 notices are available at:

NSP1 Bridge Notice (Docket No. FR-5255-N-02) at <https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14360.pdf>

NSP “Definition and Modification” Notice (Docket No. 5321-N-03) at <https://www.govinfo.gov/content/pkg/FR-2010-04-09/pdf/2010-8131.pdf>

NSP2 NOFA General Section Notice (Docket No. FR-5300-N-01) at <https://www.govinfo.gov/content/pkg/FR-2008-12-29/pdf/E8-30600.pdf>

NSP2 NOFA at <https://www.hudexchange.info/resource/654/nsp2-nofa-may-4-2009/>

NSP2 NOFA Correction at <https://www.hudexchange.info/resource/656/nsp2-nofa-correction-june-11-2009/>

NSP3 Notice (Unified NSP1 and NSP3 Notice) (Docket No. FR-5447-N-01) at <https://www.govinfo.gov/content/pkg/FR-2010-10-19/pdf/2010-26292.pdf>

NSP Closeout Notice (November 27, 2012) at <https://www.govinfo.gov/content/pkg/FR-2012-11-27/pdf/2012-28642.pdf>

Notice of Fund Availability (NOFA) for the Neighborhood Stabilization Program 2 (NSP2) Under

the American Recovery and Reinvestment Act, 2009: Announcement of Availability of Updated Foreclosure Information (May 21, 2013) at

<https://www.govinfo.gov/content/pkg/FR-2013-05-21/pdf/2013-11995.pdf>

Notice of Changes to NSP Closeout Requirements Related to Program Income (June 14, 2016) at

<https://www.govinfo.gov/content/pkg/FR-2016-06-14/pdf/2016-14062.pdf>

Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (September 12, 2019) at

<https://www.govinfo.gov/content/pkg/FR-2019-09-12/pdf/2019-19708.pdf>

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	N	Y	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. For NSP2 funds, HERA requirements supersede some CDBG requirements to allow for the eligible uses in Section 2301(c)(3) of HERA. The NSP2-eligible uses and CDBG entitlement grant regulations are listed in Appendix I.H of the NSP2 NOFA. The NSP2 eligible uses are to:
 - a. Establish financing mechanisms for purchase and redevelopment of

- foreclosed upon homes and residential properties.
- b. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment.
 - c. Establish land banks for homes that have been foreclosed upon.
 - d. Demolish blighted structures.
 - e. Redevelop demolished or vacant properties (Appendix I.H, Eligibility and Allowable Costs, of NSP2 NOFA).
2. Grantees must receive written HUD approval to undertake activities other than those listed in III.A.1 (Appendix I.H, Eligibility and Allowable Costs, of NSP2 NOFA).
 3. For NSP funds, NSP requirements supersede existing CDBG requirements (see III.A.1) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. A NSP activity may not qualify using the “prevent or eliminate slums and blight” or “address urgent community development needs” national objectives. The HERA redefines and supersedes the definition of “low- and moderate-income,” effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section III.E. of NSP3 Notice, 75 FR 64329-64331). HUD will refer to this new income group as “middle income” and maintain the regular CDBG definitions of “low-income” and “moderate-income” currently in use (Section 2301(f)(3)(A) of HERA).
 4. For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity (a) provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (b) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (c) serves a limited clientele whose incomes are at or below 120 percent of area median income (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP3 Notice, 75 FR 64329-64331).
 5. NSP-TA funds can be used for:
 - a. National TA activities are limited to activities that address, at a national level, one or more of NSP-TA program activities or priorities. National TA activities may include the (1) development of written products, (2) development of web-based materials, (3) development of training courses, (4) delivery of training courses previously approved by HUD, (5) organization and delivery of workshops and conferences, and (6) delivery of direct TA
 - b. Local TA activities are limited to the (1) development of needs assessments,

(2) direct TA to HUD community development program recipients, (3) organization and delivery of workshops and conferences, and (4) customization and delivery of previously HUD-approved training courses or materials (Section III.C.2, Eligible National TA and Local TA Activities, of NSP-TA NOFA).

B. Allowable Costs/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E, which require prior federal agency approval are allowable without prior approval, except for the following:
 - a. Depreciation methods for fixed assets shall not be changed without the approval of the federal cognizant agency.
 - b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.
 - c. Organization costs require prior HUD approval.
2. Fines, penalties, damages, and other settlements are unallowable (24 CFR section 570.200(a)(5)).

H. Period of Performance

NSP2 grantees are required to expend 50 percent of NSP2 funds in two years after HUD signs the grant agreement and expend 100 percent of NSP2 funds within three years after HUD signs the grant agreement (ARRA, 123 Stat. 217).

J. Program Income

NSP2 revenue received by states, local governments, nonprofits, and consortia of nonprofit entities that is directly generated from the use of NSP2 funds constitutes NSP2 program income. The expenditure of NSP2 program income must meet NSP2 purposes.

1. The CDBG definition of program income shall be applied to amounts received by units of local government and subrecipients (24 CFR section 570.500; Section II.N. of NSP3 Notice, 75 FR 64337). HERA, however, imposes limitations and requirements that necessitate an alternative requirement to govern the use of program income generated by NSP activities. The limitations and requirements are based on the NSP activity that generated the program income and on the date the income is received (Section 2301(d)(4) of HERA).
 - a. Any revenue from the sale, rental, redevelopment, rehabilitation, or any other eligible use of NSP funds is to be provided to and used by the unit of local general government. This provision includes revenue received by a private

individual or other entity that is not a subrecipient (Section 2301(d)(4) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).

- b. Program income which is generated by NSP activities carried out pursuant to Section 2301(c)(3) of HERA may be retained by the unit of local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301 (Section 2301(c)(3) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).
2. With the advent of Federal Register Notice of Changes to NSP Closeout Requirements Related to Program Income (81 FR 38730) and the succeeding NSP closeout notice, Notice of Changes to NSP Closeout Requirements Related to Program Income Amendment (84 FR 48165), NSP2 grantees with CDBG annual formula programs may transfer not only NSP program income on hand, but also a future stream of NSP program income for an activity to the annual CDBG program, eliminating the need for multiple written requests to transfer program income that is anticipated, but not yet received. Transfers are made by written notification from the grantee in a form and manner prescribed by HUD and upon HUD written approval. The latter of the two notices mentioned at the beginning of this paragraph provides more specifics on the request and approval process for program income transfers. This provision is limited to CDBG entitlements, state governments, and non-entitlement units of general local government that are state CDBG grant recipients and are current or former (closed out) NSP2 grantees and does not apply to nonprofits, consortia of nonprofit grantees and non-entitlement units of general local government that are not state CDBG grant recipients.
3. NSP2 grantees that are not CDBG entitlement communities or states must use post-closeout revenues generated from NSP-assisted activities that were funded before closeout for NSP purposes. If the grantee does not have another ongoing CDBG grant received directly from HUD at the time of closeout, then in accordance with 24 CFR 570.504(b)(5), income received after closeout from the disposition of real property or from loans outstanding at the time of closeout shall not be governed by NSP or CDBG rules, except that such income shall be used for activities that meet one of the national objectives in 24 CFR 570.208 and the eligibility requirements described in section 105 of the HCD Act. The provisions of 24 CFR 570.504(b)(5) are waived to limit its application to income received within five years of grant closeout. Any income received five years after grant closeout, as well as program income from funds outlaid after the date of the closeout agreement may be used without restriction. Such grantees are encouraged to use such funds in accordance with the principles above.
4. After grant closeout, former NSP grantees that are CDBG entitlements or state governments will report at least annually as provided for by HUD, in DRGR on the receipt and use of NSP program income, and the disposition of land-banked properties. These grantees must also include NSP program income in the annual CDBG Action Plan or substantial amendment in accordance with CDBG requirements.

L. Reporting**1. Financial Reporting**

- a. *SF-270, Request for Advance or Reimbursement – Not Applicable*
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable*
- c. *SF-425, Federal Financial Report – Not Applicable*
- d. *Disaster Recovery Grant Reporting System (DRGR), (OMB No. 2506- 0165)*

Key Line Items – The following are key line items and contain critical information. Note that DRGR reports are not organized by line item numbers but the three metrics noted represent key line items in the reports below:

Metrics

- 1. *Obligation Amount*
- 2. *Received Amount*
- 3. *Disbursed Amount*

Reports

- 1. *F12 GEN Program Income Account Summary*
- 2. *F61 CUM - Program Income - Grant Level*
- 3. *F65 CUM - Grant Financial Summary - by Project and Activity*

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act
See Part 3.L for audit guidance.**N. Special Tests and Provisions****1. Wage Rate Requirements**

Compliance Requirements Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1606 of ARRA; Section 1205 of Pub. L. No. 111-32; 24 CFR 570.603).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Citizen Participation

Compliance Requirements To expedite the distribution of NSP2 funds and ensure citizen participation on the specific use of funds, HUD has established a minimum time for citizen comments of ten days on the proposed use of funds and the targeted geographic area. The grantee must publicize its NSP2 application material on its website and in the general media (Appendix I.B, Pre-Grant Process of NSP2 NOFA).

Audit Objectives Determine whether the grantee adhered to the citizen participation requirements.

Suggested Audit Procedures

- a. Verify that the proposed use of funds and targeted geographic area were posted on the grantee's official website and published in a local newspaper.
- b. Verify that the citizen comment period was no less than ten days.

3. Required Certifications and HUD Approvals

Compliance Requirements NSP2 funds (and local funds to be repaid with NSP2 funds) cannot be obligated or expended before receipt of HUD's approval of a Request for Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR 58.34 and categorically excluded activities under 24 CFR 58.35(b) (24 CFR 58.22).

Audit Objectives Determine whether the grantee is obligating and expending program funds only after HUD's approval of the RROF.

Suggested Audit Procedures

- a. Examine HUD's approval of the RROF and environmental certification and note dates.
- b. Review the expenditure and related records to ascertain when NSP2 funds, and local funds which were repaid with NSP2 funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD's approval of the RROF.

4. Environmental Reviews

Compliance Requirements NSP2 assistance is subject to the National Environmental Policy Act of 1969 and related HUD environmental regulations at 24 CFR Part 58.

Nonprofit recipients and other recipients that are not designated responsible entities under

24 CFR Part 58 may not assume environmental review responsibilities and must receive HUD-approved environmental review under 24 CFR Part 50 unless they apply in consortia with states, local governments, or Indian tribes with jurisdiction over proposed projects. In the case of NSP2, consortium applicants, states, local governments, or Indian tribes may perform the environmental reviews on behalf of consortium for projects within their jurisdiction as described under 24 CFR Part 58. NSP2 grantees cannot obligate or expend federal, or nonfederal, funds if the project or activity would limit reasonable choices or could produce an adverse environmental impact until all required environmental reviews and notifications have been completed by HUD or by a state, local government, or Indian tribe; and either (1) HUD notifies the grantee that the review under 24 CFR Part 50 is completed; or (2) HUD or the state approves a grantee's request for release of funds under the provisions contained in 24 CFR Part 58.

Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR 58.1, 58.22, 58.34, 58.35, and 570.604).

Recipients undergoing an environmental review under 24 CFR Part 50 are required to (1) supply HUD with all available, relevant information necessary for HUD to perform, for each property, any environmental review required by 24 CFR Part 50 and (2) carry out mitigating measures required by HUD or select alternate eligible property. Recipient may not (1) acquire, rehabilitate, demolish, convert, lease, repair, or construct property, or (2) commit or expend HUD or other nonfederal funds for the program activities with respect to any eligible property until HUD completes the review and notifies the grantee of approval to proceed.

States, local governments, and Indian tribes that directly implement NSP2 activities are considered recipients and must assume environmental review responsibilities for the environmental activities and those of any nongovernmental entity that participates in the project. These entities that directly implement activities must submit the RROF and the certifications to HUD for approval (24 CFR 58.4(b)(1), 58.34, and 58.35).

Audit Objectives Determine whether the environmental oversight responsibilities and functions had been carried out and required approvals were obtained prior to any obligations of funds.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications for activities undertaken during the subject audit period that the required environmental reviews were made.
- b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required.
- c. Verify that documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR 58.34 and 58.35(b).

- d. Verify that the state, local government, or Indian tribe obtained environmental review certifications from the subrecipient and that the records provide evidence that the environmental reviews were made.
- e. Verify that, for nonprofits and consortia grantees without state, local government, or Indian tribe members with jurisdiction over assisted projects, the environmental review under 24 CFR Part 50 was completed.

5. Rehabilitation

Compliance Requirements When NSP2 funds are used for rehabilitation, the grantee must ensure that the work is properly completed (24 CFR 570.506).

Any NSP2-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, or habitability, to sell, rent, or redevelop such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP2 application what rehabilitation standards it will apply for NSP2-assisted rehabilitation (Section 2301(d)(2) of HERA; Appendix I.I, Rehabilitation Standards of NSP2 NOFA).

Audit Objectives Determine whether the grantee ensures that NSP2 rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Review rehabilitation standards established for NSP2 work.
- b. Verify through a review of documentation that the grantee inspects the rehabilitation work upon completion to ensure that it is carried out in accordance with contract specifications, and that projects were carried out in accordance with rehabilitations standards.

IV. OTHER INFORMATION

ARRA gave HUD the authority to waive or specify alternative requirements for some of the CDBG statutory and regulatory provisions to facilitate the use of NSP2 funds. Most of the waivers are contained in the NSP2 NOFA.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.267 CONTINUUM OF CARE PROGRAM****I. PROGRAM OBJECTIVES**

The Continuum of Care (CoC) program is designed to (1) promote community-wide commitment to the goal of ending homelessness; (2) provide funding for efforts by nonprofit providers, state, and local governments to quickly re-house homeless individuals and families while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness; (3) promote access to and effective utilization of mainstream programs by homeless individuals and families; and (4) optimize self-sufficiency among individuals and families experiencing homelessness.

II. PROGRAM PROCEDURES

Grants are provided to state, local governments, other governmental entities, private nonprofit organizations, and community mental health agencies that are public nonprofit organizations. CoC program funds may be used to pay for the eligible costs used to establish and operate projects under five program components: (1) permanent housing, which includes permanent supportive housing for persons with disabilities, and rapid rehousing; (2) transitional housing; (3) supportive services only; (4) Homeless Management Information Systems (HMIS); and (5) in some cases, homelessness prevention.

A Unified Funding Agency (UFA) may be established for a CoC to (1) apply to the Department of Housing and Urban Development (HUD) for funding for all of the projects within the geographic area and enter into a grant agreement with HUD for the entire geographic area; (2) enter into legally binding agreements with subrecipients, and receive and distribute funds to subrecipients for all projects within the geographic area; (3) require subrecipients to establish fiscal control and accounting procedures as necessary to ensure the proper disbursement of and accounting for federal funds; and (4) obtain approval of any proposed grant agreement amendments by the CoC before submitting a request for an amendment to HUD.

Source of Governing Requirements

The CoC program is authorized by Subtitle C of Title IV of the McKinney-Vento Homeless Assistance Act (42 USC 11381-11389). Implementing regulations are in 24 CFR Part 578.

Availability of Other Program Information

Pertinent information regarding the CoC program is available on HUD's website at https://www.hud.gov/program_offices/comm_planning/coc

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	Y	N	N	N	Y

A. Activities Allowed or Unallowed

1. Eligible CoC Planning Activities include developing a communitywide or regional wide process for coordination of providers, determining the geographical area and participating in the consolidation plans of the jurisdiction, developing a CoC system submitting an application to HUD for the CoC membership, etc. See (24 CFR 578.39).
2. Unified Funding Agency Costs (24 CFR 578.41)
 - a. Grant funds may be used to pay the costs of arranging for an annual survey, audit, or evaluation of the financial records of each project carried out by a subrecipient funded by a grant received through the CoC program.
3. Acquisition (24 CFR 578.43)
 - a. Grant funds may be used to pay up to 100 percent of the cost of acquisition of real property selected by the recipient or subrecipient for use in the provision of housing or supportive services for homeless persons.

-
4. Rehabilitation (24 CFR 578.45)
 - a. Grant funds may be used to pay up to 100 percent of the cost of rehabilitation of structures to provide housing or supportive services to homeless persons.
 5. New Construction (24 CFR 578.47)
 - a. Pay up to 100 percent of the cost of new construction, including the building of a new structure or building an addition to an existing structure that increases the floor area by 100 percent or more, and the cost of land associated with that construction, for use as housing.
 6. Leasing (24 CFR 578.49)
 - a. Where the recipient or subrecipient is leasing the structure, or portions thereof, grant funds may be used to pay for 100 percent of the costs of leasing a structure or structures, or portions thereof, to provide housing or supportive services to homeless persons for up to 3 years. Leasing funds may not be used to lease units or structures owned by the recipient, subrecipient, their parent organization(s), any other related organization(s), or organizations that are members of a partnership, where the partnership owns the structure, unless HUD authorized an exception for good cause.
 7. Rental Assistance (24 CFR 578.51)
 - a. Grant funds may be used for rental assistance for homeless individuals and families. Rental assistance cannot be provided to a program participant who is already receiving rental assistance, or living in a housing unit receiving rental assistance or operating assistance through other federal, State, or local sources.
 8. Supportive Services (24 CFR 578.53)
 - a. Grant funds may be used to pay the eligible costs of supportive services that address the special needs of the program participants. If the supportive services are provided in a supportive service facility not contained in a housing structure, the costs of day-to-day operation of the supportive service facility, including maintenance, repair, building security, furniture, utilities, and equipment are eligible as a supportive service.
 9. Operating Costs (24 CFR 578.55)
 - a. Grant funds may be used to pay the costs of the day-to-day operation of transitional and permanent housing in a single structure or individual housing units.
 10. Homeless Management Information System (24 CFR 578.57)
 - a. The recipient or subrecipient may use Continuum of Care program funds to pay the costs of contributing data to the HMIS designated by the Continuum of Care.
-

11. Project Administration Costs (24 CFR 578.59)
 - a. The recipient or subrecipient may use up to 10 percent of any grant awarded under this part, excluding the amount for Continuum of Care Planning Activities and UFA costs, for the payment of project administrative costs related to the planning and execution of Continuum of Care activities. This does not include staff and overhead costs directly related to carrying out activities eligible under § 578.43 through § 578.57, because those costs are eligible as part of those activities.
12. Relocation (24 CFR 578.61)
 - a. Relocation costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are eligible.
13. Indirect Costs (24 CFR 578.63)
 - a. Continuum of Care funds may be used to pay indirect costs in accordance with 2 CFR part 200, subpart E.
<https://www.hudexchange.info/resource/6289/indirect-cost-toolkit-for-coc-and-esg-programs/>
14. Violence Against Women's Act Costs (Notice of Funding Opportunity (NOFO) for Fiscal Year (FY) 2023 Continuum of Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program Grants FR-6700-N-25: III.B.4.a.(3))
 - a. [Violence Against Women Act \(VAWA\) | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)
15. Rural Homelessness Costs ((Notice of Funding Opportunity (NOFO) for Fiscal Year (FY) 2023 Continuum of Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program Grants FR-6700-N-25: III.B.4.a.(4))
 - a. [Notice of Funding Opportunity \(NOFO\) for Fiscal Year \(FY\) 2023 Continuum of Care Competition and Renewal or Replacement of Youth Homeless Demonstration Program Grants | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

G. Matching, Level of Effort, Earmarking

1. Matching

The recipient or subrecipient must match all grant funds, except for leasing funds, with no less than 25 percent of cash or in-kind contributions from other sources. For CoC geographic areas in which there is more than one grant agreement, the 25 percent match must be provided on a grant-by-grant basis. Recipients that are a UFA or are the sole recipient for their Continuum may provide match on a Continuum-wide basis (24 CFR section 578.73).

2. Level of Effort

2.1 **Level of Effort** – *Maintenance of Effort*- Not Applicable

2.2 **Level of Effort** – *Supplement Not Supplant*-Not Applicable

No assistance provided under the CoC program (or any state or local government funds used to supplement this assistance) may be used to replace state or local funds previously used, or designated for use, to assist homeless persons or persons at-risk of homelessness (24 CFR section 578.87(a)).

3. **Earmarking**

No more than 10 percent of any grant awarded may be used for paying the costs of administering the assistance. Administrative costs include the costs associated with general management, oversight, and coordination, training on the CoC program requirements, and the related indirect costs applied to the direct costs when determining the total amount of administrative costs (24 CFR 578.63(c)) and environmental review. Administrative costs do not include costs for CoC planning activities and UFA costs (24 CFR section 578.59).

Collaborative applicants may use up to 3 percent of their FPRN, or a maximum amount to be established by the NOFA for Continuum of Care planning activities

UFAs may use up to 3 percent of their FPRN, or a maximum amount to be established by the NOFA, whichever is less, for fiscal control and accounting costs necessary to assure the proper disbursement of, and accounting for, federal funds awarded to subrecipients under the Continuum of Care program.

N. **Special Tests and Provisions**

1. **Reasonable Rental Rates**

Compliance Requirements Where grants are used to pay for rent for all or a part of a structure, the rent paid must be reasonable in relation to rents being charged in the area for comparable space. In addition, the rent may not exceed rents currently being charged by the same owner for comparable unassisted space (24 CFR 578.49(b)(1) and 24 CFR 578.51(g))

Where grants are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units taking into account relevant features. In addition, the rents may not exceed rents currently being charged by the same owner for comparable unassisted units, and the portion of rents paid with grant funds may not exceed HUD-determined fair market rents. Grant funds in an amount up to one month's rent may be used to pay the non-recipient landlord for any damages to leased units by homeless participants (24 CFR sections 578.49(b)(2) and 578.51(g) and (j)).

Audit Objectives: (1.) Determine that rents are supported by documentation that the recipient or subrecipient established rent reasonableness. (2.) Determine that the recipient or subrecipient maintained rent documentation supporting that contracts are being paid consistent with established rent

reasonableness.

Suggested Audit Procedures

- a. Determine the acceptability of the manner in which the recipient or subrecipient establishes rent reasonableness and the rents charged by the owner for comparable unassisted units. Ascertain through an examination of documentation that telephone surveys, site visits after telephoning, more extensive market surveys of available rental units, or similar tools were used to assess the reasonableness of rents being charged.
- b. Verify by a review of the rental records that the contract rents being paid are comparable with those paid for unassisted units, no more than one month's rent is paid for tenant damages, and that the portion of rents paid with grant funds do not exceed fair market rents.

2. Use of Property

Compliance Requirements Recipients or subrecipients receiving assistance for acquisition, rehabilitation, or new construction must agree to operate the supportive housing or provide supportive services for a term of at least 15 years from the date of initial occupancy or the date of initial service provision.

Audit Objectives: Determine whether there are valid agreements for the provision of supportive housing or supportive services when assistance is provided for acquisition, rehabilitation, or new construction.

Suggested Audit Procedures

- a. Verify that an agreement exists between the recipient or subrecipient and owner of the structure, if other than the recipient or subrecipient, covering the provision of supportive housing or supportive services for 15 years if the grant assistance, involves acquisition, rehabilitation, or new construction.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.269 HURRICANE SANDY COMMUNITY DEVELOPMENT
BLOCK GRANT DISASTER RECOVERY GRANTS (CDBG-DR)****ASSISTANCE LISTING 14.272 NATIONAL DISASTER RESILIENCE COMPETITION
(CDBG-NDR)****I. PROGRAM OBJECTIVES**

The primary objectives of Hurricane Sandy Community Development Block Grant Disaster Recovery Grants (CDBG-DR) and National Disaster Resilience Competition (CDBG-NDR) funds are to provide disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster, declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 USC 5121 *et seq.*) (Stafford Act), due to Superstorm Sandy and other eligible events in calendar years 2011, 2012, and 2013.

II. PROGRAM PROCEDURES

HUD provides CDBG-DR funds to states or units of general local government to be used for specific disaster-related purposes. Formula funds are allocated to recipients through the issuance of CDBG-DR notices in the *Federal Register*. The National Disaster Resilience Competition (NDRC) Notice of Funding Availability (NOFA) (FR-5800-N-29A2) provided the funding process for CDBG-NDR grants. These funds provided discretionary grants that address unmet needs from past disasters while addressing the vulnerabilities to future disasters. Prior to the obligation of funds, a grantee must submit an action plan detailing the proposed use of funds, including criteria for eligibility and how use of these funds will address disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas.

Notices provide the requirements regarding the use of funds, and waivers and alternative requirements to CDBG Block/Entitlement Grants (CDBG) requirements. The CDBG-DR funds responding to damage from Superstorm Sandy provide assistance to three categories of grantees: (1) state and local governments engaged in recovery from Superstorm Sandy; (2) state and local governments engaged in recovery from disasters that occurred in 2011 and 2012 other than Superstorm Sandy; and (3) state and local governments engaged in recovery from 2013 disasters. The CDBG-NDR program aids state and local governments engaged in recovery from disasters that occurred in 2011, 2012, or 2013. Auditors will need to look at the notices that apply to the grantee to understand the full scope of the funding and requirements associated with the grant that is under review. Requirements, waivers, and alternative requirements for CDBG-NDR grants can be found in the NOFA (FR-5800-N-29A2) and at Appendix A of the NOFA.

The Department of Housing and Urban Development (HUD) also may publish other applicable

Federal Register notices after the publication of this program supplement. Auditors will need to consult the CDBG-DR website to access any subsequent applicable CDBG-DR/CDBG-NDR notices.

The applicable *Federal Register* notices, and the NOFA, governing CDBG-DR and CDBG-NDR funds, respectively, require that in an Action Plan for Disaster Recovery, grantees describe uses and activities that (1) are authorized under Title I of the Housing and Community Development Act of 1974 (42 USC 5301 *et seq.*) (HCD Act) or allowed by a waiver or alternative requirement; and (2) respond to a disaster-related impact. To help meet these requirements, grantees must conduct an assessment of community impacts and unmet needs to guide the development and prioritization of planned recovery activities. All CDBG-DR/CDBG-NDR activities must clearly address the impact of the disaster for which funding was appropriated. Each activity must be CDBG-eligible (or receive a waiver), meet a national objective, and address a direct or indirect impact from the disaster in a county covered by a presidential disaster declaration.

The requirements for CDBG action plans, located at 42 USC 12705(a)(2), 42 USC 5304(a)(1), 42 USC 5304(m), 42 USC 5306(d)(2)(C)(iii), and 24 CFR sections 91.220 and 91.320, have been waived for funds provided for CDBG-DR/CDBG-NDR activities. Instead, per the applicable *Federal Register* notices or NOFA, each grantee must submit to HUD an Action Plan for Disaster Recovery for approval. For CDBG-NDR grantees, the Phase I and Phase II competition applications will serve as the action plan, as stated in the NOFA at Section I.B. The action plan must identify the proposed use(s) of the grantee's allocation, including criteria for eligibility, and how the uses address long-term recovery needs. For CDBG-DR grants, a grantee may submit a partial action plan, but the partial action plan must be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. CDBG-NDR grantees request funding amounts in their applications but may amend applications and funding amounts in subsequent action plan amendments.

In the action plan, grantees must document how each activity is connected to the disaster for which it is receiving CDBG-DR/CDBG-NDR assistance. Following approval of an action plan providing for the initial or subsequent allocation of CDBG-DR/CDBG-NDR funds, a grantee must amend its action plan to project expenditures and outcomes within 90 days of the action plan approval. The projections must be based on each quarter's expected performance, beginning with the quarter funds are available to the grantee and continuing each quarter until all funds are expended. The action plan must be amended to reflect any subsequent changes, updates, or revisions of the projections. All amendments to action plans must be published by the grantee.

The secretary of HUD must certify, in advance of signing a grant agreement, that the grantee has in place proficient financial controls and procurement processes and has established adequate procedures to (1) prevent any duplication of benefits as defined by Section 312 of the Stafford Act; (2) ensure timely expenditure of funds; (3) maintain comprehensive websites regarding all disaster recovery activities assisted with these funds; and (4) detect and prevent waste, fraud, and abuse of funds.

Source of Governing Requirements

These grants are authorized by the Disaster Relief Appropriations Act, 2013 (Appropriations Act), Pub. L. No. 113-2, January 29, 2013. Implementing regulations are located at 24 CFR Part 570. Waivers and requirements are provided in individual CDBG-DR and CDBG-NDR notices. Many of the general program waivers and requirements for the CDBG-DR funds are in the

Superstorm Sandy CDBG-DR notice (78 FR 14329, March 5, 2013). Subsequent notices were issued to provide additional waivers and alternative requirements for individual grantees.

For CDBG-NDR, many of the general program requirements are in Appendix A of the NOFA (FR-5800-N-29A2) with subsequent notices that reference award amounts and waivers and alternative requirements. The NDR notices are available on HUD.gov here: [National Disaster Resilience | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#).

Availability of Other Program Information

As noted above, the March 5, 2013, *Federal Register* notice is the foundational notice used to evaluate all P.L. 113-2 CDBG-DR grants. Additional waivers and alternative requirements were issued to specific grantees or to address or introduce requirements.

To review additional applicable waivers and alternative requirements, review the Superstorm Sandy and other disasters *Federal Register* notices at:

https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

Additional information about CDBG-DR and CDBG-NDR grants and the applicable *Federal Register* notices are available at:

https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations.

NOFA is available at:

https://www.hud.gov/program_offices/administration/grants/fundsavail/nofa14/ndrc.

The Federal Register notices listed below are categorized by the following names: Allocation Announcement Notices (AANs), Waivers and alternative requirements, National Disaster Resilience and Rebuild by Design. The other Federal Register notice provides guidance and instructions to extend expenditure deadlines.

Upon Single Audit engagement, auditors should review the disaster details in the grant agreement to determine the disaster year and allocation amount. That information also assists auditors in determining which of the Federal Register notices listed below may be applicable to a grantee. As described in the subject column in the table, the first, third, and sixth AAN's are directly tied to Sandy allocations. The other notices provide a brief description in this document and on HUD.gov here: [CDBG-DR Laws, Regulations, and Federal Register Notices | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#). Furthermore, the grantee usually provides the applicable Federal Register notices on its website and its Action Plan. The applicable *Federal Register* notices for grantees receiving assistance under Pub. L. No. 113-2 are as follows:

Federal Register Notices	Publication Date	Subject
<u>88 FR 44816</u>	July 13, 2023	OMNI Notice: Waivers and alternative requirements
<u>87 FR 36869</u>	June 21, 2022	OMNI Notice: Waivers and alternative requirements
<u>85 FR 60821</u>	September 28, 2020	OMNI Notice: Waivers and alternative requirements
<u>84 FR 4836</u>	February 19, 2019	OMNI Notice: Waivers and alternative requirements
<u>82 FR 61320</u>	December 27, 2017	OMNI Notice: Waivers and alternative requirements
<u>82 FR 36812</u>	August 7, 2017	OMNI Notice: Waivers and alternative requirements
<u>82 FR 9753</u>	February 8, 2017	OMNI Notice: Waivers and alternative requirements
<u>81 FR 54114</u>	August 15, 2016	OMNI Notice: Waivers and alternative requirements
<u>81 FR 36557</u>	June 7, 2016	National Disaster Resilience Competition
<u>81 FR 7567</u>	February 12, 2016	OMNI Notice: Waivers and alternative requirements
<u>80 FR 72102</u>	November 18, 2015	OMNI Notice: Waivers and alternative requirements
<u>80 FR 51589</u>	August 25, 2015	OMNI Notice: Waivers and alternative requirements
<u>80 FR 26942</u>	May 11, 2015	Guidance and Instructions for Extension Requests of 24-Month Expenditure Deadline for Community Development Block Grant Disaster Recovery (CDBG–

		DR) Grantees
80 FR 17772	April 2, 2015	OMNI Notice: Waivers and alternative requirements
80 FR 1039	January 8, 2015	AAN: Seventh Allocation Public Law 113-2 (Third Allocation for Disasters Occurring in 2013)
79 FR 62182	October 16, 2014	AAN: Sixth Allocation Public Law 113-2 (Third Allocation Sandy)
79 FR 60490	October 7, 2014	OMNI Notice: Waivers and alternative requirements
79 FR 40133	July 11, 2014	OMNI Notice: Waivers and alternative requirements
79 FR 31964	June 3, 2014	AAN: Fifth Allocation Public Law 113-2 (Second Allocation for Disasters Occurring in 2013)
79 FR 17173	March 27, 2014	OMNI Notice: Waivers and alternative requirements
78 FR 76154	December 16, 2013	AAN: Fourth Allocation Public Law 113-2 (Disasters Occurring in 2013)
78 FR 69104	November 18, 2013	AAN: Third Allocation Public Law 113-2 (Second Allocation Sandy)
78 FR 52560	August 23, 2013	Rebuild by Design Selection
78 FR 46999	August 2, 2013	OMNI Notice: Waivers and alternative requirements
78 FR 45551	July 29, 2013	Rebuild by Design Competition
78 FR 32262	May 29, 2013	AAN: Second Allocation Public Law 113-2 (Disasters Occurring in 2011 or 2012)
78 FR 23578	April 19, 2013	OMNI Notice: Waivers and alternative

		requirements
78 FR 14329	March 5, 2013	AAN: Initial Allocation Public Law 113-2 (Sandy)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

- All activities undertaken must meet one of three national objectives of the regular CDBG program (see Assistance Listing 14.218, III.A.1, “Activities Allowed or Unallowed”) (i.e., benefit low- and moderate-income persons, prevent or eliminate slums or blight, or meet community development needs having a particular urgency (24 CFR sections 570.200 and 570.208)).

In the applicable *Federal Register* notices for each category of grantee, HUD has provided an alternative requirement for the CDBG program (Assistance Listing 14.218) urgent need national objective criteria for these grants. In the regular CDBG

program, in order to meet the urgent need national objective in 24 CFR section 570.208(c), the recipient must certify that:

- a. the activity is designed to alleviate existing conditions which:
 - (1) pose a serious and immediate threat to the health and welfare of the community, and
 - (2) are of recent origin or recently became urgent; and
 - (3) the recipient is unable to finance the activity on its own; and
 - (4) other sources of funds are not available.

For CDBG-DR and CDBG-NDR, HUD eliminated the recordkeeping requirement that grantees document the nature, degree, and timing of the seriousness of the condition to be addressed by the activity if the urgent need is based on current economic conditions.

HUD has also waived 24 CFR sections 570.506(b)(12)(i) and (iii) and 570.208(c) to the extent necessary, to allow these grantees to certify that an activity is designed to address current economic conditions that pose a threat to the economic welfare of communities (see the section on Applicable Rules, Statutes, Waivers, and Alternative Requirements of the applicable CDBG-DR notice in 78 FR 14329 for Superstorm Sandy grantees; 78 FR 32265 for 2011 and 2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and Section V.A.1.f of Appendix A of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).

- 2. Grants funds are to be used for the following activities:
 - a. the acquisition of real property;
 - b. the acquisition, construction, reconstruction, rehabilitation, or installation of public works, facilities and sites, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons;
 - c. clearance, demolition, and removal of buildings and improvements;
 - d. payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated;
 - e. disposition of real property acquired under this program;
 - f. provision of public services (subject to limitations contained in the CDBG regulations);

- g. payment of the nonfederal share for another grant program for activities that are otherwise eligible (this includes programs or activities administered by the Federal Emergency Management Agency (FEMA) or the US Army Corps of Engineers);
- h. interim assistance where immediate action is needed prior to permanent improvements or to alleviate emergency conditions threatening public health and safety;
- i. payment to complete a title I federal urban renewal project;
- j. relocation assistance;
- k. planning activities;
- l. administrative costs;
- m. acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings;
- n. assistance to community-based development organizations;
- o. activities related to privately owned utilities;
- p. assistance to private, for-profit businesses, when appropriate to carry out an economic development project;
- q. construction of housing assisted under Section 17 of the United States Housing Act of 1937;
- r. reconstruction of properties;
- s. direct homeownership assistance to low- and moderate-income households to facilitate and expand homeownership;
- t. technical assistance to public or private entities for capacity building (exempt from the planning/administration cap (see III.G.3));
- u. housing services related to HOME-funded activities (see Assistance Listing 14.239);
- v. assistance to institutions of higher education to carry out eligible activities;
- w. assistance to public and private entities (including for-profits) to assist micro-enterprises;

- x. payment for repairs and operating expenses for acquired “in Rem” properties;
 - y. residential rehabilitation, including code enforcement in deteriorated or deteriorating areas, lead-based paint hazard evaluation and removal; and
 - z. construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement (42 USC 5305(a); 24 CFR sections 570.200 through 570.207, and 570.482).
3. All the activities that a grantee undertakes using CDBG-DR/CDBG-NDR funds must be identified in an action plan or an amended action plan (78 FR 14332 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and Section I.B of the NOFA (FR-5800-N- 29A2) for CDBG-NDR grantees).
4. For Superstorm Sandy grantees, 2013 disaster grantees, and CDBG-NDR grantees, as documented in grantee files, infrastructure projects, and programs must be (a) based on a comprehensive risk analysis as provided for in the grantee’s action plan; and (b) constructed or rehabilitated consistent with identified resilience performance standards (78 FR 69107 for Superstorm Sandy grantees; 78 FR 31964 for 2013 disaster grantees; and Section V.A of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).
5. Housing projects and programs for CDBG-DR grantees, as documented in grantee files, must do the following:
- a. Incorporate green building standards selected by the grantee;
 - b. Not provide rehabilitation assistance, residential incentives, or buy-out assistance to secondary residences as defined by IRS publication 936; and
 - c. Provide for the elevation of newly constructed or substantially improved structures located in a floodplain to a level of at least one foot higher than the latest FEMA-issued base flood elevation (78 FR 14333, 14345 and 78 FR 23579 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; and 78 FR 76157 for 2013 disaster grantees).
6. Assistance to for-profit businesses can only be provided to those businesses that meet the definition of a small business as established by the Small Business Administration at 13 CFR Part 121 (provided that the size requirement shall apply only to each business EIN) (78 FR 14347, for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and 78 FR 31970; and Section V.B.39. of Appendix A of the NOFA (FR-5800-N-29A2)).

