

## **PART 4 – AGENCY PROGRAM REQUIREMENTS**

### **INTRODUCTION**

For each federal program (except R&D and SFA) included in this Supplement, Part 4 provides I, “Program Objectives” and II, “Program Procedures.” Part 4 also provides information about compliance requirements specific to a program in III, “Compliance Requirements.” Finally, Part 4 provides IV, “Other Information,” when there is other useful information pertaining to the program that does not fit in sections I–III. For example, when a program allows funds to be transferred to another program, section IV provides guidance on how those funds are to be treated on the Schedule of Expenditures of Federal Awards and in Type A program determinations.

When any of five types of compliance requirements (A, “Activities Allowed or Unallowed;” E, “Eligibility;” G, “Matching, Level of Effort, Earmarking;” L, “Reporting;” and N, “Special Tests and Provisions”) is subject to audit and applicable to a program included in the Supplement, Part 4 always provides additional information specific to the program. The other seven types of compliance requirements, when subject to audit, generally are not specific to a program and, therefore, usually are not listed in Part 4. However, when one of these other seven types of compliance requirements has information specific to a program, that information is provided with the program in Part 4. When a requirement is marked as “Not Applicable” it means that either there are no compliance requirements specific for the program, or the auditor is not required to test compliance.

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor must first look to the Compliance Requirements section of the program/cluster (summarized for all programs/clusters in Part 2 of the Supplement) to identify which of the 12 types of compliance requirements described in Part 3 have been identified as subject to audit, and then determine which of those requirements is likely to have a direct and material effect on the federal program at the auditee.

For each such compliance requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions, including audit objectives, and suggested audit procedures) and the program supplement in Part 4 (which includes any program-specific requirements) to perform the audit. For N, “Special Tests and Provisions,” Part 3 includes only audit objectives and suggested audit procedures for internal control; all other information is included in Part 4.

The descriptions of the compliance requirements in Parts 3 and 4 generally are a summary of the actual compliance requirements. The auditor must review the referenced citations (e.g., laws and regulations) for the complete compliance requirements.

For 2021, only guidance to the compliance requirement areas that are designated as “Y” in the Matrix are included in part III, Compliance Requirements of the program. If the auditor is to review compliance requirement areas that are designated as “N,” the auditor must refer to the Part 3 for additional information.

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 HUD Notice 2011-18, Updated Processing 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](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

#### **A. Activities Allowed or Unallowed**

1. The project shall provide the necessary services for the occupants, which may include, but 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 (Assistance Listing 14.157) 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 to be eligible (24 CFR section 891.205).

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**

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – Recipients under the 202 NOFA are subject to Section 3 reporting requirements under 24 CFR 75.25 and will submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry System (SPEARS) (24 CFR sections 135.3(a)(1) and 135.90) or successor form or system.

**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** 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 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 properly established, 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. 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 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. Replacement Reserve**

**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.

**4. 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 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 sections 891.400(e) and 891.600(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.

**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.

## 2. *CARES Act Funding*

Housing Notice 2020-08 announced the availability of supplemental operating funds for Section 8, Section 202, and Section 811 properties to prevent, prepare for, and respond to coronavirus disease discovered in 2019 (COVID-19) and establishes an application process for owners of properties assisted under these programs to request funds for one or more of these purposes.

The first funding round due date was August 5, 2020, with payments sent to owners in September and November 2020. The second funding round was covered under Housing Notice 2020-11, applications were due 12/11/2021, with payments to owners in February and March 2021. HUD announced a third round of funding and revised Housing Notice 2020-11 to include the new due date for submissions and is including the following information regarding the financial reporting requirements. The revised Notice 2021-01 was published in 4/13/2021 applications were due by 4/26/2021 and payments were sent to owners in June and July 2021.

Amounts received from COVID-19 Supplemental Payments (CSP) shall be treated as project funds and must be managed consistent with other rental assistance provided by HUD under the applicable HAP, PRAC, SPRAC, or PAC contract. CSP funds should be deposited into the project's general operating account (account 1120 on the Balance Sheet) and recorded as Special Claims Revenue (account 5193). The owner should ensure that a footnote in the *Notes to the unaudited and audited Annual Financial Statements* states how much was received and how it was used. These award amounts must be included in the Schedule of Expenditures of Federal Awards (SEFA) for the year. Any deposit of surplus cash in the project residual receipts account or retention of amounts in the project operating account that is done in accordance with Section VI of Housing Notice 20-08, 20-11, 21-1, or subsequent guidance must also be clearly denoted in the Notes to the Financial Statement. As with other project funds, the expenditure of CSP funds must be done in a manner that is consistent with all applicable civil rights laws, including the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. See 24 CFR section 5.105(a).

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****ASSISTANCE LISTING 14.169 HOUSING COUNSELING ASSISTANCE PROGRAM****I. PROGRAM OBJECTIVES**

The objective of the Housing Counseling Assistance Program is to provide counseling and advice to tenants and homeowners, both current and prospective, with respect to property maintenance, financial management/literacy, and such other matters as may be appropriate to assist them in improving their housing conditions, meeting their financial needs, and fulfilling the responsibilities of tenancy and homeownership.

**II. PROGRAM PROCEDURES**

Funding provided by this program is intended to support Department of Housing and Urban Development (HUD)-approved housing counseling agencies ability to respond flexibly to the needs of residents and neighborhoods and deliver a wide variety of housing counseling services to homebuyers, homeowners, renters, and the homeless. The program operates through a nationwide network of over 1,834 HUD-approved housing counseling agencies located in urban, suburban, and rural communities in all 50 states. In 2012, HUD established the Office of Housing Counseling, as mandated by the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. No. 111-203), which specified the functions of the new office. The Office of Housing Counseling administers the Housing Counseling Assistance Program, which is awarded annually on a competitive basis through a Notice of Funding Availability (NOFA). The program plays an integral role in the continued stabilization of our nation's housing market by helping individuals and families attain housing and stay in their homes through responsible homeownership or affordable rental housing. Traditionally underserved populations, such as minorities, the elderly, veterans, persons with disabilities, persons with limited English proficiency, and residents of rural areas, face additional housing and economic challenges. HUD's Housing Counseling Assistance Program funds housing counselors who provide expert, unbiased guidance and information to help families and individuals meet their housing needs and improve their financial situations. Moreover, HUD grants assist housing counselors to act as an important safeguard against scams and discrimination, and to act as a gateway to local, state, federal and private housing assistance.

This program has three distinct components: (1) HUD-approval, (2) housing counselor certification, and (3) housing counseling grants. To participate in the program, organizations must first be approved by HUD as housing counseling agencies. Approval entails meeting various requirements relating to experience and capacity. The Housing Counseling Certification Requirements Final Rule implements statutory requirements that housing counseling required under or provided in connection with all HUD programs must be provided by HUD certified housing counselors as of August 1, 2021. The standards will apply to all housing counseling programs required by HUD or provided in connection with any program of HUD.

As of November 12, 2020, there were 1,701 active agencies participating in the program. Approximately 750 approved local housing counseling agencies (LHCAs), which have 230 branch offices (BLAs). Additionally, there are 33 HUD-approved national and regional



intermediaries with approximately 303 subgrantees, 38 branch subgrantees, 44 affiliates, 15 branch affiliates, and 211 branch inter-agencies. There are 23 state housing finance agencies (SHFAs) with seven branches, and nine multi-state organizations (MSOs) with 38 branches.

Approved agencies use HUD's approval to receive referrals and market their services. Approved agencies are provided training (depending on available resources) and are eligible to apply for a housing counseling grant. Approved agencies must also employ HUD certified housing counselors as of August 1, 2021.

The application and approval process to become a HUD-approved agency and information on HUD's Housing Counseling Certification are provided on HUD's website at <https://www.hudexchange.info/programs/housing-counseling/>.

Additionally, when funds are available, HUD issues a yearly NOFA published on [Grants.gov](https://www.grants.gov) under which there is a competition for housing counseling grants. The Housing Counseling Assistance Program provides funds to HUD-approved LHCA's; HUD-approved national and regional intermediaries; and State Housing Finance Agencies (SHFAs). LHCA's are funded directly by HUD or as a subgrantee by an intermediary or SHFA to provide services within their communities. Intermediaries and SHFAs manage the use of HUD housing counseling funds by subgrantees, including local affiliates and branches.

### Source of Governing Requirements

HUD's Housing Counseling Assistance Program is authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 USC 1701x). Program regulations are in 24 CFR Part 214.

### Availability of Other Program Information

Pertinent information regarding the Housing Counseling Assistance Program is available on HUD's website at <https://www.hudexchange.info/programs/housing-counseling/>.

## 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	N	N	N	Y	Y	N	Y	N	N

#### A. Activities Allowed or Unallowed

Housing Counseling NOFAs contain detailed information regarding the activities for which grantees and sub-grantees can be reimbursed.

Section 106 of the Housing and Urban Development Act of 1968 (12 USC 1701x) also addresses allowable and unallowable activities. Only the following activities generally are allowed under the statute:

1. Individual counseling or group education or classes regarding:
  - a. Pre-purchase/home buying;
  - b. Resolving or preventing mortgage delinquency or default;
  - c. Non-delinquency post-purchase;
  - d. Locating, securing, or maintaining residence in rental housing; and
  - e. Shelter or services for the homeless.
2. Home equity conversion mortgage counseling
3. Marketing and outreach initiatives
4. Training
5. Computer equipment/systems
6. Administrative costs/network management
7. Mortgage modification scam identification and reporting
8. Education in such areas as fair housing and renters rights

**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

**2. Performance Reporting**

HUD Counseling Agency Activity Report, OMB No. 2502-0261.

This Housing Counseling Agency Activity Report, Form HUD-9902, records housing counseling and education activity by agencies participating in HUD's Housing Counseling Program. The form is filed through an agency's Client Management System or HUD's Housing Counseling System.

Each HUD-approved Local Housing Counseling Agency must submit an electronic form HUD-9902 quarterly, reflecting main-office and branch location activities, if applicable, in the agency's target service areas, regardless of whether or not a HUD Housing Counseling Grant was received.

The key line items of the form include:

- Total Households Served in Section 8 (Group Education) and Section 9 (One-on-One Counseling)
  - Group education activities can include Completed fair housing workshop; Completed homelessness prevention workshop; Completed rental workshop; and Completed pre-purchase homebuyer education workshop.
  - One-on-One Counseling activities can include: Homeless assistance; Rental topics; and Pre-purchase homebuying.
  - Impacts of One-on-One Counseling Services. These include impacts such as: Households that received information on fair housing, fair lending and/or accessibility rights; Households that improved their financial capacity; Households that gained access to resources to help them improve their housing situation; Homeless or potentially homeless households that obtained temporary or permanent housing after receiving Housing Counseling Services; and Households that received rental counseling and avoided eviction after receiving Housing Counseling Services.

For more information on the Form HUD-9902, please see the [Housing Counseling 9902 Online Toolkit](#).

**3. Special Reporting**

Not Applicable

**4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****ASSISTANCE LISTING 14.181 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES (SECTION 811)****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 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 (with or without rehabilitation) structures to be used as supportive housing for persons with disabilities. 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.

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 is calculated based on operating cost standards established by HUD (24 CFR section 891.150).

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 housing assistance payment 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. For newly occupied properties, owners are required to submit an unaudited financial statement, which is due 90 days after the owner’s fiscal year end, and an audited financial statement is due nine months after its fiscal year end (24 CFR section 5.801) in the year the property is first occupied. 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.

## **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.**

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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	N	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 (42 USC 1437a(b)(3); 24 CFR section 891.505).

Residents must also qualify as very low-income households to be eligible (42 USC 8013). Eligibility is only determined at move-in or at initial certification except in circumstances where family composition changes after initial occupancy a determination must be made as to whether the remaining member of the household will be eligible to receive assistance. Eligibility requirements are found in HUD's regulations at 24 CFR Part 5.

The owner is responsible for annually reexamining incomes of households occupying assisted units and make 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 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** 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 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, 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. Perform tests to ascertain if 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. Replacement Reserve**

**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. 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.

**4. 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.

**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.

2. *CARES Act Funding*

Housing Notice 2020-08 announced the availability of supplemental operating funds for Section 8, Section 202, and Section 811 properties to prevent, prepare for, and respond to coronavirus disease discovered in 2019 (COVID-19) and establishes an application process for owners of properties assisted under these programs to request funds for one or more of these purposes.