7. For local government grantees, when CDBG-DR funds are used to finance rehabilitation, the rehabilitation is to be limited to (1) privately owned buildings and improvements for residential purposes; (2) low-income public housing and other publicly owned residential buildings and improvements; (3) publicly or privately owned commercial or industrial buildings, structures, or other real property, equipment, and improvements under certain circumstances; and (4) manufactured housing when it constitutes part of the community's permanent housing stock (24 CFR sections 570.202 and 570.203). State grantees may also use CDBG-DR funds to finance the reconstruction or rehabilitation of privately owned buildings and improvements not related to a residential purpose. HUD has also waived provisions of 42 USC 5305(a) to allow the rehabilitation or reconstruction of public buildings by both local government and state grantees (78 FR 14346 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; and 78 FR 76157 for 2013 disaster grantees).
8. Each state and local government receiving a direct CDBG-DR award must expend its entire award within its jurisdiction (e.g., New York City must expend all funds within New York City), as described in each applicable *Federal Register* notice (see the section on Allocations and Related Information of the applicable CDBG- DR notice in 78 FR 14330, 78 FR 69105, and 79 FR 62183 for Superstorm Sandy grantees; 78 FR 32263 for 2011/2012 disaster grantees; and 78 FR 76155 and 79 FR 31965 for 2013 disaster grantees). For CDBG-NDR grantees, funds must be used to benefit the approved target area for which the grantee has demonstrated remaining unmet recovery needs, as described within its application, or amended action plan and per the NOFA criteria for demonstrating unmet recovery needs (Section III.A, "Eligible Project Areas," of the NOFA (FR-5800- N-29A2)).

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

- a. For all grantees, HUD has waived the requirements at 24 CFR sections 570.200(a)(3) and 570.484 that require that 70 percent of CDBG funds be used for activities that benefit low- and moderate-income persons. Instead, 50 percent of CDGB-DR/CDBG-NDR funds must benefit low- and moderate-income persons. HUD may also establish an overall benefit requirement of less than 50 percent for individual grantees (78 FR 14339- 14340 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and Section V.A.7. of Appendix A of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).

- b. Not more than 20 percent of the total CDBG-DR/CDBG-NDR grant, plus 20 percent of program income received during a program year, may be obligated for activities that qualify as planning and general administration costs as defined in 24 CFR sections 570.205 and 570.206 (24 CFR section 570.200(g), 78 FR 14340 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 grantees; and Section V.A.10.b. of Appendix A of the NOFA (FR-5800-N-29A2) for CDBG- NDR grantees).
- c. Not more than 5 percent of the total CDBG-DR/CDBG-NDR grant may be used for Program Administrative Costs (PACs). PACs are reasonable general costs (including carrying charges) of grant management that do not include staff and overhead costs directly related to carrying out other CDBG-DR eligible activities, since those costs are eligible as part of such activities (78 FR 14340 for Superstorm Sandy grantees; 78 FR 32265 for 2011/2012 disaster grantees; 78 FR 76157 for 2013 disaster grantees; and Section V.A.10.b. of Appendix A of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees). For further guidance on how the costs set forth by the CDBG regulations work, review CPD Notice -2023-06 found on HUD.gov here: [Final CPD Notice on Allocating Costs between PACs ADCs and Planning Costs for CDBG-DR Grantees \(004\)](#).

J. Program Income

Program income is revenue generated from a CDBG or CDBG-DR/CDBG-NDR eligible activity. HUD grantees adhere to the program income requirements in CDBG regulation 24 CFR 570.504 unless program income is waived by HUD. The *Federal Register* notice published on March 5, 2013 at [78 FR 14329](#) establishes the initial requirements for program income. However, supplemental *Federal Register* notices may include additional waivers and alternative requirements. The grantee must report program income and expenditures in the Disaster Recovery Grant Reporting (DRGR) system. Program income must be expended in DRGR before drawing additional program funds.

There are several ways the grantee can generate program income. Program income can be generated in the following ways, but not limited to:

- a. Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- b. Proceeds from the sale or lease of equipment purchased with CDBG funds;
- c. Gross income from the use or rental of real or personal property acquired, constructed, or improved by the grantee (or a subrecipient), less costs incidental to the generation of income;
- d. Payments of principal and interest on loans made using CDBG funds; and

- e. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds.

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable (cash status only)

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1205 of Pub. L. No. 111-32; 24 CFR section 570.603).

See Part 4, 20.001, Wage Rate Requirements Cross-Cutting Section.

2. Citizen Participation

Compliance Requirements Prior to the submission to HUD for its Disaster Recovery grant, the grantee must certify to HUD that it has met the citizen participation requirements through the adoption of a citizen participation plan. The applicable *Federal Register* notice allocating funds to a grantee or NOFA specifies the period for public comment on the action

plan or action plan amendment. Grantees are required to post all substantial action plan amendments for 30 days for public comment. Note, the *Federal Register* notice published on March 5, 2013, at [78 FR 14329](#) establishes the initial requirements for substantial amendments. However, supplemental *Federal Register* notices may include additional waivers and alternative requirements. See the Availability of Other Program Information section above for a list of issued Federal Register notices and how auditors can determine which notices may be applicable to a particular grantee.

Grantees are responsible for ensuring that all citizens have equal access to information about the programs, including persons with disabilities and limited English proficiency. Each grantee must ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction. After publication of the proposed action plan or a substantial amendment to the action plan (as defined in applicable Federal Register notices - See the Availability of Other Program Information section above), the grantee must provide a reasonable time frame and method(s) (including electronic submission) for receiving comments on the plan or substantial amendment (78 FR 14338 for Superstorm Sandy grantees; 79 FR 31969 for 2011/2012 disaster grantees; 78 FR 76156-76157 for 2013 disaster grantees; and Section III.C.1. of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).

Audit Objectives Determine whether the grantee has developed and implemented a citizen participation plan.

Suggested Audit Procedures

- a. Verify that the grantee has a citizen participation plan.
- b. Examine HUD's approved action plans and note dates that the program information is available in the appropriate languages to meet Limited English Proficient (LEP) requirements for the geographic area served by the jurisdiction.
- c. Verify through a review of the grantee's official website or other means that interested parties have been provided with an opportunity to examine the proposed plan or amendment's contents in accordance with the citizen participation plan.

3. Required Certifications and HUD Approvals

Compliance Requirements CDBG-DR/CDBG-NDR funds (and local funds to be repaid with CDBG-DR/CDBG-NDR funds) cannot be obligated or expended before receipt of HUD's approval of a Request for Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR section 58.34 and categorically excluded activities under 24 CFR section 58.35(b) (24 CFR section 58.22).

Grantees or subrecipients typically conduct the environmental review. HUD may approve the grantees request release of funds (usually for states). The environmental certification is the grantees certification on the environmental review process. The RROF is the HUD

process to allow the grantee to release the funds.

Audit Objectives Determine whether the recipient is obligating and expending program funds only after HUD's approval of the RROF have been conducted, when required.

Suggested Audit Procedures

- a. Examine HUD's approval of the RROF and environmental certification and note dates.
- b. Review the expenditure and related records to ascertain when CDBG-DR/CDBG-NDR funds, and local funds which were repaid with CDBG-DR/CDBG-NDR funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD's approval of the RROF.

4. Environmental Reviews

Compliance Requirements Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR sections 58.1, 58.22, 58.34, 58.35, and 570.604).

CDBG-DR grantees are required to ensure every project/activity undergoes the appropriate level of environmental review and receives clearance and Authorization to Use Grant Funds (AUGF) prior to expending any funds. As a result, special circumstances apply to HUD environmental reviews for disaster recovery efforts, and an environmental review is required accordingly: (a) analysis of impacts of a project on the surrounding environment and vice versa, (b) demonstrates compliance with federal environmental laws and authorities, (c) encourages public participation. Additional CDBG-DR environmental review information and federal regulations can be found on HUD.gov at https://www.hud.gov/program_offices/comm_planning/cdbg-dr/environmental-review and on the HUD Exchange at <https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment/#unified-federal-review>.

Audit Objectives Determine whether environmental reviews are being conducted, when required.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications that the environmental reviews were made.
- b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required.
- c. Test whether documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35(b).

5. Rehabilitation

Compliance Requirements When CDBG-DR/CDBG-NDR funds are used for rehabilitation, the recipient must ensure that the work is properly completed (24 CFR section 570.506).

Audit Objectives Determine whether the recipient ensures rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Verify that pre-rehabilitation inspections are conducted and describes the deficiencies to be corrected.
- b. Ascertain that the deficiencies to be corrected are incorporated into the rehabilitation contract.
- c. Verify through a review of documentation that the recipient inspects the rehabilitation work upon completion to ensure that it is carried out in accordance with contract specifications.

6. Section 3 of the HCDA

Compliance Requirements Grantees must establish and maintain documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee met the requirements to receive Section 3 worker status. Any information that a grantee enters in DRGR must have supporting documentation demonstrating the accuracy of the data. (24 CFR part 75)

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

- a. Review the grantee's Section 3 policy and procedures.
- b. Review a sample of grant agreements and Section 3 projects for housing rehabilitation, housing construction, or other public construction projects, to determine if the grantee is following its own Section 3 policies and procedures to collect and maintain adequate records demonstrating Section 3 compliance in DRGR

and other supporting documentation. For further details on Section 3 compliance, review the [Section 3 Resource Hub](#) and [Section 3 FAQ's](#).

IV. OTHER INFORMATION

Following two short-term statutory extensions (Pub. L. 116–260 and Pub. L. 117–103), section 420(a) of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2023 (Pub. L. 117–328) provided that CDBG–DR grant obligations made before September 30, 2017, from funds made available under Public Law 113–2 are to remain available until expended. The requirements at 2 CFR 200.211(b) require all Federal awards to include a period of performance and budget period. Therefore, HUD revised the period of performance and budget period for open Federal awards made under Public Law 113–2 with an end date of September 30, 2029, when permissible under other applicable requirements that govern the use of funds under Public Law 113–2.

The projections reported by Public Law 113–2 grantees indicate that this period is sufficient to allow for the full expenditure of any remaining grant funds. HUD may extend the time period and associated grant period of performance and budget period administratively, when permissible under other applicable requirements that govern the use of funds under Public Law 113–2, if good cause for such an extension exists at that time, as requested by the grantee, and approved by HUD. When the period of performance has ended, HUD will close out the grant and any remaining funds not expended by the grantee for appropriate programmatic purposes will be recaptured by HUD. (Section 420(a) of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2023 (Pub. L. 117–328); 88 FR 44817 for all CDBG-DR and CDBG-NDR grantees under Public Law 113-2).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.275 HOUSING TRUST FUND****I. PROGRAM OBJECTIVES**

The Housing Trust Fund (HTF) is an affordable housing production program that complements existing federal, state, and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low-income (ELI) and very low-income households (VLI), including homeless families (24 CFR Part 93), by providing annual formula allocations to states. Grantees must use at least 80 percent of each annual grant for rental housing and may use up to 10 percent for homeownership and up to 10 percent for the grantee's reasonable administrative and planning costs. In any fiscal year in which total funding is below \$1 billion, all funds must be used to benefit ELI families or families with incomes at or below the federal poverty line. HTF funds may be used for the production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities. All HTF-assisted units have a minimum affordability period of 30 years.

II. PROGRAM PROCEDURES

Fannie Mae and Freddie Mac set aside funds for HTF, which are made available to United States Department of Housing and Urban Development (HUD) each year. The department must publish HTF formula allocations for grantees in the *Federal Register* each year. The statute requires that each state and the District of Columbia receive an annual minimum allocation amount of \$3 million. Funds available after each state and the District of Columbia receive their minimum allocations will be allocated to Puerto Rico and the four insular areas. The consolidated plan regulation at 24 CFR section 91.320(k)(5), requires the state to create and submit an HTF allocation plan as part of its annual action plan submission. The allocation plan must describe how the state will distribute its HTF funds, including how it will use the funds to address its priority housing needs, what types of projects may be undertaken with those funds, and how recipients and projects will be selected to receive those funds.

Grantees may select units of general local government or state agencies as subgrantees. The grantee must enter into a written agreement with a subgrantee that details the requirements for the subgrantee. Subgrantees must also submit an allocation plan that includes all elements required by section 91.220(l)(5). The grantee is responsible for ensuring that its subgrantees adhere to all HTF regulations as well as any additional requirements set forth by the grantee. In addition, grantees are required to set-up and report program accomplishments for its HTF projects in HUD's Integrated Data Information System (IDIS) according to timeframes specified by the department. The grantee also draws down HTF funds from its HTF Treasury account using IDIS.

Source of Governing Requirements

HTF was established under Title I of the Housing and Economic Recovery Act of 2008 (HERA),

which was a major housing legislation enacted to reform and improve the regulation of the government-sponsored enterprises (GSEs)—Fannie Mae and Freddie Mac, strengthen neighborhoods hardest hit by the foreclosure crisis, enhance mortgage protection, and maintain the availability of affordable home loans. The reform of the GSEs is provided in the Federal Housing Finance Regulatory Reform Act of 2008, which is Division A, Title I of HERA. Section 1131 of Division A, amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 USC 4501 et seq.) (the Act) to add a new section 1337 entitled “Affordable Housing Allocations” and a new section 1338 entitled “Housing Trust Fund.”

Availability of Other Program Information

Pertinent information that will assist the auditor in understanding the Housing Trust Fund program is available on the agency website at <https://www.hudexchange.info/programs/htf/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	N	N	Y	Y	N	Y

A. Activities Allowed or Unallowed

HTF funds may be used for the production, preservation, and rehabilitation of affordable rental housing and affordable housing for first-time homebuyers through the acquisition

(including assistance to homebuyers), new construction, reconstruction, or rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; for operating costs of HTF-assisted rental housing; and for reasonable administrative and planning costs. Operating cost assistance and operating cost assistance reserves may be provided only to rental housing acquired, rehabilitated, reconstructed, or newly constructed with HTF funds. HTF-assisted housing must be permanent housing; specific restrictions apply to manufactured housing. There are restrictions regarding multi-unit projects also.

The grantee may not provide assistance (other than assistance to a homebuyer to acquire housing previously assisted with HTF funds or renewal of operating cost assistance or renewal of operating cost assistance reserve) to a project previously assisted with HTF funds during the period of affordability established by the grantee in the written agreement under 24 CFR section 93.404 (c)(2)(iv). However, additional HTF funds may be committed to a project up to one year after project completion, but the amount of HTF funds in the project may not exceed the maximum per-unit development subsidy amount established pursuant to 24 CFR section 93.300. Also, per 24 CFR section 93.204, several activities and fees that are not allowed, such as paying delinquent taxes, servicing or origination fees associated with the cost of administering the program.

B. Allowable Costs/Cost Principles

Eligible Project Costs. HTF funds may be used to pay very specific project costs noted in 24 CFR section 93.201, such as the actual cost of constructing or rehabilitating housing, to make improvements to the project site that are in keeping with improvements of the surrounding, standard projects. Site improvements may include onsite roads and sewer and water lines necessary to the development of the project. The cost to refinance existing debt secured by rental housing units that are being rehabilitated with HTF funds but only if the refinancing is necessary to reduce the overall housing costs and to make the housing more affordable and proportional to the number of HTF-assisted units in the rental project. The proportional rehabilitation cost must be greater than the proportional amount of debt that is refinanced.

HTF funds may be used for the production, preservation, and rehabilitation of affordable rental housing and affordable housing for first-time homebuyers through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; for operating costs of HTF-assisted rental housing; and for reasonable administrative and planning costs. The specific eligible costs for these activities are found in 24 CFR section 93.201 and section 93.202.

HTF grantees may be reimbursed for pre-award costs permitted under 24CFR 200.458 for planning and preparation of the HTF allocation plan. Eligible pre-award costs may include the cost of public hearings, consultations, and publication of public notices, as well as

developing program guidelines. Such costs must be necessary for efficient and timely performance of the HTF program. The costs and corresponding activities must comply with all HTF requirements, including the environmental review requirements at 24 CFR 93.301(f).

E. Eligibility

1. Eligibility for Individuals

The HTF program has income-targeting requirements. Only extremely low- income families may occupy an HTF-assisted unit. Income must be determined by their “annual income” as defined in 24 CFR 5.609 or by “adjusted gross income, as defined by the IRS form 1040 series for individual federal annual income tax purposes. The grantee may use only one definition for each HTF-assisted program (e.g., down payment assistance program that it administers and for each rental housing project). However, for the initial determination of annual income, the grantee must examine at least two months of source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family. Also, the grantee must obtain a written statement from the family attesting to their annual income and family size. This certification must state that the family will provide source documents upon request. The administrator of the program must yearly attest to the family size and annual income or alternatively, indicate the current dollar limit for very low or low- income families for the family size of the tenant and state that the tenant’s annual income does not exceed this limit.

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable.

2. Level of Effort

Not Applicable.

3. Earmarking

a. Not more than 10 percent of the annual grant may be used for housing for homeownership.

b. Not more than 10 percent of the sum of each fiscal year HTF grant and of program income deposited into its local account or received and reported by its subgrantees during the program year, may be expended for payment of

reasonable administrative and planning costs of the HTF.

- c. Not more than one-third of each annual grant may be used for operating cost assistance and operating cost assistance reserves.
- d. The grantee must use 100 percent of its HTF grant for the benefit of extremely low- income families or families with incomes at or below the poverty line (whichever is greater).
- e. Pre-award costs may not exceed five percent of the minimum statutory allocation amount of \$3 million.

J. Program Income

Program income must be deposited in the grantee's HTF local account unless the grantee permits a subgrantee to retain the program income for additional HTF projects pursuant to the written agreement required by 24 CFR 93.404(b). The grantee must report the program income received as well as the use of the program income for HTF in HUD's disbursement and information system.

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable
- d. *Financial Reports (OMB No. 2535-0107)* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act (FFATA)

See Part 3.L for audit guidance

N. Special Tests and Provisions

1. Maximum Per-Unit Subsidy and Underwriting and Subsidy Layering Requirements

Compliance Requirements Maximum per-unit development subsidy amount. The grantee must establish maximum limitations on the total amount of HTF funds that the grantee may invest per-unit for development of non-luxury housing, with adjustments for the number of bedrooms and the geographic location of the project. These limits must be reasonable and based on actual costs of developing non-luxury housing in the area. The grantee must include these limits in its consolidated plan and update these limits annually.

Underwriting and Subsidy Layering. Before committing funds to a project, the grantee must evaluate the project in accordance with guidelines that it has adopted for determining a reasonable level of profit or return on recipient's investment in a project and must not invest any more HTF funds, alone or in combination with other governmental assistance, than is necessary to provide quality affordable housing that is financially viable for a reasonable period (at minimum, the period of affordability in Section 93.302 or Section 93.304) and that will not provide a profit or return on the recipient's investment that exceeds the grantee's established standards for the size, type, and complexity of the project. The guidelines adopted by the grantees must require the grantee to undertake:

1. An examination of the sources and uses of funds for the project (including any operating cost assistance, operating cost assistance reserve, or project-based rental assistance that will be provided to the project) and a determination that the costs are reasonable; and
2. An assessment, at minimum, of the current market demand in the neighborhood in which the project will be located, the experience of the recipient, the financial capacity of the recipient, and firm written financial commitments for the project.

Audit Objectives Determine whether the HTF subsidies being provided are not more than necessary to provide affordable housing and are properly supported.

Suggested Audit Procedures

- a. Review a sample of projects to verify that the HTF subsidy amounts are supported by the grantee's records.
- b. Review grantee records to verify that each housing project was evaluated in accordance with its guidelines and to ensure that the HTF assistance to the project is not any more than the maximum limits established by the grantee.

2. Drawdowns of HTF Funds

Compliance Requirements The IDIS is used both to collect information on compliance with program requirements and to disburse HTF funds to HTF grantees (24 CFR section 93.402).

Audit Objectives Determine whether the drawdowns of HTF funds using IDIS (HTF payment certificate amounts) are supported by grantee records.

Suggested Audit Procedures

- a. Verify that HTF payments match the grantee's documents to support the drawdown request.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.850 PUBLIC HOUSING OPERATING FUND****I. PROGRAM OBJECTIVES**

The overall objective of the Office of Public and Indian Housing (PIH) program is to provide and operate cost-effective, decent, safe, and affordable dwellings for lower-income families through an authorized local Public Housing Agency (PHA).

II. PROGRAM PROCEDURES**A. Overview**

Operating Fund grants are available to achieve and maintain adequate operating and maintenance service and reserve funds. Capital Fund grants are provided for modernization and development activities.

PHAs established in accordance with state law are eligible to administer the public housing program. The local governing body must approve the proposed program. Three core occupancy procedures are described in program regulations and other guidance: (1) determination of eligibility, (2) determination of income and rent, and (3) leasing and continuing occupancy.

B. Subprograms/Program Elements**1. *Operating Fund***

PHAs with more than 250 rental dwelling units must manage properties according to an asset management model consistent with the management norms in the broader multi-family management industry. PHAs must comply with asset management requirements.

Asset management has five interrelated core elements: project-based funding, budgeting, accounting, management, and oversight/performance assessment. PHAs must implement these project-based practices, which include project-specific financial reporting through the Financial Data Schedule (FDS). PHAs that own and operate 250 or more dwelling rental units and do not intend to fund central office operating costs with Capital Fund grants must establish a Central Office Cost Center (COCC) to account for non-project specific costs because, if using Capital Fund grants, these costs get charged to the project as opposed to a COCC.

The COCC must charge each project for indirect costs (expenses of the “management company,” namely the COCC) using a fee-for-service approach.

Each project shall be charged for the services received and only to the extent that such amounts are reasonable. The asset management fee and funds transfers between projects (project fungibility) will be limited to the restrictions made on excess cash. Excess cash will also be monitored as a compliance requirement after the first year of asset management.

The grant assistance is made available from the Operating Fund through the Annual Contributions Contract (ACC). The ACC is a grant agreement between the Department of Housing and Urban Development (HUD) and the PHA, whereby HUD agrees to provide grant assistance, and the PHA agrees to comply with HUD requirements for the development and operation of its public housing projects (24 CFR section 990.115). Funding is determined by a formula used to calculate the amount of eligible operating subsidy for each PHA. The operating subsidy is equal to the project's Project Expense Level (PEL) plus the Utilities Expense Level (UEL), multiplied by Eligible Unit Months (EUM) plus other formula expenses (add-ons) minus formula income. The methodology and procedures for this calculation are found in 24 CFR Part 990.

The Operating Fund calculation is prepared in conjunction with the project's annual operating subsidy worksheet in HUD Form 52723, *Operating Fund Calculation of Operating Subsidy* (OMB No. 2577-0029) and HUD Form 52722, *Operating Fund Calculation of Utilities Expense Level* (OMB No. 2577-0029). Both forms are prepared by PHAs and submitted to HUD before the beginning of the calendar year (CY) in accordance with the schedule established by HUD.

Essentially, the PEL, which is the non-utility costs for each project, is based on what it would cost a well-managed project of comparable location and characteristics to operate based on such variables: (1) size of project (number of units); (2) age of property (date of full availability); (3) bedroom mix; (4) building type; (5) occupancy type; (6) location (an indicator of the type of community in which a property is located (location types include rural, city central metropolitan, and non-city central metropolitan (suburban) areas); (7) neighborhood poverty rate; (8) percentage of households assisted; (9) ownership type (profit, nonprofit, or limited dividend); and (10) geographic location.

The resulting PELs are arrived at by application of the formula utilizing these variables. These costs are updated annually based on inflation and changes in the PHA characteristics included in the equation. The UEL is a figure that reflects payment to the PHA for PHA-paid utility costs for each project. The UEL is formula-determined, reflective of actual consumption during the previous four years, recent utility rates, and a factor for inflation.

As owners, PHAs have asset management responsibilities that go above and beyond property management activities. These responsibilities include decision-making on topics such as long-term capital planning and allocation, the setting of ceiling or flat rents, review of financial information and physical stock, property

management performance, long-term viability of properties, property repositioning and replacement strategies, risk management responsibilities pertaining to regulatory compliance, and those decisions otherwise consistent with the PHA's ACC responsibilities, as appropriate.

2. *Rental Assistance Demonstration Program*

In 2012, Congress authorized the *Rental Assistance Demonstration (RAD)* to test a new way to meet the large and growing capital improvement needs of the nation's aging public housing stock and preserve projects funded under HUD's "legacy" programs. Under RAD, properties "convert" their assistance to long-term, project-based Section 8 contracts. RAD allows PHAs to convert some or all its public housing units to a project-based voucher program (PBV) or a project-based rental assistance contract with HUD multifamily (PBRA). Currently, Congressional appropriation language allows for 455,000 units to be converted under the RAD program. Units approved under RAD are removed from the public housing system when the new PBV or PBRA Section 8 contract is effective. Conversions may occur at any time during the year. While the project is effectively under a new federal program at closing, funding for these converted units under the PBV or PBRA program will not begin until the beginning of the next calendar year (i.e., January 1st of the year following closing). Therefore, the funding mechanism from the conversion point through the end of the current calendar year remains Public Housing Operating Fund and/or the Capital Fund Program (CFP) grants. As such, any amounts (Operating Fund or CFP funds) received by the PHA under prior ACCs and transferred to the new RAD property as outlined by the documents of the RAD conversion are eligible and allowable costs of the respective program.

3. *Shortfall Program*

Shortfall Funds have been provided to PHAs on a competitive basis beginning in 2020. Shortfall Funds are provided to PHAs through the Shortfall Program. The Shortfall Program provides funding to PHAs who experience or are at risk of financial shortfalls. Shortfall Funds may be used for any eligible Operating Fund expense. The funds are allocated based on a needs-based approach, with the specific methodology used to determine eligibility and eligible amounts identified in a PIH Notice published annually for each year's appropriation. Funding from the Shortfall program is disbursed at the PHA level rather than the project level. Shortfall Funds must be expended immediately upon drawdown. These funds will then be allocated to the projects as revenue and for expenditures. Award letters identify steps the PHA can take to improve financial performance and criteria that must be met to release funds. Eligible uses are those allowed under Section 9 (e) of the Housing and Community Development Act, except that non-troubled PHAs may also include eligible Capital Fund uses under Section 9 (g).

C. Other**1. Financial Reporting**

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit its financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due two months after the PHA's fiscal year-end, and the audited financial statement is due nine months after its fiscal year-end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

Source of Governing Requirements

This program is authorized by the US Housing Act of 1937, as amended (42 USC 1437d(j), 42 USC 1437g, and 42 USC 3535(d)). Implementing regulations are 24 CFR parts 5, 902, 960, 966, and 990. Operating Fund requirements are contained in 24 CFR Part 990. Guidance on financial management and reporting requirements for public housing authorities under 24 CFR Part 990 was published in Notice PIH 2007-9 (April 10, 2007), which included guidance in a Supplement to the Financial Management Handbook, Department of Housing and Urban Development (HUD) Handbook 7475.1, Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule.

Availability of Other Program Information

1. HUD maintains web pages [Public Housing | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#) and [Library - Public and Indian Housing | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#) that provide general information about this program.
2. HUD's Real Estate Assessment Center website is available at [Real Estate Assessment Center \(REAC\) | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#). Links to information concerning PHAS and other important program information are located on this web page. [The Supplement to Handbook 7475.1](#), which was published in Notice PIH 2007-9 (April 10, 2007), provides detailed information on the financial reporting requirements for PHAs.
3. Copies of HUD forms and notices are available at HUDCLIPS at [HUDCLIPS | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#).
4. HUD's Rental Assistance Demonstration Program main website is available at [Rental Assistance Demonstration | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	Y	N	N	N	Y

A. Activities Allowed or Unallowed

1. *Project-Specific Operating Expenses*

- a. Project-specific operating expenses include, but are not limited to, direct administrative costs, utilities costs, maintenance costs (maintenance must be either decentralized or, if centralized, recovered via fee-for-service), tenant services, protective services, general expenses, non-routine or capital expenses, and other PHA- or HUD-identified costs which are project-specific for management purposes.
- b. Project-specific operating expenses include a property management fee for each project to fund central office operations. If the PHA contracts with a private management company to manage a project, the PHA may use the difference between the property management fee paid to the private management company and the fee that is reasonable to fund operations of the central office and other eligible purposes.

c. Proceeds under Sections 18 and 22 of the 1937 Act

- (1) PHAs may obtain proceeds from public housing real property dispositions under sections 18 and 22 of the 1937 Act. If approved by HUD, PHAs may deduct relocation costs and reasonable disposition costs (transaction costs from the gross proceeds (the result being the net proceeds). The reasonableness of disposition costs for this purpose is evidenced by the HUD approval of the deduction. PHAs may use net proceeds for the provision of low-income housing, to benefit the public housing residents of the PHA, or to leverage amounts for securing commercial enterprises on-site in public housing projects as appropriate to serve the needs of the public housing residents. A PHA's use of proceeds is subject to HUD approval. PHAs shall not use proceeds without obtaining written approval from HUD's Special Applications Center (SAC). Until expended, PHAs must deposit the proceeds into an account subject to the HUD General Depository Agreement HUD- 51999 (GDA)(4/18).

2. *Use of Excess Cash*

With the Operating Funds calculated at a project level, the Operating Funds can be transferred as the PHA determines during the PHA's fiscal year to another ACC project(s) if a project's financial information meets the requirements described in [24 CFR section 990.280](#). The transfers cannot be more than the excess cash the project generates (24 CFR section 990.205(a)). Excess cash is calculated at the end of the project's prior fiscal year for use in the current fiscal year, if applicable. Excess cash represents the sum of certain current asset accounts, minus current liabilities, and minus one month's worth of operating expenses for the project. HUD has provided guidance on using excess cash in sections 6.1 through 6.6 in the Supplement to HUD Handbook 7475.1. This guidance has been developed using the norms in the broader multi-family management industry (24 CFR section 990.225).

a. Excess cash may be used for the following purposes:

- (1) Retention for future use;
- (2) Transfer to other projects;
- (3) Payment of an asset management fee to the COCC; and
- (4) Other HUD-approved eligible purposes, including, but not limited to—
 - (a) Financing costs for the development of new units (to the

extent allowed under program requirements),

- (b) If approved by HUD HQ Counsel and concurred upon by the assistant secretary or general deputy assistant secretary, costs of pursuing PHA-wide lawsuits and addressing legal issues incurred prior to asset management that cannot be charged to specific projects or other programs with any degree of accuracy or fairness, and
 - (c) Provided 2 CFR Part 200 is followed, benefits including pensions, retirement benefits liabilities, and other “legacy costs” incurred prior to adoption of asset management (24 CFR section 990.280(b)(5)). (Also see Section 6.2 in the Supplement to HUD Handbook 7475.1.)
- b. Proceeds from asset disposals of a project (e.g., the sale of a project’s maintenance vehicle) are assets of the projects and not of the COCC. With HUD approval, certain proceeds may be transferred to the COCC but may still be governed by other restrictions (2 CFR Part 200; section 990.280(b)(5)). (Also see Section 6.3 in the Supplement to HUD Handbook 7475.1.)
- c. Excess cash cannot be used for loans or transfers to the COCC except through payment of asset management fees.

3. *Use of Operating Funds*

- a. The Operating Fund was established for the purpose of making assistance available to PHAs for the operation and management of public housing. Per the ACC, funds are not fungible between programs except as approved by HUD (PHAs may use Operating Funds as outlined by sections 9(e), 9(g) and 9(l) of the 1937 Act, as amended (42 USC 1437d(j), 42 USC 1437g, and 42 USC 3535(d)), HUD regulations and Moving to Work (MTW) agreements. PHAs may use Capital Funds as outlined by Section 9(d), 9(g), and 9(l) of the 1937 Act and HUD regulations) and consistent with HUD Requirements.

Transfers out of the Operating Fund can only occur in very limited circumstances, such as outlined by the documents of a RAD conversion and for when PHAs participate in the Moving to Work Demonstration Program (Assistance Listing 14.881) authorized by 204(c)(1) of Title II of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321-282.

This precludes PHAs from using Operating Funds to provide temporary loans to other programs within the PHA through inter-fund inter-program

transactions (Due To/Due From) or to external affiliates such as to Discretely Presented Component Units (DCUs) through affiliate receivable/payable transactions. It also precludes PHAs from using Operating Funds to temporarily cover or support non-Public Housing program activities through central payor type arrangements such as Paymaster and Revolving Fund Accounts. While allowed to be pooled in an account such as the General Fund, Public Housing Operating funds cannot be advanced from the pooled account in excess of the Public Housing Operating fund program's expenditure rate as per the ACC.

Inter-fund and affiliate receivable/payable transactions recorded in a PHA's books of account may indicate the existence of temporary loans which introduce the risk for the potential misuse of Operating funds for nonprogram purposes. This financial activity should be reviewed to determine whether the balances and transactions represent the allowable use of unrestricted resources or if the activity represents the ineligible use of Operating funds representing program noncompliance. Additionally, related financial transactions or adjustments that result in the elimination of Operating Fund receivables (such as write-downs, write-offs, equity and prior period adjustments, and operating transfers out) should be reviewed to determine if eliminations and transfers are appropriate and proper authorization from HUD is documented (42 USC 1437g(e)).

- b. Operating subsidy received by the PHA under prior ACCs and transferred to the new RAD property as outlined by the documents of the RAD conversion are eligible and allowable costs of the respective program.

4. *Use of Operating Funds for Capital Improvements*

- a. PHAs with less than 250 public housing units (and that are not designated as troubled and are, in the determination of HUD, operating and maintaining public housing in a safe, clean, and healthy condition) may use their Operating Funds for capital improvements (Section 9(g)(2) of the 1937 Act (42 USC 1357g(g)(2))).
- b. PHAs with 250 or more public housing units are permitted to use 20 percent of their Operating Funds for allowable and eligible CFP activities under Section 9(d) of the Act except to (1) transfer Operating Subsidy from one project to another or (2) support a Capital Fund management fee on the Operating Subsidy used for CFP activities.

B. Allowable Costs/Cost Principles

The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating Funds may not exceed the annual rate of basic pay

payable for a federal position at Level IV of the Executive Schedule (currently \$183,250) (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and if carried forward in each subsequent appropriations act). Implementing guidance has been issued in PIH Notice 2016-14, “Guidance on the Public Housing Agency (PHA) salary restriction in HUD’s annual appropriations” (<https://www.hud.gov/sites/documents/16-14PIHN.PDF>). OPM Salary tables are located here: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>.

1. Chargeable Fees under the Fee-for-Service Approach

- a. The PHA may charge each project an asset management fee that may be used to fund operations of the central office (24 CFR section 990.280(b)(5)(ii)).
- b. In addition to project-specific records, PHAs may establish COCCs to account for non-project specific costs (e.g., human resources, executive director’s office). Those costs shall be funded from the property management fees received from each property and the asset management fees to the extent these are available (24 CFR section 990.280(c)). PHAs opting to fund centralized costs with capital funds must allocate overhead to projects through FDS line item 91810, “Allocated Overhead.”
- c. If a PHA chooses to centralize functions under asset management, it must charge each project using a fee-for-service approach unless proration is permitted. HUD has specified that the costs for rent collections, resident services, security/protective services, waiting lists, and work order processing may be prorated. (See III.N.6, “Fees Charged for Centralized Services,” and III.N.7, “Prorating Front-Line Centralized Services.”) With the exception of a central waiting list, resident services, and security/protective services, a project may not pay for the cost of a supervisor overseeing a front-line task that is performed centrally (see Section 7.10 Assignment of Costs per Supplement, Prorating Front-Line Administrative Costs, in the Supplement to HUD Handbook 7475.1 for exceptions). Each project shall be charged for the actual services received and only to the extent that such amounts are reasonable (24 CFR section 990.280 (d)).
- d. PHAs that own and operate 250 or more dwelling rental units under Title I of the US Housing Act of 1937, including units managed by a third-party entity (for example, a resident management corporation) but excluding Section 8 units, are required to operate using an asset management model consistent with Subpart H of 24 CFR Part 990 (24 CFR section 990.260(a)). PHAs that own and operate 400 or fewer public housing units may elect to be exempt from any asset management requirement imposed by HUD in connection with the operating fund rule, provided that an agency seeking a discontinuance of a reduction of subsidy (stop-loss)

under the operating fund formula shall not be exempt from asset management requirements (Section 225 of Title II of the HUD portion of the Consolidated Appropriations Act, 2008 (Pub. L. No. 110-161) and if carried forward in all subsequent Appropriations Acts).

- e. For PHAs implementing asset management under fee-for-service, costs are classified as either a front-line expense (an expense of the project) or a fee expense (an expense of the management company (i.e., the COCC)) (see Table 7.2 and sections 5.2, 5.3, and 7.10 in the Supplement to Handbook 7475.1 for classifying costs) (24 CFR section 990.280(d)). Certain front-line project administrative expenses may be performed centrally and “charged back” (expense proration or fee-for-service) to the affected project(s). Centralized maintenance services can only be charged as a fee-for-service. Centralized indirect costs, on the other hand, are recoverable only from designated fees charged by the COCC (management, bookkeeping, asset management) (24 CFR sections 990.275 and 990.280). Project support costs should be properly classified as fee expense recoverable from management, bookkeeping, and asset management fees, or front-line project expense, recoverable through expense proration, as a shared resource cost or fee-for-service (required for centralized maintenance services). For PHAs that have established a COCC, HUD has established the following as the fees the COCC can charge projects or programs (see Section 7.1 to the Supplement to HUD Handbook 7475.1):

- (1) Property (project) management fee;
- (2) Bookkeeping fees;
- (3) Fees for centrally provided direct services (front-line expenses);
- (4) Asset management fees;
- (5) Capital Fund Program management fees; and
- (6) Management fees for other programs.

Property management fee rates established by HUD are available at [Project-Based Accounting - Asset Management - HUD | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#).

E. Eligibility

1. Eligibility for Individuals

- a. Most PHAs devise their own application forms filled out by the PHA staff during an interview with the tenant. The head of household signs (a) a certification that the information provided to the PHA is correct; (b) one or more release forms to allow the PHA to get information from third parties; (c) a federally prescribed general release form for employment information; and (d) a privacy notice. Under some circumstances, other members of the family may be required to sign these forms (24 CFR sections 5.212, 5.230, and 5.601 through 5.615). Elaboration on consent form requirements, including additional consent form requirements, can be found here: [https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-B/subject-group-ECFR571d9c483519586/section-5.230#p-5.230\(a\)](https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-B/subject-group-ECFR571d9c483519586/section-5.230#p-5.230(a))
- b. Eligibility Determination:
 - (1) The admission or continued occupancy requires the tenant and other family members to provide the necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 960.259).
 - (2) For both family income examinations and reexaminations, obtain and document in the family file third-party verification of (a) reported family annual income, (b) the value of assets, (c) expenses related to deductions from annual income, and (d) other factors that affect the determination of adjusted income or income-based rent (24 CFR section 960.259).
 - (3) Determine income eligibility and calculate the tenant's rent payment using the documentation from third-party verification in accordance with 24 CFR Part 5, Subpart F (24 CFR sections 5.601 et seq., and 24 CFR Subpart C sections 960.253, 960.255, and 960.259).
 - (4) Tenants must be from the public housing waiting list (see III.N.2, "Special Tests and Provisions – Public Housing Waiting List") (24 CFR sections 960.206 and 960.208).
 - (5) Reexamine family income and composition at least once every 12 months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third-party verification (24 CFR sections 960.253, 960.257, and 960.259).
 - (a) The Rental Demonstration program prohibits PHAs from rescreening or requiring tenant recertification due solely to a RAD conversion. However, this requirement does not eliminate the scheduled recertification (normally annually).

Recertifications must be performed as part of the normal tenant recertification process that occurs after the RAD conversion but before the end of the calendar year will be conducted under the selected conversion program (PBV or PBRA) and not Public Housing. These recertifications are to be conducted to ensure that tenant payments are appropriate under the new program. Any testing that results in an audit finding should be a finding of the PBV or PBRA program, not the public housing program.

- (b) Eligible beneficiaries are lower- income families, which include citizens or eligible immigrants. “Families” include, but are not limited to, (1) a family with or without children; (2) an elderly family (head, spouse, or sole member 62 years or older); (3) near-elderly family (head, spouse, or sole member 50 years old but less than 62 years old); (4) a disabled family; (5) a displaced family; (6) the remaining member of a tenant family; or (7) a single person who is not elderly, near-elderly, displaced, or a person with disabilities.

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements The Wage Rate Requirements apply to construction activities for public housing. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 1437j(a) and (b)). HUD’s Factors of Applicability for these requirements can be found at

https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olr_foa.

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Public Housing Waiting List

Compliance Requirements The PHA must establish and adopt written policies for the admission of tenants. The PHA tenant selection policies must include requirements for

applications and waiting lists, a description of the policies for selecting applicants from the waiting lists, and policies for verification and documentation of information relevant to the acceptance or rejection of an applicant (24 CFR sections 960.202 through 960.206).

Audit Objectives Determine whether the PHA is following its tenant selection policies in placing applicants on the waiting list and selecting applicants from the waiting list to become tenants.

Suggested Audit Procedures

- a. Review the PHA's tenant selection policies.
- b. Test a sample of applicants added to the waiting list and ascertain if the PHA's tenant selection policies were followed when placing applicants on the waiting list.
- c. Test a sample of new tenants to ascertain if they were selected from the waiting list in accordance with the PHA's tenant selection policies.

3. Tenant Participation Funds

Compliance Requirements When tenant participation funds are provided to a PHA, the PHA must provide those funds to duly elected resident councils. Funding provided by a PHA to a duly elected resident council may be made only under a written agreement between the PHA and the resident council that includes a resident council budget. PHAs are permitted to fund \$25 per unit per year for units represented by duly elected resident councils for resident services. Of this, \$25, \$15 per unit per year is provided to fund tenant participation activities. The agreement must require the local resident council to account to the PHA for the use of the funds and permit the PHA to inspect and audit the resident council's financial records related to the agreement (24 CFR section 964.150).

Audit Objectives Determine whether the PHA has properly allocated tenant participation funds to resident councils and has determined that resident councils' expenditures are adequately documented.

Suggested Audit Procedures

- a. Review PHA project agreements and records to determine if funding provided for tenant participation has been allocated to resident councils in accordance with a written agreement.
- b. Test a sample of the expenditures and supporting documentation reported to the PHA to determine if resident council expenditures are consistent with the resident council budget.

4. Project-Based Budgeting and Accounting

Compliance Requirements PHAs implementing asset management shall develop and maintain a system of budgeting and accounting for each project in a manner that allows for analysis of actual revenues and expenses associated with each property (24 CFR section 990.280(a)). Prior to the beginning of its fiscal year, a PHA is required to prepare an operating budget. The PHA's Board of Commissioners is required to review and approve the budget by resolution. The PHA is not required to submit the budget to HUD unless specifically requested under special circumstances. The approved board budget resolution must be submitted to HUD (24 CFR section 990.315(a)).

Financial information to be budgeted and accounted for at a project level shall include all data needed to complete a project-based FDS following GAAP, including revenues, expenses, assets, liabilities, and equity data (24 CFR section 990.280(b)(1)).

Tracking financial performance at the project level under project-based accounting provides information necessary to make effective decisions at the project level. PHAs may only charge projects for services received. For example, in accounting for project costs, PHAs will not be permitted to spread the cost of central maintenance across all projects (24 CFR section 990.280 and 2 CFR 200.405).

Audit Objectives Determine whether each asset management PHA has implemented project-based budgeting and accounting.

Suggested Audit Procedures

- a. Obtain the PHA's budget and determine if it is project based.
- b. Confirm that the PHA maintains a board-approved budget, which was approved by a board resolution before the beginning of the PHA's fiscal year.
- c. Review the FDS and determine whether each project has its own column on the FDS.
- d. Review budget to actual reports. Verify that actual revenue and expenses associated with each project are analyzed periodically by the PHA. Confirm that the PHA addresses significant variances between the budget and actual data.

5. Balance Sheet Allocations

Compliance Requirements PHAs implementing asset management using the COCC model must apportion their assets, liabilities, and equities to their projects and COCC at the time of conversion to project-based accounting. Most PHAs have already completed this process; however, some PHAs may still be establishing their COCC for the first time. Assets, liabilities, and associated net assets should be assigned to the applicable project or COCC if a direct relationship exists, including personal and real property. HUD has

provided guidance on this subject in Section 4.3 in the [Supplement to Handbook 7475.1](#) and PIH Notice 2008-17, Guidance on Disposition of Excess Equipment and Non-Dwelling Real Property under Asset Management (24 CFR section 990.280(b)(1)).

Audit Objectives Determine if PHAs have apportioned their assets, liabilities, and equity between the projects and COCC.

Suggested Audit Procedures

- a. Select a sample of assets, liabilities, and equities.
- b. Determine that they were appropriately allocated to projects and COCC.

6. Fees Charged for Centralized Services

Compliance Requirements In the case where a COCC chooses to centralize functions that directly support a project (e.g., central maintenance), it must charge each project using a fee-for-service approach, with the exception of charges for rent collections, resident services, security/protective services, waiting lists, and work-order processing (see Section 7.10 of the [Supplement to Handbook 7475.1](#)). Each project must be charged for the services received and only to the extent that such amounts are reasonable. Guidance on fee reasonableness for centralized service fees is provided in Section 7.10 in the Supplement to HUD Handbook 7475.1. HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance, and HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD must be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(d)).

Audit Objectives Determine whether the fees charged by the COCC to the project for centralized maintenance and inspections are reasonable.

Suggested Audit Procedures

- a. Select a sample of fees charged by the COCC to a project for centralized maintenance and inspection services.
- b. Determine if the fees comply with fee reasonable guidelines set by HUD.
- c. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

7. Prorating Front-line Centralized Services

Compliance Requirements When a COCC chooses to centralize certain front-line

project costs (e.g., rent collection, resident services, security, waiting lists, work order processing), it may (rather than using fee-for-service) prorate these costs based on a reasonable, documented methodology. The prorating of these costs (e.g., cost allocation plan) shall reflect the PHA's broader accounting policy.

Projects with on-site staff that can provide these services at a project may not also be charged these services using proration. A PHA could prorate these costs based on a percentage of units, bedroom distribution, turnover, or other reasonable methods. With the exception of a central waiting list, resident services, and security/protective services, a project may not pay for the cost of a supervisor overseeing a front-line task that is performed centrally (see Section 7.10 of the Supplement to HUD Handbook 7475.1) (24 CFR section 990.280).

Audit Objectives Determine whether the centralized direct project costs charged to the project(s) by the COCC are reasonable, supervisory costs are properly charged, and costs are not charged to the project using proration if on-site staff can provide the services.

Suggested Audit Procedures

- a. Ascertain if the project is pro-rating front-line centralized services and, if so—
- b. Select a sample of costs prorated by the COCC to a project for centralized front-line project costs.
- c. Review the method used to prorate amounts, including the method used to determine the degree of cost allocation to the respective project(s) to ensure that the documented method mirrors the method associated with costs charged to a project.
- d. Verify that charges are based on the methodology established by the PHA.
- e. Confirm, by obtaining written representations from management, that the project(s) charged lack the on-site human resources to perform the function and whether such services were provided in the past. Verification can also be ascertained by reviewing the staff's roles and responsibilities and determining if the services provided fall under these roles and responsibilities.
- f. Verify that no ineligible supervisory costs are charged to the project(s).

8. Asset Management Fee

Compliance Requirements The COCC may charge a reasonable asset management fee to projects to fund the operations of the central office. HUD will generally consider an asset management fee of \$10 per unit month (PUM) charged to each project as reasonable. Sections 7.4 and 7.6 in the Supplement to Handbook 7475.1 provide guidance on reasonable standards for asset management fees. HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance and

HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD need to be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(b)(5)(ii)).

Audit Objectives Determine whether the asset management fees charged by the COCC to the projects are reasonable.

Suggested Audit Procedures

- a. Select a sample of projects that were charged an asset management fee.
- b. Determine if the fees comply with fee reasonable guidelines set by HUD.
- c. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

9. Management Fees

Compliance Requirements The COCC may charge reasonable management fees. Management fees may include property management fees and bookkeeping fees. Fee reasonableness standards for the property management fee and bookkeeping fee are provided in sections 7.4 and 7.5 in the in the [Supplement to Handbook 7475.1](#) . HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance and HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD need to be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(b)(4)), including cost reasonableness guidance under 2 CFR Part 200.

Audit Objectives Determine whether the fees charged by the COCC for management services are reasonable.

Suggested Audit Procedures

- a. Select a sample of property management fees and bookkeeping fees charged by the COCC and determine if the fees comply with fee reasonable guidelines set by HUD.
- b. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

10. Allocated Overhead

Compliance Requirements Under current appropriation language, all PHAs with over

400 public housing units must convert to asset management (Section 225 of Title II of the HUD portion of the Consolidated Appropriations Act, 2008 (Pub. L. No. 110-161) and if carried forward in all subsequent Acts).

PHAs with over 400 public housing units are allowed two reporting models as part of the conversion to asset management—the establishment of a COCC or the allocated overhead method (FDS line 91810). For those PHAs that established a COCC, the reasonableness of the fees charged is tested in the previous Special Tests (six through nine). For those PHAs that converted to asset management, but are reporting using the allocated overhead method, reasonableness is tested in this section by reviewing the allocated overhead expense account and comparing fees in that account to the fee standards set by HUD in sections 7.4, 7.5, and 7.6 in the Supplement to HUD Handbook 7475.1 (24 CFR section 990.280(b)(4)).

Audit Objectives Determine whether the amount of allocated overhead charged to projects is reasonable.

Suggested Audit Procedures

- a. For PHAs using the allocated overhead method, select a sample of projects and review the amount of overhead costs charged through the allocated overhead expense line.
- b. Determine if the allocated overhead expense line is reasonable compared to the fee standards allowed by HUD.

11. Funding Central Office with Capital Fund Program Funds

Compliance Requirements The Capital Fund was established for the purpose of making assistance available to PHAs to carry out capital and management activities (42 USC 1437g(d)). Project-based budgeting and accounting will be applied to all programs and revenue sources that support projects under an ACC (e.g., the Operating Fund, the Capital Fund) (24 CFR section 990.280(a)).

In addition to project-specific records, PHAs may establish COCCs to account for non-project-specific costs (e.g., human resources, executive director's office). These costs shall be funded from the management fees received from each property and asset management fees to the extent these are available (24 CFR section 990.280(c)).

If a PHA uses CFP funds to directly support its central office other than through management fees, the PHA may not record fee revenue, such as management fees, asset management fees, bookkeeping fees, and front-line service fees, under its COCC. The PHA should report indirect costs as Allocated Overhead (FDS line 91810) under its projects and programs.

However, a PHA could report fee revenue under its COCC under the following

circumstances. (HUD considers these activities as management or capital activities and, therefore, can be directly supported by the use of the Capital Fund in accordance with (42 USC 1437g (d)).)

- a. PHAs with assets financed under the Capital Fund Finance Program (CFFP) and allocated to the COCC will record the associated debt at the COCC. (Unlike the CFP, the CFFP is not a federal financial assistance program. The CFFP was created to leverage external financing of capital investments using CFP money for debt service. For instance, a PHA must repair its building at an estimated cost of \$500,000. CFP can provide annual funding of \$100,000 to the PHA. Without outside financing, the PHA would not have enough cash to do the work until five years later. The PHA can borrow money from a local bank to make the investment now and promise to repay the bank with future CFP funds. By doing so, the PHA is taking part in the CFFP.) CFP grants are allowed to service the debt service payments for this COCC debt based on a percentage of the annual CFP appropriation.
- b. The costs of developing or modernizing an existing ACC non-dwelling structure under a Capital Fund Declaration of Trust (DOT) (both COCC and Project Structure) are an eligible Capital Fund expenditure (guidance on this is provided in Section 5.7 in the Supplement to HUD Handbook 7475.1). If development of a structure, then a 40-year DOT applies; if modernization of a structure, then a 20-year DOT applies. DOT may vary based on the nature of the work; consult HUD Handbook 7475.1.

Audit Objectives When a PHA uses the Capital Fund to directly support its central office other than through management fees, determine whether the PHA (a) uses the Capital Fund to pay back CFFP debt or to develop or modernize an existing ACC structure or (b) reports its indirect cost as Allocated Overhead (FDS line 91810).

Suggested Audit Procedures

- a. Ascertain if the Capital Fund is used to directly fund the central office other than through management fees. If not, no further action is needed.
- b. If so, and if all the funds were used to pay CFFP debt or to develop or modernize an existing ACC structure, no further action is needed.
- c. If so, and the money is not used to pay back CFFP debt or develop or modernize an existing ACC structure, verify that no fee revenue was reported under the COCC, and all indirect costs were reported as Allocated Overhead in FDS line 91810.

12. PHA Utilities Operating Funding Requests

Compliance Requirements

Special Utilities Incentives. If a PHA undertakes energy conservation measures financed

by an entity other than HUD, the PHA may qualify for the incentives available under 24 CFR sections 990.185(a) and 990.190(b). In some cases, the rolling base consumption level (HUD Form [52722](#) Section 3, Line 8) for the utilities involved may be frozen during the contract period. For a PHA to qualify for these incentives, the PHA must obtain HUD approval. Approval is based on a determination that payments under the contract can be funded from the reasonably anticipated energy cost savings. The contract period may not exceed 20 years (24 CFR section 990.185(a)) and is specified in the HUD approval letter.

Rate Reduction. If a PHA takes action beyond normal public participation in rate-making proceedings, such as well-head purchase of natural gas, administrative appeals, or legal action to reduce the rate it pays for utilities, then the PHA will be permitted to retain one-half the annual savings realized from these actions (24 CFR section 990.185(b)).

Audit Objectives Determine whether the cost saving from energy conservation incentives contracts generally comply with the terms of the energy contract and have been approved by HUD, if required.

Suggested Audit Procedures

- a. When entries are in HUD-[52723](#) Section 3, Part A, Add-Ons, Line 8, Add-On-Subsidy (AOS) incentive Energy Performance Contract (EPC), verify that the project has a HUD approved energy loan amortization add-on pursuant to CFR sections 990.185(a)(3) and 990.190(b). The contract and add-on must be approved by the HUD field office. Verify that the requested amount and term agree with the energy loan amortization schedule in the approved contract.
- b. For projects with “frozen rolling base” checked in the form header box of HUD-[52722](#), verify that the project has the HUD field office approval that applies to the period in question.
- c. For projects with a “rate reduction incentive” checked in the form header box of HUD-52722, verify that the project meets the criteria in 24 CFR section 990.185(b).

13. Recording of Declarations of Trust/Declaration of Restrictive Covenants Against Public Housing Property

Compliance Requirements A current DOT/Declaration of Restrictive Covenants (DORC), in a form acceptable to HUD, must be recorded against all public housing property owned by PHAs (or private entities for public housing developed under 24 CFR Part 905, Subpart F) that has been acquired, developed, maintained, or assisted with funds from the US Housing Act of 1937. A DOT/DORC is a legal instrument that grants HUD an interest in public housing property. It provides public notice that the property must be operated in accordance with all federal public housing requirements, including the requirement not to convey or otherwise encumber the property unless expressly

authorized by federal law and/or HUD. In PIH Notice 2019-14 (HA), PHAs were asked to ensure that current (unexpired) DOT/DORCs are recorded against all their public housing property.

Every property must have a DOT/DORC in place. Up to 2018, the form of DOT/DORC that a PHA recorded depended on the funding from HUD. In most instances, the PHA recorded the HUD-52190-A for Development Grant Projects or the HUD-52190-B for Public Housing Modernization Grant Projects (*OMB No. 2577-0075*). For mixed-finance development pursuant to 24 CFR Part 905, Subpart F, the form of DOT, known as the Declaration of Restrictive Covenants, was in the form of a model document drafted for this purpose. In 2018, HUD published a new DOT/DORC form, HUD-52190 (4/2018), which applies to public housing, including both conventional and mixed-finance public housing. A PHA does not need to record a new DOT/DORC unless no validly recorded DOT/DORC encumbers the project. See PIH Notice 2019-14 (HA).

A current DOT/DORC would include all improvement and modernization efforts on the project. A DOT/DORC naming HUD as an interested party must remain in place for (1) 40 years for acquired and developed property, beginning on the date on which the project becomes available for occupancy as determined by HUD; (2) 20 years for property modernized or receiving assistance of capital funds beginning on the latest date on which modernization is complete or assistance is provided with capital funds; and (3) 10 years for property receiving Operating Funds, beginning upon the conclusion of the fiscal year of the PHA for which such amounts were provided. After the expiration of the original DOT/DORC for a public housing development, if subsequent assistance was received under the US Housing Act of 1937, PHAs are required to record another current DOT for the duration of the applicable period (24 CFR sections 905.100, 905.304, 905.318, 905.505, 905.600, and 905.604).

PHAs should have a list of all property (including land and nonresidential inventory, dwelling units, and modernization efforts) that a PHA owns and insures that is maintained or operated from the public housing Operating Fund or other US Housing Act of 1937 funds. Public housing project development numbers were reorganized in 2008, and new numbers were introduced; however, the current DOT/DORCs may continue to reference development numbers in existence prior to 2008, some of which have been put into “terminated” status. Selecting a sample of properties by development number will enable subsequent audits to cover samples of other projects so that over time all property that should be under ACC contracts is covered. (No development needs to be sampled more frequently than every five years.) It is not necessary that all development numbers be referenced in DOT/DORCs. Rather, the audit should determine whether all property that should have been placed under a DOT/DORC has been treated correctly.

Audit Objectives Determine whether DOT/DORCs are being recorded properly for public housing.

Suggested Audit Procedures

From a list of all property (including land and nonresidential inventory, dwelling units, and modernization efforts) that a PHA owns and insures, select a sample of public housing projects. Selecting a sample of properties by development number will ensure that subsequent audits can select samples of other projects. (No development needs to be sampled more frequently than every five years.)

- a. Verify that current DOT/DORCs have been recorded for the public housing property in the projects.

14. Depository Agreements

Compliance Requirements The ACC requires that PHAs deposit and invest all program funds received and investment securities received by or held for the account of the PHA in connection with the development, operation and improvement of the projects under an ACC with HUD in accordance with the terms of the General Depository Agreement (GDA) and all investment requirements provided in HUD and Treasury Notices and Regulations. PHAs are required to enter into GDAs with their financial institution(s) using the HUD-[51999](#) (OMB No. 2577-0075) form or a form as required by HUD in the ACC. The agreements safeguard program funds and limit risk by providing third-party rights to HUD, by requiring PHAs to deposit and invest in HUD-approved interest bearing investment accounts, and by executing controls over program reserves requiring that any portion of PHA funds not insured by a Federal insurance organization be fully and continually collateralized.

Audit Objectives Determine whether (1) the PHA has entered into the required depository agreements, (2) the agreements have been fully and properly executed over all bank accounts that include program funds under the ACC, and (3) the PHA is compliant with the terms of the ACC and that GDA requirements have been fully operationalized.

Suggested Audit Procedures

- a. Verify the existence of depository agreements. FVerify the unaltered depository agreements (or HUD approved alternations) have been properly executed over all bank accounts that include program funds under the ACC. This includes for pooled accounts such as the General Fund and central payor and mixed finance accounts. Confirm the executed agreements are dated and signed by both the PHA and depository institutions and the agreements list all bank account numbers.
- b. Verify that the PHA has met the terms of the agreements including the PHA has deposited and invested in HUD-approved investment accounts and the GDA specified collateralization requirements have been met.

15. Insurance Proceeds

Compliance Requirements PHAs are required to use insurance proceeds to promptly

restore, reconstruct, and/or repair any damaged or destroyed property of a project, except when a PHA has written approval from HUD to do otherwise. Unspent insurance proceeds are normally recorded as restricted cash or restricted investments on the FDS up to the amount of the repair.

In cases of unforeseeable and unpreventable emergencies that include damage to the physical structure of the housing stock, PHAs are allowed to use their Operating Funds to cover the expenses associated with the damages. A PHA's insurance may cover the damages fully or partially. However, it usually takes time for the PHA to receive the insurance proceeds. Once received, the PHA must reimburse its operating account for any expenses initially covered with Operating Funds up to the amount received.

If the insurance proceeds are less than the cost to repair and the PHA elects to use Operating Funds to cover the difference, the PHA is not allowed to draw down capital funds to reimburse the Low Rent program (Section 13 of the ACC). The ACC is available at [Annual Contributions Contract \(ACC\) | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#).

Audit Objectives Determine whether the PHA used insurance proceeds to promptly repair damaged or destroyed property, that unspent insurance proceeds are properly reported in the financial statements, and that Operating Funds were used to cover the allowable expenses.

Suggested Audit Procedures

- a. Ascertain if the PHA received any insurance proceeds for damaged or destroyed property.
- b. Verify that insurance proceeds received in advance of contractor or repair bills are placed in a restricted cash account of the operating fund.
- c. Review contractor invoices and repair expenses to verify insurance proceeds were used to cover allowable expenses.
- d. Verify that the Operating Fund was reimbursed by any insurance proceeds received for repairs funded by the Operating Fund.

16. Environmental Contaminants Testing and Remediation

Compliance Requirements Public Housing must be decent, safe, sanitary, and in good repair. To be considered decent, safe, sanitary, and in good repair, PHAs must maintain housing following the physical condition standards set forth in 24 CFR section 5.703. Those standards address the major areas of public housing: the site, the building exterior, the building systems, the dwelling units, the common areas, and health and safety considerations.

Health and safety considerations require that all areas and components of housing be free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint. The housing must have no evidence of infestation by rats, mice, or other vermin, garbage, and debris. The housing must have no evidence of electrical, natural, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold, odor (e.g., propane, natural gas, methane gas), or other indoor air hazards such as radon testing. The housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications (see 24 CFR Part 35).

The physical condition standards in 24 CFR section 5.703 do not supersede or preempt state and local building and maintenance codes, which Public Housing must comply with and continue to adhere to.

Audit Objectives For the period under audit, determine whether the PHA tested for and remediated environmental contaminants, including but not limited to lead-based paint, radon gas, and mold to ensure that Public Housing met the physical condition standards for health and safety considerations set forth in 24 CFR section 5.703.

Suggested Audit Procedures

- a. Determine if any physical inspections, required environmental tests, and/or environmental remediation activities were performed for the period under audit.
- b. Obtain and read all reports identified from procedure a. and determine if any health and safety considerations were observed.
- c. If so, determine if the PHA documented that they remediated the safety concern(s).
- d. If no physical inspection or environmental testing was performed, record the status for each and determine whether the PHA identified in some other manner that a violation of the physical condition standards for health and safety considerations, set forth in 24 CFR section 5.703, occurred. And, if so, that the PHA documented that they remediated the safety concern.

17. UEL Formula (Form 52722 OMB Approval No. 2577-0029)

Compliance Requirements The Utility Expense Level (UEL) calculates the utility portion of the Operating Fund subsidy. The UEL is a primary component of the annual operating subsidy grant revenue provided to the PHAs. This compliance supplement requires testing of rolling base data. PHAs must retain such data pursuant to 990.325. PHAs receive invoices for utilities. The consumption and cost data from those invoices are aggregated in an Excel workbook or other platform, commonly referred to as a utility ledger. The aggregated data is transferred to Form 52722. The auditors should perform a random sample of each of the main utility types (gas, water/sewer, electric, etc.) to review the accuracy of the unit of measure, consumption, and cost data reported

on document Form [52722](#).

Audit Objectives Determine if the HUD document Form 52722 accurately reflects all current and historic utility costs and consumption. Verify that all needed adjustments due to changing units of measurement and eligible unit months have been accurately completed. Complete a trend analysis that identifies any abnormal variances of the historic utility data, including the cost and consumption.

Suggested Audit Procedures

- a. Verify the consumption unit of measure is consistent on Form 52722 (i.e., the utility ledger and the utility invoice (bill)) (Section 2-line 01a on Form 52722).
- b. Test a sample of invoices to ensure the actual consumption ties to the utility ledger.
- c. Test the aggregated consumption on the utility ledger to ensure it ties to Section 2-line 01 of Form 52722.
- d. Verify that each rolling base consumption amount and units of measure tie to the prior year Form 52722. The auditor must test rolling base invoices and utility ledgers to determine if the unit of consumption has changed. To the extent the unit of measure in the current year has changed, test to ensure that the rolling base was appropriately adjusted.
- e. To the extent that any units have been removed from inventory for a project (Form 52723 Section 2, line A15 Total Unit Months has decreased) during the reporting period or rolling base, the auditor shall test to ensure that the adjustment was done consistently with the instruction found on the word version of the HUD Form 52722, which can be found on [HUDCLIPS](#).
- f. Test a sample of invoices to ensure the actual cost ties to the utility ledger.
- g. Test the aggregated cost on the utility ledger to ensure it ties to line 16 – Actual Utility Costs – Whole Dollars of Form 52722.
- h. Complete a trend analysis of the reporting year and the last three years of each major utility to identify any abnormal variances. Auditors should increase their sample size when there are abnormal variances.

18. Formula Income

Compliance Requirements The Formula Income calculates the Operating Fund Revenue for each PHA. This calculation is generally based on prepopulated data calculated by HUD. However, in some cases, the Formula Income is not prepopulated. For further guidance, review the [Formula Income Guidance](#), the Operating Fund Web Page, the [2025](#)

[Operating Subsidy Grant Processing Notice](#), the [Annual Operating Subsidy Processing Notice](#), and 24 CFR 990.195(d).

Audit Objectives For most projects, Formula Income is prepopulated. Prepopulated data is derived from the FDS. Where the Formula Income was prepopulated and not modified, testing is not required. Where prepopulated data was modified, or Formula Income was not prepopulated, testing should occur. Auditors should determine that Formula Income was not prepopulated by reviewing the prepopulated data available in the Public Housing Portal (formerly the [Operating Fund Web Portal](#)). The PHA can provide the Auditor with this data if the Auditor does not have access to the Public Housing Portal.

The auditor should review the following documents to ensure Formula Income was calculated correctly. These documents are on the HUD Financial Management Division (FMD) annual [Operating Subsidy Web Page](#).

- a. [Formula Income Guidance](#)
- b. Guidance on Non-Asset Management PHAs Reporting a Single FDS with Multiple PIC Projects and HUD-[52723](#)s: Calculation of Formula Income and other Miscellaneous Add-ons including Audit and PILOT Funding.
- c. [Guidance on the How to Reverse the Impact of Rent Reductions from the Jobs Plus Earned Income Disregard \(JPEID\) on Formula Income](#)
- d. Financial Reporting for the Family Self-Sufficiency (FSS) Program [Accounting Brief #23](#)
- e. Annual Operating Subsidy Processing Notice

Where Formula Income was not prepopulated or the prepopulated amount was adjusted, ensure that the formula income input into Form 52723, or the adjustment to the prepopulated Formula Income, was done accurately.

Suggested Audit Procedures

- a. Where prepopulated Formula Income was adjusted, test the supporting documentation to ensure that the adjustment was made for appropriate reasons. Test the supporting documentation and calculation to validate that Formula Income was correctly calculated. Adjustments should only be made due to JPEID, FSS, or Non-Asset Management with multiple projects that report only one project in FDS (see guidance provided on HUD FMD annual operating subsidy webpage).
- b. Where Formula Income was not prepopulated, test the supporting documentation and calculation to validate that Formula Income was correctly calculated. Formula income may not have been prepopulated for the following reasons: Non-Asset Management with multiple projects that report only one project in FDS, mixed-

finance projects, or approved FDS data not available at the time FMD pulled data used to prepopulate the 52723.

19. Shortfall Funding

Compliance Requirements Beginning in 2020 HUD provided Shortfall funding to PHAs on a competitive basis. All Shortfall funds are required to be expended within three days of being drawn down from LOCCS on eligible Operating Fund expenses.

Audit Objectives Determine whether the Shortfall funding was appropriately recorded and spent at projects in accordance with the award letter's financial improvement objectives.

Suggested Audit Procedures

- a. Select a sample of projects that receive Shortfall funding and assess whether sampled expenditures were consistent with Operating Fund/Shortfall requirements.

IV. OTHER INFORMATION

The Moving to Work (MTW) demonstration program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD and under the MTW Operations Notice. An MTW agency may apply funding fungibility funds from the following three programs:

- a. Section 8 Housing Choice Vouchers (Assistance Listing 14.871)
- b. Public Housing Capital Fund (Assistance Listing 14.872)
- c. Public and Indian Housing (Assistance Listing 14.850)

Depending on if a PHA is operating under an MTW Agreement or the MTW Operations Notice, the auditor should look to the MTW Agreement or the MTW Operations Notice, as applicable, to determine which funds are included. If Public Housing funds are transferred out of Public Housing, pursuant to either an MTW Agreement or the MTW Operations Notice, they are subject to the requirements of the MTW Agreement or the MTW Operations Notice and should not be included in the audit universe and total expenditures for Public Housing when determining Type-A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as Public Housing expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the Public Housing account pursuant to an MTW Agreement or the MTW Operations Notice, all the Public Housing funds would then be considered MTW funds.

If the MTW agency does not transfer all the funds from Public Housing into the MTW account or another program, those funds would be considered and audited, under Public Housing.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.862 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM****I. PROGRAM OBJECTIVES**

The primary objective of the Indian Community Development Block Grant (ICDBG) program is the development of viable American Indian and Alaskan Native communities, including decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. ICDBG assistance may not be used to reduce substantially the amount of local financial support for community development activities below the level of support prior to the availability of the assistance ([24 CFR section 1003.2](#)).

II. PROGRAM PROCEDURES

Two types of grants are eligible under the ICDBG program. Single-purpose grants provide funds for one or more single purpose projects, which consist of an activity or set of activities designed to meet a specific community development need. This type of grant is awarded through competition with other single-purpose projects. Imminent threat grants alleviate an imminent threat to public health or safety that requires immediate resolution. This type of grant is awarded only after a HUD area office determines that such conditions exist and that funds are available for such grants ([24 CFR section 1003.100](#)).

In addition, as a result of the Coronavirus disease 2019 (COVID-19) pandemic, Congress directed HUD to utilize the imminent threat grant process to award some funding under the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act \(Pub. L. No. 116-136\)](#) and the [American Rescue Plan Act of 2021 \(ARP\) \(Pub. L. No. 117-2\)](#). Imminent threat grants awarded pursuant to the CARES Act or the ARP Act are discussed in greater detail later in Part IV this document.

Source of Governing Requirements

Implementing regulations are published at [24 CFR Part 1003](#).

Availability of Other Program Information

Additional information about the ICDBG program is available at:
https://www.hud.gov/program_offices/public_indian_housing/ih/grants/icdbg.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a

direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	N	N	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *ICDBG* – Funds (including program income generated by activities carried out with grant funds) may only be used for the following activities:
 - a. the acquisition of real property;
 - b. the acquisition, construction, reconstruction, or installation of public works, facilities, and sites, or other improvements;
 - c. code enforcement in deteriorated or deteriorating areas;
 - d. clearance, demolition, removal, and rehabilitation of buildings and improvements;
 - e. special projects for removal of material and architectural barriers that restrict accessibility by elderly and handicapped individuals;
 - f. payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated;
 - g. disposition of real property acquired under this program;
 - h. provision of public services (subject to limitations contained in regulations and to certain HUD determinations);

- i. payment of the non-Federal share for a grant program that is part of the assisted activities;
- j. payment to complete a Title 1 Federal Urban Renewal project;(relocation assistance;
- k. planning activities;
- l. administrative costs;
- m. acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings;
- n. assistance to community-based development organizations;
- o. activities related to energy use;
- p. assistance to private, for-profit business, when appropriate to carry out an economic development project;
- q. substantial reconstruction of housing owned and occupied by low- and moderate-income persons (subject to certain HUD determinations);
- r. direct assistance to facilitate and expand homeownership;
- s. technical assistance to public or private entities for capacity building (exempt from planning/administration cap);
- t. housing counseling and housing activity delivery costs under ICDBG;
- u. assistance to colleges and universities to carry out eligible activities; and
- v. assistance to public and private entities (including for-profits) to assist micro-enterprises (24 CFR sections 1003.201 through 1003.206).

See also, as appropriate, Part IV below regarding CARES and ARP Act requirements.

B. Allowable Costs/Cost Principles

- 1. All items of cost listed in [2 CFR Part 200, Subpart E](#), that require prior Federal agency approval are allowable without prior approval, except for the following:
 - a. Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency;

- b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval;
 - c. Organization costs require prior HUD approval.
2. Fines, penalties, damages, and other settlements are unallowable.
3. No person providing consultant services in an employer-employee type of relationship may receive more than a reasonable rate of compensation. Such compensation must not exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule (currently \$191,900). The most current Executive Pay Schedule may be obtained at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/> (24 CFR section 1003.501(b)(2)).

C. Cash Management

The auditor should refer to Part 3 for the basic compliance requirement information and 2 CFR section 200.305 ([24 CFR section 1003.501](#)).

F. Equipment and Real Property Management

1. For equipment purchased with ICDBG funds, the requirements of 24 CFR section 85.32 or 2 CFR section 200.313 apply with the exception that when the equipment is sold, the proceeds are considered program income (24 CFR section 1003.501(a)(6)).
2. Except for awards to faith-based organization, the real property requirements in 2 CFR Part 200 do not apply. Generally, when real property that was acquired or improved using ICDBG program funds in excess of \$25,000 is disposed of, the ICDBG program must be reimbursed for its fair share of the current market value of the property. If disposition occurs after program closeout, the proceeds shall be used for allowable activities and meeting the primary objective of the program (24 CFR section 1003.504). See also, as appropriate, Part IV below regarding CARES and ARP Act requirements.

I. Procurement and Suspension and Debarment

1. For the ICDBG program, HUD has determined that funds used are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (24 CFR section 1003.510), which means, to the greatest extent feasible, a recipient is to give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises. Auditors should be familiar with these preference in contracting procedures set forth in 24 CFR section 1003.510(d) that, among other things, require recipients to:

- a. Advertise for bids or proposals limited to qualified Indian organizations and Indian-owned enterprises; or
 - b. Use a two-stage preference procedure, as follows:
 - (1) **Stage 1.** Invite or otherwise solicit Indian-owned economic enterprises to submit a statement of intent to respond to a bid announcement or request for proposals limited to Indian-owned firms.
 - (2) **Stage 2.** If responses are received from more than one Indian enterprise found to be qualified, advertise for bids or proposals limited to Indian organizations and Indian-owned economic enterprises; or
 - c. Develop, subject to HUD's local Area Office of Native American Programs (ONAP) one-time approval, the grantee's own method of providing preference.
2. Procurements that are within the dollar limitations established for small purchases under 2 CFR section 200.320 need not follow the formal bid or proposal procedures of 24 CFR section 1003.510(d), since these procurements are governed by the small purchase procedures of 2 CFR section 200.320. However, a recipient's small purchase procurement shall, to the greatest extent feasible, provide Indian preference in the award of contracts (24 CFR section 1003.510(d)(3)).

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable. Be advised that, pursuant to [2 CFR section 200.328](#), [Notice PIH 2022-15](#) was issued on June 8, 2022, advising grantees that ONAP reduced the frequency for ONAP grant recipients submitting SF-425 forms from quarterly to annually. Pursuant to [PIH Notice 2023-26](#), effective September 28, 2023, *grantees* are required to utilize the Grants Evaluation and Management System (GEMS) for the submission of SF-425s for all ONAP grant programs.

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3. L for audit guidance.

N. Special Tests and Provisions

1. Environmental Review

Compliance Requirements Program regulations provide that the responsible entity tribe will assume responsibilities for environmental review and decision-making under the requirements of 24 CFR Part 58. An environmental review must be prepared for each project or activity. Funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the Request for Release of Funds (RROF) and environmental certification. If the responsible entity tribe determines that it met a criterion specified in the regulations that would qualify the project as exempt or qualify the project for certain categorical exclusions, the RROF and environmental certification requirements do not apply (24 CFR sections 58.34 and 58.35, 24 CFR section 1003.605).

Audit Objectives Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of the environmental review process.

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and verify that:

Environmental Reviews

- a. Environmental determinations were made for each project or activity.
- b. Environmental determinations were supported by an environmental review, including supporting documentation for each applicable law and authority.
- c. For any project where an RROF and environmental certification was not submitted, the environmental review includes a written determination that the project or activity is covered by [PIH Notice 2024-24 Programmatic Part 50](#), or exempt under a criterion of 24 CFR section 58.34 or is categorically excluded under a criterion of 24 CFR section 58.35(b), and meets the conditions specified for such exemption or categorical exclusion, with supporting documentation.

Requests for Release of Funds

- a. Examine HUD's approval of the RROF and environmental certification and note receipt dates.
- b. Review the expenditure and related records and determine the dates the funds were obligated or expended.
- c. Determine that funds were obligated or expended subsequent to RROF and environmental certification approval by HUD.

Additional information on environmental review requirements can be found at <https://www.hudexchange.info/programs/environmental-review/>.