The first funding round due date was August 5, 2020, with payments sent to owners in September and November 2020. HUD is in the process of announcing a second round of funding and is revising this Housing Notice 2020-08 to include the new due date for submissions and is including the following information regarding the financial reporting requirements. The revised Notice 2020-11, *Continued Availability of Funds for COVID-19 Supplemental Payments for Properties Receiving Project-Based Rental Assistance under the Section 8, Section 202, or Section 811 Program*, was published on 11/24/2020.

Amounts received from COVID-19 Supplemental Payments (CSP) shall be treated as project funds and must be managed consistent with other rental assistance provided by HUD under the applicable HAP, PRAC, SPRAC, or PAC contract. CSP funds should be deposited into the project's general operating account (account 1120 on the Balance Sheet) and recorded as Special Claims Revenue (account 5193). The owner should also

include a footnote in the Notes to the Annual Financial Statements that states how much was received and how it was used. These amounts must be included in the Schedule of Expenditures of Federal Awards (SEFA) for the year. Any deposit of surplus cash in the project residual receipts account or retention of amounts in the project operating account that is done in accordance with Section VI of Notice 2020-11 must also be clearly denoted within the Notes to the Annual Financial Statements. As with other project funds, the expenditure of CSP funds must be done in a manner that is consistent with all applicable civil rights laws, including the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. See 24 CFR 5.105(a).

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****ASSISTANCE LISTING 14.182 SECTION 8 NEW CONSTRUCTION AND  
SUBSTANTIAL REHABILITATION****ASSISTANCE LISTING 14.195 SECTION 8 HOUSING ASSISTANCE PAYMENTS  
PROGRAM****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- and very 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 ten-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 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 the programs in this cluster.

### **2. *Annual Adjustments***

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. 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.

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.

### 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 a page on its website at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/mfhsec8](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8) that provides general information about these programs. HUD notices are available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_administration/hudclips](http://portal.hud.gov/hudportal/HUD?src=/program_administration/hudclips).

## 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
N	N	Y	Y	N	N	N	N	N	Y	N	Y

## 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; (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 5.613.
- 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 5.617, 880.603, 881.601, 882.515, 884.218, 886.124, and 886.324).

**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 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-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.



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

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*
- b. *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.

#### 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 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, and 886.312).

**Audit Objectives** Determine whether contract rents are being adjusted properly.

#### **Suggested Audit Procedures**

- a. Review the procedures for applying annual adjustment factors and handling special adjustment requests.

- b. Select a sample of contracts and the related files with annual and special rent adjustments and test the supporting data and certifications that were submitted to support the adjustments.
- c. Review the selected HAP contract files or tenant files to verify that annual and special adjustments were applied correctly and that rent adjustments did not result in material differences between the rents charged for assisted and comparable unassisted units.

## **2. Tenant Utility Allowances**

**Compliance Requirements** The PHA or owner must (a) establish or ensure tenant utility allowances based on utility consumption and rate data for various sized units, structure types, and fuel types, (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, and 886.326).

**Audit Objectives** Determine whether tenant utility allowances are properly established.

### **Suggested Audit Procedures**

- a. Examine the procedures used to establish and annually review utility allowances, handle adjustment requests, and notify tenants of utility allowance adjustments.
- b. Select a sample of units with tenant utility allowances and their related tenant files for review.
- c. Test owner requests, PHA determinations, and supporting documentation for utility determinations.
- d. Verify that the allowances were applied to tenants correctly.

## **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 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 880.612, 881.601, 882.516, 882.808(n), 883.701, 884.217, 886.123, and 886.323).

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

### **Suggested Audit Procedures**

- a. Examine 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.

#### **Suggested Audit Procedures**

- a. Examine the procedures used by the PHA or owner to provide the current occupancy status of the units receiving Section 8 assistance.
- b. Select a sample of units that were vacated during the audit period and verify that payments to owners were reduced, as prescribed.
- c. Select a sample of payments for special claims and verify that documentation exists to support the payments.

#### **5. Replacement Reserve**

**Compliance Requirements** 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. 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).

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

**Suggested Audit Procedures**

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

**6. Residual Receipts Account**

**Compliance Requirements** Any project funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited with the mortgagee or other HUD-approved depository in an interest-bearing account. For projects under 24 CFR Part 883, the funds must be deposited with the state agency or other agency-approved depository in an interest-bearing account. Withdrawals from this account may be made only for project purposes and with the approval of HUD or the state agency for 24 CFR Part 883 projects, as applicable (24 CFR sections 880.601, 881.601, and 883.701).

**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 approved project purposes.

**Suggested Audit Procedures**

- a. Ascertain if residual receipts account has been established in an interest-bearing 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 an approved project purpose.

**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.

CDBG Disaster Recovery (CDBG-DR) funding is authorized under Title I of the Housing and Community Development Act of 1974, as amended. Public Laws are the appropriation acts that provide funding for each disaster: Pub. L. No. 115-123, Pub. L. No. 115-72, Pub. L. No. 115-56 (Division B), Pub. L. No. 115-31 (Sec 421), Pub. L. No. 114-254, Pub. L. No. 114-223, Pub. L. No. 114-113, Pub. L. No. 113-2, Pub. L. No. 112-55, Pub. L. No. 111-212, Pub. L. No. 110-329, Pub. L. No. 110-252, Pub. L. No. 110-116, Pub. L. No. 109-234, Pub. L. No. 109-148, Pub. L. No. 108-324, Pub. L. No. 107-206, Pub. L. No. 107-117, Pub. L. No. 107-73, and Pub. L. No. 107-38. The auditor must consult the relevant public law for the CDBG-DR award.

**II. PROGRAM PROCEDURES****A. Overview**

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 national objectives of the program: 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 up to 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 grant, regardless of program year of expenditure.

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. Disaster Recovery – CDBG-DR**

HUD provides flexible grants to help cities, counties, and states recover from Presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations. In response to presidentially declared disasters, Congress may appropriate additional funding for the Community Development Block Grant (CDBG) program as Disaster Recovery grants to rebuild the affected areas and provide crucial seed money to start the recovery process. Since CDBG Disaster Recovery (CDBG-DR) assistance may fund a broad range of recovery activities, HUD can help communities and neighborhoods that otherwise might not recover due to limited resources.

The *Federal Register* notices that govern the use of CDBG-DR funds are available at

<https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices>. Auditors should consult the applicable *Federal Register* notices for the specific CDBG-DR award allocated to the state. Additionally, American Samoa, the Commonwealth of the Northern Mariana Islands, the US Virgin Islands, and Puerto Rico are considered to be states under Disaster Recovery allocations.

## 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) and 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 additional changes and clarification. The notices are available at <https://www.hudexchange.info/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 three 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.

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 the Con 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. Community-based development organizations 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 regardless of the date on which such costs were incurred. 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 *Federal Register* notices that govern the use of CDBG-DR funds are located at



<https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices>. Auditors should consult the applicable *Federal Register* notices for the specific CDBG-DR award allocated to the state or unit of general local government.

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**

Further, additional information about the CDBG-DR is available at the HUD CDBG-DR website at <https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>.

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](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/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	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.
2. 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 HOME-funded activities; (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).

3. 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.

4. 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 applies for CDBG-CV funds by submitting a substantial amendment to its most recently approved annual action plan. Grantees may also apply for CDBG-CV funds in a future annual action plan submission. 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 allows grantees to submit those certifications when the grantee submits its 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 is temporarily waiving 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.

If the CDBG-CV application is submitted as a substantial amendment to the most recent annual action plan, the substantial amendment must include the CDBG-CV allocation as an available resource for the year. The amendment must include the proposed use of all funds and how the funds will 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 their most recent annual action plan (including their 2019 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).

If CDBG-CV funds are included in a substantial amendment to the most recently submitted annual 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) will automatically cover 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. 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 their most recent annual action plan. Grantees are advised that an application for an additional allocation of CDBG-CV funds should be submitted as a substantial amendment to the annual action plan that describes 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 the most recent annual action plan, or as part of a new 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 (Con 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 *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.

5. 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.

6. 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.
7. 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.
8. 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.

9. 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)).
10. 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.
- 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.

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 CDBG-DR, the public benefit standards are waived; please consult applicable *Federal Register* notices.

11. 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 CDBG-DR, HUD allows funding for the following activities: (a) program administrative costs up to 5 percent of total grant amount and program income (24 CFR 570.206); (b) program planning costs up to 20 percent of combined with administration costs (24 CFR 570.205); (c) public services costs up to 15 percent of total grant amount and program income (24 CFR 570.201(e), 570.207). In addition, the 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. However, the secretary may not waive requirements related to fair housing, nondiscrimination, labor standards, and the environment. For CDBG-DR awards made after 2013, awards prohibit assistance for second homes and limit business assistance to small business; please consult *Federal Register* notices. For CDBG-DR awards made in 2017, disaster funds cannot be used for rehabilitation/reconstruction assistance to

persons with incomes that exceed 120 percent area median income if they are located in a floodplain and have failed to maintain flood insurance.

12. 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).

## **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 regardless of the date on which such costs were incurred. 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 section 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 should 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. In addition, each grantee must expend at least 80 percent of all CDBG-CV funds (including CDBG-CV funds from additional allocations that are obligated by HUD through amendments to the grant agreement) no later than the end of the third year of the 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 funds as soon as possible following the execution of a grant agreement (obligation) with HUD. With the most recent appropriations, HUD instituted a six-year expenditure deadline on all CDBG-DR grantees. In these instances, a CDBG-DR grantee is required to expend 100 percent of its allocation of CDBG-DR funds on eligible activities within 6 years of HUD’s execution of the initial grant agreement (Pub. L. nos. 114-113 *Quarterly Performance Report\**, 114-223\*, 114-254\*, 115-31\*, 115-56\*, 115-123\*, 115-254, and 116-20). Additionally, with a special appropriation of disaster recovery funds addressing disaster mitigation activities, a CDBG-Mitigation (CDBG-MIT) grantee must expend 50 percent of its grant on eligible activities within six years of HUD’s execution of the grant agreement and 100 percent of its grant within twelve years of HUD’s execution of the agreement (Pub. L. nos. 115-123 and 116-20). A CDBG-DR grantee receiving an award for a 2011-2013 disaster must expend 100 percent of the funds within two years of the date its grant agreement with HUD is executed (Pub. L. nos. 113-2\*\* and 112-55). Generally, the remaining active CDBG-DR grantees have funds available

until expended (Pub. L. nos. 107-73, 107-38, 107-73, 107-117, 107-206, 108-324, 109-148, 109-234, 110-116, 110-252, 110-329, and 111-212).

\* (CDBG-DR funds awarded under these public laws are eligible for an expenditure extension for up to two years to provide grantees with flexibility during the COVID-19 pandemic.)

\*\*(CDBG-DR funds awarded under Pub. L. No. 113-2 were extended for an additional year by Pub. L. No. 116-260.)

## **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. 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.

Program income, regardless of the source funding of the activity that generated the income, shall be included in the compliance determination of the administrative and planning cost cap applicable to annual formula CDBG grants and program income, separately from CDBG-CV funds.

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 applicable to the 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.

4. 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).
5. 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.

6. For CDBG-DR, grantees that generate program income must expend those funds, but grantees also have the option to transfer program income, to the annual CDBG program.

## **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 C04PR29 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) C04PR03 – Activity Summary Report
- (2) C04PR26 – CDBG Financial Summary Report (restricted as of September 14, 2020, to run for CDBG annual formula grants only)
- (3) C04PR26 – CDBG-CV Financial Summary Report (made available September 14, 2020, to run for CDBG CARES Act grants only)
- (4) C04PR26 – CDBG Activity Summary by Selected Grant (Added field, as of September 14, 2020, in the report “Activity to prevent, prepare for, and respond to Coronavirus.” This field will be populated with Yes if the checkbox for “Activity to prevent,

prepare for, and respond to Coronavirus” is checked on the activity set up screen otherwise Null. Added a subtotal for Coronavirus related activities for Public Services section only.)

(5) C04PR29 – CDBG-CV Cash on Hand Quarterly Report (available in IDIS in July 2021)

- 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. As 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>), existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and format for this reporting is still under development and will need to be reviewed against current program practices. The Department expects that the PR29, CDBG-CV Cash on Hand Quarterly Report will meet this ongoing reporting requirement.