IV. OTHER INFORMATION**1. ICDBG-CARES Imminent Threat Grants****a. General**

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. No. 116-136) (CARES Act), was signed into law. The CARES Act provided for up to \$100,000,000 in ICDBG Imminent Threat (IT) funding to prevent, prepare for, and respond to coronavirus, for emergencies that constitute imminent threats to health and safety. This funding was provided in the form of grants to eligible Indian tribes and must be used to prevent, prepare for, and respond to the Coronavirus disease 2019 (COVID-19). This funding must be used in accordance with the applicable requirements of the CARES Act, Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5103 et seq.), [the ICDBG implementing regulations at 24 CFR Part 1003](#), and the issued May 15, 2020.

In addition, under the CARES Act, Congress authorized HUD to waive or specify alternative requirements for any statute or regulation (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) that HUD administers to expedite or facilitate the use of ICDBG-CARES grant funds to prevent, prepare for, and respond to COVID-19.

On April 10, 2020, HUD issued its first PIH Notice with waivers and alternative requirements authorized by the CARES Act. That Notice was superseded by [Notice PIH 2021-14](#) issued May 4, 2021, which is still applicable. [Notice PIH 2021-14](#) describes in detail the various updated waivers and alternative requirements that have been issued thus far with respect to ICDBG-CARES grants and FY 2019/2020 ICDBG grants repurposed to address COVID-19.

Before auditing an ICDBG-CARES grant recipient, auditors are strongly advised to review the ICDBG-CARES Implementation Notice, [PIH Notice 2020-11](#), and [Notice PIH 2021-14](#), particularly Section 14, starting at page 65, of [Notice PIH 2021-14](#) addressing the waivers and alternative requirements affecting ICDBG IT program with respect to ICDBG-CARES grants and FY 2020 ICDBG grants.

The following section identifies allowability considerations for the ICDBG program, followed by a summary of waivers and alternative requirements affecting the ICDBG program considered important by HUD. Because expenditures of the COVID-19 funding was still ongoing at the time the Compliance Supplement Addendum was finalized, the auditor should make best efforts to identify and consider updates and revisions of [PIH Notice 2020-11](#) or [Notice PIH 2021-14](#) for ICDBG-CARES funding that were in place at the time of the audit. This can be done by visiting at https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-CARES_Act.

b. Activities Allowed or Unallowed

The CARES Act requires ICDBG-CARES grants to be used to prevent, prepare for, and respond to COVID-19.

To comply with this requirement, ICDBG-CARES grantees must ensure that all activities, projects, and programs being proposed can be tied to at least one of the following three eligible purposes:

- (1) Activities, Projects, or Programs to Prevent COVID-19;
- (2) Activities, Projects, or Programs to Prepare for COVID-19; or
- (3) Activities, Projects, or Programs to Respond to COVID-19.

ICDBG-CARES grant funds may also be used to cover or reimburse allowable costs paid with non-Federal funds by the ICDBG-CARES grantee, provided the funds were used to prevent, prepare for, or respond to COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020.

The auditor should consider the following:

- (1) Prepare for: ICDBG-CARES grant funds may be used prior to a local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease.

- (2) Prevent: ICDBG-CARES grant funds may be used during a COVID-19 local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to the tribal community.
- (3) Respond to: Once COVID-19 has spread in the community, examples of how ICDBG-CARES grantees may choose to respond to COVID-19 may include using ICDBG-CARES grant funds to care for those who have become infected and to limit the exposure and spread of the virus, providing emergency rent payments and other public services to families that cannot pay rent, carrying out activities to reduce severe overcrowding, preventing homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

These descriptions are designed to provide general guidance and are not intended to limit the range of eligible ICDBG-CARES grant activities that can be carried out. Provided a grantee can reasonably tie their ICDBG-CARES activities back to one or more eligible purposes, HUD will accept the classification.

Ineligible Activities include:

- (1) Activities, projects, or programs that are not reasonably tied to preparing for, preventing, and responding to COVID-19 are ineligible under the ICDBG-CARES program.
- (2) Unless waived or modified by HUD, as provided in [Notice PIH 2021-14](#) and any similar waiver notice issued in the future, ineligible activities described in 24 CFR Section 1003.207 continue to be ineligible (e.g., buildings or portions thereof used for the general conduct of government, political activities, general government expenses).

c. Waivers and Alternative Requirements Applicable Only to ICDBG-CARES Funding under the CARES Act

The following waivers and alternative requirements apply only to ICDBG-CARES grants (the new ICDBG funding provided under the CARES Act), FY 2020 ICDBG funds (both Single Purpose Grants and IT Grants) appropriated under the Further Consolidated Appropriations Act of 2020 (Pub. L. No. 116-94), and FY 2019 ICDBG funds appropriated under the FY 2019 Consolidated Appropriations Act (Pub. L. No. 116-6). With respect to the FY 2019 and FY 2020 ICDBG funds, application of these waivers is permitted only on funding reprogrammed to address COVID-19.

These waivers and alternative requirements do not apply to ICDBG funds appropriated in any other prior or subsequent year.

(1) **Removal of Public Services 15 Percent Cap under FY 2019 and FY 2020 ICDBG Grants**

Statutory Authority: Section 105 of HCD Act.

Regulatory Authority: 24 CFR section 1003.201(e); FY 2019/2020 ICDBG NOFA.

Description: Section 105 of the HCD Act and the ICDBG implementing regulation at 24 CFR section 1003.201(e) authorize the use of ICDBG funds to carry out public services activities but provide that the amount of ICDBG funds used for public services shall not exceed 15 percent of the respective ICDBG grant. Congress lifted the 15 percent cap on public services funded under the ICDBG IT funding appropriated under the CARES Act and for FY 2019 and FY 2020 ICDBG funding in recognition of the great and immediate need for public services to help address and prepare for the impact of COVID-19 in tribal communities.

Accordingly, HUD has waived Section 105 of the HCD Act, 24 CFR section 1003.201(e), and language in the definition of the term “public services” in the FY 2019/2020 ICDBG NOFA to the extent necessary to remove the 15 percent cap on FY 2019/2020 ICDBG funding (both Single Purpose and IT grants), to align with ICDBG IT funding provided under the CARES Act.

ICDBG grantees that have been awarded FY 2019/2020 ICDBG funds must still comply with the provisions of 24 CFR section 1003.305 if they are seeking to amend their grants to carry out additional public services or other activities to prevent, prepare for, or respond to COVID-19.

(2) **Rental Assistance, Utility Assistance, Food, Clothing, and Other Emergency Assistance**

Statutory Authority: Section 105 of the HCD Act.

Regulatory Authority: 24 CFR section 1003.207(b)(4).

Description: Section 105(a)(8) authorizes the use of ICDBG funds for a variety of public services. Under the implementing regulation at 24 CFR section 1003.207(b)(4), the general rule is that ICDBG funds may not be used for income payments. For purposes of the ICDBG program, income payments mean a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or

mortgage), or utilities, but excludes emergency payments made over a period of up to three months to the provider of such items or services on behalf of an individual or family.

COVID-19 is having a substantial negative impact on Native American families' ability to work, earn an income, pay their rent or mortgage, access or pay for food and clothing, and access many other essential services.

Many tribes and Tribally Designated Housing Entities (TDHEs) have reported to HUD that they shut down and community members are sheltering in place. To help tribal communities address these challenges, HUD has waived Section 105(a)(8) and 24 CFR section 1003.207(b)(4) to the extent necessary to establish the following alternative requirement:

- (a) ICDBG grant funds may be used to provide emergency payments for low- and moderate-income individuals or families impacted by COVID-19 for items such as food, medicine, clothing, and other necessities, as well as rental assistance and utility payment assistance, without regard for the three-month limitation in 24 CFR section 1003.207(b)(4), but for a period not to exceed six months unless further expanded by HUD at a later date.

At the time of the issuance of [Notice PIH 2021-14](#), emergency mortgage assistance was limited to no more than three months under 24 CFR Section 1003.207(b)(4). HUD may have provided additional waiver relief for ICDBG-funded mortgage assistance at a later date as the COVID-19 pandemic progressed.

As noted above the auditor is advised to check for any additional waiver relief at

https://www.hud.gov/program_offices/public_indian_housing/ih/O-NAP-CARES prior to addressing any issues related to the duration of assistance under this waiver.

- (b) These emergency payments must be used to either cover costs incurred directly by the ICDBG grantee in cases where the ICDBG grantee is providing this assistance or made directly to a third-party provider of such items or services on behalf of an individual or family and may not be paid directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. ICDBG grantees may establish lines of credit with third-party providers (e.g., grocery stores) on behalf of specific beneficiary families, provided all expenses can be properly documented and all ICDBG-CARES funds used for this purpose are expended on eligible activities. In all cases, ICDBG grantees must ensure that proper documentation is maintained to ensure that

all costs incurred are eligible.

ICDBG grantees using this alternative requirement must document, in its policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

(3) **Purchase of Equipment**

Regulatory Authority: 24 CFR sections 1003.207(b)(1); 1003.201(c)(1)(ii).

Description: The purchase of equipment with ICDBG funds is generally ineligible under 24 CFR section 1003.207(b)(1), with some exceptions.

Given the immediate need for medical and personal protective equipment, and other related equipment needed to help prevent, prepare for, and respond to the COVID-19 pandemic in tribal communities, HUD has waived 24 CFR section 1003.207(b)(1) and authorized the use of ICDBG funds for the purchase of equipment necessary to prevent, prepare for, and respond to the COVID-19. Equipment must be used for authorized program purposes, and any proceeds from the disposition of equipment will be considered ICDBG-CARES program income.

The auditor should check whether HUD issued further guidance on the disposition of program income after grant closeout. ICDBG grantees must ensure that ICDBG funds are used to supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

(4) **Operating Expenses for Public Facilities**

Regulatory Authority: 24 CFR section 1003.207(b)(2).

Description: 24 CFR section 1003.207(b)(2) provides that expenses associated with repairing, operating, or maintaining public facilities, improvements and services are generally ineligible, with some exceptions.

Indian tribes may find the need to use ICDBG funds to fund a variety of public facilities, including constructing facilities for testing, diagnosis, or treatment, rehabilitating existing facilities to establish infectious disease treatment clinics, acquiring, and converting hotels, motels, or similar facilities to expand capacity of hospitals to accommodate isolation of patients during recovery, and more. These facilities will likely need to be operated and maintained for the duration of the COVID-19 pandemic. Accordingly, HUD has waived 24 CFR section 1003.207(b)(2) to the extent necessary to allow the use of ICDBG funds to pay for such

operating and maintenance expenses of any public facility, to the extent it is used for COVID-19-related purposes. In incurring such costs, ICDBG grantees may not use this waiver to pay for associated staffing costs of such public facilities. ICDBG grantees must also ensure that ICDBG funds are used to supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

(5) **New Housing Construction by Tribes**

Statutory Authority: Section 105 of the HCD Act.

Regulatory Authority: 24 CFR section 1003.207(b)(3).

Description: 24 CFR section 1003.207(b)(3) generally prohibits the use of ICDBG funds for new housing construction, with some exceptions. ICDBG may be used for new housing construction if provided as last resort housing under 24 CFR Part 42, or when carried out by a Community-Based Development Organization (CBDO).

As HUD found in its 2017 Native American Housing Needs Study, severe overcrowding and substandard housing is a major challenge in Indian Country. These conditions increase risks of infection amongst low- and moderate-income Native American families. Indian tribes may find the need to construct temporary or permanent new housing to help prevent, prepare for, and respond to COVID-19, and may find it necessary to do so without having to carry out such activities through a CBDO. Accordingly, HUD has waived and modified Section 105 of the HCD Act and 24 CFR 1003.207(b)(3) to the extent necessary to provide for the following alternative requirement: Indian tribes and tribal organizations may use ICDBG funds to carry out new housing construction when such construction is carried out to reduce overcrowding, or to otherwise prevent, prepare for, or respond to COVID-19.

Such new housing construction must meet applicable Federal accessibility requirements, including requirements under Section 504 of the Rehabilitation Act and 24 CFR Part 8.

2. ICDBG-American Rescue Plan (ARP) Imminent Threat Grants

a. General

On March 11, 2021, the American Rescue Plan (ARP) Act of 2021 (Pub. L. No. 117-2) was signed into law. The Act provided \$280 million in ICDBG Imminent Threat (IT) funding to be used for emergencies that constitute imminent threats to health and safety and that are designed to prevent, prepare for, or respond to

coronavirus. This funding was provided in the form of grants to eligible Indian tribes and must be used to prevent, prepare for, and respond to the Coronavirus disease 2019 (COVID-19). This funding must be used in accordance with the applicable requirements of the CARES Act, Title I of the Housing and Community Development Act of 1974 (HCDA), as amended (42 USC 5103 et seq.), [the ICDBG implementing regulations at 24 CFR Part 1003](#), and the ICDBG-ARP Implementation Notice, [Notice PIH-2021-22](#), issued July 20, 2021.

In addition, Congress authorized HUD to waive or specify alternative requirements for any provision of title I of the HCDA or regulation applicable to the ICDBG program, other than requirements related to fair housing, nondiscrimination, labor standards, and the environment. That authorization is contingent upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of amounts made available for the ICDBG-ARP program.

On July 20, 2021, HUD issued [Notice PIH-2021-22](#) with waivers and alternative requirements authorized by the ARP Act. That Notice describes in detail the various waivers and alternative requirements that have been issued thus far with respect to ICDBG-ARP grants.

Before auditing an ICDBG-ARP grant recipient, auditors are strongly advised to review the ICDBG-ARP Implementation Notice, [Notice PIH-2021-22](#), addressing the waivers and alternative requirements affecting ICDBG IT program with respect to ICDBG-ARP grants.

The following section identifies allowability considerations for the ICDBG program, followed by a summary of waivers and alternative requirements affecting the ICDBG program considered important by HUD. Because the COVID-19 pandemic was ongoing at the time the Compliance Supplement was finalized, the auditor should make best efforts to identify and consider updates and revisions of [Notice PIH-2021-22](#) for ICDBG-ARP funding that were in place at the time of the audit. This can be done by visiting https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-ARP_Act_2021.

b. Activities Allowed or Unallowed

Like the CARES Act, the ARP Act requires ICDBG-ARP grants to be used to prevent, prepare for, and respond to COVID-19.

To comply with this requirement, ICDBG-ARP grantees must ensure that all activities, projects, and programs being proposed can be tied to at least one of the following three eligible purposes:

- (1) Activities, Projects, or Programs to Prevent COVID-19

- (2) Activities, Projects, or Programs to Prepare for COVID-19
- (3) Activities, Projects, or Programs to Respond to COVID-19

And like ICDBG-CARES funds, ICDBG-ARP grant funds may also be used to cover or reimburse allowable costs paid with non-Federal funds by the ICDBG- ARP grantee, provided the funds were used to prevent, prepare for, or respond to COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the ARP, but in no event earlier than January 22, 2020. Please note that this differs from the ICDBG-CARES which permitted reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020.

The auditor should consider the following:

- (1) Prevent: ICDBG-ARP grant funds may be used during a COVID-19 local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to the tribal community, such as using ICDBG-ARP funds to assist with the effort to vaccinate individuals, and much more.
- (2) Prepare for: ICDBG-ARP grant funds may be used prior to a local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease.
- (3) Respond to: Once COVID-19 has spread in the community, examples of how ICDBG-ARP grantees may choose to respond to COVID-19 may include using ICDBG-ARP grant funds to care for those who have become infected and to limit the exposure and spread of the virus, providing emergency rent payments and other public services to families that cannot pay rent, carrying out activities to reduce severe overcrowding, preventing homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

These descriptions are designed to provide general guidance to grantees and are not intended to limit the range of eligible ICDBG-ARP grant activities that can be carried out. Provided a grantee can, in HUD's

judgment, reasonably tie their ICDBG-ARP activities back to one or more eligible purposes, HUD will accept the grantee's classification.

Pursuant to 24 CFR section 1003.200, ICDBG-ARP grants do not have to comply with the primary objective of the HCDA, that no less than 70 percent of expenditures of each grant be for activities which meet the criteria set forth in 24 CFR section 1003.208(a)-(d).

c. **Waivers and Alternative Requirements Applicable Only to Indian CDBG-ARP Funding**

The following waivers and alternative requirements apply only to ICDBG- ARP grants (the new ICDBG funding provided under the ARP Act). These waivers and alternative requirements do not apply to ICDBG funds appropriated in any other prior or subsequent year.

(1) **Rental Assistance, Utility Assistance, Food, Clothing, and Other Emergency Assistance**

Statutory Authority: Section 105 of the HCDA

Regulatory Authority: 24 CFR section 1003.207(b)(4)

Description: Section 105(a)(8) authorizes the use of ICDBG funds for a variety of public services. Under the implementing regulation at 24 CFR section 1003.207(b)(4), the general rule is that ICDBG funds may not be used for income payments. For purposes of the ICDBG program, income payments mean a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three months to the provider of such items or services on behalf of an individual or family.

COVID-19 is having a substantial negative impact on Native American families' ability to work, earn an income, pay their rent or mortgage, access or pay for food and clothing, and access many other essential services. Many Indian tribes and TDHEs have reported to HUD that they shut down and community members are sheltering in place. Additionally, HUD expects that Tribes will need to respond to long-term impacts of COVID-19. To help tribal communities address these challenges, HUD is waiving Section 105(a)(8) and 24 CFR section 1003.207(b)(4) to the extent necessary to establish the following alternative requirement:

ICDBG-ARP grant funds may be used to provide emergency payments for low- and moderate-income individuals or families impacted by COVID-19 for items such as food, medicine, clothing, and other necessities, as well as

rental assistance and utility payment assistance, without regard for the three-month limitation in 24 CFR section 1003.207(b)(4), but for a period not to exceed six months unless further expanded by HUD at a later date. At this time, emergency mortgage assistance will remain limited to no more than three months under 24 CFR section 1003.207(b)(4). Indian tribes are reminded that additional rental assistance and assistance for homeowners are available under the U.S. Department of the Treasury's Emergency Rental Assistance program and the Homeowner Assistance Fund.

These emergency payments must be used to either cover costs incurred directly by the ICDBG-ARP grantee in cases where the ICDBG-ARP grantee is providing this assistance or made directly to a third-party provider of such items or services on behalf of an individual or family and may not be paid directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. ICDBG-ARP grantees may establish lines of credit with third-party providers (e.g., grocery stores) on behalf of specific beneficiary families, provided all expenses can be properly documented and all ICDBG-ARP funds used for this purpose are expended on eligible activities. In all cases, ICDBG-ARP grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible. ICDBG-ARP grantees using this alternative requirement must document, in their policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

(2) **Purchase of Equipment**

Regulatory Authority: 24 CFR sections 1003.207(b)(1), 1003.201(c)(1)(ii)

Description: The purchase of equipment with ICDBG funds is generally ineligible under 24 CFR section 1003.207(b)(1), with some exceptions.

Given the immediate need for medical and personal protective equipment, and other related equipment needed to help prevent, prepare for, or respond to the COVID-19 pandemic in tribal communities, HUD is waiving 24 CFR section 1003.207(b)(1) and authorizing the use of ICDBG-ARP funds for the purchase of equipment necessary to prevent, prepare for, or respond to COVID-19. Equipment must be used for authorized program purposes, and any proceeds from the disposition of equipment will be considered ICDBG-ARP program income. HUD may issue further guidance in the future on the disposition of program income after grant closeout.

ICDBG-ARP grantees must ensure that ICDBG-ARP funds are used to

supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

(3) **Operating Expenses for Public Facilities**

Regulatory Authority: 24 CFR Section 1003.207(b)(2)

Description: The 24 CFR Section 1003.207(b)(2) provides that expenses associated with repairing, operating, or maintaining public facilities, improvements and services are generally ineligible, with some exceptions. Indian tribes may find the need to use ICDBG-ARP funds to fund a variety of public facilities, including constructing facilities for testing, diagnosis, or treatment, rehabilitating existing facilities to establish infectious disease treatment clinics, acquiring and converting hotels, motels, or similar facilities to expand capacity of hospitals to accommodate isolation of patients during recovery, and more. These facilities will likely need to be operated and maintained for the duration of the COVID-19 pandemic.

Accordingly, HUD is waiving 24 CFR section 1003.207(b)(2) to the extent necessary to allow the use of ICDBG-ARP funds to pay for such operating and maintenance expenses of any public facility, to the extent it is used for COVID-19-related purposes.

ICDBG-ARP grantees must also ensure that ICDBG-ARP funds are used to supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

(4) **New Housing Construction by Tribes**

Statutory Authority: Section 105 of the HCDA

Regulatory Authority: 24 CFR section 1003.207(b)(3)

Description: 24 CFR section 1003.207(b)(3) generally prohibits the use of ICDBG funds for new housing construction, with some exceptions.

ICDBG may be used for new housing construction if provided as last resort housing under 24 CFR Part 42, or when carried out by a Community-Based Development Organization (CBDO).

As HUD found in its 2017 Native American Housing Needs Study, severe overcrowding and substandard housing is a major challenge in Indian Country. These conditions increase risks of infection amongst low- and moderate-income Native American families. Indian tribes may find the

need to construct temporary or permanent new housing to help prevent, prepare for, or respond to COVID-19, and may find it necessary to do so without having to carry out such activities through a CBDO.

Accordingly, HUD is waiving and modifying Section 105 of the HCD Act and 24 CFR Section 1003.207(b)(3) to the extent necessary to provide for the following alternative requirement: Indian tribes and tribal organizations may use ICDBG-ARP funds to carry out new housing construction when such construction is carried out to reduce overcrowding, or to otherwise prevent, prepare for, or respond to COVID-19.

When assessing applications for ICDBG-ARP grants that propose to carry out new housing construction, HUD will only fund applications that propose to carry out new housing construction that is clearly designed to prevent, prepare for, or respond to COVID-19, and that the applicant plans to carry out expeditiously. As a reminder, such new housing construction must meet applicable Federal accessibility requirements, including requirements under Section 504 of the Rehabilitation Act of 1973 and 24 CFR Part 8. HUD will issue additional ICDBG-ARP implementation guidance in the near future.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.866 DEMOLITION AND REVITALIZATION OF
SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)****ASSISTANCE LISTING 14.889 CHOICE NEIGHBORHOODS IMPLEMENTATION
GRANTS****I. PROGRAM OBJECTIVES**

The objective of HOPE VI Revitalization Grants is to provide assistance to public housing agencies (PHAs) for the purpose of enabling PHAs to improve the living environment for public housing residents of severely distressed public housing projects through (1) demolition, (2) substantial rehabilitation, (3) reconfiguration, and/or (4) replacement of severely distressed public housing units. An additional objective is to provide supportive services for residents of the public housing and contribute to the improvement of the surrounding neighborhood.

The objective of HOPE VI demolition grants is to enable PHAs to fund the demolition of severely distressed public housing units and relocation of affected residents, and to provide supportive services to relocated residents.

The objective of Choice Neighborhoods program is to transform neighborhoods of concentrated poverty into viable and sustainable mixed-income neighborhoods by revitalizing severely distressed public and/or HUD-assisted projects and catalyzing critical community improvements in the surrounding neighborhood. The Choice Neighborhoods program builds upon the successes of public housing transformation under HOPE VI by taking a comprehensive approach to revitalization, which includes redeveloping distressed public and HUD-assisted housing, providing supportive services for housing residents, as well as funding and leveraging private investment to fund critical neighborhood improvements.

II. PROGRAM PROCEDURES**Notice of Funding Availability (NOFA) / Notice of Funding Opportunity (NOFO)**

For HOPE VI, HUD awarded Demolition and Revitalization grants to eligible PHAs through a competitive process. The procedure was set out in a Notice of Funding Availability (NOFA) for the applicable fiscal year (FY). The NOFA established the eligibility requirements for PHAs to apply for a HOPE VI grant; the availability of funds; the requirements and procedures to be followed in filing an application for HOPE VI funding in the applicable FY; and other programmatic requirements. The last HOPE VI grants were awarded in 2010.

For Choice Neighborhoods grants, HUD awards Planning and Implementation Grants to eligible organizations through a competitive process. The procedures and requirements are set out in a NOFA or NOFO for the applicable FY. The NOFA/NOFO establishes the eligibility requirements for applicants for Choice Neighborhoods grants; the availability of funds; the requirements and procedures to be followed in filing an application for funding; and other

programmatic requirements. The Choice Neighborhoods program replaced the HOPE VI program.

Grant Agreement

For both the HOPE VI and Choice Neighborhoods programs, the grant agreement (Agreement) establishes grant requirements and responsibilities, including: the content for the HOPE VI Revitalization Plan or Choice Neighborhoods Transformation Plan; the time periods for implementation of the grant; allowable activities, the requirements and procedures for grant-supported activities; budgets and funding requests, etc. The Agreement is executed between HUD and the grantee.

Housing Development and Mixed-Finance Development

For both the HOPE VI and Choice Neighborhoods programs, the selection of a development partner and the general administrative requirements are governed by 24 CFR Part 200, as applicable. The development of public housing units is governed by 24 CFR 905 Subpart F. This includes development of projects which include only public housing units and projects which include development of public housing units as part of a Mixed-Finance development, as covered in 24 CFR 905.604. The regulations include programmatic requirements and detailed steps to be followed in the phase-by-phase development of public housing and public housing mixed-finance development.

The housing components of a mixed-finance development may include public housing units, units developed with low-income housing tax credits, units assisted with project-based Housing Choice Vouchers (Section 8 units), units funded with other private or public funds, and privately financed units with no income restrictions, i.e., “market rate” units. HOPE VI funds may only be used to fund development of public housing units and ancillary facilities, as well as supportive services for resident services. All other components of a mixed-finance development must be funded from other financial sources.

Choice Neighborhoods Implementation Grants may be used to finance the development of public housing units, HUD-assisted units and other affordable units. Choice Neighborhoods grants may also pay for resident services and critical community improvements, as outlined in the NOFA/NOFO. Both HOPE VI and Choice Neighborhoods grants may also be used to fund affordable homeownership units.

In general, the procedures to be followed for each phase of housing development for both the HOPE VI and Choice Neighborhoods programs are as follows. A Development Proposal is prepared which describes the development and development partners; number and types of units; sources and uses of funds; schedules; any waivers required; loans and operating subsidy payments to the development entity; estimated construction cost; and any other matters pertinent to the development. In addition, specific HUD evidentiary documents for the transaction must be prepared.

The Development Proposal and draft HUD evidentiary documents are submitted to HUD for

review and approval. An approval letter is issued by HUD, approving the Development Proposal and the draft evidentiary documents, and authorizing execution and recordation of the documents. Once executed and recorded, the HUD evidentiary documents are resubmitted to HUD for final approval. Once approved, the HOPE VI or Choice Neighborhoods funds for the project are authorized in the HUD Line of Credit Control System (LOCCS) and made available for expenditure. Upon completion of construction and after the project reaches its Date of Full Availability, the agreed-upon Operating Subsidy is provided for the public housing units. Upon completion of all phases of housing development funded with HOPE VI or Choice Neighborhoods funds, the grant is closed out in accordance with the close-out procedures for each program.

Moving to Work Demonstration Program

HOPE VI or Choice Neighborhoods funds cannot be used for other Moving to Work (MTW) Demonstration Program eligible purposes; however, the MTW funds can be utilized as part of HOPE VI or Choice Neighborhoods development activity. If a PHA is operating under an MTW Agreement or MTW Amendment to the ACC, the auditor should look to the governing document or plan to determine any differences from the requirements identified in this program supplement.

Source of Governing Requirements

The program authority for the HOPE VI and Choice Neighborhoods programs is 42 USC 1437v, as amended by Section 402 of the HOPE VI Program Reauthorization and Small Community Mainstreet Rejuvenation and Housing Act of 2003 (Pub. L. No. 108-186, December 16, 2003) and the Department of Housing and Urban Development Appropriations Act, Fiscal Year 2010 (Pub. L. No. 111-117, 123 Stat. 3080, December 16, 2009). The regulations governing mixed-finance projects are contained in 24 CFR 905, Subpart F.

Availability of Other Program Information

No program-specific regulations have been published. Each grant is subject to the terms of its NOFA/NOFO and Agreement, which is signed by the grantee and HUD. HUD posts guidance on the HOPE VI program on its Home Page, which is available at https://www.hud.gov/program_offices/public_indian_housing/programs/ph/hope6, and the Choice Neighborhoods program on its Home Page, which is available at https://www.hud.gov/program_offices/public_indian_housing/programs/ph/cn, to provide information on timelines, budgets, financial instructions, and other program guidance. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) home page, which are available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have

been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	Y	Y	Y	N	Y

A. Activities Allowed or Unallowed

1. HOPE VI Revitalization Grant funds and Choice Neighborhoods Implementation Grant funds may be used to fund the revitalization of severely distressed public housing developments (42 USC 1437v(d)) and Choice Neighborhoods funds may also be used to fund other HUD-assisted housing or other privately or publicly owned units, as outlined in the NOFA/NOFO. Such activities include, but are not limited to:
 - a. The demolition of severely distressed public housing developments or portions thereof (42 USC 1437v(d)(1)(C)) or other properties as allowed under the Choice Neighborhoods program,
 - b. Relocation costs for affected residents (42 USC 1437v(d)(1)(F) and (J)),
 - c. Disposition activities (42 USC 1437v(d)(1)(C)),
 - d. Rehabilitation of existing public housing units and/or community facilities (42 USC 1437v(d)(1)(B)) or other housing/facilities allowed by the Choice Neighborhoods program,
 - e. Development of new public housing units and community facilities and other housing/facilities allowed by the Choice Neighborhoods program, (42 USC 1437v(d)(1)(I)),

- f. Homeownership activities (42 USC 1437v(d)(1)(G)),
 - g. Acquisition and disposition activities (42 USC 1437v(d)(1)(B), (C), and (J)),
 - h. Economic and community development activities and facilities (42 USC 1437v(d)(1)(G)),
 - i. Leveraging of resources (42 USC 1437v(d)(1)(I)),
 - j. Necessary management improvements (42 USC 1437v(d)(1)(H)),
 - k. Administrative and consulting costs (42 USC 1437v(d)(1)(D) and (E), and
 - l. Community and supportive services (42 USC 1437v(d)(1)(G)).
2. HOPE VI Demolition Grant funds may be used to fund the demolition of public housing dwelling units and ancillary non-dwelling structures, relocation of affected residents, site restoration, as appropriate, and reasonable administrative costs (42 USC 1437v(d)).
 3. Other than the development of public housing, the components of mixed-finance development, may not be financed with public housing funds (42 USC 1437v(d)), except for Choice Neighborhoods funds. These funds may be used to finance the development of public housing units, HUD-assisted housing, and other privately or publicly owned affordable housing units, as outlined in the NOFA/NOFO.

G. Matching, Level of Effort, Earmarking

1. **Matching**
Grantees must provide matching funds in the amount of at least five percent of the grant amount in cash or in-kind donations or as outlined in the NOFA/NOFO (42 USC 1437v(c)(a)(A)).
2. **Level of Effort**
Not Applicable
3. **Earmarking**
Not Applicable

L. Reporting

1. **Financial Reporting**
 - a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
 - b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
 - c. *SF-425, Federal Financial Report* – Not Applicable

- d. Actual HOPE VI Cost Certificate (OMB Approval No. 2577-0208) or Actual Choice Neighborhoods Cost Certificate (OMB Approval No. 2577- 0269)- Must be submitted by grantee at the time of final close-out of the Grant. The form must be signed by the appropriate party and amount of funds indicated in Part 1, A-E, must be accurate.

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements: Davis-Bacon wage requirements apply to the development of any public housing units or other “Replacement Units” or homeownership units developed with HOPE VI and Choice Neighborhoods Implementation Grant funds as identified in the NOFA/NOFO and/or as provided for in 24 CFR 905.308(b)(3), for projects that contain only public housing replacement units, and/or 24 CFR 905 Subpart F, where the development entity has been procured by the PHA in accordance with 2 CFR Part 200 and are subject to the Wage Rate Requirements (42 USC 1437j(a) and (b), 24 CFR sections 941.208 and 941.610(a)(8)(vi)).

See Part 4, 20.001, Wage Rate Requirements Cross-Cutting Section.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.867 INDIAN HOUSING BLOCK GRANTS****I. PROGRAM OBJECTIVES**

The primary objectives of the Indian Housing Block Grants (IHBG) program are (1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families; (2) to coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members; and (3) to plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes (24 CFR section 1000.4).

II. PROGRAM PROCEDURES

The IHBG program is formula driven, based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities. To access funds, Indian tribal governments (or tribally designated housing entities (TDHEs)) must submit an Indian Housing Plan (IHP) to the U.S. Department of Housing and Urban Development (HUD), and HUD must find that the IHP meets the requirements of Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). IHBG funds awarded to a recipient may only be used for affordable housing activities that are consistent with its IHP (24 CFR section 1000.6).

In addition to the annual IHBG funding pursuant to NAHASDA, Congress directed HUD to utilize the IHBG program to allocate and award funds under the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act \(Public Law 116-136\)](#) and the [American Rescue Plan Act of 2021 \(ARP\) \(Public Law No. 117-2\)](#). Congress appropriated \$200 million in CARES Act funding, see page 324 of the linked CARES document above, and \$450 million in ARP funding, see page 240 of the linked ARP document above. IHBG funding awarded pursuant to the CARES Act and ARP are discussed in greater detail later in Section IV.

Source of Governing Requirements

This program is authorized by [NAHASDA, codified at 25 USC 4101 through 4212](#). Implementing regulations are in [24 CFR Part 1000](#).

Availability of Other Program Information

Additional information about the IHBG program is available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/grants/ihbg.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

1. The following activities to develop, operate, maintain, or support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing are allowable:
 - a. *Indian Housing Assistance* – The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary of HUD and an Indian housing authority, including such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing (25 USC 4132(1) and 4133(b)).
 - b. *Development* – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development and rehabilitation of utilities, necessary infrastructure, and utility services, conversion, demolition, financing, administration and planning,

improvement to achieve greater energy efficiency, mold remediation, and other related activities (25 USC 4132(2)).

- c. *Housing Services* – The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or home-ownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section (25 USC 4132(3)).
- d. *Housing Management Services* – The provision of management services for affordable housing, including preparation of work specifications; loan processing, inspections; tenant selection; management of tenant-based rental assistance; the costs of operation and maintenance of units developed with funds provided under NAHASDA; and management of affordable housing projects (25 USC 4132(4)).
- e. *Crime Prevention and Safety Activities* – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime (25 USC 4132(5)).
- f. *Model Activities* – Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by the Secretary of HUD as appropriate for such purpose (25 USC 4132(6)).
- g. *Reserve Accounts* – The deposit of amounts, including grant amounts, in a reserve account only for the purpose of accumulating amounts for administration and planning relating to affordable housing activities. These amounts may be invested. Interest earned on reserves is not program income and may not be included in calculating the maximum number of reserves. The maximum number of reserves, whether in one or more accounts, that a recipient may have available at any one time is calculated by determining the five-year average of administration and planning amounts, not including reserve amounts, expended in a tribal program year and establishing one-fourth of that amount for the total eligible reserve (25 USC 4132(9); 24 CFR section 1000.239).
- h. See also, as appropriate, Part IV below regarding CARES Act and ARP requirements regarding activities allowed and disallowed under those related programs.

- 2. Unless the conditions specified in 25 USC 4111(d) (regarding tax exemption for

real and personal property taxes and user fees) are met, grant funds may not be used for affordable housing activities for rental or lease-purchase dwelling units developed

- a. under the United States Housing Act of 1937 (42 USC 1437 et seq.), or
- b. with amounts provided under 25 USC Chapter 43 that are owned by the recipient for the tribe.

B. Allowable Cost/Cost Principles

- 1. All items of cost listed in 2 CFR Part 200, Subpart E, that require prior Federal agency approval are allowable without prior approval, except for the following:
 - a. Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.
 - b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (e.g., goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.
- 2. Fines, penalties, damages, and other settlements are unallowable.
- 3. No person providing consultant services in an employer-employee type of relationship may receive more than a reasonable rate of compensation. Such compensation must not exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule (currently \$191,900). The most current Executive Pay Schedule may be obtained at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/> (24 CFR section 1000.26(b)).

E. Eligibility

1. Eligibility for Individuals

Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant funds (25 USC 4133(d)). The following families are eligible for affordable housing activities (25 USC 4131(b)):

- a. Low-income Indian families on a reservation or Indian area (Section 201(b)(1) of NAHASDA (25 USC 4131(b)(1))).
- b. A non-low-income family may receive housing assistance if HUD approves that housing assistance due to a need that cannot reasonably be met without the assistance (Section 201(b)(2) of NAHASDA (25 USC

4131(b)(2))). A family that was low income at the times described in 24 CFR section 1000.147 but subsequently becomes a non-low-income family due to an increase in income may continue to participate in the program in accordance with the recipient's admission and occupancy policies. This includes a family member or household member who takes ownership of a homeownership unit. Non-low-income families cannot receive the same benefits that are provided to low-income families, as benefits are limited by 24 CFR section 1000.110(d) and must be based on the recipient's admission and occupancy policies (24 CFR section 1000.110).

- c. A family may receive housing assistance on a reservation or Indian area if the family's housing needs cannot be reasonably met without such assistance, and the recipient determines that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families. Assistance for essential families does not require HUD approval, but only requires that the recipient determine that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families and the family's housing needs cannot be reasonably met without such assistance (Section 201(b)(3) of NAHASDA (25 USC 4131(b)(3))).
- d. A law enforcement officer on an Indian reservation or other Indian area may receive housing assistance, if:
 - (1) The officer is employed on a full-time basis by the Federal Government or a State, county, or other unit of local government, or lawfully recognized tribal government;
 - (2) In implementing such full-time employment, the officer is sworn to uphold, and make arrests for violations of Federal, State, county, or tribal law; and
 - (3) The recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime (Section 201(b)(4) of NAHASDA (25 USC 2531(b)(4))).
- e. See also, as appropriate, Part IV. Other Information below regarding CARES Act and ARP requirements.