## 2. Performance Reporting

*Section 3 of the Housing and Urban Development Act of 1968* – The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. Section 3 reporting is undergoing a transition in fiscal year (FY) 2021. A new Section 3 rule (24 CFR Part 75) became effective on November 30, 2020, replacing the old rule at 24 CFR Part 135. Previously, grantees submitted Section 3 data on the HUD Form 60002 using the automated Section 3 Performance Evaluation and Registry System (SPEARS) (24 CFR sections 135.3(a)(1) and 135.90). As of November 30, 2020, CDBG recipients are still expected to maintain records of Section 3 statutory, regulatory, and contractual compliance, but are no longer required to report such compliance in SPEARS. Beginning in July 2021, grantees shall enter their Section 3 activities

on the closeout screens in IDIS as well as within their annual reporting in the Consolidated Annual Performance and Evaluation Report (CAPER).

Key data for CDBG Section 3 reporting, on all projects completed within the reporting year, include the following:

1. The total number of labor hours worked;
2. The total number of labor hours worked by Section 3 workers; and
3. The total number of labor hours worked by Targeted Section 3 workers.

Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established. The labor hours reported must include the total number of labor hours worked on a Section 3 project by all workers, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required or elects to report. Please consult 24 CFR Part 75 for the various definitions of the workers noted above and more details on Section 3 reporting requirements.

*Consolidated Annual Performance and Evaluation Report (CAPER) (24 CFR 91.520)*

A grantee's CAPER, submitted through the IDIS e-Con Planning Suite, is due 90 days after the close of a jurisdiction's program year. Please reference the note in L.1.d. above regarding an extension of this deadline for the grantee's 2019 program year.

The reporting requirements that apply to the use of annual formula CDBG grants also apply to CDBG-CV grants. Reporting requirements for CDBG-CV grantees can be found at 42 USC 12708(a), 24 CFR 91.520, 24 CFR 570.507 (entitlement). In addition, users are required, as of the June 15, 2020, IDIS release, to identify activities that will prevent, prepare for, and respond to coronavirus.

*Quarterly Performance Report (QPR) (OMB No. 2506-0165)*

This report is due each quarter from NSP1, NSP2, and NSP3 grantees and then annually after grant closeout. For state CDBG-DR grantees, the first QPR is due after the first full quarter following execution of a grant agreement with HUD. The report is submitted in HUD's Disaster Recovery Grant Reporting system (DRGR). The instructions for submitting QPRs can be found in the DRGR User Manual (<https://www.hudexchange.info/resource/4915/drgr-user-manual>).

The QPR is created using data in the DRGR action plan. Essentially, the QPRs are a tool that allows the grantee, HUD, and Congress to track expenditures and performance for individual activities. Additionally, NSP1, NSP3, and CDBG-DR grantees are required to post QPRs on the grantee's website. Therefore, the

DRGR action plan must be set-up properly in order for the grantee to be enabled to fully report on their activities and accomplishments.

Action plans in DRGR can be modified at almost any time. However, an action plan must be in an approved status before the QPR can be submitted to HUD for review and approval. Additionally, QPRs must be submitted and reviewed within a certain timeframe:

<b>Reporting Period End Date</b>	<b>Grantee Submission Deadlines</b>	<b>HUD Review Deadlines</b>
30-March	30-Apr	30-May
30-Jun	30-Jul	30-Aug
30-Sep	30-Oct	30-Nov
30-Dec	30-Jan	30-Feb

Each quarter, after the submission of the QPR, HUD reviews the QPRs and provides approvals/rejection-revision directions to the grantee.

### **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** 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 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** Prior to the 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 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)
- 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).

CDBG-DR grantees must post the Action Plan for public comment for a minimum of seven or up to 30 days, based on the specific requirements for the CDBG-DR appropriation identified in the applicable *Federal Register* notice. CDBG-DR grantees are required to ensure that public comments are included in the Action Plan submitted to HUD.

**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 records for evidence that the elements of the citizen's participation plan were followed as the grantee certified.
- e. Green Building Standards. CDBG-DR grantees with appropriations after 2012 are required to ensure that green building standards are applied to all replacement housing and new construction housing activities. Ensure that a green building retrofit checklist has been used for all housing rehabilitation activities.

### **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 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 at <https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment>.

**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). 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 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.

## 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](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](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 program waivers issued by HUD can be found at <https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices>.

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](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.

## 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 primary objective of the Community Development Block Grants (CDBG)/State's Program and Non-Entitlement Grants in Hawaii (State CDBG Program) is the development of viable communities by providing decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. This objective can be achieved in two ways. First, funds can only be used to assist eligible activities that fulfill one or more of three national objectives. Second, the grantee must spend at least 70 percent of its funds over a period of up to three years, as specified by the grantee in its certification, for activities that address the national objective of benefiting low- and moderate-income persons.

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 Community Development Block Grant (CDBG) funds. The grant program under Title III is referred to as the Neighborhood Stabilization Program (NSP). The NSP funding referred to above is the funding provided under HERA. These HERA funds are also referred to as NSP1 in the Neighborhood Stabilization Program (see Assistance Listing 14.256, II, "Program Procedures"). Additional funding for the 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) and audited separately.**

CDBG Disaster Recovery (CDBG-DR) funding is authorized under Title I of the Housing and Community Development Act of 1974, as amended. Public laws are the appropriation acts that provide funding for each disaster: Pub. L. No. 115-123, Pub. L. No. 115-72, Pub. L. No. 115-56 (Division B), Pub. L. No. 115-31 (Sec. 421), Pub. L. No. 114-254, Pub. L. No. 114-223, Pub. L. No. 114-113, Pub. L. No. 113-2, Pub. L. No. 112-55, Pub. L. No. 111-212, Pub. L. No. 110-329, Pub. L. No. 110-252, Pub. L. No. 110-116, Pub. L. No. 109-234, Pub. L. No. 109-148, Pub. L. No. 108-324, Pub. L. No. 107-206, Pub. L. No. 107-117, Pub. L. No. 107-73, and Pub. L. No. 107-38. The auditor must consult the relevant public law for the CDBG-DR award.

#### II. PROGRAM PROCEDURES

##### A. Overview

CDBG funds are provided, according to a statutory formula, to those states that elect to administer their CDBG non-entitlement funds. The states, in turn, distribute the funds to units of general local government that do not qualify for grants under the CDBG

Entitlement Program. The non-entitlement counties in Hawaii are handled differently than Entitlement grantees in the following ways: (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); 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)); (3) non-entitlement counties are not eligible to use the exception criteria in 24 CFR section 570.208(a)(1)(ii); and (4) 24 CFR section 570.307 (Urban Counties) and 24 CFR section 570.308 (Joint Requests) would not apply to non-entitlement counties in Hawaii. Except for these differences, non-entitlement counties in Hawaii should follow the requirements of CDBG Entitlement Grants (Assistance Listing 14.218). For the CDBG program, in addition to federal statutory requirements, each state has the authority to issue rules consistent with federal statutes and regulations. The state rules should be reviewed before beginning the audit (24 CFR sections 570.480 and 570.481). For CDBG-DR, Puerto Rico, and United States Virgin Islands are considered states.

## **B. Subprograms/Program Elements**

The NSP1 and NSP3 grants are special CDBG allocations to address the problem of abandoned and foreclosed homes. The HERA and the Dodd-Frank Act established the need, targets the geographic areas, and limits the eligible uses of NSP funds. A state choosing to carry out an activity directly must apply the requirements of 24 CFR section 570.483(b) to determine whether the activity has met the low-, moderate-, and middle-income national objective. It is noted that Section 2301 (f)(3)(A) of HERA defines eligible individuals and families as those that do not exceed 120 percent of area median income.

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

HUD provides flexible grants to help cities, counties, and states recover from Presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations. In response to presidentially declared disasters, Congress may appropriate additional funding for the CDBG program as Disaster Recovery grants to rebuild the affected areas and provide crucial seed money to start the recovery process. Since CDBG Disaster Recovery (CDBG-DR) assistance may fund a broad range of recovery activities, HUD can help communities and neighborhoods that otherwise might not recover due to limited resources.

The *Federal Register* notices that govern the use of CDBG-DR funds are available at <https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices>. Auditors should consult the applicable *Federal Register* notices for the specific CDBG-DR award allocated to the state.

## Source of Governing Requirements

The CDBG program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301). Implementing regulations may be found at 24 CFR Part 570, Subpart I, which was revised effective May 23, 2012.

The 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 (see October 6, 2008, *Federal Register*, 73 FR 58330-58349).

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) on October 19, 2010 (75 FR 64322-64348) to incorporate the bridge notice, the changes made by ARRA, and additional changes and clarification. Most requirements were incorporated into the NSP3 Notice.

The *Federal Register* notices that govern the use of CDBG-DR funds are located at <https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices>. Auditors should consult the applicable *Federal Register* notices for the specific CDBG-DR award allocated to the state.

## Availability of Other Program Information

Additional information about the NSP is available at the HUD NSP website at <https://www.hudexchange.info/programs/nsp/>.

The specific Notices relevant to this program and their web locations are as follows:

- a. NSP Notice (Docket No. FR-5255-N-01) at <https://www.hudexchange.info/resources/documents/NSP1Notice.pdf>
- b. NSP1 Bridge Notice (Docket No. FR-5255-N-02) at [https://www.hudexchange.info/resources/documents/nsp1\\_bridgenotice\\_061909.pdf](https://www.hudexchange.info/resources/documents/nsp1_bridgenotice_061909.pdf)
- c. 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>

- d. NSP3 Notice (Docket No. FR-5447-N-01) at [https://www.hudexchange.info/resources/documents/UnifiedNSP1NSP3Notice\\_101910.pdf](https://www.hudexchange.info/resources/documents/UnifiedNSP1NSP3Notice_101910.pdf)
- e. Further, additional information about the CDBG-DR is available at the HUD CDBG-DR website at <https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>

### 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	N	N	Y	N	Y	N	Y	Y	N	Y

#### A. Activities Allowed or Unallowed

- Section 105(a) of the Housing and Community Development Act of 1974 lists the activities eligible under the CDBG State’s Program, which include (a) the acquisition of real property; (b) the acquisition, construction, reconstruction, or installation of public works, facilities and site, or other improvements, including those that promote energy efficiency; (c) code enforcement in deteriorated or deteriorating areas; (d) clearance, demolition, reconstruction, rehabilitation, and removal of buildings and improvements; (e) removal of architectural barriers that

restrict accessibility of elderly or severely disabled persons; (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 the CDBG regulations); (i) payment of the nonfederal share for another grant program that is part of the assisted activities; (j) payment to complete a Title 1 Federal Urban Renewal project; (k) relocation assistance; (l) planning activities; (m) administrative costs; (n) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (o) 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; (p) activities related to development of energy use strategies; (q) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (r) rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937; (s) technical assistance to public or private entities for capacity building (exempt from the planning/administration cap); (t) housing services related to HOME-funded activities; (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) direct home ownership assistance to facilitate and expand home ownership among persons of low- and moderate-income; (y) 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; 24 CFR section 570.482(a)). Additional CDBG-DR eligible activities can be found in the applicable *Federal Register* notices.

2. Under the national objective criteria, each activity that the state funds must either 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 (24 CFR sections 570.483 and 570.490).
3. States and non-entitlement local government grant recipients may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974. Guaranteed loan funds may 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 activity; (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 homeownership 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 that 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, 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 (24 CFR sections 570.700 through 570.710).

4. For NSP1 and NSP3 funds, HERA requirements have superseded some CDBG requirements to allow for eligible uses in Section 2301(c)(3) of HERA. The NSP categories and CDBG entitlement regulations are listed in Section II.H.3.a. of the NSP3 Notice, 75 FR 64332-64333. Section II.A. of Docket No. 5321-N-03 (NSP Notice) provided definitional changes to “Abandoned” and “Foreclosed” properties, which expanded the inventory of available properties under NSP. In addition, the date for a “Notice of Foreclosure” was specified in Section 1497(b)(2) of Pub. L. No. 111-203. The NSP 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 and operate land banks for homes that have been foreclosed upon (Section A of NSP Bridge Notice clarified that NSP funds can be used to establish and operate land banks)
  - d. demolish blighted structures
  - e. redevelop demolished or vacant properties

The NSP Notice lists the CDBG-eligible activities that 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 the NSP Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP Notice, Section II.A. of Docket No. 5321-N-03 (NSP Notice), and Section II.H.3.a. of the NSP3 Notice, 75 FR 64332-64333).

5. For NSP1 and NSP3 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. An 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 II.E. of NSP3 Notice, 75 FR 64329-64330). 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).

6. For purposes of NSP only, 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 120 percent of area median income; (2) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (3) 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 NSP1 Notice, 73 FR 58335-58336, NSP3 Notice, 75 FR 64329-64330).
7. The CDBG public benefit standards prohibit funding the following activities: (a) general promotion of the community as a whole; (b) assistance to professional sports teams; (c) 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; (d) acquisition of land for which the specific proposed use has not yet been identified; and (e) 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 (24 CFR section 570.482(f)(4)(ii)). For CDBG-DR, the public benefit standards are waived; please consult applicable *Federal Register* notices.
8. For CDBG-DR, HUD allows funding for the following activities: (a) program administrative costs up to 5 percent of total grant amount and program income (24 CFR 570.206); (b) program planning costs up to 20 percent of combined with administration costs (24 CFR 570.205); (c) public services costs up to 15 percent of total grant amount and program income (24 CFR 570.201(e), 570.207). In addition, the 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. However, the secretary may not waive requirements related to fair housing, nondiscrimination, labor standards, and the environment. For CDBG-DR awards made after 2013 awards prohibit assistance for second homes and limit business assistance to small business, please consult *Federal Register* notices. For CDBG-DR awards made in 2017 there is a limit on dollar amounts to households with incomes that exceed 120 percent average medium income.



**H. Period of Performance**

1. 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).
2. 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).
3. CDBG-DR grantees are required to expend their grant funds as soon as possible following the execution of a grant agreement (obligation) with HUD (Pub. L. nos. 114-113, 114-223, 114-254, 115-31, 115-56, 115-72, and 115-123). Moreover, CDBG-DR grantees are required to expend within two years at obligation (Pub. L. nos. 113-2 and 112-55). Finally, CDBG-DR grantees are required to expend within six years at obligation (Pub. L. nos. 111-212, 110-329, 110-252, 110-116, 109-234, 109-148, 108-324, 107-206, 107-117, 107-72, 107-73, and 107-38).

**J. Program Income**

1. For the CDBG program, 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 unit of general local government and its subrecipients (24 CFR section 570.489(e)(2)(i)).
2. 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 (24 CFR section 570.489(e)(2)(v)).
3. 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 (24 CFR section 570.500; Section II.N. of NSP3 Notice, 75 FR 64322-64348).
  - 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 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 (Section B of NSP Bridge Notice).

- b. Program income generated by NSP activities carried out pursuant to Sections 2301(c)(3) of HERA may be retained by the state or unit of general local government (Section 2301(c)(3) of HERA; Section B of NSP Bridge Notice).
- 4. For CDBG-DR, grantees that generate program income must expend those funds, but grantees also have the option to transfer program income, to the annual CDBG program.

## **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. *Performance and Evaluation Report (PER) (OMB No. 2506-0085)* – This report is due from each state CDBG grantee within 90 days after the close of its program year. The PER instructions are in Notice CPD-11-03, which is available at <https://www.hud.gov/sites/documents/11-03CPDN.PDF>. The auditor is expected to test only the financial data in this report (24 CFR sections 91.520 (a) and (d)). States have the option to submit the PER through the electronic Consolidated (eCon) Plan template which is available at <https://www.hudexchange.info/consolidated-plan/econ-planning-suite/>.

### **2. Performance Reporting**

*HUD 60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – Each recipient that administers covered public and Indian housing assistance, regardless of the amount expended, and each recipient that administers covered housing and community development assistance in excess of \$200,000 in a program year, must submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry (SPEARS) System (24 CFR sections 135.3(a)(1) and 135.90).

Information on the automated system is available at [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/spears](https://www.hud.gov/program_offices/field_policy_mgt/section3/spears). SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle.

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

1. Number of new hires that meet the definition of a Section 3 resident
2. Total dollar amount of construction contracts awarded during the reporting period
3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
4. Number of Section 3 businesses receiving the construction contracts
5. Total dollar amount of nonconstruction contracts awarded during the reporting period
6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
7. Number of Section 3 businesses receiving the nonconstruction contracts

*Quarterly Performance Report (QPR) (OMB No. 2506-0165)*: This report is due each quarter from state CDBG-DR grantees after the first full quarter following execution of a grant agreement with HUD. The report is submitted in HUD's Disaster Recovery Grant Reporting system (DRGR). The instructions for submitting QPRs can be found in the DRGR User Guide <https://www.hudexchange.info/onecpd/assets/File/DRGR-User-Manual.pdf>.

The QPR is created using data in the DRGR action plan. Essentially, the QPRs are a tool that allows the grantee, HUD, and Congress to track expenditures and performance for individual activities. Additionally, CDBG-DR grantees are required to post QPRs on the grantee's website. Therefore, the DRGR action plan must be set-up properly in order for the grantee to be enabled to fully report on their activities and accomplishments.

Action plans in DRGR can be modified at almost any time. However, an action plan must be in an approved status before the QPR can be submitted to HUD for review and approval. Additionally, QPRs must be submitted and reviewed within a certain timeframe:

Reporting Period End Date	Grantee Submission Deadlines	HUD Review Deadlines
30-March	30-Apr	30-May
30-Jun	30-Jul	30-Aug
30-Sep	30-Oct	30-Nov
30-Dec	30-Jan	30-Feb

Each quarter, after the submission of the QPR, HUD reviews the QPRs and provides approvals/rejection-revision directions to the grantee.

### **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** 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).

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

### **2. Environmental Oversight**

**Compliance Requirements** The state must assume the environmental oversight responsibilities and functions of HUD under Section 104(g), Housing and Community Development (HCD) Act, (42 USC 5304(g)). The state must (a) require each of its general local governments (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.

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, and (c) encourages public participation.

Additional CDBG-DR Environmental Review information and federal regulations can be found at <https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment>.

**Audit Objectives** Determine whether the 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 the funds were obligated and expended after the state's approval of the RROF and environmental certification.

### **3. Environmental Reviews**

**Compliance Requirements** Projects must have an environmental review unless they meet criteria specified in the regulations that would exclude them from RROF and environmental certification requirements. States that directly implement NSP activities 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. States that directly implement activities must submit the Request for Release of Funds (RROF) and the certifications to HUD for approval (24 CFR sections 58.4(b)(1), 58.34, and 58.35).

**Audit Objectives** Determine whether the required environmental reviews were conducted and required HUD approvals were obtained.

### **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 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 sections 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 CDBG** – Prior to the submission to HUD for its annual grant, the grantee must certify to HUD that it has met the citizen participation requirements in 24 CFR sections 91.115 and 570.486, as applicable.

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 sections 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 NSP Notice, 73 FR 58334 and NSP3 Notice, 75 FR 64328).

CDBG DR grantees must post the Action Plan for public comment for a minimum or seven or up to 30 days, based on the specific requirements for the CDBG-DR appropriation identified in the applicable *Federal Register* notice. CDBG-DR grantees are required to ensure that public comments are included in the Action Plan submitted to HUD.

**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. Green Building Standards. CDBG-DR grantees with appropriations after 2012 are required to ensure that Green Building Standards are applied to all replacement housing and new construction housing activities. Green Building Retrofit Checklist should be used for all housing rehabilitation activities.
- e. 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](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.

## IV. OTHER INFORMATION

Information on CDBG-DR program waivers issued by HUD can be found at <https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>.

**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.

In addition to the ESG Allocation in the fiscal year (FY) 2020 budget, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Pub. L. No. 116-136 (2020) announced the allocation formula, amounts, and requirements for and additional \$3.96 billion in funding through the ESG program (ESG-CV). These funds must be used to prevent, prepare for, and respond to coronavirus, among individuals and families who are homeless or receiving homeless assistance and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts created by coronavirus. Requirements at 24 CFR Part 576 will apply to the use of these funds, unless otherwise provided by the alternative requirements and flexibilities established under the CARES Act, this Notice, or subsequent waivers, amendments, or replacements to the Notice.

**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.

HUD allocated \$1,000,000,000 of the FY 2020 CARES funds to recipients of the FY 2020 ESG funds based on the same formula HUD used under 24 CFR 576.3. The remaining \$2,960,000,000 in funds were allocated directly to states and units of general local government according to a formula developed by the secretary, as required by the CARES Act:

[https://www.hud.gov/sites/dfiles/CPD/documents/ESG\\_CARES\\_Act\\_Round\\_2\\_Allocation\\_Met\\_hodology\\_rev.pdf](https://www.hud.gov/sites/dfiles/CPD/documents/ESG_CARES_Act_Round_2_Allocation_Met_hodology_rev.pdf). A list of recipients is provided at:  
[https://www.hud.gov/program\\_offices/comm\\_planning/budget/fy20/](https://www.hud.gov/program_offices/comm_planning/budget/fy20/).

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.

The ESG-CV program is authorized under Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Pub. L. No. 116-136. HUD issued [Notice CPD-20-08](#) to announce the allocation formula, amounts, and requirements for ESG-CV funding. The following waivers provided additional flexibilities for the use of ESG-CV funds.

- [Availability of Additional Waivers for Community Planning and Development \(CPD\) Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19](#) (March 31, 2021) – [PDF](#)
- [Availability of Additional Waivers for CPD Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19](#) (May 22, 2020) - [PDF](#)
- [Availability of Additional Waivers for CPD Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19](#) (September 30, 2020) – [PDF](#)
- [CARES Act Flexibilities for ESG and HOPWA Funds Used to Support Coronavirus Response and Plan Amendment Waiver](#) (May 4, 2020) – [PDF](#)
- [Availability of Waivers of Community Planning and Development \(CPD\) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19](#) (March 31, 2020) – [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/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	N	N	Y	Y	N	Y	N	N	N	Y

#### A. Activities Allowed or Unallowed

1. 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.
2. CPD Notice 20-08 establishes additional eligible activities that may be funded with ESG-CV and annual ESG funds used to prevent, prepare for, and respond to coronavirus. The requirements at 24 CFR 576 – Subpart B apply, except that the additional eligible activities listed in Section III.E.3. of the notice are also eligible:
  - a. Temporary Emergency Shelter
  - b. Training
  - c. Hazard Pay
  - d. Handwashing Stations and Portable Bathrooms
  - e. Landlord Incentives
  - f. Volunteer Incentives

**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).

Match is not required for ESG-CV per the CARES Act (Pub. L. No. 116-136 (2020)), so this does not apply to recipients ESG-CV allocation. The match requirement is also waived for annual ESG funds used to prevent, prepare for, and respond to coronavirus (see CPD Notice: CPD-20-08, Section III.C).

**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)). For ESG-CV and annual ESG funds used to prevent, prepare for, and respond to coronavirus, there is no cap on the amount used for street outreach or emergency shelter activities.
- 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)). For ESG-CV and annual ESG funds used to prevent, prepare for, and respond to coronavirus, the recipient may use up to 10 percent of its program costs for administration.

## **I. 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, 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. 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.

## **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)).

The minimum period of use requirements are waived for ESG-CV and annual ESG funds used to prevent, prepare for, and respond to coronavirus. The real property requirements at 2 CFR 200.311 still apply.

**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.

## 2. Obligation, Expenditure and Payment Requirements

**Compliance Requirements** *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.

*Obligation-ESG-CV.* Obligation Deadlines. To ensure that all funding and flexibilities provided by the CARES Act and HUD under Notice can be used as necessary to prevent, prepare for, and respond to coronavirus, HUD waived the regulatory obligation deadlines and standards for meeting those deadlines and established alternative requirements as follows:

ESG-CV funds must be obligated by the recipient in accordance with 24 CFR 576.203(a)(1) and (2), except as provided below. The applicable period for obligating ESG-CV funds begins on the date HUD signed the recipient's grant agreement for the first allocation of ESG-CV funds. The obligation deadlines below apply to the both the first and second allocation of ESG-CV funds. HUD is also providing further flexibility for recipients (including states and non-states) to provide additional time to identify entities that have capacity and expertise to mitigate the impacts of coronavirus, including those who have not previously or recently received ESG funding.

a. Recipients that are states have:

- (1) 180 days from the date HUD signs the grant agreement to obligate funds for activities it will carry out directly, as permitted in Section III.A.1. of Notice CPD-20-08. This obligation may be evidenced by a written designation of a department within the government to carry out an eligible activity directly; and
- (2) up to 240 days from the date HUD signs the grant agreement to obligate ESG-CV funds to subrecipients. Recipients must maintain in the program records a description of any changes the recipient implemented to identify and select new subrecipients.

b. Recipients that are metropolitan cities, urban counties, or territories may have up to 240 days from the date HUD signs the grant agreement to obligate ESG-CV funds. Recipients must maintain in their program records a description of any changes the recipient implemented to identify and select new subrecipients.

*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.

*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).