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

I. Procurement and Suspension and Debarment

1. For the IHBG program, funds used are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC 450e(b)) or, if applicable, tribal preference in contracting under 25 USC 4111(k), which means that a recipient is to apply employment and contract preference laws (including regulations and tribal ordinances) that it has adopted; or, in absence of such laws, to the greatest extent feasible, a recipient is to give preference in the award of contracts to Indian organizations and Indian-owned economic enterprises (24 CFR section 1000.52).
2. A recipient is not required to comply with the procurement requirements under 2 CFR sections 200.318 through 200.326 or the Indian preference requirements with respect to any procurement of goods and services using IHBG funds with a value of less than \$5,000 (25 USC 4133(g)). Furthermore, the new Uniform Guidance, effective October 1, 2024, provides additional flexibilities for Tribes. Specifically, Tribes are no longer required to follow 2 CFR sections 200.318 through 200.326 and are only required to follow 2 CFR 200.317. HUD has not issued a final rule regarding the applicability of 2 CFR sections 200.318 through 200.326 for Tribally Designated Housing Entities (TDHEs). HUD issued a proposed rule regarding TDHE applicability on December 31, 2024 ([FR: 2024-30260](#)).
3. A recipient may use Federal supply sources made available by the General Services Administration under 40 USC 501 (Section 101(j) of NAHASDA; 24 CFR section 1000.26(a)(11)(ii)).
4. See also, as appropriate, Part IV below regarding CARES and ARP Act requirements.

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable. Be advised that, pursuant to [2 CFR section 200.328](#), [Notice PIH 2022-15](#) was issued on June 8, 2022, advising grantees that Office of Native American Programs (ONAP) reduced the frequency for ONAP grant recipients submitting SF-425 forms from quarterly to annually unless the grantee has been approved to invest

IHBG funding pursuant to 25 USC 4134 and 24 CFR section 1000.58. If approved for investing IHBG funding, the grantee must submit an SF-425 form each quarter. Pursuant to [PIH Notice 2023-26](#), effective September, 28, 2023, grantees are required to utilize the Grants Evaluation and Management System (GEMS) for the submission of SF-425s for all ONAP grant programs.

2. Performance Reporting

- a. HUD-52737, Indian Housing Plan/Annual Performance Report (OMB No. 2577-0218) – Recipients may complete the Annual Performance Report component of the form using HUD’s online Grants Evaluation and Management System (GEMS) or the Excel version that is submitted by paper or electronically as an email attachment to the Area Office of Native American Programs (ONAP) within 90 days of the end of the recipient’s program year. For further information on IHBG investing requirements see N.3 below.

A copy of the most recent HUD-52737, Indian Housing Plan/Annual Performance Report submitted to the relevant Area ONAP includes line items containing critical information listed below and is supported by the recipient’s file documentation. If the recipient cannot provide a copy of the most recent HUD-52737, Indian Housing Plan/Annual Performance Report, the Area ONAP can provide the relevant report.

Key Line Items – The following line items contain critical information reported to HUD in the Indian Housing Plan/Annual Performance Report. The accuracy of the data reported by the recipient in response to each line item is documented in the recipient’s file:

- (1) Section 3, Line 1.9 – *Planned and Actual Outputs for 12-Month Program Year*.
 - (2) Section 5, Line 1 – *Sources of Funds* – columns G and K.
 - (3) Section 5, Line 2 – *Uses of Funds* – columns O through Q.
 - (4) Section 11, Line 1 – *Inspections of Units* – columns C through F.
 - (5) Section 14, Lines 1 and 2 – *Jobs Supported by NAHASDA*.
- b. See also, as appropriate, Part IV below regarding CARES Act and ARP requirements.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements NAHASDA imposes the Wage Rate Requirements on contracts and agreements for assistance, sale, or lease for payments to laborers and mechanics employed in the development of affordable housing. NAHASDA provides that the Wage Rate Requirements and HUD-determined rates shall not apply to a contract or agreement if the contract or agreement is otherwise covered by a law or regulation adopted by an Indian tribe that provides for the payment of not less than prevailing wages as determined by the tribe. This requires the Indian tribe to pass a tribal law or regulation and ensure that the law requires the payment of not less than those wage rates the tribe determines to be prevailing (Section 104(b) of NAHASDA (25 USC 4114(b)); 24 CFR section 1000.16)).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Environmental Review

Compliance Requirements Program regulations provide that a tribe may assume responsibilities for environmental review and decision making under the requirements of 24 CFR Part 58 or it may allow HUD to retain these responsibilities. The tribe is the responsible entity, whether or not a TDHE is authorized to receive IHBG grant amounts on behalf of the tribe (24 CFR section 58.2(a)(7)(ii)). If HUD retains the responsibilities, HUD will do reviews under the provisions of 24 CFR Part 50 (24 CFR section 1000.20). A HUD environmental review must be completed for any activities not excluded before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds (24 CFR section 1000.20(a)).

If the tribe assumes these responsibilities, the following applies: An environmental review must be prepared for each project or activity. Funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the Request for Release of Funds (RROF) and environmental certification. If the responsible entity tribe determines that the activities are covered by [PIH Notice 2024-24 Programmatic Part 50](#), or that it met a criterion specified in the regulations that would qualify the project as exempt or qualify the project for certain categorical exclusions, the RROF and environmental certification requirements do not apply (24 CFR sections 58.34 and 58.35(b), 24 CFR section 1000.20(b)(3)).

Audit Objectives Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of

the environmental review process.

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and verify that:

Environmental Reviews

- a. Environmental determinations were made for each project or activity.
- b. Environmental determinations were supported by an environmental review, including supporting documentation for each applicable law and authority.
- c. For any project where an RROF and environmental certification was not submitted, the environmental review includes a written determination that the project or activity is exempt under a criterion of 24 CFR section 58.34 or is categorically excluded under a criterion of 24 CFR section 58.35(b), and meets the conditions specified for such exemption or categorical exclusion, with supporting documentation.

Requests for Release of Funds

- a. Examine HUD's approval of the RROF and environmental certification and note receipt dates.
- b. Review the expenditure and related records and determine the dates the funds were obligated or expended.
- c. Determine those funds were obligated or expended subsequent to RROF and environmental certification approval by HUD.

Availability of Other Information

Additional information on environmental review requirements can be found at <https://www.hudexchange.info/programs/environmental-review/>.

3. Investment of IHBG Funds

Compliance Requirements A recipient may invest IHBG funds for purposes of carrying out IHBG activities in investment securities if approved by HUD (25 USC 4134). Under IHBG, investments may be for a period not to exceed five years and only in those accounts or instruments identified in 24 CFR section 1000.58(c). A recipient may invest its IHBG annual grant in an amount equal to the annual formula grant amount less any formula grant amounts allocated for the operating subsidy element of the Formula Current Assisted Stock (FCAS) component of the formula. Please note, however, grantees may not invest IHBG funding received pursuant to the CARES Act or the ARP.

Audit Objectives Determine whether the investment of IHBG funds by the recipient meets the requirements of 24 CFR section 1000.58 and [Notice PIH 2022-23](#), issued August 15, 2022.

Suggested Audit Procedures

If IHBG funds have been invested during the audit period:

- a. Ascertain that prior written HUD approval had been obtained, and any conditions or restrictions on the approval.
- b. Verify that the funds were invested only in those allowable accounts or instruments and within any conditions or restriction on the approval.
- c. Verify that each of these accounts are separate from other funds of the recipient and subject to an agreement in a form prescribed by HUD (i.e., [HUD-52736-A](#) for bank accounts or [HUD-52736-B](#) for brokers and dealers).
- d. Ensure these agreements are fully executed and maintained by the recipient in an accessible place.
- e. See also, as appropriate, Part IV below regarding CARES (IV.1.c.(7)) and ARP (IV.2.c.(6)) Act requirements. IHBG funding under these related programs cannot be invested.

IV. OTHER INFORMATION

1. Indian Housing Block Grant-CARES Act Grants

a. General

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Public Law 116-136), was enacted. The Act provided for an additional \$200 million in IHBG formula funding to eligible Indian tribes and TDHEs specifically to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and to fund eligible affordable housing activities under the Native American Housing Assistance and Self-Determination Act (NAHASDA) during the period that an IHBG recipient's program is impacted by COVID-19. IHBG-CARES Act funds are available for expenditure until September 30, 2029.

In addition, the CARES Act authorized HUD to waive, or specify alternative requirements for any statute or regulation (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) that HUD administers to expedite or facilitate the use of IHBG-CARES Act grant funds to prevent, prepare for, and respond to COVID-19. This waiver authority also applies to IHBG funds appropriated under the Further Consolidated Appropriations Act, 2020 (Public Law 116-94).

On April 10, 2020, HUD issued PIH Notice 2020-05 with waivers and alternative requirements authorized by the CARES Act. That Notice was superseded by [PIH Notice 2021-14](#) issued on May 4, 2021. [PIH Notice 2021-14](#) describes in detail the various updated waivers and alternative requirements that have been issued thus far with respect to IHBG-CARES grants and FY 2020 IHBG grants repurposed to address COVID-19.

Auditor be advised: Before auditing an IHBG-CARES Act grant recipient, auditors are strongly advised to review the IHBG-CARES Act Implementation Notice, [PIH Notice 2020-06](#), and [PIH Notice 2021-14](#), particularly Section 13, starting at page 52, of [PIH Notice 2021-14](#) addressing the waivers and alternative requirements affecting IHBG program with respect to IHBG-CARES Act grants and FY 2020 IHBG grants.

The following section identifies allowability considerations for IHBG-CARES Act funding, followed by a summary of waivers and alternative requirements affecting IHBG-CARES Act funding considered important by HUD. Because IHBG-CARES Act grantees are continuing to expend COVID-19 funding at the time this program section was finalized, the Auditor should make best efforts to identify and consider updates and revisions of [PIH Notice 2021-14](#) for IHBG-CARES Act funding that are in place at the time of the audit. This can be done by visiting https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-CARES_Act.

b. Activities Allowed or Unallowed

The CARES Act requires IHBG-CARES Act grants to be used to prevent, prepare for, and respond to COVID-19.

To comply with this requirement, IHBG-CARES Act grantees must ensure that all activities, projects, and programs being proposed can be tied to at least one of the following three eligible purposes:

- (1) Activities, Projects, or Programs to Prevent COVID-19
- (2) Activities, Projects, or Programs to Prepare for COVID-19
- (3) Activities, Projects, or Programs to Respond to COVID-19

Pursuant to the CARES Act, these funds may also be used to maintain normal operations and fund eligible IHBG activities during the period that a recipient's IHBG program is impacted by COVID-19. HUD expects and encourages recipients to expend funds expeditiously given COVID-19. However, COVID-19 may have impacts on a recipient's IHBG program that range from immediate or short-term to medium- and long-term in nature. Accordingly, for purposes of this requirement, recipients may use IHBG-CARES Act grant funds to maintain normal operations both now and after COVID-19, provided that the IHBG-CARES Act recipient can demonstrate that COVID-19 continues to impact its program.

IHBG-CARES Act grant funds may also be used to cover or reimburse allowable costs incurred by the IHBG-CARES Act recipient, provided the funds were used to prevent, prepare for, or respond to COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe or TDHE began preparing for COVID-19, which may be prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020.

The Auditor should consider the following:

- (1) Prepare for: IHBG-CARES Act grant funds may be used prior to a local, service area, or regional COVID-19 outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease. Examples may include housing activities designed to reduce severe overcrowding, providing food delivery services to eligible families (including the elderly, disabled, and other high-risk populations) to allow them to shelter in place, and public health campaigns designed to educate families on how to prepare for a possible outbreak in the community and ways to minimize community spread.
- (2) Prevent: IHBG-CARES Act grant funds may be used during a COVID-19 local, service area, or regional COVID-19 outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to staff, tribal housing residents, and the tribal community. Examples may include distributing Personal Protective Equipment to housing maintenance staff, residents, and members of the community, using IHBG-CARES Act funds to clean common areas to prevent infections, and much more.
- (3) Respond to: Once COVID-19 has spread to staff, tribal housing residents, and/or the tribal community, examples of how Indian tribes and TDHEs may choose to respond to COVID-19 may include using IHBG-CARES Act grant funds to care for those who have become infected and to limit the exposure and spread of the virus, provide rent assistance to eligible families that cannot pay rent, carrying out activities to reduce severe overcrowding, prevent homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

In most cases, maintaining normal operations and carrying out eligible activities, projects, or programs during the period that a recipient's program is impacted by COVID-19 will likely tie back to the "Respond to" COVID-19 purpose. However, HUD recognizes that there may be circumstances where maintaining normal operations and carrying out eligible activities may tie back to the "Prepare for" or the "Prevent" eligible purpose. One example of maintaining normal operations is using IHBG-CARES Act funds to carry out eligible IHBG activities that the recipient initially planned to carry out with its regular IHBG funds but did not because it had to use its regular IHBG funds to carry out an unplanned

activity to prevent, prepare for, or respond to COVID-19. In this scenario, the IHBG-CARES grant funds can be used to carry out the original IHBG activity.

These descriptions are designed to provide general guidance and are not intended to limit the range of eligible IHBG-CARES Act grant activities that can be carried out. Provided a grantee can reasonably tie their IHBG-CARES Act activities back to one or more eligible purposes, HUD will accept the classification.

c. Waivers and Alternative Requirements Applicable Only to IHBG-CARES Act Funding

The following waivers and alternative requirements apply only to IHBG-CARES Act grants (the new IHBG funding provided under the CARES Act), and FY 2020 IHBG funds appropriated under the Further Consolidated Appropriations Act of 2020 (Public Law 116–94) and reprogrammed to address COVID-19.

These waivers and alternative requirements do not apply to IHBG funds appropriated in any other prior year.

(1) Reprogramming of FY 2020 IHBG Funding

To encourage IHBG recipients to consider reprogramming existing FY 2020 IHBG funding to help address COVID-19, HUD has waived Section 103 of NAHASDA and 24 CFR section 1000.230 to the extent necessary to allow IHBG recipients to expend IHBG FY 2020 funds on IHBG activities that meet the eligible purposes of the CARES Act (to prevent, prepare for, and respond to COVID-19), including activities made eligible under the waivers and alternative requirements provided in this Notice, without first having to amend their FY 2020 Indian Housing Plan (IHP).

IHBG recipients that choose to do this must still amend their FY 2020 IHP, at a later date, but prior to submission of their APR, to reflect these new uses or activities, but may request an extension if doing so is not feasible and safe for tribal or TDHE staff at that time.

Additionally, HUD has waived the requirement in 24 CFR section 1000.232 that provides that certain IHP amendments that add new activities or involve a decrease in the amount of funds provided to protect and maintain the viability of FCAS units require HUD to review such modifications and determine that they comply with NAHASDA. IHBG recipients may reprogram FY 2020 funding to add new activities and decrease funding for FCAS units without HUD prior review and approval, provided that the IHBG recipient is carrying out eligible COVID-19-related IHBG activities.

Similarly, the FY 2020 IHP must be amended to reflect these changes prior to submission of their APR, to reflect these added activities or a decrease in the amount of FCAS funds but may request an extension if doing so is not feasible

and safe for tribal or TDHE staff at that time.

(2) **Eligibility**

Regulatory Authority: 24 CFR section 1000.128

Description: 24 CFR section 1000.128 requires IHBG recipients to verify that a family is income-eligible. Families are required to provide documentation to verify this determination, and a recipient is required to maintain that documentation. Families may be required by the IHBG recipient to periodically verify income after initial occupancy, and the recipient is required to maintain documentation.

Given the COVID-19 related challenges facing families seeking IHBG assistance, families currently receiving IHBG assistance that are due for income recertification, and tribal and TDHE staff charged with verifying income and maintaining documentation, HUD established the following alternative requirement under 24 CFR section 1000.128:

- (a) IHBG recipients may deviate from their current written admissions and occupancy policies, and may allow less frequent income recertifications; and
- (b) IHBG recipients may carry out intake and other tasks necessary to verify income remotely if the IHBG recipient or eligible families chooses to do so, including allowing income self-certification over the phone (with a written record by the IHBG recipient's staff), or through an email with a self-certification form signed by a family.

(3) **Public Health Services**

Statutory Authority: Section 202(3) of NAHASDA

Description: Section 202(3) of NAHASDA authorizes the use of IHBG funds for the provision of housing-related services for affordable housing. Under this eligible activity, IHBG funds can be used to provide services such as housing counseling, activities related to the provision of self-sufficiency and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in the IHBG program.

HUD has waived Section 202(3) and established an alternative requirement to the extent necessary to allow IHBG funds to be used to carry out a wide range of public health services under this category of eligible activities. Accordingly, in addition to the housing services normally eligible under Section 202(3), IHBG recipients may be used on a wide range of public health activities designed to allow IHBG-eligible residents and staff of the IHBG recipient to prepare for, prevent, and respond to COVID-19.

Eligible uses of IHBG funds under this waiver and alternative requirement include, but are not limited to: providing testing, diagnosis or other related services to residents; establishing a fixed or mobile location to conduct testing and treatment; paying for necessary equipment, supplies, and materials, including personal protective equipment; carrying out public health services designed to help staff, eligible residents, and other third-party providers serving eligible residents, prepare for, prevent, and respond to COVID-19; delivering meals on wheels or other food delivery services to eligible residents that are sheltered-in-place and complying with a stay at home order, or otherwise maintaining recommended social distancing.

IHBG grantees are to coordinate with recipients of other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, to ensure IHBG funds are used to supplement rather than supplant such funding.

(4) COVID-19-Related Assistance to Non-Low Income and Non-Native Families

Statutory Authority: Section 201(b) of NAHASDA

Regulatory Authority: 24 CFR section 1000.104, 1000.106, 1000.108, 1000.110; 1000.312, 1000.314, 1000.318

Description: Section 201(b) of NAHASDA and its implementation regulations, except for specified exceptions, limit assistance under eligible housing activities to low-income Indian families.

The COVID-19 pandemic poses a unique threat to the health and safety of tribal communities. Persons infected with COVID-19, regardless of income or tribal membership, pose a health risk to the entire community, and low-income families are especially vulnerable given the severe overcrowding in Indian Country, infrastructure challenges, and the lack of access to running water and readily available health care services in many remote communities. To effectively prevent, prepare for, and respond to COVID-19, IHBG recipients may find the need to use IHBG resources or NAHASDA-assisted housing units to provide shelter-in-place housing and public health services to otherwise ineligible persons and families, with the goal of protecting the health and safety of the most vulnerable low-income Native American families who may be infected.

Given this, HUD has waived section 201(b) and its implementing regulations, and established alternative requirements to the extent necessary to allow IHBG funds to be used by recipients to prevent, prepare for, and respond to COVID-19 through the following limited activities that provide assistance to all affected and threatened people without regard to income limits or Indian status: temporary shelter-in-place, isolation centers, purchasing and making medical testing kits

available, purchasing and distributing masks and other personal protection equipment, emergency food preparation and distribution, cleaning and decontamination, and other directly related activities. Permanent rental assistance, mortgage assistance, housing rehabilitation, and new housing construction may not be provided for the benefit of such otherwise ineligible families under this waiver and alternative requirement.

This assistance may only be provided to such otherwise ineligible families if: it is provided during the COVID-19 pandemic; it is designed to protect the health and safety of low-income Native American families; it is provided on an urgent basis (as documented by the IHBG recipient); and it is temporary in nature.

When providing this assistance, IHBG recipients must maintain records documenting that these criteria were met at the time that such assistance was provided.

Under this waiver and alternative requirement, IHBG recipients may house low-income non-Indian families or over-income Indian and non-Indian families in NAHASDA-assisted units, including FCAS units to shelter-in-place those families per U.S. Centers for Disease Control and Prevention (CDC) guidelines to protect low-income Indian families and the Tribal community from the further spread of COVID-19, regardless of income or Indian status.

IHBG funds may also be used to provide temporary rental assistance to otherwise ineligible persons or families in privately owned units, hotels/motels, and similar facilities designed to shelter-in-place or isolate infected persons from others, if the criteria under this waiver and alternative requirements are met.

The use of NAHASDA-assisted units, including FCAS, or funds for the temporary shelter-in-place or isolation of any individuals shall be temporary and no individual shall be isolated longer than medically necessary.

The 24 CFR sections 1000.312 and 1000.314 identify FCAS units as low rent, Mutual Help, and Turnkey III housing units owned and operated by an IHBG recipient. 24 CFR section 1000.318 establishes when these units can be considered FCAS for purposes of the IHBG formula. These regulations have also been waived and modified to the extent necessary to not impact the FCAS eligibility of FCAS units used for this purpose of addressing COVID-19 regardless of income or Indian status, provided such units are operated as low-income housing dwelling units once no longer needed to shelter-in-place persons, and upon a determination that such units are safe to be occupied again by low-income families not infected with COVID-19.

Assistance provided in accordance with this waiver shall not count towards the maximum amount of assistance that IHBG recipients may otherwise provide to non-low-income families specified in 24 CFR section 1000.110.

(5) **Useful Life**

Statutory Authority: Section 205 of NAHASDA

Regulatory Authority: 24 CFR sections 1000.141, 1000.142, 1000.143, 1000.144, 1000.146, 1000.147

Description: Section 205(a)(2) of NAHASDA requires each dwelling unit in a recipient's housing developed or assisted under the Act will remain affordable, according to binding commitments satisfactory to HUD, for the remaining useful life of the property. The HBG regulations require each recipient to describe, in its IHP, its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By approving the IHP, HUD determines the useful life in accordance with Section 205(a)(2).

HUD has waived these requirements to determine and maintain affordability during the useful life of housing units assisted with IHBG-CARES Act grant funding and FY 2020 IHBG funding used to address COVID-19 if that assistance is related to cleanup of COVID-19 contamination and temporary use dwelling units for purposes of housing and quarantining families to inhibit the spread of COVID-19 to low-income Indian families and the tribal community.

(6) **Total Development Cost Limits**

Regulatory Authority: 24 CFR sections 1000.156, 1000.158, 1000.160, 1000.162

Description: The IHBG regulations require that affordable housing under NAHASDA be of moderate design with a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe's general geographic area to buyers who are at or below the area median income. To achieve this requirement the recipient must either, adopt written standards for its affordable housing programs that reflect the requirement specified, or use Total Development Costs (TDC) limits published periodically by HUD that establish the maximum amount of funds (from all sources) that the recipient may use to develop or acquire/rehabilitate affordable housing. The limits provided by the TDC may not, without prior HUD approval, exceed by more than 10 percent the TDC maximum cost for the project. Non-dwelling structures used to support an affordable housing activity must be of a design, size and with features or amenities that are reasonable and necessary to accomplish the purpose intended by the structures.

HUD expects that COVID-19 will likely have both a short- and long-term impact on IHBG recipients' programs. Because of the long-term need to prevent, prepare for, and respond to COVID-19, IHBG recipients may find it appropriate to use IHBG-CARES Act grant funds to acquire or construct new housing units with the

goal of reducing severe overcrowding in Indian Country that leave Native American populations, particularly the elderly and persons with disabilities, especially vulnerable to COVID-19.

Accordingly, HUD has established an alternative requirement relating to limitations on cost or design standards and TDC with respect to dwelling and non-dwelling units developed, acquired or assisted with funding provided to be used by recipients to prevent, prepare for, and respond to COVID-19. An IHBG recipient may exceed the current TDC maximum by 20 percent without HUD review or approval if the purpose of the development, acquisition or assistance is to prevent, prepare for, and respond to COVID-19. The recipient, however, must maintain documentation that indicates the dwelling and non-dwelling units developed, acquired or assisted with this funding will, after this crisis, be for IHBG eligible families and the design, size, and amenities are moderate and comparable to housing in the area. The TDC limits can be exceeded by more than 20 percent if the recipient receives written approval from HUD Headquarters. This waiver applies to both single-family and multi-family housing, as well as non-dwelling structures supporting an activity to prevent, prepare for, and respond to COVID-19.

Originally, this waiver and alternative requirement was to be available only so long as the TDC specified in [PIH Notice 2019-19](#) remain in effect. [PIH Notice 2019-19](#) has been superseded by [PIH Notice 2024-28](#), which provided an updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. However, [PIH Notice 2024-28](#) reserves previously provided regulatory relief with respect to TDC limits for the IHBG-CARES Act and IHBG-ARP programs. Therefore, Indian tribes and TDHEs carrying out their IHBG-CARES Act grants; FY 2020 IHBG formula grants to prevent, prepare for, and respond to COVID-19; and IHBG-ARP grants are authorized to use the higher of the new FY 2024 TDC limit issued pursuant to this [PIH Notice 2024-28](#), or up to 20 percent of the TDC limit that was previously, or up to 20 percent of the TDC limit that was previously issued in PIH 2019-19, without prior HUD approval. This waiver will remain in effect until all such funds are expended. in PIH 2019-19, without prior HUD approval. This waiver will remain in effect until all such funds are expended.

(7) **Prohibition Against Investment of CARES Act Grant Funds Statutory**

Authority: Section 204(b) of NAHASDA

Regulatory Authority: 24 CFR section 1000.58

Description: Section 204(b) of NAHASDA permits IHBG recipients to invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by HUD. Under 24 CFR section 1000.58 of the IHBG regulations, HUD has approved certain IHBG

recipients based, among other things, on a history of compliance and capacity, to invest IHBG funding certain securities and interest-bearing accounts for the purpose of carrying out affordable housing activities.

HUD has waived Section 204(b) of NAHASDA and 24 CFR section 1000.58 and is prohibiting the investment of any IHBG funding provided under the CARES Act. Such funding is to be used by recipients to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA during the period that each recipient's program is impacted by COVID-19. Given the limited scope of this funding to address the immediate health, safety and economic needs of citizens in Indian Country, drawing down funds for investment in securities and long-term interest-bearing accounts is prohibited.

(8) IHBG-CARES Funds Not Counted in Undisbursed Funds Factor (UDFF)

Regulatory Authority: 24 CFR section 1000.342

Description: 24 CFR section 1000.342 codifies the UDFF in the IHBG formula. It provides that if an Indian tribe's initial IHBG allocation calculation is \$5 million or more and the Indian tribe has undisbursed IHBG funds on October 1 of the fiscal year for which the allocation is made in an amount that is greater than the sum of the prior three years' initial allocation calculations, its grant allocation will be the greater of the initial allocation calculation minus the amount of undisbursed IHBG funds that exceed the sum of the prior three years' initial allocation calculations, or its 1996 Minimum.

HUD has waived 24 CFR section 1000.342 and establishing an alternative requirement to the extent necessary to exclude IHBG-CARES funds from counting towards an Indian tribe's undisbursed IHBG funds from prior years under the UDFF. IHBG-CARES Act funds are available for a specific purpose under the CARES Act and were allocated by HUD to allow Indian tribes and TDHEs to prevent, prepare for, and respond to COVID-19. If this funding were counted against an Indian tribe and resulted in it receiving less IHBG formula funding under the next IHBG formula allocation, such a reduction in future funding would undermine the purposes of the IHBG-CARES Act funds and have an adverse impact on Indian tribes working to respond to the current National Emergency.

2. Indian Housing Block Grant -ARP Grants

a. General

On March 11, 2021, the American Rescue Plan Act of 2021 (ARP) (Public Law 117-2) was enacted. The Act provides \$450 million for the IHBG Program to be distributed according to the same funding formula used in FY 2021 to be used by eligible tribes and TDHEs to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA, as amended,

during the period that the program is impacted by COVID-19. ARP also permits the funding made available for the IHBG program to be used, as necessary, to cover or reimburse allowable costs to prevent, prepare for, and respond to COVID-19 that are incurred by a recipient, including for costs incurred **after** January 21, 2020, that is January 22, 2020 to present (**Please Note:** The CARES Act permitted funding to be used, as necessary, to cover or reimburse allowable costs prior to the date of enactment of the CARES Act, but in no event earlier than January 21, 2020). IHBG-ARP funds are available for expenditure until September 30, 2030.

In addition, Congress authorized HUD to waive or specify alternative requirements for NAHASDA or regulations (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) applicable to the IHBG program upon a finding by HUD that such waivers or alternative requirements are necessary to expedite or facilitate the use of IHBG-ARP funds.

On April 13, 2021, HUD issued the IHBG-ARP Implementation [Notice PIH-2021-11](#) with instructions on how to apply for the IHBG-ARP funding and describing waivers and alternative requirements authorized by the ARP Act. That Notice describes in detail the various waivers and alternative requirements that have been issued thus far with respect to IHBG-ARP grants. Because IHBG-ARP grantees are continuing to expend the COVID-19 funding at the time this program section was finalized, the Auditor should make best efforts to identify and consider updates and revisions of [PIH Notice 2021-11](#) for IHBG-ARP funding that are in place at the time of the audit. This can be done by visiting [COVID-19 Recovery Programs site](#) of ONAP's website, CodeTalk, at https://www.hud.gov/program_offices/public_indian_housing/ih/ONAP-ARP_Act_2021.

b. Activities Allowed or Unallowed:

ARP requires that recipients' use of IHBG-ARP grants be tied to preventing, preparing for, and responding to COVID-19, including maintaining normal operations and funding eligible affordable housing activities under NAHASDA during the period the program is impacted by COVID-19.

To comply with this requirement, IHBG-ARP recipients must ensure that all activities being proposed can be tied to at least one of the following three eligible purposes:

- (1) Activities, Projects, or Programs to Prevent COVID-19
- (2) Activities, Projects, or Programs to Prepare for COVID-19
- (3) Activities, Projects, or Programs to Respond to COVID-19

And like IHBG-CARES Act funds, IHBG-ARP funds may also be used to maintain normal operations and fund eligible IHBG activities during the period that a recipient's IHBG program is impacted by COVID-19. This includes covering or reimbursing allowable costs incurred back to the date the Indian tribe began preparing for COVID-19, which may be prior to the date of enactment of the ARP, but in no event earlier than

January 22, 2020.

The auditor should consider the following:

1. Prepare for: IHBG-ARP grant funds may be used prior to a local, service area, or regional COVID-19 outbreak. This includes, but is not limited to, activities designed to develop processes and procedures to help keep people healthy, and other activities designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease. Examples may include housing activities designed to reduce severe overcrowding, providing food delivery services to eligible families (including the elderly, disabled, and other high-risk populations) to allow them to shelter in place, and public health campaigns designed to educate families on how to prepare for a possible outbreak in the community and ways to minimize community spread.
2. Prevent: IHBG-ARP grant funds may be used during a COVID-19 local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to staff, tribal housing residents, and the tribal community. Examples may include distributing Personal Protective Equipment to housing maintenance staff, residents, and members of the community, using IHBG-ARP funds to clean common areas to prevent infections, using IHBG-ARP funds to facilitate the vaccination of IHBG-assisted residents and IHBG recipient staff, and much more.
3. Respond to: Once COVID-19 has spread to staff, tribal housing residents, and/or the tribal community, examples of how Indian tribes and TDHEs may choose to respond to COVID-19 may include using IHBG-ARP grant funds to care for those who have become infected and to limit the exposure and spread of the virus, provide rent assistance to eligible families that cannot pay rent, carrying out activities to reduce severe overcrowding, prevent homelessness to ensure families are stably housed, and much more. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

These descriptions are designed to provide general guidance to recipients and are not intended to limit the range of eligible IHBG-ARP grant activities that can be carried out. Provided a recipient can, in HUD's judgment, reasonably tie their IHBG-ARP activities back to one or more eligible purposes, HUD will accept the recipient's classification.

c. Waivers and Alternative Requirements Applicable Only to IHBG-ARP Funding

The following waivers and alternative requirements apply only to IHBG funding provided under the ARP. Indian tribes and TDHEs are reminded that these waivers and alternative requirements do not apply to IHBG funds appropriated in any other Act. In applying these waivers and alternative requirements, Indian tribes and TDHEs must

ensure that they are doing so only with respect to IHBG-ARP grant.

(1) Income Verification

Regulatory Authority: 24 CFR section 1000.128

Description: 24 CFR section 1000.128 requires IHBG recipients to verify that a family is income eligible. Families are required to provide documentation to verify this determination, and a recipient is required to maintain that documentation. Families may be required by the IHBG recipient to periodically verify income after initial occupancy, and the recipient is required to maintain documentation.

Given the COVID-19 related challenges facing families seeking IHBG assistance, families currently receiving IHBG assistance that are due for income recertification, and Tribal and TDHE staff charged with verifying income and maintaining documentation, HUD is establishing the following alternative requirement under 24 CFR section 1000.128:

- (a) IHBG-ARP recipients may deviate from their current written admissions and occupancy policies, and may allow less frequent income recertifications; and
- (b) IHBG-ARP recipients may carry out intake and other tasks necessary to verify income of applicants and residents remotely if the IHBG recipient or eligible families chooses to do so, including allowing income self-certification over the phone (with a written record by the IHBG recipient's staff), or through an email with a self-certification form signed by a family.

(2) Public Health Services

Statutory Authority: Section 202(3) of NAHASDA

Description: Section 202(3) of NAHASDA authorizes the use of IHBG funds for the provision of housing-related services for affordable housing. Under this eligible activity, IHBG funds can be used to provide services such as housing counseling, activities related to the provision of self-sufficiency and other services related to assisting owners, tenants, contractors, and other entities, participating, or seeking to participate in the IHBG program.

HUD is waiving Section 202(3) and establishing an alternative requirement to the extent necessary to allow IHBG funds to be used to carry out a wide range of public health services under this category of eligible activities. Accordingly, in addition to the housing services normally eligible under Section 202(3), IHBG funds may be used on a wide range of public health activities designed to allow IHBG-eligible residents and staff of the IHBG recipient to prepare for, prevent,

and respond to COVID-19.

Eligible uses of IHBG funds under this waiver and alternative requirement include, but are not limited to: providing testing, diagnosis, vaccination or other related services to residents; establishing a fixed or mobile location to conduct testing, vaccination and treatment; paying for necessary equipment, supplies, and materials, including personal protective equipment; carrying out public health services designed to help staff, eligible residents, and other third-party providers serving eligible residents, prepare for, prevent, and respond to COVID-19; delivering meals on wheels or other food delivery services to eligible residents that are sheltered-in-place and complying with a stay at home order, or otherwise maintaining recommended social distancing.

With respect to vaccinations, eligible uses of IHBG funds under this waiver and alternative requirement include, but are not limited to, the following:

- (a) paying the transportation costs to get IHBG-assisted families and staff of the recipient to and from a vaccination site;
- (b) coordinating with health clinics to provide on-site vaccinations either at a Tribal or TDHE owned or operated location or at a mutually agreed upon location;
- (c) paying the costs of providing public health information to staff and residents so they can learn about the benefits of getting vaccinated and how to get vaccinated; and
- (d) supporting IHBG-assisted families and staff with online registration for vaccination appointments and keeping them informed as vaccination efforts continue.

HUD strongly encourages IHBG grantees to coordinate with recipients of other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, to ensure IHBG funds are used to supplement rather than supplant such funding.

(3) COVID-19-Related Assistance to Non-Low Income and Non-Native Families

Statutory Authority: Section 201(b) of NAHASDA

Regulatory Authority: 24 CFR sections 1000.104, 1000.106, 1000.108, 1000.110, 1000.312, 1000.314, 1000.318

Description: Section 201(b) of NAHASDA and its implementation regulations, except for specified exceptions, limit assistance under eligible housing activities to low-income Indian families.

The COVID-19 pandemic poses a unique threat to the health and safety of tribal communities. Persons infected with the virus, regardless of income or tribal membership, pose a health risk to the entire community, and low-income families are especially vulnerable given the severe overcrowding in Indian Country, infrastructure challenges, and the lack of access to running water and readily available health care services in many remote communities. To effectively prevent, prepare for, and respond to COVID-19, IHBG recipients may find the need to use IHBG resources or NAHASDA-assisted housing units to provide shelter-in-place housing and public health services to otherwise ineligible persons and families, with the goal of protecting the health and safety of the most vulnerable low-income Native American families who may be infected.

Given this, HUD is waiving Section 201(b) and its implementing regulations, and establishing alternative requirements to the extent necessary to allow IHBG funds to be used by recipients to prevent, prepare for, and respond to COVID-19 through the following limited activities that provide assistance to all affected and threatened people without regard to income limits or Indian status: temporary shelter-in-place, isolation centers, purchasing and making medical testing kits available, purchasing and distributing masks and other personal protection equipment, emergency food preparation and distribution, cleaning and decontamination, and other directly related activities. Permanent rental assistance, mortgage assistance, housing rehabilitation, and new housing construction may not be provided for the benefit of such otherwise ineligible families under this waiver and alternative requirement.

This assistance may only be provided to such otherwise ineligible families if: it is provided during the COVID-19 pandemic; if it is designed to protect the health and safety of low-income Native American families; if it is provided on an urgent basis (as documented by the IHBG recipient); and if it is temporary in nature. When providing this assistance, IHBG recipients must maintain records documenting that these criteria were met at the time that such assistance was provided.

Under this waiver and alternative requirement, IHBG recipients may house low-income non-Indian families or over-income Indian and non-Indian families in NAHASDA-assisted units, including FCAS units, to shelter-in-place those families per CDC guidelines to protect low-income Indian families and the Tribal community from the further spread of COVID-19, regardless of income or Indian status. IHBG funds may also be used to provide temporary rental assistance to otherwise ineligible persons or families in privately owned units, hotels/motels, and similar facilities designed to shelter-in-place or isolate infected persons from others, if the criteria under this waiver and alternative requirements are met. The use of NAHASDA-assisted units, including FCAS, or funds for the temporary shelter-in-place or isolation of any individuals shall be temporary and no individual shall be isolated longer than medically necessary.

The 24 CFR sections 1000.312 and 1000.314 identify FCAS units as low rent, Mutual Help, and Turnkey III housing units owned and operated by an IHBG recipient. 24 CFR section 1000.318 establishes when these units can be considered FCAS for purposes of the IHBG formula. These regulations are also waived and modified to the extent necessary to not impact the FCAS eligibility of FCAS units used for this purpose of addressing COVID-19 regardless of income or Indian status, provided such units are operated as low-income housing dwelling units once no longer needed to shelter-in-place persons, and upon a determination that such units are safe to be occupied again by low-income families not infected with COVID-19.

Assistance provided in accordance with this waiver shall not count towards the maximum amount of assistance that IHBG recipients may otherwise provide to non-low-income families specified in 24 CFR section 1000.110.

(4) Useful Life

Statutory Authority: Section 205 of NAHASDA

Regulatory Authority: 24 CFR sections 1000.141, 1000.142, 1000.143, 1000.144, 1000.146, 1000.147

Description: Section 205(a)(2) of NAHASDA requires each dwelling unit in a recipient's housing developed or assisted under the Act will remain affordable, according to binding commitments satisfactory to HUD, for the remaining useful life of the property. The IHBG regulations require each recipient to describe, in its IHP, its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By approving the IHP, HUD determines the useful life in accordance with Section 205(a)(2).