*Expenditures-ESG-CV.* The requirements at 24 CFR 576.203(b) generally apply, except that the provision that all 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 is waived and the following alternative requirements are established:

- a. Overall Deadline for Expending First and Second Allocations. All funds awarded to a recipient through the first and second allocations of ESG-CV funds must be expended for eligible activity costs by September 30, 2022.
- b. Progressive Expenditure Deadlines and Recapture Provisions. To ensure ESG-CV funds are spent quickly on eligible activities to address the public health and economic crises caused by coronavirus, the following alternative requirements were established:
  - (1) HUD may recapture up to 20 percent of a recipient's total award, including first and second allocation amounts, if the recipient has not expended at least 20 percent of that award by September 30, 2021.
  - (2) HUD may recapture up to 80 percent of a recipient's total award, including first and second allocation amounts, if the recipient has not expended at least 80 percent of that award by March 31, 2022.

**Audit Objectives** Determine whether funds were obligated and expended within HUD-prescribed limits, and that payments were made to subrecipients on a timely basis.

### **Suggested Audit Procedures**

- a. Determine the time periods for funds to be obligated and expended for the selected entities.
- b. Review records to determine the dates that funds were obligated and expended, as applicable.
- c. Review records to verify that payments to subrecipients were made within the 30-day time period after receipt of a complete payment request.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****ASSISTANCE LISTING 14.235 SUPPORTIVE HOUSING PROGRAM****I. PROGRAM OBJECTIVES**

The Supportive Housing program is designed to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of supportive housing to homeless persons so they can live as independently as possible (24 CFR section 583.1).

**II. PROGRAM PROCEDURES**

Grants are provided to state, local governments, other governmental entities, private nonprofit organizations, and community mental health associations that are public nonprofit organizations (24 CFR section 583.5). Funds may be used for (1) transitional housing to facilitate the movement of homeless individuals and families to permanent housing; (2) permanent housing that provides long-term housing for homeless persons with disabilities; (3) housing that is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless persons; or (4) supportive services for homeless persons not provided in conjunction with supportive housing (24 CFR section 583.1(b)).

**Source of Governing Requirements**

The Supportive Housing program is authorized under Title IV, Subtitle C of the McKinney-Vento Homeless Assistance Act (42 USC 11301). The implementing regulations are at 24 CFR Part 583.

**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
N	N	N	N	Y	Y	Y	Y	Y	N	N	Y

## G. Matching, Level of Effort, Earmarking

### 1. Matching

- a. The nonfederal entity must match the grant funds provided by HUD for acquisition, rehabilitation, and new construction with an equal amount of funds from other sources. The matching funds must be cash resources provided to the project by one or more of the following: the nonfederal entity, the federal government, state and local governments, and private sources (24 CFR section 583.145).
- b. HUD may provide grants to pay for a portion of the actual operating costs of supportive housing. assistance for operating costs is available for up to 75 percent of the total cost in each year of the grant. The nonfederal entity must pay with its own funds the percentage of the actual operating costs not funded by HUD. At the end of each operating year, the nonfederal entity must demonstrate that it has met its share of the costs for that year (24 CFR section 583.125).
- c. All funding for supportive services must be matched by 25 percent funding from nonfederal entity (Pub. L. No. 105-276).

### 2. Level of Effort

#### 2.1 Level of Effort – *Maintenance of Effort*

Not Applicable

#### 2.2 Level of Effort – *Supplement Not Supplant*

- a. No assistance provided under this 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 (24 CFR section 583.150(a)).



- b. State or local government funds used in the matching contribution may be used to replace state or local funds previously used, or designated for use, to assist homeless persons (24 CFR section 583.145(c)).

### **3. Earmarking**

No more than 5 percent of any grant awarded may be used for paying the costs of administering the assistance. Administrative costs include the costs associated with accounting for the use of grant funds, preparing reports for submission to HUD, obtaining program audits, and similar costs related to administering the grant after award. The administrative costs do not include the cost of carrying out eligible activities under 24 CFR sections 583.105 through 583.125 (24 CFR section 583.135).

## **J. Program Income**

Income from resident rent payments may be used in the operation of the project or may be reserved, in whole or in part, to assist residents of transitional housing in moving to permanent housing (24 CFR section 583.315(b)).

## **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 space (24 CFR section 583.115(b)(1)).

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. Nonfederal entities may use grant funds in an amount up to one month's rent to pay the non-recipient landlord for any damages to leased units by homeless participants (24 CFR section 583.115(b)(2)).

**Audit Objectives** Determine reasonableness of the rents being paid by the nonfederal entities.

### **Suggested Audit Procedures**

- a. Determine the acceptability of the manner in which the nonfederal entity 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** All nonfederal entities 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 20 years from the date of initial occupancy or the date of initial service provision. If HUD determines that a project is no longer needed for use as supportive housing or to provide supportive services and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the nonfederal entity operating the project, HUD may authorize the nonfederal entity to convert the project to such use (24 CFR section 583.305).

**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 Procedure**

Verify that a binding agreement exists between the nonfederal entity and owner of the structure, if other than the nonfederal entity, covering the provision of supportive housing or supportive services for 20 years if the grant assistance involves acquisition, rehabilitation, or new construction.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### ASSISTANCE LISTING 14.238 SHELTER PLUS CARE

#### I. PROGRAM OBJECTIVES

The Shelter Plus Care program is designed to link rental assistance to supportive services for hard-to-serve homeless persons with disabilities (primarily those who have a serious mental illness; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome (AIDS) and related diseases) and their families if they are also homeless (24 CFR section 582.1).

#### II. PROGRAM PROCEDURES

The program provides grants to states, units of general local government, or public housing agencies (PHAs). The grants are to be used to provide rental assistance so homeless persons with disabilities can obtain permanent housing. Rental assistance grants must be matched in the aggregate by supportive services that are equal in value to the amount of rental assistance and appropriate to the needs of the population to be served. Recipients are chosen on a competitive basis nationwide (24 CFR section 582.1).

Rental assistance is provided through the four components described in 24 CFR section 582.100: (1) tenant-based rental assistance (TRA); (2) project-based rental assistance (PRA); (3) sponsor-based rental assistance (SRA); and (4) moderate rehabilitation for single room occupancy (SRO) dwellings. Applicants may apply for assistance under any one of the four components. The Compliance Supplement's section relating to Assistance Listing 14.856 (4-14.182) should be used in auditing the moderate rehabilitation program for SRO dwellings.

The grant amount is based on the number and size of units to be assisted by the applicant over the grant period. It is calculated by multiplying the number of units to be assisted by their fair market rents for the term of the grant in months. The amount determined will be reserved for rental assistance over the grant period (24 CFR sections 582.105(b) and (c)).

#### Source of Governing Requirements

The Shelter Plus Care program is authorized under Title IV, Subtitle F of the McKinney-Vento Homeless Assistance Act (42 USC 11403). Implementing regulations are at 24 CFR Part 582.

#### 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
N	N	N	N	Y	Y	Y	Y	Y	N	N	Y

## G. Matching, Level of Effort, Earmarking

### 1. Matching

A grantee must provide or ensure the provision of supportive services that are at least equal in value to the aggregate amount of rental assistance funded by HUD. This includes funding the services itself if the planned resources do not become available for any reason, appropriate to the needs of the population being served. The supportive services may be newly created for the program or existing, and may be provided or funded by other federal, state, local, or private programs.

Only services that are provided after the execution of the grant agreement may count toward the match. The manner in which the value of supportive services is calculated is contained in 24 CFR section 582.110(c).

### 2. Level of Effort

#### 2.1 Level of Effort – *Maintenance of Effort*

Not Applicable

#### 2.2 Level of Effort – *Supplement Not Supplant*

No assistance received under this program (or any state or local government funds used to supplement this assistance) may be used to replace funds provided under any state or local government assistance programs previously used, or designated for use, to assist homeless persons with disabilities (24 CFR section 582.115(d)).

### 3. Earmarking

Up to 8 percent of the grant amount may be used to pay the costs of administering housing assistance, subject to the limits noted in III.A.2, “Activities Allowed or Unallowed” (24 CFR section 582.105(e)).

## N. Special Tests and Provisions

### 1. Wage Rate Requirements

**Compliance Requirements** Except for the use of volunteers under the conditions of 24 CFR Part 70, agreements under the SRO component covering nine or more assisted units are required to comply with the Wage Rate Requirements (24 CFR section 882.804(b)).

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

### 2. Rent Reasonableness

**Compliance Requirements** HUD will only provide assistance for a unit for which the rent is reasonable. For TRA, PRA, and SRA, it is the responsibility of the nonfederal entity to determine whether the rent charged for the unit receiving assistance is reasonable in relation to rents being charged for comparable unassisted units. For SRO units, rents are calculated in accordance with 24 CFR section 882.805(d) (24 CFR section 582.305(b)).

**Audit Objectives** Determine reasonableness of the rents being paid by the grantee.

#### Suggested Audit Procedures

- a. Identify the manner in which the nonfederal entity establishes rent reasonableness, and if such tools as telephone surveys, site visits after telephoning, or more extensive market surveys of available rental units were conducted in order to assess the reasonableness of rents being charged. Examine the nonfederal entity’s documentation showing rents charged for comparable unassisted units.
- b. Verify that the contract rents being paid are comparable with those paid for unassisted units. If unassisted units are in the building, compare rents paid for those units with the rents paid for the assisted units.

### 3. Housing Quality Standards

**Compliance Requirements** Housing assisted under the Shelter Plus Care Program must meet applicable housing quality standards under 24 CFR section 582.305 (a) and, for the SRO component, under 24 CFR section 882.803(b). Before any assistance is provided on behalf of a participant, the nonfederal entity, or another entity acting on behalf of the nonfederal entity (other than the owner of the housing), must physically inspect each unit to ensure that the unit meets housing quality standards. Nonfederal entities must also

inspect all units annually during the grant period to ensure that units continue to meet housing quality standards (24 CFR section 582.305(a)).

**Audit Objectives** Determine whether the grantee performs the required inspections to ensure that units meet housing quality standards.

#### **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 performed inspections of units and that any needed repairs were completed timely.

#### **4. Project-Based Rental Assistance**

**Compliance Requirements** Project-based rental assistance provides grants for rental assistance to the owner of an existing structure, where the owner agrees to lease the subsidized units to participants. Participants do not retain rental assistance if they move. Rental subsidies are provided to the owner for a period of either five or ten years. To qualify for 10 years of rental subsidies, the owner must complete at least \$3,000 of eligible rehabilitation work for each unit (including the prorated share of work to be accomplished on common areas or systems), to make the structure decent, safe, and sanitary. The rehabilitation work must be completed within 12 months of the grant award (24 CFR section 582.100(b)).

**Audit Objectives** Determine whether project-based assistance is being paid in accordance with agreements.

#### **Suggested Audit Procedures**

- a. Examine the existing agreement between the owner and the nonfederal entity to determine whether the agreement is for either five or 10 years.
- b. If the agreement is for 10 years, verify through a review of documentation that the required rehabilitation of at least \$3,000 was performed within 12 months of the grant award.
- c. Examine the billings from the owner and verify that the assistance payments are for units occupied or ready for occupancy.

**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).

**II. PROGRAM PROCEDURES**

The program is conducted by jurisdictions (states, cities, urban counties, and consortia) that receive an allocation of funds. Participating jurisdictions 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 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 functions. A unit of general local government designated by a state to receive HOME 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 program. 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 (42 USC 12701–12839 and 3535(d)). Implementing regulations are codified at 24 CFR Part 92.

**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 in order to implement them. All participating jurisdictions are subject to the compliance requirements listed in section III, f. The participating jurisdictions implementing the COVID-19 suspensions and waivers must adhere to the revised application of the requirements set forth in the waivers:

<https://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-Final.pdf>.

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

### 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	N	Y	N	N	N	N	Y	N	Y	Y



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

- 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)).

**2. *Activities Unallowed***

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 nonfederal 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 participating jurisdiction (except for property acquired with HOME funds or in anticipation of a HOME project); and (i) payment of delinquent taxes, fees, or charges.

Participating jurisdictions may not charge servicing, origination, or other fees for the purpose of covering costs of administering the HOME program. Participating jurisdictions may charge (a) owners of rental projects reasonable annual fees for compliance monitoring during the period of affordability and (b) homebuyers a fee for housing counseling (24 CFR section 92.214).

## **E. Eligibility**

### **1. Eligibility for Individuals**

- 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 participating jurisdiction 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. Participating jurisdictions 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 participating jurisdiction may use HOME funds for tenant-based rental assistance, as provided for in 24 CFR section 92.209(b). The participating

jurisdiction must select families in accordance with policies and criteria consistent with those provided in 24 CFR section 92.209(c).