HUD is waiving these requirements to determine and maintain affordability during the useful life of housing units assisted with IHBG-ARP grant funding used to address COVID-19 if that assistance is related to cleanup of COVID-19 contamination and temporary use dwelling units for purposes of housing and quarantining families to inhibit the spread of COVID-19 to low-income Indian families and the Tribal community.

Under this waiver, IHBG recipients are not required to establish an affordability determination or useful life period for assistance related to cleanup of COVID-19 contamination or temporary use of dwellings units used to quarantine families to inhibit the spread of COVID-19.

This waiver only applies during the period that a unit is being temporarily used to prevent, prepare for, or respond to COVID-19. Useful life restrictions are

required for other housing activities conducted with IHBG-ARP funding. For example, if a unit is acquired for the purpose of quarantining families, no useful life restriction will apply to the unit during this temporary period when the unit is being used for COVID-19-related purposes. However, after the unit is no longer needed to temporarily quarantine families and is no longer needed for other COVID-19 purposes, the recipient must either place useful life restrictions on the property and continue to make it available for NAHASDA-eligible families for an affordability period set by the recipient consistent with its IHBG program or dispose of the unit.

(5) Total Development Cost Limits

Regulatory Authority: 24 CFR sections 1000.156, 1000.158, 1000.160, 1000.162

Description: The IHBG regulations require that affordable housing under NAHASDA be of moderate design with a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe's general geographic area to buyers who are at or below the area median income. To achieve this requirement the recipient must either, adopt written standards for its affordable housing programs that reflect the requirement specified, or use TDC limits published periodically by HUD that establish the maximum amount of funds (from all sources) that the recipient may use to develop or acquire/rehabilitate affordable housing. The limits provided by the TDC may not, without prior HUD approval, exceed by more than 10 percent the TDC maximum cost for the project. Non-dwelling structures used to support an affordable housing activity must be of a design, size and with features or amenities that are reasonable and necessary to accomplish the purpose intended by the structures.

HUD expects that COVID-19 will likely have both a short- and long-term impact on IHBG recipients' programs. Because of the long-term need to prevent, prepare for, and respond to COVID-19, IHBG recipients may find it appropriate to use IHBG-ARP grant funds to acquire or construct new housing units with the goal of reducing severe overcrowding in Indian Country that leave Native American populations, particularly the elderly and persons with disabilities, especially vulnerable to COVID-19. Accordingly, HUD is establishing an alternative requirement relating to limitations on cost or design standards and TDC with respect to dwelling and non-dwelling units developed, acquired, or assisted with funding provided to be used by recipients to prevent, prepare for, and respond to COVID-19. An IHBG recipient may exceed the current TDC maximum by 20 percent without HUD review or approval if the purpose of the development, acquisition or assistance is to prevent, prepare for, and respond to COVID-19.

The recipient, however, must maintain documentation that indicates the dwelling and non-dwelling units developed, acquired, or assisted with this funding will, after this crisis, be for IHBG eligible families and the design, size, and amenities

are moderate and comparable to housing in the area. The TDC limits can be exceeded by more than 20 percent if the recipient receives written approval from HUD Headquarters. This waiver applies to both single-family and multi-family housing, as well as non-dwelling structures supporting an activity to prevent, prepare for, and respond to COVID-19.

Originally, this waiver and alternative requirement was to be available only so long as the TDC specified in [PIH Notice 2019-19](#) remain in effect. [PIH Notice 2019-19](#) has been superseded by [PIH Notice 2024-28](#), which provided an updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. However, [PIH Notice 2024-28](#) preserves previously provided regulatory relief with respect to TDC limits for the IHBG-CARES Act and IHBG-ARP programs. Therefore, Indian Tribes and TDHEs provided regulatory relief with respect to TDC limits for the IHBG-CARES Act and IHBG-ARP programs. Therefore, Indian tribes and TDHEs carrying out their IHBG-CARES grants; FY 2020 IHBG formula grants to prevent, prepare for, and respond to COVID-19; and IHBG-ARP grants are authorized to use the higher of the new FY 2022 TDC limit issued pursuant to this PIH Notice 2024-28, or up to 20 percent of the TDC limit that was previously issued in PIH 2019-19, without prior HUD approval. This waiver will remain in effect until all such funds are expended.

(6) Prohibition Against Investment of ARP Grant Funds

Statutory Authority: Section 204(b) of NAHASDA

Regulatory Authority: 24 CFR section 1000.58

Description: Section 204(b) of NAHASDA permits IHBG recipients to invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by HUD. Under 24 CFR section 1000.58 of the IHBG regulations, HUD has approved certain IHBG recipients based, among other things, on a history of compliance and capacity, to invest IHBG funding certain securities and interest-bearing accounts for the purpose of carrying out affordable housing activities.

HUD is waiving Section 204(b) of NAHASDA and 24 CFR section 1000.58 and prohibiting the investment of any IHBG funding provided under the ARP. Such funding is to be used by recipients to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA during the period that each recipient's program is impacted by COVID-19. Given the limited scope of this funding to address the immediate health, safety, and economic needs of citizens in Indian Country, drawing down funds for investment in securities and long-term interest-bearing accounts is prohibited.

(7) IHBG-ARP Funds Not Counted in Undisbursed Funds Factor

Regulatory Authority: 24 CFR section 1000.342

Description: The 24 CFR section 1000.342 codifies the Undisbursed Funds Factor (UDFF) in the IHBG formula. It provides that if an Indian tribe's initial IHBG allocation calculation is \$5 million or more and the Indian tribe has undisbursed IHBG funds on October 1 of the fiscal year for which the allocation is made in an amount that is greater than the sum of the prior three years' initial allocation calculations, its grant allocation will be the greater of the initial allocation calculation minus the amount of undisbursed IHBG funds that exceed the sum of the prior three years' initial allocation calculations, or its 1996 Minimum.

HUD is waiving 24 CFR section 1000.342 and establishing an alternative requirement to the extent necessary to exclude IHBG-ARP funds from counting towards an Indian tribe's undisbursed IHBG funds from prior years under the UDFF. IHBG-ARP funds are available for a specific purpose under the ARP and were allocated by HUD to allow Indian tribes and TDHEs to prevent, prepare for, and respond to COVID-19. If this funding were counted against an Indian tribe and resulted in it receiving less IHBG formula funding under the next IHBG formula allocation, such a reduction in future funding would undermine the purposes of the IHBG-ARP funds and have an adverse impact on Indian tribes working to respond to the current National Emergency.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.871 SECTION 8 HOUSING CHOICE VOUCHERS****ASSISTANCE LISTING 14.879 MAINSTREAM VOUCHERS****I. PROGRAM OBJECTIVES**

The Housing Choice Voucher Program (HCVP) provides rental assistance to help very low- income families afford decent, safe, and sanitary rental housing. The Mainstream Voucher program (MV) enables families for whom the head, spouse, or co-head is a person with disabilities to lease affordable private housing of their choice.

II. PROGRAM PROCEDURES**A. Overview**

The HCVP is administered by local public housing agencies (PHAs) authorized under state law to operate housing programs within an area or jurisdiction. The PHA accepts a family's application for rental assistance, selects the applicant family for admission, and issues the selected family a voucher confirming the family's eligibility for assistance. The family must then find and lease a dwelling unit suitable to the family's needs and desires in the private rental market. The PHA pays the owner a portion of the rent (a housing assistance payment [HAP] on behalf of the family).

The subsidy provided by the HCVP is considered a tenant-based subsidy because when an assisted family moves out of a unit leased under the program, the assistance contract with the owner terminates and the family may move to another unit with continued rental assistance.

The Department of Housing and Urban Development (HUD) enters into Annual Contributions Contracts (ACCs) with PHAs under which HUD provides funds to the PHAs to administer the programs locally. The PHAs enter into HAP contracts with private owners who lease their units to assisted families (24 CFR section 982.151).

In the HCVP, the PHA verifies a family's eligibility (including income eligibility) and then issues the family a voucher. The family has a minimum of 60 days to locate a rental unit where the landlord agrees to participate in the program (the PHA establishes the maximum number of days). The PHA determines whether the unit meets housing quality standards (HQS). If the PHA approves a family's unit and determines that the rent is reasonable, the PHA contracts with the owner to make HAPs on behalf of the family (24 CFR section 982.1(a)(2)).

The voucher subsidy is set based on the difference between the lower of the PHA's

applicable payment standard for the family, the payment standard for the unit size rented, or the gross rent and the total tenant payment (generally 30 percent of the family's monthly adjusted income). This is the maximum subsidy a family may receive regardless of the rent the owner charges for the unit (24 CFR Part 982, Subpart K). Under the HCVP, apart from the requirement that the rent must be reasonable in relation to rents charged for comparable units in the private unassisted market, there generally is no limit on the amount of rent that an owner may charge for a unit. However, at initial occupancy of any unit where the gross rent exceeds the payment standard, a family may not pay more than 40 percent of adjusted monthly income toward rent and utilities (24 CFR section 982.508).

If the cost of utilities is not included in the rent to the owner, the PHA uses a schedule of utility allowances to determine the amount an assisted family needs to cover the cost of utilities. The PHA's utility allowance schedule is developed based on utility consumption and rate data for various unit sizes, structure types, and fuel types. The PHA is required to review its utility allowance schedules annually and to adjust them if necessary (24 CFR section 982.517).

The PHA must inspect units leased under the HCVP at the time of initial leasing and at least biennially thereafter to ensure the units meet HQS. The PHA must also conduct supervisory quality control HQS inspections (24 CFR sections 982.305 and 982.405).

Under the homeownership option of the HCVP, a PHA may choose to provide assistance to a qualified first-time homebuyer to subsidize the family's monthly homeownership expenses. The homeownership option is operated by a PHA as a separate sub-program of the HCVP, which is subject to somewhat different rules (24 CFR sections 982.625 through 982.643).

PHAs must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements. PHAs are required to maintain a HAP contract register or similar record in which to record the PHA's obligation for monthly HAPs. This record must provide information as to (1) the name and address of the family, (2) the name and address of the owner, (3) dwelling unit size, (4) the beginning date of the lease term, (5) the monthly rent payable to the owner, (6) monthly rent payable by the family to the owner, and (7) the monthly HAP (24 CFR section 982.158).

B. Subprograms/Program Elements

1. HUD-Veterans Affairs Supportive Housing

The 2008 Consolidated Appropriations Act (Pub. L. No. 110-161, 121 Stat. 2414-2415), enacted December 26, 2007, initiated funding for the HUD-Veterans Affairs Supportive Housing (HUD-VASH) voucher program, as authorized under Section 8(o)(19) of the US Housing Act of 1937 (42 USC 1437f(o)(19)). The VASH program is included in Assistance Listing 14.871. The HUD-VASH program combines HUD HCVP rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs at its medical centers and in the community. The HUD-VASH program is administered in accordance with regular HCVP requirements (24 CFR Part 982). However, Pub.

L. No. 110-161 allows HUD to waive or specify alternative requirements for any provision of any statute or regulation that HUD administers in connection with this program to effectively deliver and administer HUD-VASH voucher assistance.

The HUD-VASH revised operating requirements (including the waivers and alternative requirements from HCVP rules) were last published in the August 13, 2024, *Federal Register*, (89 FR 6476-N-01), *Section 8 Housing Choice Vouchers: Revised Implementation of Veterans Affairs Supportive Housing Program*. Public and Indian Housing Notice PIH 2011-53 (HA) provides further guidance on the reporting and portability requirements of VASH, , and Notice PIH 2022-25 (HA) provides guidance on the voluntary reallocation or recapture of HUD-VASH vouchers. All original HUD-VASH increments and renewals are funded under the “Voucher (VO)” program type (i.e., the Housing Choice Voucher (HCV) program housing assistance payment (HAP) funding code) and are included in the PHA’s monthly VO disbursements. Administrative fee-related revenues and expenses should be recorded under the HCVP as Assistance Listing 14.871 on the FDS. PHAs are required to submit family data using HUD-50058 in PIH Information Center (PIC), and HAP and leasing information using HUD-52681-B via the Voucher Management System (VMS).

2. *Family Unification Program*

Family Unification Program (FUP) vouchers are made available to families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child, or children, to the family from out-of-home care; and youth at least 18 years and not more than 24 years of age (have not reached their 25th birthday) who left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in Section 475(5)(H) of the Social Security Act, and are homeless or are at risk of becoming homeless at age 16 or older. In Fiscal Years 2020 and later, Congress provided FUP assistance to be targeted to FUP-eligible youth. HUD refers to this targeted FUP assistance as the Foster Youth to Independence (FYI) initiative. As required by statute, a FYI voucher or a FUP voucher issued to such a youth may only be used to provide housing assistance for the youth for a maximum of 36 months unless the youth meet the requirements to receive an extension of assistance under the Fostering Stable Housing Opportunities (FSHO) amendments (Section 103 of Division Q of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260)). FSHO provides FUP youth an extension of the 36-month time limit for up to an additional 24 months if they meet certain requirements.

FUP/FYI vouchers enable these families and youths to lease decent, safe, and sanitary housing that is affordable in the private-housing market. Funding for the initial FUP vouchers were reported under Assistance Listing 14.880, but currently these vouchers are renewed to FUP-eligible families and FUP-eligible youth through voucher renewals under the HCVP, Assistance Listing 14.871. PHAs are also

required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B via the VMS.

3. *Non-Elderly Disabled*

Various appropriations acts have provided separate funding for non-elderly disabled (NED) vouchers (i.e., the participant family's head-of-household is a person with a disability(ies) who is 18 years of age or older and less than 62 years of age), which are administered in accordance with regular HCVP requirements (24 CFR Part 982) and are included in under Assistance Listing Number 14.871. Related revenues and expenses should be recorded under the HCVP, 14.871 on the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B via the VMS.

4. *Disaster Housing Assistance Program*

The Disaster Housing Assistance Program (DHAP) is a program designed by the Federal Emergency Management Agency (FEMA) and HUD to serve families displaced by a Presidentially declared disaster. Through an Interagency Agreement (IAA) executed by both federal agencies, on FEMA's behalf, HUD has the authority to design, implement, and administer DHAP to provide temporary rental assistance to individuals displaced by disaster. The DHAP (Assistance Listing 97.109) was established to provide rental assistance, security and utility deposits, and case management services for families who were displaced by hurricanes Katrina, Rita, Gustav, and Ike. The DHAP was extended to assist eligible families displaced by Hurricane Sandy (DHAP-Sandy, HUD Assistance Listing 97.109) (with funds from DHS Assistance Listings 97.048; 97.049; and 97.050). The IAA between FEMA and HUD, applicable to DHAP Sandy, expired on December 31, 2014. The DHAP-Sandy funding is separate and distinct from the PHA's regular voucher program, in terms of the source and use of the funding. The PHA is required to maintain records that allow for the easy identification of families assisted under DHAP-Sandy and must report monthly leasing and expenditure for such families separately from housing choice voucher families under the VMS. The PHA must maintain a separate HAP register for DHAP-Sandy to record and control assistance payments for rent subsidies. The PHAs reported DHAP-Sandy family information to HUD through the Disaster Information System (DIS). There is no current reporting on DHAP and DIS is dormant in case a future Disaster Program must be stood up. PHAs administering DHAP through DIS (DHAP-Sandy or others) do not complete a HUD-50058 or enter any information on a DHAP families into the PIC system.

The underlying authority for DHAP-Sandy is the Department of Homeland Security's general grant authority under Section 102(b)(2) of the Homeland Security Act of 2002, 6 USC 112(b)(2), and sections 306(a), 408(b)(1), and 426 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC 5149(a), 5174(b)(1), and 5189d, respectively.

5. *Mainstream Vouchers (Former Mainstream 5-Year Program)*

The Omnibus Appropriations Act of 2009, Pub. L. No. 111-8, authorized funding for Mainstream Vouchers under Section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 USC 8013(d)(2)). PHAs authorized under state law to develop or operate housing assistance programs may apply for the program. In some instances, nonprofit agencies may also administer Mainstream Vouchers. Mainstream Vouchers provide housing assistance payments to participating owners on behalf of eligible tenants (i.e., the household includes a person with a disability who is 18 years of age or older and less than 62 years of age). Mainstream Vouchers are administered in accordance with regular HCV program requirements (24 CFR Part 982). However, for FASS-PH reporting, PHAs are to record rental assistance activities under Assistance Listing 14.879. Administrative fee-related revenues and expenses should also be recorded, under Assistance Listing 14.879 in the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing (only) information using HUD-52681, and HUD-52681-B via the VMS. Mainstream voucher leasing and HAP costs are not included in the VMS HCV program voucher leasing and HAP totals; they are only considered for renewal calculation purposes. Mainstream administrative fee expenses are reported in the Mainstream Administrative Expenses field in VMS (HUD-52681-B).

6. *Emergency Housing Voucher Program*

The American Rescue Plan Act of 2021 (the ARP) (Pub. L. No. 117-2) (Assistance Listing 14.871), enacted on March 11, 2021, provided relief to address the continued impact of the COVID-19 pandemic on the economy, public health, state and local governments, individuals, and businesses.

Section 3202 of the ARP provided appropriations for new incremental Emergency Housing Voucher (EHVs), the renewal of those EHV, and fees for the cost of administering the EHV and other eligible expenses defined by notice to prevent, prepare for, and respond to coronavirus to facilitate the leasing of the emergency vouchers, such as security deposit assistance and other costs related to retention and support of participating owners.

Eligibility for these EHV is limited to individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. After September 30, 2023, a PHA may not reissue any previously leased EHV, regardless of when the assistance for the formerly assisted family ends or ended.

EHV are tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 USC 1437f(o)). The ARP further provides that HUD may waive any provision of the United States Housing Act of 1937 or regulation

applicable to such statute used to administer the amounts made available under section 3202 (except for requirements related to fair housing, nondiscrimination, labor standards and the environment), upon a finding that any such waivers or alternative requirements are necessary to expedite or facilitate the use of amounts made available for the EHV. EHV waivers and alternate requirements are included in HUD issued PIH Notice 2021-15: Emergency Housing Vouchers – Operating Requirements. https://www.hud.gov/sites/dfiles/PIH/documents/2023-14_HA_Notice.pdf

HUD issued Notice PIH 2021-15 on May 5, 2021, in order to provide operating requirements to PHAs administering the EHV program. On May 10, 2021, HUD notified PHAs of their EHV funding eligibility based on the allocation formula outlined in Notice PIH 2021-15. PHAs had until May 24, 2021, to accept or decline their EHV allocation and any remaining vouchers were reallocated by HUD per the process described in Notice PIH 2021-15. Final allocations were made on June 2, 2021.

On June 30, 2021, HUD issued Notice PIH 2021-20, which revised the reporting guidance in Notice PIH 2021-15, the Emergency Housing Vouchers – Operating Requirements Notice, and set forth new requirements for Public Housing Agencies (PHAs) to report EHV household data into HUD’s existing Information Management System/Public Housing Information Center (IMS/PIC) system.

On July 20, 2021, HUD issued Notice PIH 2021-23, implementing \$200,000,000 in HAP budget authority the ARP made available for funding adjustments from the total \$5B appropriation. PHAs administering the HCV Program and Mainstream Vouchers applied for these funds under the Extraordinary Circumstance category. PIH also processed applications submitted under the HAP Set-aside Unforeseen Circumstance category for per unit cost increases, which was treated as a subset of the Extraordinary Circumstance category. Finally, HUD also prioritized the ARP funds for shortfall prevention in calendar year 2021.

On August 20, 2021, HUD issued Notice PIH 2021-25, which revised the reporting guidance in Notice PIH 2021-20 and Notice PIH 2021-15 and set forth the reporting requirements for PHAs to report EHV data into the Voucher Management System (VMS) and the Financial Data Schedule (FDS).

More recently, June 29, 2023, HUD issued [Notice PIH 2023-14](#). This notice details the statutory restriction prohibiting the reissuance of turnover EHV after September 30, 2023, as discussed in Section 13 of the Notice PIH 2021-15. Turnover EHV stand for vouchers made available by families ending their participation with the EHV Program. This notice also provides new guidance for EHV shortfalls and amends section 7.b.4 of Notice PIH 2021-15 with respect to the requirements under which a PHA may receive an adjustment to the PHA’s EHV renewal funding during a calendar year."

On December 19, 2023, HUD issued [Notice PIH-2023-35](#). This notice describes the EHV Program cash management procedures for the disbursement and reconciliation of HAP and Administrative Fee funds provided to participating public housing agencies, including Moving-to-Work agencies. PIH will use the EHV Program HAP cash reconciliation procedures for the Closeout of EHV Programs. This notice also provides supplemental guidance to PIH Notice 2021-15 Section 7(b), regarding the EHV Program contract renewal calculation.

7. *Stability Vouchers*

The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act), makes available \$43,439,000 for new incremental voucher assistance under Section 8(o) of the United States Housing Act of 1937 for use by individuals and families experiencing or at-risk of homelessness; those fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking, and veterans and families that include a veteran family member that meet one of the proceeding criteria. The Consolidated Appropriations Act, 2022 (Public Law 117-103 (2022 Act) further provides that HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs.

On August 16, 2022, HUD issued [Notice PIH-2022-24](#): Stability Voucher Program. This Notice describes the program requirements for these vouchers, including eligibility criteria, mandatory waivers and alternative requirements.

Stability Vouchers are included in under Assistance Listing Number 14.871. Related revenues and expenses should be recorded under the HCVP, 14.871 on the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B via the VMS.

C. **Other**

The Section 8 Management Assessment Program (SEMAP) is HUD's assessment program to measure the performance of PHAs that administer the HCV program. Under SEMAP, PHAs submit an annual or biennial (depending on the size and previous SEMAP scores), certification, Form HUD-52648 (*OMB No. 2577-0215*), to HUD concerning their compliance with program requirements under 14 indicators of performance (24 CFR Part 985).

In the HCV program, required program contracts and other forms must be word- for-word in the form prescribed by HUD. Any additions to our modifications of required program contracts or other forms must be approved by HUD headquarters (24 CFR section 982.162). In addition, housing agencies that are contract administrators for this program must comply with the HUD Uniform Financial Reporting Standards

rule. Accordingly, PHAs that administer Section 8 tenant-based housing assistance payment programs are required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due two months after the PHA's fiscal year-end and the audited financial statement is due nine months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program. Also, PHAs have access to the Real Estate Assessment Center's PHAs accounting briefs, which provide technical assistance in reporting their unaudited and audited financial statements through FASS, which are available at

https://www.hud.gov/program_offices/public_indian_housing/reac/products/fass/pha_briefs.

HUD uses HUD-52681-B via the VMS to monitor the PHA's HCVP financial and operational performance. In 2021, HUD published Notice PIH 2021-08, which clarified the financial reporting requirements and deadlines for those PHAs that administer the HCV program and HCV program-related programs.

Source of Governing Requirements

The HCV program regulations are found in 24 CFR parts 5, 982, 983, and 985.

Availability of Other Program Information

Copies of PIH notices can be found at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/pih.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. Activities Allowed – HCV Program and Mainstream Vouchers

- a. PHAs may use HCVP and MV funds only for HAPs to participating owners, and for associated administrative fees (24 CFR sections 982.151 and 982.152). In addition, see expanded authority in the use of administrative fees under PIH Notice 2022-18 Use of Housing Choice Voucher (HCV) and Mainstream Voucher Administrative Fees for Other Expenses to Assist Families to Lease Units.
 - (1) Accumulated administrative fees prior to Federal Fiscal Year (FFY) 2004 may be used for any housing-related purpose permitted by State and local law. Unspent administrative fees accumulated post FFY 2003 (i.e., fees from Federal fiscal year 2004 and later funding, see III.L.1.e.(4)(a), “Financial Reporting – Financial Reports”) may be used only to support the HCVP. These funds are still considered to be administrative fee reserves and are subject to all of the requirements applicable to administrative fee reserves including, but not limited to, those in 24 CFR section 982.155. The fees accumulated from fiscal year 2003 and later funding must be used for activities related to the provision of tenant-based rental assistance authorized under Section 8 of the United States Housing Act of 1937, including related development activities. PHAs must maintain and report balances for both funding sources (see notice [PIH 2015-17](#) (HA) dated October 6, 2015) (Division I, Title II, Section (5) of Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 3296, and subsequent appropriations acts; see Section 5 of Notice PIH 2005-01; 24 CFR section 982.155).
 - (2) Current Calendar Year (CY) HAP funding must be used for current CY HAP and later HAP expenses and shall not be used to cover prior year deficits. PHA’s HAP equity balance, also known as restricted

net position (RNP), provides the balance of the unspent HAP at any given point in time. A negative HAP equity balance at the calendar year end indicates that the PHA may be facing a shortfall, and auditors must be alert that the PHAs cannot use the following year HAP budget authority to cover this shortfall (i.e., cover last year's HAP expense) (2005 Appropriations Act each subsequent appropriations act; see Section 15 of Notice PIH 2015-03).

- b. PHAs are allowed to recover their indirect costs related to the HCVP through the use of a fee-for-service model in lieu of a cost allocation plan. In order for a PHA to use a fee-for-service model, the PHA must create a central office cost center (COCC) (24 CFR section 990.280(d)). (Also see Section 7.8 of Handbook 7475.1 and Section 2 of Notice PIH 2008-17.) HUD has established the following as the types of fees the COCC can charge for the HCVP:

- (1) HCVP management fee; and
- (2) Bookkeeping fee.

2. *Activities Allowed – Emergency Housing Vouchers Program Funding*

Section 3202 of the ARP provided appropriations for new incremental EHV's, the renewal of those EHV's, and fees for the cost of administering the EHV's and other eligible expenses defined by notice to prevent, prepare for, and respond to coronavirus to facilitate the leasing of the emergency vouchers, such as security deposit assistance and other costs related to retention and support of participating owners.

Eligibility for these EHV's is limited to individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. After September 30, 2023, a PHA may not reissue any previously leased EHV, regardless of when the assistance for the formerly assisted family ends or ended.

EHV's are tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 USC 1437f(o)). The ARP further provides that HUD may waive any provision of the United States Housing Act of 1937 or regulation applicable to such statute used to administer the amounts made available under section 3202 (except for requirements related to fair housing, nondiscrimination, labor standards and the environment), upon a finding that any such waivers or alternative requirements are necessary to expedite or facilitate the use of amounts made available for the EHV's. EHV waivers and alternate requirements are included in HUD issued PIH Notice 2021-15, *Emergency Housing Vouchers – Operating*

Requirements.

Notice PIH 2021-15 provided operating requirements to PHAs administering the EHV program. Notice PIH 2021-20 revised the reporting guidance in Notice PIH 2021-15 and set forth new requirements for PHAs to report Emergency Housing Voucher (EHV) household data into HUD's existing IMS/PIC system.

Notice PIH 2021-25, *Emergency Housing Vouchers – Voucher Management System and Financial Data Schedule Reporting Requirements Notice* revised the reporting guidance in Notice PIH 2021- 20, *Emergency Housing Vouchers – Household Reporting Requirements Notice* and Notice PIH 2021-15 and set forth the reporting requirements for PHAs to report EHV data into the VMS and FDS.

3. *Activities Allowed – MTW Program*

The MTW program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD and under the MTW Operations Notice. An MTW agency may apply funding fungibility from the following three programs:

- (1) Section 8 Housing Choice Vouchers (Assistance Listing 14.871)
- (2) Public Housing Capital Fund (Assistance Listing 14.872)
- (3) Public and Indian Housing (Assistance Listing 14.850)

Depending on whether a PHA is operating under an MTW Agreement or the MTW Operations Notice, the auditor can look at the MTW Agreement or the MTW Operations Notice, as applicable, to determine which funds are included. Even though the Mainstream Vouchers program (Assistance Listing 14.879) follows HCVP procedures, that program is excluded from the MTW program. Other Special Purpose Vouchers such as HUD-VASH, NED vouchers and FUP vouchers are also excluded from the MTW program, meaning funds can only be used for the intended purposes. If HCVP funds are transferred out of HCVP, pursuant to an MTW Agreement or the MTW Operations Notice, they are subject to the requirements of the MTW Agreement or the MTW Operations Notice and should not be included in the audit universe and total expenditures for HCVP when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as HCVP expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the HCVP account, pursuant to an MTW Agreement or the MTW Operations Notice, all the HCVP funds would then be considered MTW funds.

If the MTW agency does not transfer all the funds from the HCVP into the MTW

account or another of the authorized programs, those funds would be considered, and audited, under the HCVP.

PHAs may obtain proceeds from dispositions of public housing real property under Sections 18 and 22 of the 1937 Act (Assistance Listing Number 14.850). PHAs may use net proceeds, if approved by HUD, for the provision of low-income housing, which includes certain Section 8 HCVP uses. If a PHA receives HUD approval to use proceeds for certain HCVP purposes, those funds would be considered, and audited, under the HCVP.

4. *Activities Unallowed – HCV, Mainstream*

- a. Non MTW PHAs must use HAP for HAP expenses only, and other uses are unallowed.
- b. With the exception of Moving to Work Housing Authorities, Transfers of HAP, and associated administrative fees, even temporarily, to support another program (such as the Low-Rent program or Local Housing programs) or use are not allowed and could be considered a breach of the ACC (see III.L.1.e.(3), “Reporting--Financial Reporting--FDS Transfer Line Items”). Such use may result in civil penalties or sanctions (24 CFR section 985.109).
- c. The 2005 Appropriations Act, and subsequent appropriations acts prohibit the use of appropriated funds by any PHA for “over- leasing.” Over-leasing occurs when a PHA has more unit months under a HAP contract for the CY than are available under its ACC baseline, even if the PHA has sufficient Budget Authority to support the additional unit months. Over-leasing is measured on a CY basis. If a PHA engages in over-leasing, it must identify other allowable non-HAP sources to pay for the over-leasing. In addition, the 2008 Appropriations Act and subsequent appropriations acts require that administrative fees be based on actual leasing as of the first day of the month (Division I, Title II, Section (5) of Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 3295; Division K, Title II, Section (1) of Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 2413; see Section 7 of Notice PIH 2005-01 and Section 17 of Notice PIH 2015-03). PHAs submit lease information via VMS (See also III.L.1.d (1), “Reporting--Financial Reporting--Unit Months Leased.”).

B. Allowable Costs/Cost Principles

The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 HCV administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the [Executive Schedule](#) (currently 2024 \$191,900) (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance has been issued in [PIH_2024-16](#) “Guidance on

PHA salary restrictions in HUD's annual appropriations"
(https://www.hud.gov/program_offices/public_indian_housing/publications/notices).

E. Eligibility

1. Eligibility for Individuals

- a. Most PHAs devise their own application forms that are filled out by the PHA staff during an interview with the tenant. The head of the household and spouse, regardless of age, and each member of the family of an assistance applicant or participant who is at least 18 years of age signs (a) one or more release forms to allow the PHA to obtain information from third parties; (b) a federally prescribed general release form for employment information; and (c) a privacy notice. (24 CFR sections 5.212 and 5.230).
- b. The PHA must do the following:
 - (1) As a condition of admission or continued occupancy, require the tenant and other family members to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 982.516).
 - (2) For both family income examinations and reexaminations, obtain and document in the family file third party verification of (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income- based rent (24 CFR section 982.516).
 - (3) Determine income eligibility and calculate the tenant's rent payment using the documentation from third party verification in accordance with 24 CFR Part 5 Subpart F (24 CFR section 5.601 et seq.) (24 CFR sections 982.201, 982.515, and 982.516).
 - (4) Use the Enterprise Income Verification (EIV) system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR 5.233; and reduce administrative and subsidy payment errors in accordance with 24 CFR 5.236 and other administrative guidance issued by HUD.
 - (5) Tenants need to be on the HCVP waiting list (see III.N.1, "Special Tests and Provisions – Selection from the Waiting List") (24 CFR sections 982.202 through 982.207).
 - (6) Reexamine family income and composition at least once every 12

months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third party verification (24 CFR section 982.516).

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable.

3. Eligibility for Subrecipients

Not Applicable.

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable.
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable.
- c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Report Title: HUD-52648, *SEMAP Certification – Addendum for Reporting Data for De-concentration Bonus Indicator*

OMB PRA Number: [OMB No. 2577-0215](#)

Reporting Authority: 24 CFR Part 985

Reporting period/submission date(s): PHAs with jurisdiction in metropolitan Fair Market Rent areas have the option of submitting data to HUD with their annual SEMAP certifications on the percent of their tenant-based Section 8 families with children who live in and who have moved during the PHA fiscal year to low poverty census tracts in the PHA's principal operating area. Submission of this information with the SEMAP certification makes the PHA eligible for bonus points under SEMAP (24 CFR section 985.3(h)).

The auditor will review this information only if the PHA chooses to report on this bonus indicator. The auditor will request the PHA to provide a description of how they pulled the data, and the auditor will confirm that it properly represents the required information listed below under *Key Line Items*.

Link to report and report instructions:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/52648.pdf>

Key Line Items – The following report line items contain critical information and should be tested against the PHA's system of record or a printout from HUD's

systems and matched with poverty data:

1. Line 1a – Number of Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA fiscal year (FY) who live in low poverty census tracts.
2. Line 1b – Total Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA FY.
3. Line 1c – Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the last PHA FY.
4. Line 2a – Percent of all Section 8 families with children residing in low poverty census tracts at the end of the last completed PHA FY.
5. Line 2b – Number of Section 8 families with children who moved to low poverty census tracts during the last completed PHA FY.
6. Line 2c – Number of Section 8 families with children who moved during the last completed PHA FY.
7. Line 2d – Percent of all Section 8 mover families with children who moved to low poverty census tracts during the last PHA fiscal year (line b divided by line c).

3. Special Reporting

Report Title: HUD-50058, *Family Report*

OMB PRA Number: [OMB No. 2577-0083](#)

Reporting Authority: 24 CFR Part 908, 24 CFR Part 982, 24 CFR Part 960

Reporting Period/Submission date(s): The PHA is required to submit this form electronically to HUD each time the PHA completes an issuance, admission, annual reexamination, interim reexamination, portability move-in, expiration, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability (24 CFR Part 908 and 24 CFR section 982.158).

Link to report and report instructions: <https://omb.report/omb/2577-0083>

Key Line Items – The following line items contain critical information that the auditor tests by confirming the items for accuracy and completeness when submitted to HUD's Public Housing Information Center (PIC). The auditor collects the information from the PHA.

The auditor will verify that the information reported on the HUD-50058 is supported

by documentation in the file.

1. Line 2a – *Type of Action*
2. Line 2b – *Effective Date of Action*
3. Line 3b, 3c – *Names*
4. Line 3e – *Date of Birth*
5. Line 3n – *Social Security Numbers*
6. Line 5a – *Unit Address*
7. Line 5h, 5i – *Unit Inspection Dates*
8. Line 7i – *Total Annual Income*
9. Lines 2k and 17a – *Family’s Participation in the Family Self Sufficiency (FSS) Program*
10. Line 17k (2) – *FSS Account Balance*

4. **Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

N. **Special Tests and Provisions**

1. **Selection from the Waiting List**

Compliance Requirements: The PHA must have written policies in its HCVP administrative plan for selecting applicants from the waiting list and PHA documentation must show that the PHA follows these policies when selecting applicants for admission from the waiting list. Except as provided in 24 CFR section 982.203 Special admission (non-waiting list), all families admitted to the program must be selected from the waiting list. “Selection” from the waiting list generally occurs when the PHA notifies a family whose name reaches the top of the waiting list to come in to verify eligibility for admission (24 CFR sections 5.410, 982.54(d), and 982.201 through 982.207).

Audit Objectives: Determine whether the PHA is following its own selection policies in selecting applicants from the waiting list to become participants.

Suggested Audit Procedures

- a. Review the PHA’s applicant selection policies.

- b. Test a sample of new participants admitted to the program to ascertain if they were selected from the waiting list in accordance with the PHA's applicant selection policies.
- c. Test a sample of applicant names that reached the top of the waiting list to ascertain if they were admitted to the program or provided the opportunity to be admitted to the program in accordance with the PHA's applicant selection policies.

2. Reasonable Rent

Compliance Requirements: The PHA administrative plan must state the method used by the PHA to determine that the rent to owner is reasonable in comparison to rent for other comparable unassisted units. The PHA determination must consider unit attributes such as the location, quality, size, unit type, and age of the unit, and any amenities, housing services, maintenance, and utilities provided by the owner.

The PHA must determine that the rent to the owner is reasonable at the time of initial leasing. Also, the PHA must determine reasonable rent during the term of the contract (a) before any increase in the rent to owner, and (b) at the HAP contract anniversary if there is a 10 percent decrease in the published Fair Market Rent in effect 60 days before the HAP contract anniversary. The PHA must maintain records to document the basis for the determination that rent to owner is a reasonable rent (initially and during the term of the HAP contract) (24 CFR sections 982.4, 982.54(d)(15), 982.158(f)(7), and 982.507).

Audit Objectives: Determine whether the PHA is documenting the determination that the rent to owner is reasonable in accordance with the PHA's administrative plan at initial leasing and during the term of the contract.

Suggested Audit Procedures

- a. Review the PHA's method in its administrative plan for determining reasonable rent.
- b. Test a sample of leases for newly leased units and ascertain if the PHA has documented the determination of reasonable rent in accordance with the PHA's administrative plan.
- c. Test a sample of leases for which the PHA is required to determine reasonable rent during the term of the HAP contract and ascertain if the PHA has documented the determination of reasonable rent in accordance with the PHA's administrative plan.

3. Utility Allowance Schedule

Compliance Requirements: The PHA must maintain an up-to-date utility allowance schedule. The PHA must review utility rate data for each utility category each year and must adjust its utility allowance schedule if there has been a rate change of 10 percent or more for

a utility category or fuel type since the last time the utility allowance schedule was revised (24 CFR section 982.517).

Audit Objectives: Determine whether the PHA has reviewed utility rate data within the last 12 months and has adjusted its utility allowance schedule if there has been a rate change of 10 percent or more in a utility category or fuel type since the last time the utility allowance schedule was revised.

Suggested Audit Procedures

- a. Review PHA procedures for obtaining and reviewing utility rate data each year.
- b. Review data on utility rates that the PHA obtained during the last 12 months and ascertain, based on data available at the PHA, if there has been a change of 10 percent or more in a utility rate since the last time the utility allowance schedule was revised, and if so, verify that the PHA revised its utility allowance schedule to reflect the rate increase.