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

Not Applicable

**3. Eligibility for Subrecipients**

Not Applicable

**J. Program Income**

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:

1. Proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or matching contributions;
2. Gross income from the use or rental of real property owned by the participating jurisdiction, 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 participating jurisdiction, subrecipient or state recipient);
3. Payments of principal and interest on loans made using HOME funds or matching contributions;
4. Proceeds from the sale of loans made with HOME funds or matching contributions;
5. Proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
6. Interest earned on program income pending its disposition; and
7. 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).

**M. Subrecipient Monitoring**

Each participating state is responsible for distributing HOME 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 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 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 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 funds, as required by 24 CFR section 92.500, and has met HOME 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 participating jurisdiction is required to enter into written agreements with the entity, which includes provisions dealing with the use of HOME 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 funds to for-profit owners or developers, nonprofit organizations, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement that contains the applicable provisions in 24 CFR section 92.504(c).

## **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.

### **2. Maximum Per-Unit Subsidy and Underwriting Requirements**

**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. Participating jurisdictions 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, participating jurisdictions 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 participating jurisdiction's records.
- b. Review participating jurisdiction 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.

## **3. Drawdowns of HOME 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**

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

## **4. 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 participating jurisdiction 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 participating jurisdiction must perform on-site inspections of rental housing occupied by tenants receiving HOME-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)).

**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.

**IV. OTHER INFORMATION**

*Improper Payments*

A participating jurisdiction that uses any HOME funds for an activity that does not meet HOME affordability requirements outlined in 24 CFR section 92.252 or 24 CFR section 92.254, or for costs that are not eligible costs identified in 24 CFR sections 92.206 through 92.209, must repay the funds to either its HOME Investment Trust Fund Treasury account or the local HOME account (24 CFR section 92.503(b)).

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****ASSISTANCE 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 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 10 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) and on population data furnished by the US Bureau of the Census (42 USC 12903).

The competitive grants are awarded based on applications, as described in subpart C of the HOPWA regulations, submitted in response to a Notice of Funding Availability (NOFA) published in the *Federal Register*. Each year, priority is given by Congressional authority to the renewal of expiring permanent supportive housing project grants. If funds remain after renewals are awarded, they are distributed under a NOFA competition. All states and units of general local government and nonprofit organizations are eligible to apply for competitive grants to fund 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. 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 Act (CARES Act) included \$65 million in supplemental grant funding for the HOPWA program that the Department distributed in the following manner:

- \$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.
- \$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.

- \$1.3 million in funding was awarded, without competition, to increase prior awards made to existing HOPWA technical assistance (TA) providers. The purpose of the TA funding is to provide an immediate increase in capacity building and TA available to grantees.

### 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 Act (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 HOPWA program website at:

[https://www.hud.gov/program\\_offices/comm\\_planning/hopwa](https://www.hud.gov/program_offices/comm_planning/hopwa).

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](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/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	Y	Y

#### A. Activities Allowed or Unallowed

1. HOPWA funds may be used to assist all 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; 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:

- Stays at hotels, motels, or other locations to self-isolate, quarantine, or provide other infection control for HOPWA-eligible individuals or their family members;
- Providing transportation services for eligible households to access medical care, supplies, and food or to commute to places of employment;

- Assisting HOPWA-eligible households in accessing essential services and supplies such as food, medications, medical care, personal protective equipment (PPE) and information;
- Providing nutrition services for eligible households in the form of food banks, groceries, and meal deliveries;
- Educating assisted households on ways to reduce the risk of contracting or spreading COVID-19 to others; and
- 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.

HUD issued *Availability of Waivers of Community Planning and Development (CPD) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19* on March 31, 2020. This memorandum waives 24 CFR section 574.530 to permit 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. In order to utilize the waiver, grantees must notify HUD of their intent to use the waiver flexibility two days before they anticipate using it and agree to obtain source documentation of HIV status and income eligibility within three months of public health officials determining no additional special measures are necessary to prevent the spread of COVID-19.

- 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. Allowable assistance 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.

In response to the COVID-19 pandemic, HUD issued two memorandums that provide waiver flexibilities regarding FMR requirements for HOPWA eligible activities: (1) *Availability of Waivers of Community Planning and Development (CPD) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19* (March 31, 2020) and (2) *Availability of Additional Waivers for Community Planning and Development Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19* (May 22, 2020). The March 31, 2020 FMR waiver is specific to Tenant-Based Rental Assistance (TBRA) and the May 22, 2020 waiver pertains to all HOPWA rental assistance types. The memorandums permit HOPWA grantees to establish rent standards, by unit size, that are reasonable, and based upon rents being charged for comparable unassisted units in the area, taking into account the location, size, type, quality, amenities, facilities, management, and maintenance of each unit. Grantees, however, are required to ensure the reasonableness of rent charged for a unit in accordance with section 24 CFR section 574.320(a)(3). The rent standards may be used for up to one year beginning on the date of the memorandums. In order to utilize the waivers, grantees must notify HUD of their intent to use the waiver flexibility two days before they anticipate using it.

- 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 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.

HUD issued *Availability of Additional Waivers for Community Planning and Development Grant Programs to Prevent the Spread of COVID-19*

*and Mitigate Economic Impacts Caused by COVID-19* on May 22, 2020. This memorandum provides waiver flexibility regarding the time limit of short-term supported housing facilities, and provides 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. A short-term supported housing facility may provide residence to any individual for a period of up to 120 days in a six-month period. In order to utilize the waiver, grantees must notify HUD of their intent to use the waiver flexibility two days before they anticipate using it. This waiver is in effect for up to one year beginning on the date of the memorandum for grantees and project sponsors that can meet the following criteria:

1. The grantee or project sponsor documents that a good faith effort has been made on an individual household basis to assist the household to achieve permanent housing within the time limit specified in the regulations but that financial needs and/or health and safety concerns have prevented the household from doing so; and
  2. The grantee or project sponsor has written policies and procedures outlining efforts to regularly reassess the needs of assisted households as well as processes for granting extensions based on documented financial needs and/or health and safety concerns.
- e. Short-Term Rent, Mortgage, and Utility (STRMU) 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 (24 CFR section 574.330). The CARES Act provides that the supplemental grant funding received under the Act may be used to provide 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.

In addition, HUD issued *Availability of Additional Waivers for Community Planning and Development Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19* on May 22, 2020. This memorandum provides waiver flexibility regarding the time limit of STRMU assistance funded under regular HOPWA awards, and provides 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. In order to utilize the waiver, grantees must notify HUD of their intent to use the waiver flexibility two days

before they anticipate using it. This waiver is in effect for up to one year beginning on the date of the memorandum for grantees and project sponsors that can meet the following criteria:

1. The grantee or project sponsor documents that a good faith effort has been made on an individual household basis to assist the household to achieve permanent housing within the time limit specified in the regulations but that financial needs and/or health and safety concerns have prevented the household from doing so; and
2. The grantee or project sponsor has written policies and procedures outlining efforts to regularly reassess the needs of assisted households as well as processes for granting extensions based on documented financial needs and/or health and safety concerns.

**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. All of the information captured in this form except for the program income and indirect expenses sections is already provided through our financial and reporting systems. Grantees are required to only complete the sections on Program Income (Part 10. L-O), and Indirect Expenses (Part 11).
- d. *HUD-40110-C, Annual Progress Report, and HUD-40110-D, Consolidated Annual Performance and Evaluation Report (CAPER) (OMB No. 2506-0133)* – Both reports are due from each grantee within 90 days after the close of its program year and are used for competitive/renewal projects and for formula programs, respectively. The auditor is only expected to test the financial data, which is found in Part 3, Summary Overview of Grant Activities, C. Performance and Expenditure Information, of the Annual Progress Report, and in Part 3,

Accomplishment Data - Planned Goal and Actual Outputs, of CAPER (24 CFR section 574.520 and 24 CFR Part 91).

- e. *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 use the associated MicroStrategy reporting system to compare budget and draw information with actuals 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); PR07 (sequential draws completed by the grantee); and PR05 (draws sorted by project and activity). The Contact Support link within IDIS can be used to get clarification on system navigation and report variables.

## 2. Performance Reporting

- a. HOPWA Formula Program grantees must submit a [HOPWA Consolidated Annual Performance and Evaluation Report \(CAPER\)](#) (OMB Number 2506-0133) and HOPWA Competitive Program grantees must submit a [HOPWA Annual Progress Report \(APR\)](#) (OMB Number 2506-0133) to provide HUD with complete information on the use of program funds. Both formula and competitive grantees are required to submit their completed APR and CAPER (respectively) no later than 90 days after the close of their program or operating year.

### *Key Line Items:*

- 1. Number of households assisted, and amount of HOPWA funds expended with HOPWA in the program year for each HOPWA eligible activity
  - 2. Number of households that exited the HOPWA program and the category of their housing after exit
- b. *Stewardship Reporting on Capital Development Activities:* For programs involving the use of HOPWA funds for new construction, acquisition, or for substantial rehabilitation of a building or structure, a grantee is required to operate the facility or structure to benefit HOPWA eligible persons for a minimum of ten years, although funds must be expended within three years from the date of grant agreement. An [APR](#) or [CAPER](#) must be submitted for each operating year during which HOPWA funds are expended. However, HUD may request information on the continued use of the building or structure for any year during the ten-year use period, even if no additional funds were available.

*Key Line Items:*

1. Stewardship Units subject to three- or ten-year use agreements
- c. *CARES Act Reporting:* HOPWA grantees that accept the supplemental grant funding authorized under the CARES Act will be required to report on the activities undertaken with such funding. Consistent with 24 CFR 574.520, grantees will report information to HUD on the use of the supplemental grant funds, including the number of individuals assisted and the types of assistance provided. This information will be reported in the HOPWA CAPER for formula grantees or HOPWA APR for competitive grantees, or similar combined data collection instrument to be specified by HUD.

Section 15011 of the CARES Act requires that recipients of \$150,000 or more of CARES Act funding submit, not later than ten 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. As outlined in the Office of Management and Budget (OMB) memorandum, M-20-21, existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and format for this reporting is still under development and will need to be reviewed against current program practices. The Department is working in coordination with OMB to ensure that this requirement can be fulfilled by recipients of HOPWA CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden.

- d. *HUD 60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – Each recipient that administers covered public and Indian housing assistance, regardless of the amount expended, and each recipient that administers covered housing and community development assistance in excess of \$200,000 in a program year, must submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registration System (SPEARS) (24 CFR sections 135.3(a)(1) and 135.90).

Information on the automated system is available at [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/spears](https://www.hud.gov/program_offices/field_policy_mgt/section3/spears). The system was launched August 25, 2015. SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle.



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

1. Number of new hires that meet the definition of a Section 3 resident
2. Total dollar amount of construction contracts awarded during the reporting period
3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
4. Number of Section 3 businesses receiving the construction contracts
5. Total dollar amount of nonconstruction contracts awarded during the reporting period
6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
7. Number of Section 3 businesses receiving the nonconstruction contracts

**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)).

**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** All housing that involves acquisition, rehabilitation, conversion, lease, repair of facilities, new construction, project- or tenant-based rental assistance (including assistance for shared housing arrangements), and operating costs must meet various housing quality standards listed in 24 CFR sections 574.310(b)(1)-(2).

In response to the COVID-19 pandemic, HUD issued two memorandums that provide waiver flexibilities regarding Housing Quality Standards requirements for HOPWA eligible activities: (1) *Availability of Waivers of Community Planning and Development (CPD) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 (March 31, 2020)* and (2) *Availability of Additional Waivers for Community Planning and Development Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 (May 22, 2020)*. The March 31, 2020 FMR waiver is specific to Tenant-Based Rental Assistance (TBRA) and the May 22, 2020 waiver pertains to all HOPWA rental assistance types. In order to utilize the waivers, grantees must notify HUD of their intent to use the waiver flexibility two days before they anticipate using it. The waivers are in effect for one year beginning on the date of this memorandums for grantees and project sponsors that are able to meet the following criteria:

- a. The grantee or project sponsor is able to visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and
- b. The grantee or project sponsor has written policies to physically reinspect the unit after the health officials determine special measures to prevent the spread of COVID-19 are no longer necessary.

**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. Verify by a review of documentation that the grantee's system identifies those units on which housing quality inspections are due.
- b. Verify by a review of documentation that the grantee performs inspections of these units and that any needed repairs were completed timely.
- c. 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. Review the grantees files to verify that the required certifications are maintained.
- b. Verify that there is evidence on file to support the certifications that were made.

**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.

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 under those respective clusters.

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.

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.

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). 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 under those respective programs.

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 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 the Housing and Economic Recovery Act of 2008 (HERA) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (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/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 the Housing and Economic Recovery Act (Pub. L. No. 110–289) (HERA), as amended by Title XII of Division A of the American Reinvestment and Recovery Act of 2009 (Pub. L. No. 111–005) (ARRA). Like NSP1, NSP2 is a component of the Community Development Block Grant program (CDBG) (Assistance Listings 14.218 and 14.228). 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](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/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	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, 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)).

## 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 line items contain critical information:

1. *Obligation Amount*
2. *Drawdown Amount*

## 2. Performance Reporting

*Section 3 of the Housing and Urban Development Act of 1968* – The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. Section 3 reporting is undergoing a transition in FY 2021. A new Section 3 rule (24 CFR Part 75) became effective on November 30, 2020, replacing the old rule at 24 CFR Part 135. Previously, grantees submitted Section 3 data on the HUD Form 60002 using the automated Section 3 Performance Evaluation and Registry System (SPEARS) (24 CFR sections 135.3(a)(1) and 135.90). As of November 30, 2020, NSP recipients are still expected to maintain records of Section 3 statutory, regulatory, and contractual compliance, but are no longer required to report such compliance in SPEARS. HUD is developing guidance, expected to be effective in July 2021, for NSP grantees to report on Section 3 activities in DRGR.

Key data for NSP Section 3 reporting, on all projects completed within the reporting year, include the following:

1. The total number of labor hours worked;
2. The total number of labor hours worked by Section 3 workers; and
3. The total number of labor hours worked by Targeted Section 3 workers.

Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established. The labor hours reported must include the total number of labor hours worked on a Section 3 project by all workers, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required or elects to report. Please consult 24 CFR Part 75 for the various definitions of the workers noted above and more details on Section 3 reporting requirements.

### *Quarterly Performance Report (QPR) (OMB No. 2506-0165)*

This report is due each quarter from NSP1, NSP2, and NSP3 grantees and then annually after grant closeout. For state CDBG-DR grantees, the first QPR is due after the first full quarter following execution of a grant agreement with HUD. The report is submitted in HUD's Disaster Recovery Grant Reporting system

(DRGR). The instructions for submitting QPRs can be found in the DRGR User Manual (<https://www.hudexchange.info/resource/4915/drgr-user-manual>).

The QPR is created using data in the DRGR action plan. Essentially, the QPRs are a tool that allows the grantee, HUD, and Congress to track expenditures and performance for individual activities. A NSP2 grantee is required to post QPRs on its website. Therefore, the DRGR action plan must be set-up properly in order for the grantee to be enabled to fully report on their activities and accomplishments.

Action plans in DRGR can be modified at almost any time. However, an action plan must be in an approved status before the QPR can be submitted to HUD for review and approval. Additionally, QPRs must be submitted and reviewed within a certain timeframe:

Reporting Period End Date	Grantee Submission Deadlines	HUD Review Deadlines
30-March	30-Apr	30-May
30-Jun	30-Jul	30-Aug
30-Sep	30-Oct	30-Nov
30-Dec	30-Jan	30-Feb

Each quarter, after the submission of the QPR, HUD reviews the QPRs and provides approvals/rejection-revision directions to the grantee.

### 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 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.

Nonprofits 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 Request for Release of Funds (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 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. Test whether 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 funds were obligated and expended after HUD approval of RROFs and environmental certifications.
- f. 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, in order 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.hudexchange.info/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/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
N	N	N	N	Y	Y	Y	Y	Y	N	N	Y

## 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(a)).

### 2. Level of Effort

#### 2.1 Level of Effort – *Maintenance of Effort*

Not Applicable

#### 2.2 Level of Effort – *Supplement Not Supplant*

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 (see III.A.11, “Activities Allowed or Unallowed”). Administrative costs include the costs associated with general management, oversight, and coordination, training on the CoC program requirements, and environmental review. Administrative costs do not include costs for CoC planning activities and UFA costs (24 CFR section 578.59).

## **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 section 578.49(b)(1)).

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** Determine reasonableness of the rents being paid with grant funds.

### **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. If HUD determines that a project is no longer needed for use as supportive housing or to provide supportive services and approves the use of the project for the direct benefit of very low-income persons pursuant to a request for such use by the recipient or subrecipient operating the project, HUD may authorize the recipient or subrecipient to convert the project to such use (24 CFR section 578.81(a) and (b)).

**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**

Verify that a binding 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 the CDBG-DR and CDBG-NDR programs 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 Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013.

**II. PROGRAM PROCEDURES**

The CDBG-DR program provides grants 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 CDBG-NDR program provides discretionary grants that address unmet needs from past disasters while addressing the vulnerabilities to future disasters. The National Disaster Resilience Competition (NDRC) Notice of Funding Availability (NOFA) (FR-5800-N-29A2) provided the funding process for CDBG-NDR grants. 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 (see Assistance Listing 14.218). The Hurricane Sandy CDBG-DR program provides assistance to three categories of grantees: (1) state and local governments engaged in recovery from Hurricane Sandy; (2) state and local governments engaged in recovery from disasters that occurred in 2011 and 2012 other than Hurricane Sandy; and (3) state and local governments engaged in recovery from 2013 disasters. The CDBG-NDR program provides assistance to 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 subsequent to 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 program are in the

Hurricane Sandy CDBG-DR notice (78 FR 14329, March 5, 2013), with subsequent notices referencing the waivers and requirements in that notice. For CDBG-NDR, many of the general program requirements are in Appendix A of the NOFA (FR-5800-N-29A2) with subsequent notices to be published that references award amounts and waivers and alternative requirements.

### **Availability of Other Program Information**

Additional information about the CDBG-DR and CDBG-NDR programs and CDBG-DR notices are available at <https://www.hudexchange.info/cdbg-dr/>. The CDBG-NDR NOFA is available at [https://www.hud.gov/program\\_offices/administration/grants/fundsavail/nofa14/ndrc](https://www.hud.gov/program_offices/administration/grants/fundsavail/nofa14/ndrc). The applicable *Federal Register* notices for each category of grantee receiving assistance under the CDBG-DR and CDBG-NDR programs are as follows:

#### *All CDBG-DR Grantees*

79 FR 60490 (October 7, 2014)  
80 FR 26942 (May 11, 2015)  
80 FR 72102 (November 18, 2015)  
81 FR 7567 (February 12, 2016)  
82 FR 61320 (December 27, 2017)  
84 FR 4836 (February 19, 2019)

#### *Hurricane Sandy CDBG-DR Grantees*

78 FR 14329 (March 5, 2013)  
78 FR 23578 (April 19, 2013)  
78 FR 45551 (July 29, 2013)  
78 FR 46999 (August 2, 2013)  
78 FR 52560 (August 23, 2013)  
78 FR 69104 (November 18, 2013)  
78 FR 76157 (December 16, 2013) (amending March 5, 2013 Notice)  
79 FR 17173 (March 27, 2014)  
79 FR 31970 (June 3, 2014) (amending March 5, 2013 Notice)

79 FR 40133 (July 11, 2014)

79 FR 62182 (October 16, 2014)

80 FR 17772 (April 2, 2015)

80 FR 51589 (August 25, 2015)

81 FR 54114 (August 15, 2016)

82 FR 9753 (February 8, 2017)

82 FR 36812 (August 7, 2017)

*2011/2012 Disaster CDBG-DR Grantees*

78 FR 32262 (May 29, 2013)

78 FR 76157 (December 16, 2013) (amending May 29, 2013 Notice)

79 FR 17175 (March 27, 2014) (Minot, ND Alternative Requirement)

79 FR 17176-17177 (March 27, 2014) (City of Joplin, MO Waivers)

79 FR 40133 (July 11, 2014)

79 FR 40135 (July 11, 2014) (Luzerne County, PA Alternative Requirement)

*2013 Disaster CDBG-DR Grantees*

78 FR 76154 (December 16, 2013)

79 FR 31964 (June 3, 2014)

79 FR 31970 (June 3, 2014) (State of Colorado Waiver)

80 FR 1039 (January 8, 2015)

82 FR 36812 (August 7, 2017)

*National Disaster Resilience Competition Grantees* (**Note:** The NOFA below is available on the Internet)

FR-5800-N-29A2 (June 22, 2015)

81 FR 36557 (June 7, 2016)



82 FR 36812 (August 7, 2107)

### 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	N	N	N	Y	Y	N	Y	Y	N	Y

#### A. Activities Allowed or Unallowed

1. 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 (1) the activity is designed to alleviate existing conditions which (a) pose a serious and immediate threat to the health and welfare of the community, and (b) are of recent origin or recently became urgent; (2) the recipient is unable to finance the activity on its own; and

(3) 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 determined that current economic conditions are of recent origin and pose a serious and immediate threat to the economic welfare of communities; therefore, HUD will accept a grantee's certification that current economic conditions are of recent origin and constitute a serious and immediate threat to the welfare of the community. However, the grantee must demonstrate that it is unable to finance the activity on its own, and that other sources of funding are not available. The alternative urgent need national objective may be used for grantees for two years following the obligation of funds for the activity.

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 Hurricane 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 Hurricane 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 Hurricane 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 Hurricane 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
  - a. incorporate green building standards;
  - 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 flood plan 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 Hurricane 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 Hurricane 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 Hurricane 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 Hurricane 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 CDBG-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 Hurricane 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 as defined in 24 CFR sections 570.205 and 570.206 (24 CFR section 570.200(g), 78 FR 14340 for Hurricane 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 general administration and technical assistance (78 FR 14340 for Hurricane 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).

## **H. Period of Performance**

All funds must be expended within two years of the date HUD obligates funds to a grantee (funds are obligated to a grantee upon HUD's signing of the grantee's CDBG-DR or CDBG-NDR grant agreement or an amendment to the grant agreement). The requirement to expend funds within two years of the date of obligation is enforced relative to the activities funded under each obligation (i.e., the grant agreement or grant amendment, as applicable). For any funds that the grantee believes will not be expended by the deadline, it must submit a letter to HUD justifying why it is necessary to extend the deadline for a specific portion of funds. HUD will publish any approved waivers in the *Federal Register* once granted (Title IX, Section 904(c) of the Appropriations Act, 127 Stat. 17; 78 FR 14331 and 14341-14342 for Hurricane Sandy grantees; 78 FR 32644 and 32265 for 2011/2012 disaster grantees; 78 FR 76156-76157 for 2013 disaster grantees; and Section IV.E. of the NOFA (FR-5800-N-29A2) for CDBG-NDR grantees).

## **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**

*HUD 60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – Each recipient that administers covered public and Indian housing assistance, regardless of the amount expended, and each recipient that administers covered housing and community development assistance in excess of \$200,000 in a program year, must

submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry (SPEARS) System (24 CFR sections 135.3(a)(1) and 135.90). Information on the automated system is available at [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/spears](https://www.hud.gov/program_offices/field_policy_mgt/section3/spears). The system was launched August 24, 2015.

SPEARS pre-populates Form HUD 60002 with the recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle. The due date for submission of 2013 and 2014 reports was extended to December 15, 2015.

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

1. Number of new hires that meet the definition of a Section 3 resident
2. Total dollar amount of construction contracts awarded during the reporting period
3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
4. Number of Section 3 businesses receiving the construction contracts
5. Total dollar amount of nonconstruction contracts awarded during the reporting period
6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
7. Number of Section 3 businesses receiving the nonconstruction contracts

### **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 time frame for public comment on the action plan or action plan amendment.

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. Subsequent to publication of the proposed action plan, 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 Hurricane 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 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).

**Audit Objectives** Determine whether the recipient 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-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).

**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.

## 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 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/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	N	Y	N	Y	N	N	Y	N	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.

**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**

Not more than 10 percent of the annual grant may be used for housing for homeownership.

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.

Not more than one-third of each annual grant may be used for operating cost assistance and operating cost assistance reserves.

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).

**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.

**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 Integrated Disbursement and Information System (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**

Verify that HTF payment certification amounts match the amount of the grantee's expenditures to support the drawdown request.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****ASSISTANCE LISTING 14.850 PUBLIC AND INDIAN HOUSING****I. PROGRAM OBJECTIVES**

The overall objective of the Public and Indian Housing 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 proposed program must be approved by the local governing body. There are three core occupancy procedures which 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 greater than 250 rental dwelling units are required to manage properties according to an asset management model, consistent with the management norms in the broader multi-family management industry. PHAs must be in compliance with asset management requirements.