4. National Standards for the Physical Inspection of Real Estate (NSPIRE) / Housing Quality Standards Inspections

Compliance Requirements: The PHA must inspect the unit leased to a family at least biennially to determine if the unit meets Housing Quality Standards (HQS) and the PHA must conduct quality control re-inspections. The PHA must prepare a unit inspection report (24 CFR sections 982.158(d) and 982.405(b)). However, NSPIRE for HCV and Project Based Vouchers (PBV) programs, referred to as NSPIRE-V during HUD's demonstration, was effective October 1, 2023, and replaced HQS, as previously defined in 24 CFR 982.401, as the inspection standards for these programs. As announced in the Federal Register, "Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE); Extension of NSPIRE Compliance Date for HCV Programs," HUD extended the compliance date for HCV and PBV programs until October 1, 2024. This applies to all Public Housing Agencies (PHAs), including MTW PHAs, administering Section 8 Housing Choice Voucher programs.

NSPIRE official notices PIH 2023-16 and PIH 2023-23, and proposed rules can be found here: [Federal Register :: Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate \(NSPIRE\); Extension of NSPIRE Compliance Date for HCV Programs \(hud.gov\)](#)

Audit Objectives: Determine whether the PHA documented the required annual HQS inspections and quality control re-inspections.

Suggested Audit Procedures

- a. Review the PHA's procedures for performing HQS inspections and quality control re-inspections.

- b. Test a sample of units for which rental assistance was paid during the fiscal year and review inspection reports to ascertain if the unit was inspected.
- c. Review the PHA's reports of re-inspections to ascertain if quality control re-inspections were performed.

5. HQS Enforcement

Compliance Requirements: For units under HAP contract that fail to meet HQS, if the reported deficiency is life-threatening, the PHA must, within 24 hours of notification, both inspect the housing unit and notify the owner if the life-threatening deficiency is confirmed. The owner must then make the repairs within 24 hours of PHA notification. If the reported deficiency is non-life-threatening, the PHA must, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed. The owner must then make the repairs within 30 days of notification from the PHA or within any PHA-approved extension. (24 CFR section 982.405(d)). If the owner does not correct the cited HQS deficiencies within the specified correction period, the PHA must stop (abate) HAPs beginning no later than the first of the month following the specified correction period or must terminate the HAP contract. The owner is not responsible for a breach of HQS as a result of the family's failure to pay for utilities for which the family is responsible under the lease or for tenant damage. For family-caused defects, if the family does not correct the cited HQS deficiencies within the specified correction period, the PHA must take prompt and vigorous action to enforce the family obligations (24 CFR sections 982.158(d) and 982.404).

Audit Objectives: Determine whether the PHA documented enforcement of the HQS.

Suggested Audit Procedures

Select a sample of units with failed HQS inspections during the audit period from the PHA's logs or records of failed HQS inspections.

- a. Verify that the files document that the PHA required correction of any cited life threatening HQS deficiencies within 24 hours of the inspection and of all other HQS deficiencies within 30 calendar days of the inspection or within a PHA-approved extension. If the reported deficiency is non-life-threatening, the PHA must, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed.
- b. If the correction period has ended, verify that the files contain a unit inspection report or evidence of other verification documenting that any PHA-required repairs were completed.
- c. Where the file shows that the owner failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA properly stopped (abated) HAPs or terminated the HAP contract.

- d. Where the file shows that the family failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA took action to enforce the family obligations.

6. Housing Assistance Payment

Compliance Requirements: The PHA must pay a monthly HAP on behalf of the family that corresponds with the amount on line 12u of the HUD-50058. This HAP amount must be reflected on the HAP contract and HAP register (24 CFR section 982.158 and 24 CFR Part 982, Subpart K).

A payment standard is used to calculate the monthly housing assistance payment for a family. The “payment standard” is the maximum monthly subsidy payment. The PHA shall pay a monthly housing assistance payment on behalf of the family that is equal to the lower of: (1) The payment standard for the family minus the total tenant payment; or (2) The gross rent minus the total tenant payment. The payment standard for the family is the lower of: (i) The payment standard amount for the family unit size; or (ii) The payment standard amount for the size of the dwelling unit rented by the family. 24 CFR 982.505

PHAs must adopt a payment standard schedule that establishes voucher payment standard amounts for each area in the PHA jurisdiction. PHAs must establish a payment standard amount for each unit size, measured by number of bedrooms (zero-bedroom, one-bedroom, and so on). These payment standard amounts comprise the PHA's payment standard schedule. Generally, PHAs may set payment standards within the basic range, which is 90 percent to 110 percent, of the HUD published Fair Market Rents (FMR) or Small Area FMRs (SAFMRs), whichever is applicable, without HUD notification or approval. PHAs may set payment standards outside of the basic range with HUD notification or HUD approval (24 CFR 982.503(d)).

FMRs/SAFMRs represent the cost to rent a moderately-priced dwelling unit in the local housing market and defined as the 40th percentile of rents paid by recent movers in the given FMR area.

HUD will designate SAFMR areas at the beginning of a Federal fiscal year, and such designations will be permanent. HUD will make new area designations every 5 years thereafter as new data becomes available. Recently, on October 25, 2023, HUD designated new mandatory SAFMR areas in Federal Register notice entitled “Small Area Fair Market Rents in the Housing Choice Voucher Program Metropolitan Areas Subject to Small Area Fair Market Rents” (88 FR 73352

<https://www.federalregister.gov/documents/2023/10/25/2023-23685/small-area-fair-market-rents-in-the-housing-choice-voucher-program-metropolitan-areas-subject-to>). All PHAs administering HCV programs in designated SAFMR areas are required to use Small Area FMRs. A PHA administering an HCV program in either a metropolitan area not subject to the application of SAFMRs or in a non-metropolitan area for which HUD publishes SAFMRs may choose to use SAFMRs after notification to HUD. See Notice PIH 2023-32 for guidance on SAFMRs and a list of all mandatory SAFMR areas. The goal for setting

adequate payment standards is to strike a balance between maximizing the number of families assisted while minimizing family rent burden. It also has the goal of providing sufficient subsidy that allows families to be competitive in the open rental market.

HUD publishes new FMRs around August every year and the FMRs are generally effective for October 1st. PHAs must revise its payment standard amounts and schedule no later than 3 months following the effective date of the published FMR if revisions are necessary to stay within the basic range (24 CFR 982.503(c)(3)). HUD requires PHAs to perform annual reviews of the adequacy of payment standard schedules and to amend them as needed.

For new HAP contracts, the PHA applies the payment standard in effect at the time of HAP contract execution. For existing HAP contracts, when the PHA's payment standard increases, the PHA must use the increased payment standard amount to calculate the monthly housing assistance payment for each program participant beginning no later than the earliest of: The effective date of an increase in the gross rent that would result in an increase in the family share; The family's first regular or interim reexamination; or one year following the effective date of the increase in the payment standard amount. PHAs may apply a payment standard increase at any earlier date, so long as that policy is included in the PHA Administrative Plan, and the policy is applied consistently to all families. 24 CFR 982.505(c)(4)

When the PHA's payment standard decreases while the family continues to reside in the unit for which the family is receiving assistance, the PHA has three options: hold harmless: The PHA may choose not to reduce the payment standard amount used to calculate the subsidy for a family for as long as the family continues to reside in the unit for which the family is receiving assistance; gradual reduction: Upon proper notification (as described below) to the family, the PHA may gradually reduce the payment standard amount used to calculate the family's subsidy, phasing in the reduction. The initial reduction in payment standard cannot take place earlier than two years following the effective date of the decrease in the payment standard; two years after effective date: Upon proper notification to the family, the PHA may choose to reduce the payment standard amount used to calculate such a family's subsidy no earlier than two years following the effective date of the decrease in the payment standard. 24 CFR 982.505(c)(3)

If the family unit size either increases or decreases during the HAP contract term, the new family unit size may be used to determine the payment standard amount for the family immediately but no later than the family's first regular reexamination following the change in family unit size. 24 CFR 982.505(c)(6)

Audit Objectives: Determine whether owners are receiving, and HUD is billed for, correct HAPs.

Suggested Audit Procedures

- a. Review PHAs' quality control procedures for maintaining the HAP register.

- b. Obtain supporting schedules and documents evidencing HAP disbursement as made to proper payee and on behalf of the corresponding participating family.
- c. Obtain documentation and confirm the payee is entitled to HAP payment.
- d. Perform recalculation of supporting schedules and documents evidencing HAP disbursement was made in the proper amount. Effective January 1, 2024, the PHA will not be considered out of compliance solely due to de minimis errors in calculating family income but is still obligated to correct errors once the PHA becomes aware of the errors. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income). As PHAs become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.
- e. Verify that HAP contracts or contract amendments agree with the amount recorded on the HAP register and the amount on 12u of the HUD-50058.
- f. Obtain documentation and test whether the correct payment standard was utilized.
- h. Verify a HAP contract and tenancy addendum has been fully executed. A "fully executed HAP" for the HCV Program means that the Housing Assistance Payments contract between the landlord (owner) and the Public Housing Agency (PHA) has been signed by both parties, signifying that the landlord has agreed to lease a unit to a voucher holder and the PHA has approved the unit and will provide housing assistance payments to the landlord on behalf of the tenant, with all necessary documents and conditions met according to HUD regulations. Similarly, a "tenancy addendum" is considered fully executed when both the landlord and tenant have signed the document, signifying their agreement to the additional terms and conditions outlined within it, which are now legally binding and part of the overall lease agreement; essentially, all parties involved have completed their required actions by signing the addendum.

IV. OTHER INFORMATION

EHV program funding is reported under Assistance Listing number 14.871 - "Housing Choice Voucher Program" on the Schedule of Expenditures of Federal Awards. The PHA should identify how much of the EHV funding is included in the total either by a footnote to the SEFA or by adding detail lines in the SEFA itself under the provisions of PIH Notice 2021-25 (HA), Section 8. k.

Housing Opportunity through Modernization Act of 2016 (HOTMA)

HOTMA was signed into law on July 29, 2016 (Public Law 114–201, 130 Stat. 782). The HOTMA statute consists of 14 sections of law that affect the Public Housing and Section 8 rental assistance programs. Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews. Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs. Section 104 sets maximum asset limits for Public Housing and Section 8 applicants and participants. Notice PIH 2023-27, which provides implementation guidance on Sections 102 and 104 of (income and assets regulations), established that while the HOTMA Final Rule's effective date is January 1, 2024, PHAs would establish a compliance date as early as January 1, 2024, but no later than January 1, 2025. On February 23, 2024 Principal Deputy Assistant Secretary Richard Monocchio sent a letter to PHAs and noted that compliance with the final HOTMA rule requires access to Housing Information Portal and that Inventory Management System/PIH Information Center (IMS/PIC) only reflects pre-HOTMA requirements, which means that PHAs cannot implement the income and asset requirements in Sections 102 and 104 of HOTMA without having access to the revised HUD-50058 in HIP. HUD will be providing additional time for PHAs to comply beyond January 1, 2025.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.872 PUBLIC HOUSING CAPITAL FUND****I. PROGRAM OBJECTIVES**

The primary objective of the Capital Fund Program (CFP) is to make assistance available to public housing agencies (PHAs) to carry out capital and management improvement activities. The CFP can also be used for demolition, resident relocation, resident economic development, security, financing costs, and homeownership. The CFP is the major source of funding made available by HUD to PHAs for their capital activities, including modernization and development of public housing.

The objectives of modernization activities are the repair/replacement of aging building systems and the improvement of the physical condition of existing public housing developments, including the redesign, reconstruction, addition, and reconfiguration of public housing sites, buildings, facilities and/or related appurtenances or improvements (including accessibility improvements).

The objectives of management improvement activities are to upgrade the operation of public housing developments, sustain physical improvements at those developments, or correct management deficiencies.

The objective of development activities is to provide PHAs with the opportunity to replace, build, or acquire existing units to house low-income families, including costs for planning, financing, land acquisition, demolition, and construction. PHAs are able to build or acquire units up to the Faircloth limits. The Faircloth limits for PHAs are updated annually and posted on the Office of Capital Improvements website here:

[Office of Capital Improvements | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/sites/dfiles/PIH/documents/Faircloth%20List_10-15-23_FINAL2.xlsx)

The current Faircloth limits for PHAs are posted here:

https://www.hud.gov/sites/dfiles/PIH/documents/Faircloth%20List_10-15-23_FINAL2.xlsx

II. PROGRAM PROCEDURES**1. Overview**

The CFP awards formula grants and several set aside specialty grants. CFP formula grants account for over 95 percent of CFP annual awards. CFP formula grants are made available to all PHAs that administer public housing units, based on a complex formula, which takes into account a number of variables related to unit characteristics and, ultimately, multiplies a per-unit amount by the number of units in the PHA. PHAs can use formula grants for any eligible Capital Fund activity.

The CFP also awards several set-aside specialty grants including Emergency/Disaster, Emergency/Disaster-Safety and Security, Emergency/Disaster-Carbon Monoxide, Housing-

Related Hazards, and Lead- Based Paint grants. The CFP also contains the Capital Fund Financing Program (CFFP), and this financing program is described below.

For Emergency/Disaster grants, Congress has set aside an annual average of \$20 million within the Capital Fund account to assist PHAs that have incurred damage to their public housing units as a result of an emergency or non-presidentially declared natural disaster. PHAs submit an application for this funding. The funding is allocated based on the order in which the Department of Housing and Urban Development (HUD) receives approvable applications.

For Emergency/Disaster - Safety and Security grants, Congress has set aside \$10 million within the Capital Fund account to support PHAs as they address the safety of public housing residents. These grants support PHAs as they address the safety of public housing residents. These grants may be used to install, repair, or replace capital needs items including security systems/surveillance cameras, fencing, lighting systems, emergency alarm systems, window bars, deadbolt locks and doors. PHAs submit an application for this funding. The funding is allocated based on a lottery in which the Department of Housing and Urban Development (HUD) reviews approvable applications and enters the approvable applications in the lottery.

For Emergency/Disaster - Safety and Security Carbon Monoxide grants, the Department has set aside of \$10 million for the Safety and Security program. These grants support PHAs as they address the safety of public housing residents. These grants may be used to install carbon monoxide detectors in public housing. PHAs submit a competitive application for this funding. The funding is allocated based on application score.

Note that Lead-Based Paint and Housing-Related Hazards grants are covered under the Part 4 program section for Assistance Listing 14.888.

For the Capital Fund Financing Program (CFFP), HUD has permitted PHAs to borrow funding secured to a portion of future Capital Fund grants under the CFFP. PHAs must obtain HUD's permission prior to borrowing funds securitized by any public housing asset (including real property, other PHA owned property purchased with federal grant funds, and CFP grant funds themselves). HUD reviews each transaction to ensure that PHAs will not be overcommitted to payment of debt service to the detriment of the public housing stock/program, for the reasonableness of the terms of the transaction, and to mitigate risk of default. CFFP transactions continue to be underwritten with the current portfolio of approximately \$5 billion impacting close to 300 PHAs nationwide.

2. Subprograms/Program Elements

Prior to submitting the 5-Year Action Plan to HUD for review and approval, a PHA must annually conduct a public hearing and consult with the Resident Advisory Board (RAB) of the PHA to discuss the Capital Fund submission. The PHA may elect to conduct a separate annual public hearing in order to solicit public comments or to hold the annual public hearing at the same time as the hearing for the Annual PHA Plan, the 5-Year Plan, or the required annual hearing for qualified public housing authorities. The hearing must be

conducted at a location that is convenient to the residents served by the PHA.

A PHA must have an approved 5-Year Action Plan (HUD 50075.2 (OMB No. 2577-0226)) and Document package in EPIC to have access to Capital Funds. Once a PHA submits an Annual Statement/Budget in EPIC (HUD 50075.1), HUD spreads Capital Funds to all of the appropriate budget line items (BLIs) in the Line of Credit Control System (LOCCS) in accordance with the information contained in the 5-Year Action Plan (HUD 50075.2). A PHA may then drawdown funds as needed on a three-day turnaround basis to pay for approved work activities. The three-day turnaround means the PHA expends the funds drawn down from LOCCS within three business days.

In planning its modernization projects, the PHA is required to consult with residents and local government officials. After grant award, the PHA may select an architect or engineer through competitive negotiation to develop the plans and specifications for the construction work. Construction work as well as management improvements may be carried out through contract labor (competitively procured) or the PHA's own work force (force account). The PHA or its architect monitors the work in progress for compliance with contract requirements and acceptable work quality and submits periodic progress reports to HUD.

PHAs may develop public housing in accordance with 24 CFR section 905.600. For development projects, the PHA is responsible for negotiating a local cooperation agreement that establishes what services the locality will provide to the public housing project, for project planning, and for submitting a development proposal (and a site acquisition proposal, if applicable). This includes selecting sites or properties to be acquired, contracting with builders to construct or rehabilitate housing, contracting with developers for the purchase of completed (new or rehabilitated) housing, and purchasing existing housing that may require repairs. In addition, as a developer, the PHA is responsible for selecting and contracting with other parties (e.g., architects and engineers) and for expediting and coordinating the preparation of required HUD submissions.

3. Other

Financial Reporting

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due two months after the PHA's fiscal year end (FYE) and the audited financial statement is due nine months after its FYE (24 CFR section 5.801). The financial statement must include the financial activities of this program.

PHAs submit actual modernization cost certificates (AMCC) form *HUD-53001* and actual development cost certificates (ADCC) form *HUD -52427* with the local HUD Field Office for approval when they complete a modernization or development project. The AMCC or ADCC is required for CFP grant closeout.

Source of Governing Requirements

The programs are authorized under 42 USC 1437g. The program implementing regulation is 24 CFR Part 905.

Availability of Other Program Information

HUD posts guidance on the CFP to its Office of Capital Improvements Home Page that provides grantees with information on timelines, budgets, financial instructions, and other program guidance. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) website.

Here are some helpful links:

Office of Capital Improvements web page:

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund

REAC web pages:

https://www.hud.gov/program_offices/public_indian_housing/reac

https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodpha

https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodphasintrule

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. Activities Allowed

- a. For Capital Fund formula grants and grants from the set-aside for emergencies and natural disasters, allowed Capital Fund activities include the following: (1) developing, financing, or modernizing public housing; (2) vacancy reduction; (3) deferred maintenance; (4) replacement of obsolete utility systems and dwelling equipment; (5) code compliance; (6) management improvements; (7) demolition and replacement; (8) resident relocation; (9) resident economic empowerment/economic self-sufficiency; and (10) security; and (11) homeownership (42 USC 1437g(d): Annual contributions for operation of low-income housing ([house.gov](https://www.hud.gov)); 24 CFR section 905.200). A PHA with fewer than 250 units that is not designated as troubled under the Public Housing Assessment System (PHAS) may use up to 100 percent of its annual Capital Fund grant for activities that are eligible under the Operating Fund at 24 CFR part 990 (see Assistance Listing 14.850, III.A, “Activities Allowed or Unallowed”), except that the PHA must have determined that there are no debt service payments, significant Capital Fund needs, or emergency needs that must be met prior to transferring 100 percent of its funds to operating expenses 24 CFR section 905.314(l).
- b. For Capital Fund Replacement Housing Factor (RHF) grants, activities are limited to the development of replacement housing (24 CFR section 905.400(i)).

2. Activities Unallowed

A PHA must not incur any cost in excess of the total HUD-approved PHA - Annual Statement/Budget. Budget revisions must be submitted in EPIC for deviations from the originally approved program. A PHA must not incur any cost on behalf of any development that is not covered by its current approved 5-Year Action Plan (24 CFR section 905.200(a)).

The ineligible activities and costs for the Capital Fund Program are located at 24 CFR 905.202 (<https://www.ecfr.gov/current/title-24/subtitle-B/chapter-IX/part-905>). The following list describes ineligible activities and costs for the Capital Fund Program:

- a. Not Related to Public Housing. PHAs may not spend Capital Funds on costs that are not associated with a Public Housing Development or Modernization Project.
- b. Not in 5-Year Action Plan. PHAs may not spend Capital Funds on activities and costs that are not included in the PHA's 5-Year Action Plan (Note: Emergency Work or Non-Presidentially Declared Natural Disaster assistance that is not identified in the 5-Year Action Plan is an eligible cost).
- c. Not Modest Design. PHAs may not spend Capital Funds on improvements or purchases that are not considered modest in design and cost because they include amenities, materials, and design in excess of what is customary for the locality, as determined by the PHA and field office. These include, but are not limited to, granite counter tops, dishwashers, microwaves, swimming pools, saunas, whirlpool baths, and hot tubs. Modernization and development activities require Field Office review and approval of the PHA's annual and five-year plans detailing the activities. These activities must be within the total development costs (TDC) limits. The TDC limits for PHAs are updated annually and posted on the Office of Capital Improvements website here: [Office of Capital Improvements | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#). The current TDC limits are posted here: [2023 Units TDC Limits.pdf \(hud.gov\)](#)
- d. Not Eligible based on OMB Regulatory and Circular Guidance. PHAs may not spend Capital Funds on any costs not authorized in 2 CFR Part 200 Subpart E (formerly OMB Circular A-87 and 2 CFR Part 225), including indirect Administrative Costs, indemnification, and capitalizing reserves.
- e. Operating Assistance. PHAs may not spend Capital Funds on Public Housing operating assistance, except as provided through transfers to BLI 1406.
- f. Benefitting Other Programs. Eligible costs that exceed the amount directly attributable to the public housing units when the physical or management improvements, including salaries and employee benefits and contributions, will benefit programs other than public housing, such as Section 8 Housing Choice Voucher, or local revitalization programs. For example, the annual audit covers all of the PHA's activities such as the Operating Fund, Capital Fund, Housing Choice Vouchers, and non- federally funded activities. Only a pro-rata share of the Audit cost attributable to the Capital Fund may be charged to the Capital Fund.

- g. Security Services. Ongoing security services, including:
 - (1) Contracts with local police departments including above baseline police services except where permitted by HUD FY Appropriations Acts;
 - (2) The salaries and benefits for security guards, patrols, or police officers (full-time, part-time, or after hours); and
 - (3) The purchase or leasing of vehicles for security personnel.
- h. Supportive Services. The provision of supportive services to public housing residents, including:
 - (1) The salaries and benefits or contract costs for service providers, including resident coordinators, case managers, social workers, nurses, chore service providers, supplemental police or probation services providers, and tutors;
 - (2) Health and wellness activities;
 - (3) Educational enrichment and recreational activities, including social organizations; and
 - (4) Job development and placement services, including the cost of professional licenses, certifications and exams, and transportation assistance.
- i. Duplicate Funding. An otherwise eligible cost that is funded by another source and would result in duplicate funding; and
- j. Other Activities. Any other activities and costs that HUD may determine are ineligible on a case-by-case basis, consistent with the 1937 Act and its regulations.

B. Allowable Costs/Cost Principles

Allocation of Costs with Other Programs. Where the physical or management improvement costs will benefit programs other than public housing, such as the Housing Choice Voucher program or local revitalization programs, Capital Fund-eligible costs are limited to the amount directly attributable to the public housing program. The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the Executive Schedule 1 (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance

has been issued in [PIH Notice 2016-14](#), “Guidance on Public Housing Agency (PHA) salary restriction in HUD’s annual appropriations.” The Executive Pay Schedule may be obtained at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/EX.pdf> (24 CFR section 1006.370(b)).

1. Insurance Proceeds

PHAs are required to use insurance proceeds to promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project, except when a written approval of HUD instructs a PHA to do otherwise. Unspent insurance proceeds are normally recorded as cash-restricted modernization and development, FDS line 112, up to the amount of the repair (Section 13 of Part A of ACC).

Emergency and Natural Disaster Reserve – In cases of unforeseeable and unpreventable emergencies that include damages to the physical structure of the housing stock, PHAs may request funding from the Emergency and Natural Disaster Reserve of the Capital Fund, an appropriated set-aside of the Capital Fund. Such grants would have a “D” or an “E” as the fifth character in the grant number. The approval for these grants requires that the PHA pay first from any insurance proceeds, but while the PHA’s warranty or insurance policy may cover the damages fully or partially, it usually takes time for the PHA to receive the insurance proceeds. These grant funds may be used to cover any costs not met with insurance proceeds, but any remaining funds must be returned to HUD. If these grant funds are used before insurance proceeds are received, the PHA must pay back the Emergency and Natural Disaster Reserve.

2. Debt Secured to Public Housing Asset

PHAs are only permitted to borrow funds secured to public housing assets (including real property, other PHA owned property purchased with federal grant funds and CFP grant funds themselves) if they have obtained HUD’s authorization prior to creating a security interest in public housing assets. This requirement does not prohibit a PHA from borrowing funds that are unsecured or that are not secured to public housing assets. In granting the required authorization, HUD will issue both an approval letter as well as a CFFP ACC Amendment (42 USC 1437z-2).

C. Cash Management

Congress provides funding for the Public Housing programs through annual appropriation acts. HUD then allocates and awards funding to PHAs in accordance with the appropriations acts. PHAs that have public housing units under an Annual Contributions Contract (ACC,) as described in [24 CFR 5.403](#) are subject to [24 CFR Part 905](#) and [24 CFR Part 990](#). PHAs are to comply with all HUD and Treasury fiscal requirements.

[2 CFR 200.305 for Federal Payments](#) and [24 CFR 905.310 for Disbursements from HUD](#) establish the cash management procedures for controlled disbursement of federal funds. [2 CFR 200.305](#) requires PHAs to minimize the time federal funds are drawn down to

expenditure. The Capital Fund Program provides guidelines of three business days from draw down to expenditure to minimize the interest accrued by the PHA. [24 CFR 905.310](#) states the PHA shall initiate a fund requisition from HUD only when funds are due and payable, unless HUD approves another payment schedule as authorized by [2 CFR 200.305](#).

H. Period of Performance

1. Obligations

Unless an extension is approved by HUD, a PHA must obligate at least 90 percent of each Capital Fund grant, including formula grants, non-accumulating RHF, natural disaster, and lead-based paint grants within 24 months of the funds becoming available to the PHA for obligation. For emergency grants, safety and security grants and safety and security-carbon monoxide grants, the PHA must obligate at least 90 percent within twelve months of the funds becoming available. The funds become available when HUD executes the Annual Contributions Contract (ACC) Amendment (24 CFR section 905.306).

Obligation means a binding agreement for work or financing that will result in outlays, immediately or in the future. All obligations must be incorporated within the CFP 5-Year Action Plan that has been approved by the PHA Board of Commissioners and HUD. This includes funds obligated by the PHA for work to be performed by contract labor (i.e., contract award), or by force account labor (i.e., work actually started by PHA employees). Capital Funds identified in the PHA's CFP 5-Year Action Plan to be transferred to operations are obligated by the PHA once the funds have been budgeted and drawn down by the PHA. Once these funds are drawn down they are subject to the requirements of 24 CFR part 990.

The date of the contract signing is the obligation date. If the parties sign the contract at different times, the date of the last signature is the obligation date. In some instances, a purchase order would constitute an obligation (e.g., large items such as stoves or refrigerators). All obligations should reflect work items detailed in the approved 5-year action plan.

2. Expenditures

For Capital Fund formula, RHF, natural disaster, and lead-based paint grants, unless HUD approves an extension, a PHA must expend all grant funds no later than 48 months after HUD executes the ACC Amendment (24 CFR section 905.306(f)). However, for emergency grants, safety and security grants and safety and security-carbon monoxide grants, a PHA must expend all grant funds no later than 24 months after HUD executes the ACC Amendment if such a requirement is contained in the ACC Amendment.

A PHA must also expend 100% percent of the authorized amount of a Capital Fund grant within 48 months of the date that funds are made available, or the obligation start date. (24 CFR section 905.306).

3. Capital Funds for Operating Costs

Capital Funds transferred to operations (BLI 1406) are not considered obligated until the PHA has budgeted and drawn down the funds. To meet this requirement, the funds must be budgeted in line BLI 1406 (Operations) and the PHA must submit the voucher request in LOCCS. The PHA's reported obligation amount in LOCCS must be the same amount in the PHA's accounting system since the date of the voucher request in LOCCS is the point of obligation for funds in BLI 1406. The voucher request date must occur before those funds are reported as obligated in LOCCS under the Obligation & Expenditure tab (24 CFR section 905.314(l)).

L. Reporting:

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement*- Not applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not applicable
- c. *SF-425, Federal Financial Report*- Not applicable
- d. *HUD-53001, Actual Modernization Cost Certificate (AMCC) Capital Fund Program* (OMB No. 2577-0157)

Report authority: 24 CFR 905.324 Data Reporting Requirements

For modernization projects, the PHA shall submit the AMCC within 90 days after Expenditure End Date. To initiate the closeout process, the PHA shall submit the AMCC which details actual costs incurred between the DOFA date and the completion of the modernization project.

Key line items: The following line items contain critical information

1. **Line 1B, Funds Disbursed** - For the identified grant, enter the total funds disbursed by HUD. This amount may never exceed the amount on line 1A.
2. **Line 1E, Excess of Funds Disbursed (B minus C)** - For the identified grant, enter the excess of funds disbursed by subtracting line 1C from line 1B; this is the amount to be remitted by the PHA to HUD. If line 1C is greater than line 1B, enter the figure in brackets; this is the amount of funds owed by HUD to the PHA.

2. Performance Reporting

Report Title: HUD 50075.1, Annual Statement Performance and Evaluation Report

OMB PRA Number: (OMB No. 2577-0157)

Report Authority: 24 CFR 905.324 Data Reporting Requirements

Reporting period/submission date/s: Initial estimated report submitted prior to grant being awarded. Final Report submitted within 90 days of the expenditure end date.

Link to report and report instructions:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/50075.1.pdf>

Key Line Items - The following line items contain critical information:

Line 20 Amount of Annual Grant. After initial approval by HUD, the sum of lines 2 through 19 in the Revised Total Estimated Cost column may not exceed the annual grant amount.

3. Special Reporting:

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act:

Not Applicable

IV. OTHER INFORMATION

The Moving to Work (MTW) demonstration program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD. An MTW agency may combine funds from the following three programs:

1. Section 8 Housing Choice Vouchers (Assistance Listing 14.871)
2. Public Housing Capital Fund (Assistance Listing 14.872)
3. Public and Indian Housing (Assistance Listing 14.850)

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine which funds are included in the MTW Agreement. If CFP funds are transferred out of CFP, pursuant to an MTW Agreement, they are subject to the requirements of the MTW Agreement and should not be included in the audit universe and total expenditures for CFP when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as CFP expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the CFP account pursuant to an MTW Agreement, all of the CFP funds would then be considered MTW funds.

Where the MTW agency does not transfer all the funds from the CFP into the MTW account or another of the authorized program, those funds would be considered, and audited, under the CFP.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.873 NATIVE HAWAIIAN HOUSING BLOCK GRANT****I. PROGRAM OBJECTIVES**

The primary objectives of the Native Hawaiian Housing Block Grant (NHHBG) program is to (1) assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families; (2) ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families; (3) coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State, and local activities to further economic and community development; (4) plan for and integrate infrastructure resources on the Hawaiian home lands with housing development; (5) promote the development of private capital markets; and (6) allow the private capital markets to operate and grow, thereby benefiting Native Hawaiian communities. (25 USC 4228(a)(1)).

II. PROGRAM PROCEDURES

The U.S. Department of Housing and Urban Development (HUD) allocates the funds to the Department of Hawaiian Home Lands (DHHL), provided DHHL complies with the requirements of Section 802 of the Native American Housing Assistance and Self-Determination Act (NAHASDA). To access funds, DHHL must submit a Native Hawaiian Housing Plan (NHHP) to HUD, and HUD must find that the NHHP meets the requirements of NAHASDA. NHHBG funds may only be used for eligible activities that are consistent with the DHHL's NHHP (24 CFR section 1006.201).

Source of Governing Requirements

This program is authorized by [NAHASDA, codified at 25 USC 4221 through 4243](#). The implementing regulations are in [24 CFR Part 1006](#).

Availability of Other Program Information

Additional information on the NHHBG program is available at https://www.hud.gov/program_offices/public_indian_housing/ih/codetalk/onap/nhhbgprogram.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the Federal program at the auditee. For each such compliance

requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	N	Y	Y	N	Y	N	Y

A. Activities Allowed or Unallowed

NHHBG funds (including program income generated by activities carried out with grant funds) may only be used for the following NAHASDA-eligible activities:

1. *Development* – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities (25 USC 4229(b)(1)).
2. *Housing Services* – The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or home ownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted by this program (25 USC 4229(b)(2)).
3. *Housing Management Services* – The provision of management services for affordable housing, including preparation of work specifications; loan processing, inspections; tenant selection; management of tenant-based rental assistance; and management of affordable housing projects (25 USC 4229(b)(3)).
4. *Crime Prevention and Safety Activities* – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable

housing from crime (25 USC 4229(b)(4)).

5. *Model Activities* – Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by the secretary of HUD as appropriate for such purpose (25 USC 4229(b)(5)).

B. Allowable Costs/Cost Principles

1. All items of cost listed in 2 CFR Part 200, Subpart E that require prior Federal agency approval are allowable without prior approval, except for the following:
 - a. Depreciation methods for fixed assets shall not be changed without the approval of the federal cognizant agency.
 - b. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require prior HUD approval.
 - c. Organization costs require prior HUD approval.
2. Fines, penalties, damages, and other settlements are unallowable.
3. No person providing consultant services in an employer-employee type of relationship may receive more than a reasonable rate of compensation. Such compensation must not exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule (currently \$191,900). The Executive Pay Schedule may be obtained at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/> (24 CFR section 1006.370(b)).

E. Eligibility

1. Eligibility for Individuals

- a. The Director of DHHL shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA (25 USC 4230(d)).
- b. The following families are eligible for affordable housing activities:
 - (1) Low-income Native Hawaiian families eligible to reside on the Hawaiian Home Lands (24 CFR section 1006.301(a)).
 - (2) When approved by HUD, a non-low-income Native Hawaiian family may receive assistance for homeownership activities to address a need for housing that cannot be reasonably met without

that assistance (24 CFR section 1006.301(b)).

- c. A non-low-income and non-Native Hawaiian family may receive housing or NHHBG assistance if the DHHL documents that the family's housing needs cannot be reasonably met without such assistance, and the presence of that family is essential to the well-being of Native Hawaiian families (24 CFR section 1006.301(c)).

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

H. Period of Performance

Grant funds received prior to fiscal year (FY) 2015 may be used until expended. For NHHBG grant funds received in FY 2015 and subsequent fiscal years, all funds must be expended by September 30 of the 9th year of the appropriation. For example, FY 2015 funds must be expended by September 30, 2024 (Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2738, December 16, 2014, and subsequent appropriations).

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Applicable. Be advised that, pursuant to [2 CFR section 200.328](#), [Notice PIH 2022-15](#) was issued on June 8, 2022, advising grantees that Office of Native American Programs (ONAP) reduced the frequency for NHHBG grant recipients submitting SF-425 forms from quarterly to annually.

2. Performance Reporting

Report Title: *HUD-50090, Native Hawaiian Housing Plan/Annual Performance Report*

OMB PRA Number: Exempt from OMB Approval 5 CFR section 1320.3(c)(4)

Report Authority: 24 CFR section 1006.410

Reporting period/submission date/s: Annual Performance Report section of the report submitted by the 90th day after DHHL's program year.

Link to report and report instructions:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/50090.pdf>

Key Line Items – The following line items contain critical information. The data reported by the recipient in response to each line item is documented in the recipient's file.

1. Section 3, Line 1.9 – *Planned and Actual Outputs for 12-month Fiscal Year*
 2. Section 5, Line 1 – *Sources of Funds* – columns G and K
 3. Section 5, Line 2 – *Uses of Funds* – columns O through Q
 4. Section 9, Line 1 – *Inspections of Units* – column B
 5. Section 12, Lines 1 and 2 – *Jobs Supported by NAHASDA* – NHHBG Assistance Lines 1 and 2; Section of the HUD Act of 1968 Reporting Requirements Lines 1, 2, and 3
3. **Special Reporting**
- Not Applicable
4. **Special Reporting for Federal Funding Accountability and Transparency Act**
- See Part 3. L for audit guidance.

N. **Special Tests and Provisions**

1. **Wage Rate Requirements**

Compliance Requirements For NHHBG funds, contracts and agreements for assistance, sale, or lease under this part must require prevailing wage rates under the Wage Rate Requirements to be paid to laborers and mechanics employed in the development of affordable housing. When NHHBG assistance is only used to assist homebuyers to acquire single family housing, the Wage Rate Requirements apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that NHHBG assistance will be used to assist homebuyers to buy the housing (25 USC 4225(b); 24 CFR section 1006.345(a)).

See Part 4, 20.001, Wage Rate Requirements Cross-Cutting Section.

2. Environmental Review

Compliance Requirements Program regulations provide that DHHL will assume responsibilities for environmental review and decision making under the requirements of 24 CFR Part 58. Funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the request for release of funds and related certification (24 CFR Section 1006.350). Additional information on environmental review requirements can be found at <https://www.hudexchange.info/programs/environmental-review/>.

Audit Objectives. Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of the environmental review process.

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and verify that:

Environmental Reviews

- a. Environmental determinations were made for each project or activity.
- b. Environmental determinations were supported by an environmental review, including supporting documentation for each applicable law and authority.
- c. For any project where a Request for Release of Funds (RROF) and environmental certification was not submitted, the environmental review includes a written determination that the project or activity is covered by [PIH Notice 2024-24 Programmatic Part 50](#), or is exempt under a criterion of 24 CFR section 58.34 or is categorically excluded under a criterion of 24 CFR section 58.35(b), and meets the conditions specified for such exemption or categorical exclusion, with supporting documentation.

Request for Releases of Funds

- a. Examine HUD's approval of the RROF and environmental certification and note receipt dates.
- b. Review the expenditure and related records and determine the dates the funds were obligated or expended.
- c. Determine those funds were obligated or expended subsequent to RROF and environmental certification approval by HUD .

3. Section 3 of the Housing and Urban and Development Act of 1968.

Compliance Requirements Section 3 is a provision of the Housing and Urban and Development Act of 1968 and is found at 12 U.S.C. 1701u. It requires that recipients of certain HUD financial assistance including NHHBG, see 24 CFR section 1006.375(e), to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. Grantees must establish and maintain (or ensure that a subrecipient, contractor, or subcontractor maintains) documentation to demonstrate that workers on Section 3 projects meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period. This includes requiring written reports from developers or contractors summarizing the totals for labor hours worked, including Section 3 worker and Targeted Section 3 worker labor hours, and documentation from employees or employers certifying that the employee (the procedure was done on the same sample that procedures a-c above it were coming from) met the requirements to receive Section 3 worker status.

Audit Objectives Determine whether the Grantee is following its own Section 3 policy and procedures by collecting and maintaining adequate records demonstrating Section 3 compliance.

Suggested Audit Procedures

- a. Review the grantee's Section 3 policy and procedures.
- b. Review a sample of contracts/agreements for housing rehabilitation, housing construction, or other public construction projects, to determine if the grantee notified contractors of requirements to maintain or ensure that the contractor, or subcontractor, maintains adequate records demonstrating Section 3 compliance.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.881 MOVING TO WORK DEMONSTRATION PROGRAM****I. PROGRAM OBJECTIVES**

The Moving to Work (MTW) Demonstration program offers public housing authorities (PHAs) the opportunity to design and test innovative, locally designed housing and self-sufficiency strategies for low-, very-low, and extremely low-income families by allowing exemptions from existing public housing and tenant-based Housing Choice Voucher (HCV) rules. Additionally, the program provides PHAs the flexibility to apply funding flexibility among three core funding program streams - public housing Operating Fund, public housing Capital Fund, and HCV funds (both Housing Assistance Payments and HCV Administrative Fees) hereinafter referred to as “MTW Funding.”

The purpose of the MTW Demonstration program is to give PHAs and United States Department of Housing and Urban Development (HUD) the flexibility to design and test various approaches for providing and administering housing assistance that accomplish the statutory objectives to

- a. Reduce cost and achieve greater costs effectiveness in federal expenditures;
- b. Give incentives to families with children where the head of household is working, is seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and
- c. Increase housing choices for low-income families.

II. PROGRAM PROCEDURES**A. Overview**

The MTW Demonstration program is authorized by Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (see “Source of Governing Requirements”).

Initially, 30 PHAs were permitted to participate in the demonstration program and since then Congress has authorized nine additional agencies. The Consolidated Appropriations Act of 2016 authorized HUD to add an additional 100 new agencies to the demonstration. All one hundred (100) new Expansion PHAs have been selected. The agencies authorized to conduct MTW programs are required to establish a reasonable rent policy designed to encourage employment and self-sufficiency by participating families, such as by excluding some (or all of) a family’s earned income for purposes of determining rent.

The MTW Demonstration program does not provide any additional funding to PHAs. Funding originates from the following HUD programs:

- a. Section 8, Housing Choice Vouchers (Assistance Listing 14.871)
- b. Section 9, Public and Indian Housing (Assistance Listing 14.850)
- c. Section 9, Public Housing Capital Fund (Assistance Listing 14.872)

The authorized funding is stated in Attachment A of the Standard MTW Agreement for existing MTW agencies designated under Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. New MTW agencies designated under the Consolidated Appropriations Act of 2016, and to any previously designated MTW agency that elects to operate under the terms of the Operations Notice, will be funded according to the Operations Notice.

B. Statutory Requirements for MTW Agencies

All PHAs participating in the MTW Demonstration program must meet the following statutory requirements:

1. Ensure that at least 75 percent of the families assisted by the PHA under the demonstration will be very low-income families (i.e., families with incomes of less than 50 percent of area median income) (Section 204(c)(3)(A) of Pub. L. No. 104-134 (42 USC 1437f (note)));
2. Establish a reasonable rent policy that is designed to encourage employment and self-sufficiency on the part of participating families (Section 204(c)(3)(B) of Pub. L. No. 104-134 (42 USC 1437f (note)));
3. Continue to assist substantially the same total number of low-income families under the demonstration as would have been served had the PHA not participated in MTW Section 204(c)(3)(C) of Pub. L. No. 104-134 (42 USC 1437f (note)));
4. Maintain under the demonstration a comparable mix of families, by family size, as would have been assisted had the PHA not participated in MTW (Section 204(c)(3)(D) of Pub. L. No. 104-134 (42 USC 1437f (note))); and
5. Ensure that housing assisted under the demonstration meets housing quality standards established or approved by HUD (Section 204(c)(3)(E) of Pub. L. No. 104-134 (42 USC 1437f (note))).

In addition, the following sections of the 1937 Housing Act continue to apply:

6. The term “low-income families” is defined by reference to Section 3(b)(2) of the 1937 Housing Act (42 USC 1437a(b)(2)) (Section 204(b) of Pub. L. No. 104-134 (42 USC 1437f (note)));
7. Section 18 of the 1937 Housing Act (42 USC 1437p), which governs demolition and disposition, applies to public housing notwithstanding any use of the housing under MTW (Section 204(e)(1) of Pub. L. No. 104-134 (42 USC 1437f (note))); and

8. Section 12 of the 1937 Housing Act (42 USC 1437j), which governs wage rates and the community service requirement, applies to housing assisted under MTW, other than housing assisted solely due to occupancy by families receiving tenant-based assistance (Section 204(e)(2) of Pub. L. No. 104-134 (42 USC 1437f (note))).

C. The Moving to Work Agreement
The Standard MTW Agreement, Attachments and Amendments

A Standard MTW Agreement was developed in 2008 by HUD in consultation with existing MTW Agencies. The [Standard MTW Agreement](#), initially set up for a ten-year period from 2008–2018, was extended to 2028. Congress recently extended the Standard MTW Agreement for another 10 years to 2038 ([Section 241 of the FY2024 HUD Appropriations Act](#)). It consists of the following:

1. *Attachment A* of the Standard MTW Agreement contains the calculation of subsidies, customized for each individual PHA.
2. *Attachment B* of the Standard MTW Agreement contains standard reporting requirements that apply to all MTW Agencies. The Standard MTW Agreement provides a mechanism, through the submission of MTW annual plans and Reports, for HUD to review and approve new MTW activities and for PHAs to share their anticipated and actual activity outcome data with HUD and the PHA’s stakeholders. Activities approved in the Annual MTW Plan must be reported in the ongoing activities section as stipulated in Attachment B:

a. Annual MTW Plans

The PHA will prepare and submit an Annual MTW Plan, in accordance with Attachment B, or equivalent HUD form. The Annual MTW Plan is due no later than 75 days prior to the start of the PHA’s fiscal year. HUD will respond to the PHA within 75 days after receiving the Annual MTW Plan. If HUD does not respond to the PHA within 75 days after an on-time receipt of the PHA’s Annual MTW Plan, the PHA’s Annual MTW Plan is approved and the PHA is authorized to implement that Plan. If HUD does not receive the PHA’s Annual MTW Plan 75 days before the beginning of the PHA’s fiscal year, the PHA’s Annual MTW Plan is not approved until it is submitted and HUD responds.

b. Annual MTW Reports

The PHA will prepare Annual MTW Reports, including the required information in [HUD Form 50900](#), which will provide information on the status and outcomes of the activities approved in the Annual MTW Plan (see III.L.2.c, “Reporting – Performance Reporting”).

Attachment C of the Standard MTW Agreement contains a standard statement of authorizations that all MTW PHAs may carry out under the

MTW Demonstration. The authorizations in Attachment C include acceptable uses of MTW funds and administrative activities related to both Public Housing (Assistance Listing 14.850) and Section 8 Housing Choice Vouchers (Assistance Listing 14.871), authorizations related to Public Housing only Housing only, authorizations related to Section 8 Housing Choice Vouchers only, and authorizations related to family self-sufficiency.

3. *Attachment D of the Standard MTW Agreement* contains a statement of agency-specific authorizations that are customized for each individual PHA. This may include, but is not limited to, legacy and community-specific authorizations, authorizations related to both Public Housing and Section 8 Housing Choice Vouchers, authorizations related to public housing only and authorizations related to Section 8 Housing Choice Vouchers only, acceptable uses of MTW funds, asset management, and administrative issues.
4. The *First Amendment to the Standard MTW Agreement* deletes Section I.E. of the Standard MTW Agreement. Section I.E. of the Standard MTW Agreement states that “Notwithstanding any provision set forth in this Restated Agreement, including without limitations, the term of years and all extensions, renewals and options, and the terms set forth herein otherwise, any federal law that amends, modifies, or changes the aforementioned term of years and/or other terms of this Restated Agreement shall supersede this Restated Agreement such that the provisions of the law shall apply as set forth in the law.” The First Amendment replaces Section II.F of the Standard MTW Agreement and inserts new language regarding local asset management. The First Amendment also addresses financial reporting requirements and other reporting requirements pertaining to the Annual MTW Plan and Report under Attachment B. PHAs are not required to sign the First Amendment.

D. The Operations Notice for the Expansion of the MTW Demonstration Program

The [MTW Operations Notice](#) was developed pursuant to the Consolidated Appropriations Act of 2016. The MTW Operations Notice establishes requirements for the implementation and continued operation of the MTW demonstration program, for the term of the MTW Annual Contributions Contracts (“the ACC”) amendment once an agency is designated. The appendices to the Operations Notice provide agencies specific information as related to the requirements of the MTW demonstration. The appendices consist of the following:

1. *Waivers* and associated activities afford MTW agencies the opportunity to use their MTW authority to pursue locally driven policies, procedures, and programs in order to further the goals of the demonstration. When implementing MTW waivers through MTW activities, MTW agencies

must ensure assisted families are made aware of the impacts the activity(ies) may have on their tenancy. MTW agencies may pursue waivers under the four categories: MTW Waivers, Safe Harbor Waivers, Agency-Specific Waivers, and Cohort-Specific Waivers.

2. An *MTW Supplement* is a submission by MTW agencies as part of their Annual PHA Plan. MTW agencies must submit to HUD the Annual PHA Plan, including any required attachments, and the MTW Supplement no later than 75 days prior to the start of the agency's fiscal year. Per the MTW Operations Notice, while MTW agencies that are qualified under 24 CFR 903.3(c) are not required to submit the Annual PHA Plan, they are required to submit the MTW Supplement on an annual basis.
3. The *MTW ACC Amendment* is an amendment to the ACC between the PHA and HUD to designate the PHA as part of the MTW demonstration. The ACC amendment outlines the term of the demonstration for 20 years, and the requirements and covenants to follow the MTW operations notice, participate in a cohort study, and the PHA's exemptions from specific provisions of the Housing Act of 1937, the necessary transition plan for when a PHA leaves the demonstration. Additionally, it includes the conditions under which a PHA may be found in default of the MTW demonstration, and the remedies HUD may undertake, including the PHA's possible termination from the program.

E. Procedure for Budget Flexibility

PHAs in the MTW Demonstration program have flexibility in determining how to use federal funds. They are allowed to combine funds from the Public Housing Operating (Assistance Listing 14.850) and Capital Fund (Assistance Listing 14.772) Programs and the Housing Choice Voucher (Assistance Listing 14.871) tenant-based rental assistance program to meet the purposes of the demonstration if they have requested the use of *Authorization B.1 – Single Fund Budget with Full Flexibility* from Attachment C of the Standard MTW Agreement via an Annual MTW Plan that was approved by HUD.

Source of Governing Requirements

The MTW program is authorized by Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134, dated April 26, 1996, 110 Stat 1321-281)). The requirements in the Housing Act of 1937 listed above and the other statutes that apply to the three programs apply to MTW Agencies, including environmental requirements. In addition, the following sections of the Housing Act of 1937 apply: Section 3(b)(2) (42 USC 1437a(b)(2)); Section 12 (42 USC 1437j); and Section 18 (42 USC 1437p).

Availability of Other Program Information

Additional information regarding the Moving to Work Demonstration program is available on HUD's website at:

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw

The Office of Public and Indian Housing notices are available at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/regs.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

The authorizations in Attachment C of the Standard MTW Agreement and the Appendixes I and II of the MTW Operations Notice include acceptable uses of MTW funds and administrative activities related to both Public Housing (Assistance Listing 14.850) and Section 8 Housing Choice Vouchers (Assistance Listing 14.871), authorizations related to Public Housing only, authorizations related to Section 8 Housing Choice Vouchers only, and authorizations related to family self-sufficiency. Unless otherwise stated in Attachment D of the Standard MTW Agreement, the MTW Demonstration Program applies to all of the PHA’s public housing-assisted units (including PHA-owned properties and units comprising a part of mixed-income, mixed finance communities), tenant-based Section 8 voucher assistance, Section 8 project-based voucher assistance under Section 8(o) and Homeownership units developed using Section 8(y) voucher assistance.

Activities using the authorizations granted in Attachment C of the Standard MTW Agreement or Appendices I and II of the MTW Operations Notice must be included in the PHA's Annual MTW Plan in accordance with the Revised HUD Form 50900 or MTW Supplement to the PHA Plan, respectfully, and subsequently approved by HUD. HUD will review these activities in order to verify that they are within the MTW authorizations provided by HUD. All activities must be approved before the PHA can implement that activity. Lists of approved activities for the MTW agencies designated under the 1996 MTW Statute can be found in the Ongoing Activities Section of the PHA's HUD Form 50900, Annual MTW Plan and Annual MTW Report. Similarly, lists of approved activities for the MTW agencies designated, or those who have elected to come under the MTW Operations Notice, can be found in the MTW Supplement.

B. Allowable Costs/Cost Principles

The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the Executive Schedule (currently \$183,500) (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance has been issued in [PIH Notice 2016-14](#), "Guidance on Public Housing Agency (PHA) salary restriction in HUD's annual appropriations" http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices.

MTW agencies are authorized to use amounts received through the Public Housing Operating Fund, Capital Fund, and HCV Program flexibly. That is, MTW agencies can use these funding sources (Operating Fund, Capital Fund, and HCV) for MTW eligible expenses that might not be eligible under the original funding source. For instance, MTW agencies can use Operating Funds to issue new HCV vouchers. Implemented activities and use of MTW Funding flexibility under MTW is designed to meet one of three statutory objectives: achieving cost efficiencies, promoting self-sufficiency among residents, and/or increasing housing choice. It is the expectation that agencies exercise sound fiscal management to ensure the continuous operation of its agency and satisfaction of the MTW demonstration's statutory objectives.

For MTW agencies subject to the MTW Agreement, any implemented MTW activity must cite one or multiple Attachment C authorizations in the Standard MTW Agreement and be contained in an approved Annual MTW Plan. MTW agencies cannot implement any activities outside of the authorizations contained in the Standard MTW Agreement (including its attachments).

For MTW agencies subject to the MTW Operations Notice, any implemented MTW Waiver, Agency-Specific Waiver, Safe Harbor Waiver, and Cohort-Specific Waiver must be contained in an approved MTW Supplement to the PHA Plan.

C. Cash Management

Congress provides funding for the HCV and Public Housing programs through annual appropriation acts. HUD then allocates and awards funding to PHAs in accordance with the appropriations acts. PHAs participating in the MTW demonstration are subject to the financial

management requirements that apply to non-MTW agencies.

For those MTWs agencies administering the HCV program, [Notice PIH 2017-06](#) establishes the cash management procedures for controlled disbursement of federal funds. This includes, but is not limited to, the drawdown of Housing Assistance Payment (HAP) funds for landlord payments, and the drawdown of HAP funds for non-HAP purposes, such as payments for development contracts or other eligible MTW activities.

MTWs with public housing under an ACC are subject to 24 CFR Part 990, with the exception of 11 PHAs with alternative funding formulas, as articulated in their Standard MTW Agreements. This includes PHAs that have not received operating subsidy previously but are eligible for operating subsidy under the Operating Fund Formula.

MTW agencies are to comply with all HUD and Treasury fiscal requirements. No flexibility under the MTW demonstration permits an agency to waive any requirements regarding cash management. MTW agencies are subject to the same cash management requirements as non-MTW agencies.

E. Eligibility

1. Eligibility for Individuals

Beneficiaries must be “low-income families,” as defined in Section 3(b)(2) of the 1937 Housing Act (42 USC 1437a(b)(2)) (Section 204(b) of Pub. L. No. 104-134 (42 USC 1437f (note)))

2. Eligibility of Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

Not Applicable

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable
- d. *Financial Reports (OMB No. 2535-0107)* – Financial Assessment Subsystem, FASS-PH. The Uniform Financial Reporting Standards (24 CFR

section 5.801) require PHAs to submit timely GAAP-based unaudited and audited financial information electronically to HUD (see Section 13, Moving to Work (MTW) Agencies Reporting to FASS-PH, of Notice [PIH-2012-21](#) (HA), issued May 10, 2012). The [Financial Data Schedule Line-Item Guide](#) also provides definitions to these key line items.

Key Line Items – The following line items contain critical information:

1. FDS Line 111 – (Cash-unrestricted)
2. FDS Line 114 – (Cash-tenant security deposits)
3. FDS Line 120 – (Total receivables – net of allowances for doubtful accounts)
4. FDS Line 122 – (Accounts receivable – HUD other projects)
5. FDS Line 131 – (Investments – unrestricted)
6. FDS Line 132 – (Investments – restricted)
7. FDS Line 142 – (Prepaid expenses and other assets)
8. FDS Line 144 – (Inter-program – due from)
9. FDS Line 145 – (Assets held for sale)
10. FDS Line 310 – (Total current liabilities)
11. FDS Line 331 – (Accounts payable – HUD PHA programs)
12. FDS Line 342 – (Deferred revenue)
13. FDS Line 345 – (Other current liabilities)
14. FDS Line 346 – (Accrued liabilities – other)
15. FDS Line 347 – (Inter-program – due to)
16. FDS Line 508.1 – (Invested in capital assets, net of related debt)
17. FDS Line 511.1 – (Restricted Net Assets)
18. FDS Line 512.1 – (Unrestricted net assets)
19. FDS Line 96900 – (Total operating expense)

20. FDS Line 97100 – (Extraordinary maintenance)
21. FDS Line 97200 – (Casualty losses – non-capitalized)
22. FDS Line 97300 – (Housing assistance payments)
23. FDS Line 97350 – (HAP portability – in)
24. FDS Line 97800 – (Dwelling units rent expense)
25. FDS Line 10010 – (Operating transfers in)
26. FDS Line 10020 – (Operating transfers out)
27. FDS Line 10030 – (Operating transfers from/to primary government)
28. FDS Line 10093 – (Transfers between programs and projects in)
29. FDS Line 10094 – (Transfers between programs and projects out)

2. Performance Reporting

Not applicable

3. Special Reporting

a. [HUD-50058-MTW, Family Report](#) (OMB No. 2577-0083) – The information on this form is submitted to HUD through the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC). The use of the HUD-50058 MTW form is restricted to the Initial 39 MTW agencies; the new 100 agencies brought onto the MTW demonstration through the Consolidated Appropriations Act of 2016 will report to HUD using the [HUD-50058 MTW Expansion Family Report](#) (OMB No. 2577-0083). Data must be submitted each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability.

Key Line Items – The following line items contain critical information from the HUD-50058, HUD 50058-MTW and HUD 50058 MTW Expansion that is documented in the recipient's file:

1. Line 1c – Program
2. Line 2a – Type of action

3. Line 2b – Effective date of action
4. Line 2k – FSS participation now or in the last year
5. Line 3b, 3c – Last name, First name
6. Line 3e – Date of birth
7. Line 3n – Social Security Numbers
8. Line 5a – Unit address
9. Line 5h – Date unit last past HQS inspection
10. Line 5i – Date of last annual HQS Inspection
11. Line 7i – Total annual income
12. Line 13h – Contract rent to owner (only if MTW PHA has a Section 8 moderate rehabilitation program)
13. Line 13k – Tenant Rent
14. Line 13x – Mixed family tenant rent
15. Line 17a – Participation in special programs – Participation in the Family Self Sufficiency (FSS) Program
16. Line 17k(2) – FSS account information – Balance

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements With respect to public housing, the PHA must comply with federal-wide or HUD-determined wage rate requirements of Section 12 of the Housing Act of 1937 (42 USC 1437j(a) and (b)). More information can be found at https://www.hud.gov/program_offices/davis_bacon_and_labor_standards. The PHA should be using the appropriate wage rate determinations for their geographic area. A The appropriate PHA's wage rate determinations can be found at <https://sam.gov/content/wage-determinations>.

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Reasonable Rent Policy

Compliance Requirements MTW agencies are required to establish a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent. The rent policy must be in the Annual MTW Plan and Reports (Section 204(c)(3)(B) of Pub. L. No. 104-134 (42 USC 1437f (note))) or the MTW Supplement.

Audit Objectives Determined whether the PHA has implemented a reasonable rent policy.

Suggested Audit Procedures

- a. Review the reasonable rent policy in the Annual MTW Plan and reports.
- b. Verify that the reasonable rent policy has been implemented.

3. Housing Quality Standards

Compliance Requirements MTW Agencies must ensure that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary. The HCV program regulations at 24 CFR sections 982.401 through 982.405 set forth basic housing quality standards (HQS) which all units must meet, and the PHA must verify by inspection, before initial assistance can be paid on behalf of a family and at least annually throughout the term of the assisted tenancy. Current HQS regulations consist of 13 key aspects of housing quality, performance requirements, and acceptability criteria to meet each performance requirement. HQS include requirements for all housing types, including single and multi-family dwelling units, as well as specific requirements for special housing types, such as manufactured homes, congregate housing, single room occupancy, shared housing, and group residences (Section 204(c)(3)(E) of Pub. L. No. 104-134 (42 USC 1437f (note))).

Audit Objectives Determine whether the PHA has implemented procedures to ensure that units meet HUD housing quality standards.

Suggested Audit Procedures

- a. Review the Annual MTW Plan or MTW Supplement to determine how HQSs are proposed to be implemented. The PHA should explain whether it plans to follow HQS as established by HUD or if it plans to develop a local HQS standard that is at least as stringent as the HUD standard.
- b. Verify by a review of documentation that the PHA identifies those units on which housing quality inspections are due.

- c. Verify by a review of documentation that the PHA performs inspections of these units and that any needed repairs were completed timely.

IV. OTHER INFORMATION

An MTW agency may utilize MTW Funding flexibility using three programs: Section 8 Housing Choice Vouchers (Assistance Listing 14.871); Public Housing Capital Fund (Assistance Listing 14.872); and Public and Indian Housing (Assistance Listing 14.850).

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW should look to the MTW Operations Notice for a PHA operating under the MTW Operations Notice. The amounts transferred into the MTW account are subject to the requirements of the MTW Agreement and should be included in the audit universe and total expenditures for MTW Agencies (Assistance Listing 14.881) when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures for the MTW program.

If the MTW agency does not set up a separate MTW account but uses the flexibility of the MTW demonstration program to transfer funds among the three programs, the accounts would become MTW accounts and would need to be identified as MTW funds.

If the MTW agency does not transfer all of the funds from a program into the MTW account or another of the three programs, the remaining funds would be considered, and audited, under the Assistance Listing number for that program.

The auditor should review the agency's specific MTW agreement, attachments, and amendments for the authorizations applicable to each MTW agency.

Alternative Operating Subsidy PHAs: Baltimore, Cambridge, Chicago, Delaware, Lawrence-Douglas, New Haven, Oakland, Philadelphia, Pittsburgh, Home Forward (Portland), and Seattle.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**ASSISTANCE LISTING 14.888 LEAD-BASED PAINT CAPITAL FUND PROGRAM****I. PROGRAM OBJECTIVES**

This program is comprised of the Lead-Based Paint Capital Fund (LBPCF) and the Housing-Related Hazards Capital Fund (HRHCF). The LBPCF is for Public Housing Authorities (PHAs) to evaluate and reduce lead-based paint hazards in public housing. The LBPCF provides competitive grants to PHAs to evaluate and reduce lead-based paint hazards in public housing by carrying out the activities of risk assessments, abatement, and interim controls (as those terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC 4851b)).

The HRHCF provides competitive grants to help PHAs identify and eliminate housing-related hazards in public housing such as mold, carbon monoxide, pest infestation, radon, fire hazards and asbestos.

II. PROGRAM PROCEDURES**A. Overview**

In Fiscal Year (FY) 2022, HUD combined Lead-Based Paint and Housing-Related Hazards funding under one combined Notice of Funding Opportunity (NOFO). HUD has set aside up to \$65 million of which \$25 million is dedicated to Lead-Based Paint hazards. LBPCF and HRHCF grants support PHAs as they address the health and safety of public housing residents.

For LBPCF grants, HUD has set aside \$25 million within the Capital Fund account to assist PHAs with lead-based paint challenges. These grants support PHAs as they address the safety of public housing residents. LBPCF grants may be used for lead-based paint inspection, risk assessment, clearance exams, relocation, and hazard controls. PHAs submit a competitive application for this funding. The funding is allocated based on application score.

For HRHCF grants, the Department has set aside \$40 million. These funds were set aside to assist PHAs to identify and eliminate housing-related hazards in public housing such as carbon monoxide, mold, radon, fire safety, and asbestos. PHAs submit a competitive application for this funding. The funding is allocated based on application score.

B. Subprograms/Program Elements

Below outlines the Capital Fund Program's (CFP) general grant process. The LBPCF and HRHCF are subject to this process.

Prior to submitting the five-year action plan to HUD for review and approval, a PHA must annually conduct a public hearing and consult with the Resident Advisory Board (RAB) of the PHA to discuss the Capital Fund submission. The PHA may elect to conduct a separate annual public hearing in order to solicit public comments or to hold the annual public hearing at the same time as the hearing for the Annual PHA Plan, the 5- Year Plan, or the required annual hearing for qualified public housing authorities. The hearing must be conducted at a location that is convenient to the residents served by the PHA.

In FY 2018, the CFP 5-Year Action Plan and Annual Statement/Budget submission was moved to an electronic platform called EPIC for submission and approval. A PHA must have an approved 5-Year Action Plan (HUD 50075.2 (OMB No. 2577-0226)) and Document package in EPIC to have access to Capital Funds. Once a PHA submits an Annual Statement/Budget in EPIC (HUD 50075.1), HUD spreads Capital Funds to all of the appropriate budget line items (BLIs) in the Line of Credit Control System (LOCCS) in accordance with the information contained in the 5-Year Action Plan (HUD 50075.2). A PHA can then drawdown funds as needed on a three-day turnaround basis to pay for approved work activities. The three-day turnaround means the PHA expends the funds drawn down from LOCCS within three business days.

In planning its LBPCF and/or HRHCF projects, the PHA is required to consult with residents and local government officials. After grant award, the PHA may select an architect or engineer through competitive negotiation to develop the plans and specifications for the construction work. Construction work as well as management improvements may be carried out through contract labor (competitively procured) or the PHA's own work force (force account). The PHA or its architect monitors the work in progress for compliance with contract requirements and acceptable work quality and submits periodic progress reports to HUD.

C. Other

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement will be required three months after the PHA's fiscal year end (FYE) and the audited financial statement is due nine months after its FYE (24 CFR section 5.801). The financial statement must include the financial activities of this program.

PHAs submit an actual modernization cost certificate (AMCC) form [HUD-53001](#) (OMB Approval No. 2577-0157) with the local HUD Field Office for approval when they complete a LBPCF and/or HRHCF project. The AMCC is required for LBPCF and/or HRHCF grant closeout.

Source of Governing Requirements

The programs are authorized under 42 USC 1437g. The program implementing regulation is 24 CFR Part 905.

Availability of Other Program Information

HUD posts guidance on the LBPCF and/or HRHCF to its Office of Capital Improvements Home Page that provides grantees with information on timelines, budgets, financial instructions, and other program guidance. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) website.

Here are some helpful links:

Office of Capital Improvements web page:

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund

HRHCF web page:

[Housing-Related Hazards & Lead-Based Paint Capital Fund Program | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund)

REAC web pages:

https://www.hud.gov/program_offices/public_indian_housing/reac

https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodp_ha

https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodp_hasintrule

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. Activities Allowed

- a. For LBPCF grants, allowed Capital Fund activities include the following: activities of lead-based paint risk assessments, inspections, abatement, interim controls, clearance examinations and relocation. Other work in the property, including work to prepare for lead hazard control (e.g., repairs to the substrate, fixing leaks or other renovations) shall be funded by other sources.
- b. For HRHCF grants, allowed Capital Fund activities include the following: activities associated with the housing-related hazard(s) identified in the PHA application and approved by HUD. Other work in the property, including work to prepare for hazard control (e.g., repairs to the substrate, fixing leaks or other renovations) shall be funded by other sources.

2. Activities Unallowed

A PHA may not incur any cost in excess of the total HUD-approved PHA Annual Statement/Budget. Budget revisions may be submitted in EPIC for deviations from the originally approved program. A PHA shall not incur any cost on behalf of any development that is not covered by its current approved 5-Year Action Plan (24 CFR section 905.200(a)).

This following list describes ineligible activities and costs for the CFP

- a. Not Related to Public Housing. PHAs may not spend Capital Funds on costs that are not associated with a Public Housing Development or Modernization Project.
- b. Not in 5-Year Action Plan. PHAs may not spend Capital Funds on activities and costs that are not included in the PHA's 5-Year Action Plan (Emergency

Work or Non-Presidentially Declared Natural Disaster assistance that is not identified in the 5-Year Action Plan is an eligible cost).

- c. Not Modest Design. PHAs may not spend Capital Funds on improvements or purchases that are not considered modest in design and cost because they include amenities, materials, and design in excess of what is customary for the locality, as determined by the PHA and Field Office.

These include, but are not limited to, granite counter tops, dishwashers, microwaves, swimming pools, saunas, whirlpool baths, and hot tubs. Modernization and development activities require Field Office review and approval of the PHA's annual and five-year plans detailing the activities. These activities must be within the total development costs (TDC) limits. The TDC limits for PHAs are updated annually and posted on the Office of Capital Improvements website here: [Office of Capital Improvements | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/sites/dfiles/PIH/documents/2023_Units_TDC_Limits.pdf). The current TDC limits are posted here: https://www.hud.gov/sites/dfiles/PIH/documents/2023_Units_TDC_Limits.pdf

- d. Not Eligible based on OMB Regulatory and Circular Guidance. PHAs may not spend Capital Funds on any costs not authorized in 2 CFR Part 200 (formerly OMB Circular A-87 and 2 CFR Part 225), including indirect Administrative Costs, indemnification, and capitalizing reserves.
- e. Operating Assistance. PHAs may not spend Capital Funds on Public Housing operating assistance, except as provided through transfers to BLI 1406.
- f. Benefitting Other Programs. Eligible costs that exceed the amount directly attributable to the public housing units when the physical or management improvements, including salaries and employee benefits and contributions, will benefit programs other than public housing, such as Section 8 Housing Choice Voucher, or local revitalization programs.

For example, the annual audit covers the breadth of the PHA's activities such as the Operating Fund, Capital Fund, Housing Choice Vouchers, and non-federally funded activities. Only a pro rata share of the Audit cost attributable to the Capital Fund may be charged to the Capital Fund.

- g. Security Services. Ongoing security services, including:
 - (1) Contracts with local police departments including above baseline police services except where permitted by HUD FY Appropriations Acts;
 - (2) The salaries and benefits for security guards, patrols, or police

- officers (either full-time, part-time, or after hours); and
- (3) The purchase or leasing of vehicles for security personnel.
- h. Supportive Services. The provision of supportive services to public housing residents, including:
- (1) The salaries and benefits or contract costs for service providers, including resident coordinators, case managers, social workers, nurses, chore service providers, supplemental police or probation services providers, and tutors;
 - (2) Health and wellness activities;
 - (3) Educational enrichment and recreational activities, including social organizations; and
 - (4) Job development and placement services, including the cost of professional licenses, certifications and exams, and transportation assistance.
- i. Duplicate Funding. An otherwise eligible cost that is funded by another source and would result in duplicate funding. Duplicate funding can be other federal, state, and non-federal programs; and
- j. Other Activities. Any other activities and costs that HUD may determine are ineligible on a case-by-case basis, consistent with the 1937 Act and its regulations.

LBPCF and HRHCF grants may not be used for any activities that are not both part of the original application and approved by HUD.

Additionally, LBPCF and HRHCF grants are restricted to specific budget line items (BLIs) by the applicable Notice of Funding Availability (NOFA) and/or Notice of Funding Opportunity (NOFO). PHAs may not place funds in a BLI that is not supported by the NOFA/NOFO.

B. Allowable Costs/Cost Principles

Allocation of Costs with Other Programs. Where the physical or management improvement costs will benefit programs other than public housing, such as the Housing Choice Voucher program or local revitalization programs, Capital Fund-eligible costs are limited to the amount directly attributable to the public housing program. The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the

Executive Schedule 1 (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance has been issued in [PIH Notice 2016-14](#), “Guidance on Public Housing Agency (PHA) salary restriction in HUD’s annual appropriations.” The Executive Pay Schedule may be obtained at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/EX.pdf> (24 CFR section 1006.370(b)).

C. Cash Management

Congress provides funding for the Public Housing programs through annual appropriation acts. HUD then allocates and awards funding to PHAs in accordance with the appropriations acts. PHAs that have public housing units under an Annual Contributions Contract (ACC,) as described in [24 CFR 5.403](#) are subject to [24 CFR Part 905](#) and [24 CFR Part 990](#). PHAs are to comply with all HUD and Treasury fiscal requirements.

[2 CFR 200.305 for Federal Payments](#) and [24 CFR 905.310 for Disbursements from HUD](#) establish the cash management procedures for controlled disbursement of federal funds. [2 CFR 200.305](#) requires PHAs to minimize the time federal funds are drawn down to expenditure. The Capital Fund Program provides guidelines of three business days from draw down to expenditure to minimize the interest accrued by the PHA. [24 CFR 905.310](#) states the PHA shall initiate a fund requisition from HUD only when funds are due and payable, unless HUD approves another payment schedule as authorized by [2 CFR 200.305](#).

H. Period of Performance

1. Obligations

Unless an extension is approved by HUD, a PHA must obligate at least 90 percent of each Capital Fund grant, including formula grants, non-accumulating RHF, natural disaster, and lead-based paint grants within 24 months of the funds becoming available to the PHA for obligation. For emergency grants, safety and security grants and safety and security-carbon monoxide grants, the PHA must obligate at least 90 percent within twelve months of the funds becoming available. The funds become available when HUD executes the Annual Contributions Contract (ACC) Amendment (24 CFR section 905.306).

Obligation means a binding agreement for work or financing that will result in outlays, immediately or in the future. All obligations must be incorporated within the CFP 5-Year Action Plan that has been approved by the PHA Board of Commissioners and HUD. This includes funds obligated by the PHA for work to be performed by contract labor (i.e., contract award), or by force account labor (i.e., work actually started by PHA employees). Capital Funds identified in the PHA's CFP 5-Year Action Plan to be transferred to operations are obligated by the PHA once the funds have been budgeted and drawn down by the PHA. Once these funds are drawn down they are subject to the requirements of 24 CFR part 990.

The date of the contract signing is the obligation date. If the parties sign the contract at different times, the date of the last signature is the obligation date. In some instances, a

purchase order would constitute an obligation (e.g., large items such as stoves or refrigerators). All obligations should reflect work items detailed in the approved 5-year action plan.

2. Expenditures

For Capital Fund formula, RHF, natural disaster, and lead-based paint grants, unless HUD approves an extension, a PHA must expend all grant funds no later than 48 months after HUD executes the ACC Amendment (24 CFR section 905.306(f)). However, for emergency grants, safety and security grants and safety and security-carbon monoxide grants, a PHA must expend all grant funds no later than 24 months after HUD executes the ACC Amendment if such a requirement is contained in the ACC Amendment.

A PHA must also expend 100% percent of the authorized amount of a Capital Fund grant within 48 months of the date that funds are made available, or the obligation start date. (24 CFR section 905.306).

3. Capital Funds for Operating Costs

Capital Funds transferred to operations (BLI 1406) are not considered obligated until the PHA has budgeted and drawn down the funds. To meet this requirement, the funds must be budgeted in line BLI 1406 (Operations) and the PHA must submit the voucher request in LOCCS. The PHA's reported obligation amount in LOCCS must be the same amount in the PHA's accounting system since the date of the voucher request in LOCCS is the point of obligation for funds in BLI 1406. The voucher request date must occur before those funds are reported as obligated in LOCCS under the Obligation & Expenditure tab (24 CFR section 905.314(l)).

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable
- d. *HUD-53001, Actual Modernization Cost Certificate (AMCC) Capital Fund Program (OMB No. 2577-0157)* – The authority for this report is 24 CFR 905.324 Data Reporting Requirements. For modernization projects, the PHA shall submit the AMCC within 90 days after Expenditure End Date. To initiate the closeout process, the PHA shall submit the AMCC which details actual costs incurred between the DOFA date and the completion of the modernization project.

Key Line Items – The following line items contain critical information:

1. Line 1B *Funds Disbursed* For the identified grant, enter the total funds disbursed by HUD. This amount may never exceed the amount on line 1A.
2. Line 1E *Excess of Funds Disbursed (B minus C)* For the identified grant, enter the excess of funds disbursed by subtracting line 1C from line 1B, this is the amount to be remitted by the PHA to HUD. If line 1C is greater than line 1B, enter the figure in brackets; this is the amount owed by HUD to the PHA.

2. Performance Reporting

Report Title: *HUD 50075.1, Annual Statement Performance and Evaluation Report*
OMB PRA Number: (OMB No. 2577-0157)

Report Authority: 24 CFR 905.324 Data Reporting Requirements

Reporting period/submission date/s: *Initial estimated report submitted prior to grant being awarded. Final Report submitted within 90 days of the expenditure end date.*

Link to report and report instructions:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/50075.1.pdf>

Key Line Items – The following line items contain critical information:

1. Line 20 *Amount of Annual Grant* After initial approval by HUD, the sum of lines 2 through 19 in the Revised Total Estimated Cost column may not exceed the annual grant amount.
2. Line 5 *1480 General Capital Activity* This is the only line item allowed to be used for Lead-Based Paint and Housing Related Hazards grants.

3. Special Reporting Not Applicable.

4. Special Reporting for Federal Funding Accountability and Transparency Act Not Applicable.

IV. OTHER INFORMATION

The Moving to Work (MTW) demonstration program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD.

An MTW agency may combine funds from the following three programs:

1. Section 8 Housing Choice Vouchers (Assistance Listing 14.871)

2. Public Housing Capital Fund (Assistance Listing 14.872)
3. Public and Indian Housing (Assistance Listing 14.850)

Funds from LBPCF and/or HRHCF cannot be combined under the MTW Agreement.