There are five interrelated core elements of asset management: project-based funding; budgeting; accounting; management; and oversight/performance assessment. PHAs must implement these project-based practices, which includes project-specific financial reporting through the Financial Data Schedule (FDS). PHAs that own and operate 250 or more dwelling rental units, and not intending 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 actual services received and only to the extent that such amounts are reasonable. The asset management fee and transfers of funds 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 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 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 submitted 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 as: (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 are 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 of meeting the large and growing capital improvement needs of the nation's aging public housing stock, as well as to preserve projects funded under HUD's "legacy" programs. Under RAD, properties "convert" their assistance to long-term, project-based Section 8 contracts. RAD provides an option for PHAs to convert some or all of its public housing units to either 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 point of conversion 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/Insolvency Program*

With the 2020 Consolidated Appropriations Act (Pub. L. No. 116-94), Congress provided for a side-aside in the Operating Fund program appropriation for a Shortfall /Insolvency program for \$25,000,000. This amount was to be used for PHAs experiencing financial insolvency as defined by the HUD secretary. The funds were to be allocated based on a needs-based approach with priority given to small PHAs (249 or fewer units) with less than four months of reserves. It is anticipated that the program may be reauthorized in 2021. The department has provided notice guidance on eligibility, requirements, and funding amounts. "For the purpose of this set-aside, any "very-small" and small PHA that has fewer than four months operating expenses held in reserve (Months of Operating Reserve, or MOR) were considered as meeting the statutory insolvency requirement and will be eligible to receive funding. The amount of funding that a PHA is eligible to receive under this set-aside is equal to the difference between the PHA's current MOR and the amount that is equal to four months of MOR for that PHA." MTW PHAs are eligible, as long as the agency has not reduced Operating Funds reserves through the program's flexible usage of funds. Funding from the Shortfall/Insolvency program is disbursed at the PHA level rather than the project level. These funds will then be allocated to the projects as revenue and for expenditures. Award letters will identify steps the PHA can take to improve financial performance. PHAs with less than one Month of Reserves (MOR) will have an improvement plan as a requirement for access to the full award amount. Alternatively, PHAs may have an executed Memorandum of

Agreement/Recovery Agreement/Corrective Action Plan related to substandard/troubled PHA performance status. Eligible uses are those allowed under Section 9 (e) of Housing and Community Development Act except that non-troubled PHAs may also include eligible Capital Fund uses under Section 9 (g).

**Audit Objectives** Determine whether the Shortfall funding was appropriately recorded and spent at projects in accordance with award letter 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 requirements

#### **4. *Coronavirus Aid, Relief, and Economic Security Act (CARES Act)***

The Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act) (Pub. L. No. 116-136) appropriated an additional \$685 million of Public Housing Operating Funds to “prevent, prepare for, and respond to coronavirus.” The additional Operating Funds may be used for eligible activities under the Operating Fund and the Capital Fund (Subsections (d)(1) and (e)(1) of Section 9 of the US Housing Act of 1937) and for other expenses related to preventing, preparing for, and responding to coronavirus, including activities to:

- support or maintain the health and safety of assisted individuals and families, and
- support education and childcare for impacted families.

HUD implemented the provisions of the CARES Act including allowable uses of funds and reporting requirements in PIH Notice PIH-2020-07. In addition, HUD provided instructions on Financial Data Schedule (FDS) reporting of CARES Act funds in PIH Notice PIH 2020-24. Amounts previously made available under the Operating Fund and Capital Fund programs in prior Acts, except for set-asides therein, may be used for the purposes described above through December 31, 2021, unless this time period is extended by the secretary.

### **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 ([http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph)) and ([http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/publications](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications)) that provide general information about this program.
2. HUD's Real Estate Assessment Center website that is available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/reac](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac) includes an *Instruction Guidebook for Completing Public Housing Assessment System Management Operations Certifications Form HUD 50072*, which is available at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_26253.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_26253.pdf).
3. HUD's Office of Public and Indian Housing maintains a website at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph) that provides general information and updates on asset management. This website also has information on relevant HUD notices. The Supplement to Handbook 7475.1, which was published in Notice PIH 2007-9 (April 10, 2007) is available at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_9191.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_9191.pdf).
4. Copies of HUD forms and notices are available at HUDCLIPS at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips).
5. HUD's Rental Assistance Demonstration Program main website is available at <https://www.hud.gov/RAD>.

## 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	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 also include a property management fee charged to each project that is used to fund operations of the central office. 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 (see III.N, “Special Tests and Provisions”) (24 CFR section 990.280(b)(4)).

##### 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 amount of 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, if applicable, in the current fiscal year. Excess cash represents the sum of certain current asset accounts fewer current liabilities and less one month's worth of operating expenses for the project. HUD has provided guidance on the use of 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 considered to be 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. Transfers out of the Operating Fund can only occur in very limited circumstances, such as 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 would preclude PHAs from using Operating Funds to provide temporary loans to other programs within the PHA. Timing differences in a pooled cash environment would not be considered as temporary loans. Inter-fund transactions indicate the existence of temporary loans. Inter-fund receivables are recorded on FDS line 144 (Inter program – due from). In particular, inter-fund receivables should be reviewed to determine whether they are satisfied on a timely basis. In addition, FDS lines 10020 (Operating Transfers Out) and 10094 (Transfers Between Programs and Projects – Out) could indicate whether transfers out of the Operating Fund have been made. If PHAs have transferred funding out of the Operating Fund, proper authorization from HUD should be 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 Section 9(d) capital and development purposes.

## **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 \$164,200) (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"

([http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/publications/notices](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices)).

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 from 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.7, "Fees Charged for Centralized Services," and III.N.8, "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 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 [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/am/accounting](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/am/accounting).

## **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 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).
- 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 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 sections 960.253, 960.255, and 960.259).
- (4) Select tenants 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 a tenant recertification due solely to a RAD conversion. However, this requirement does not eliminate the normally scheduled recertification (normally annually). Recertifications required to be performed as part of the normal tenant recertification process that occur 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 and not of 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](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 admission of tenants. The PHA tenant selection policies must include requirements for applications and waiting lists, description of the policies for selection of applicants from the waiting lists, and policies for verification and documentation of information relevant to acceptance or rejections of an applicant (24 CFR sections 960.202 through 960.206).

**Audit Objectives** Determine whether the PHA is following its own tenant selection policies in placing applicants on the waiting list and in 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 in 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.
- c. Review PHA policies and procedures to determine if adequate controls are in place to account for tenant participation funds.

#### **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 to do so under special circumstances. The approved board 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 in accordance with 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 actually received. For example, in accounting for project costs, PHAs will not be permitted simply to spread the cost of central maintenance across all projects (24 CFR section 990.280).

**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 the PHA maintains a board-approved budget, which was approved by a board resolution prior to the beginning of the PHA's fiscal year.

- c. Review FDS and determine whether each project has its own column on the FDS.
- d. Verify that periodic analysis is performed of actual revenue and expenses associated with each project. Confirm the PHA addresses significant variances among budget to actual data.

## 5. Classification of Costs

**Compliance Requirements** 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 HUD 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).

**Audit Objectives** Determine whether project support costs were 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).

### Suggested Audit Procedures

- a. Select a sample of front-line project costs charged to the projects (by the COCC) and review the classification (recovery method) as either a front-line allocated expense or a fee-based front-line expense.
- b. Confirm among the sample selected that no costs are allocated by the COCC to projects, nor fees charged, for services that must be recoverable as indirect costs via the permissible fees (management, bookkeeping, asset management).

## 6. 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, a number of 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 HUD 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.

**7. 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 actual 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 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(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 services for maintenance and inspections.
- 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.

**8. Prorating Front-line Centralized Services**

**Compliance Requirements** In the case where 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) pro-rate these costs based on a reasonable, documented methodology. The method of prorating 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 percentage of units, bedroom distribution, turnover, or other reasonable method. 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 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 level 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 roles and responsibilities for the staff 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).

## **9. 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 charged to each project of \$10 per unit month (PUM) as reasonable. Guidance on reasonableness standards for asset management fees is provided in sections 7.4 and 7.6 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 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 is 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.

### **10. Management Fees**

**Compliance Requirements** The COCC may charge reasonable management fees. Management fees may include property management fees, program 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 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 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.

### **11. 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 forwarded 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 (seven through ten). 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 fees 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.

## **12. 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 fee, the PHA may not record fee revenue, such as management fee, asset management fee, bookkeeping fee and front line service fee, under its COCC. In this case, 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 either of the following circumstances. (These activities are considered by HUD as management or capital activities and, therefore, can be directly supported by 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 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 needs to repair its building at an estimated cost of \$500,000. CFP can provide an 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 enters into 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 for paying back CFFP debt or for developing or modernizing 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.

## **13. PHA Utilities Operating Funding Requests**

### **Compliance Requirements**

*Special Utilities Incentives.* If a PHA undertakes energy conservation measures that are 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, Energy loan amortization, verify the project has a HUD approved energy loan amortization add-on pursuant to CFR sections 990.185(a)(3) and 990.190(b). Contract and add-on must be approved by the HUD field office. Verify that requested amount and term agrees 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 HUD field office approval that is applicable 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).

## **14. 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 of their public housing property.

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 known as the HUD-52190 (4/2018). This form 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 is encumbering 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, as well as 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 of the 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**

- a. From a list of all property (including land and nonresidential inventory as well as 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.)
- b. Verify that current DOT/DORCs have been recorded for the public housing property in the projects.

## 15. Depository Agreements

**Compliance Requirements** PHAs are required to enter into General Depository Agreements with their financial institution using the HUD-51999 (*OMB No. 2577-0075*) or a form as required by HUD in the ACC. The agreements serve as safe guards for federal funds and provide third party rights to HUD (Section 9 of the ACC).

**Audit Objectives** Determine whether the PHA has entered into the required depository agreements.

### Suggested Audit Procedures

- a. Verify the existence of depository agreements.
- b. Verify that the PHA has met the terms of the agreements.

## 16. 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 normally are 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 damages 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 that were initially covered with Operating Funds up to the amount received.

If the amount of the insurance proceeds is less than the cost of the repair and the PHA elected 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

<http://portal.hud.gov/hudportal/documents/huddoc?id=anncontributionspta.pdf>.

**Audit Objectives** Determine whether the PHA used insurance proceeds to promptly repair damaged or destroyed property; unspent insurance proceeds are properly reported in the financial statements; and the 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 that were funded by the Operating Fund.

## **17. Environmental Contaminants Testing and Remediation**

**Compliance Requirements** Public Housing must be decent, safe, sanitary, and in good repair. PHAs must maintain such housing in a manner that meets the physical condition standards set forth in 24 CFR section 5.703 in order to be considered decent, safe, sanitary, and in good repair. Those standards address the major areas of the 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 the housing must 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, or of garbage and debris. The housing must have no evidence of electrical hazards, natural hazards, 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 of such (see 24 CFR Part 35).

The physical condition standards in 24 CFR section 5.703 do not supersede or preempt state and local codes for building and maintenance with which Public Housing must comply. Public Housing must continue to adhere to these codes.

**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.

## **18. Proceeds under Sections 18 and 22 of the 1937 Act**

**Compliance Requirements** PHAs may obtain proceeds from dispositions of public housing real property under sections 18 and 22 of the 1937 Act. PHAs may use gross proceeds to deduct the costs of relocations and reasonable costs of disposition (transaction costs), if approved by HUD. 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, 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 deposit the proceeds into an account subject to the HUD General Depository Agreement HUD-51999 (GDA)(4/18).

**Audit Objectives** Determine whether the PHA used proceeds for HUD-approved eligible expenses.

### **Suggested Audit Procedures**

- a. Ascertain if the PHA received any proceeds from disposing of real property under Section 18 or 22 of the 1937 Act;
- b. Verify that proceeds received are placed in a restricted account subject to the HUD General Depository Agreement HUD-51999 (GDA)(4/18); and
- c. Review PHA invoices and other documentation to verify proceeds were used for HUD-approved eligible expenses.

## **19. CARES Act Funding**

**Compliance Requirements** PIH Notice 2020-07 implements the requirements related to the \$685 million supplemental appropriation of Operating Funds for PHAs. The supplemental Operating Funds may be used for eligible activities under the Operating Fund and the Capital Fund (subsections (d)(1) and (e)(1) of Section 9 of the US Housing Act of 1937) and for other expenses related to preventing, preparing for, and responding to coronavirus, including activities to:

- support or maintain the health and safety of assisted individuals and families, and

- support education and childcare for impacted families.

Section 6 of PIH Notice 2020-07 identifies potential uses of funds that would prevent, prepare for, or respond to coronavirus, and is not intended to be exhaustive; however, the use of such funds may not be duplicative of services provided through other federally funded programs. While categorized for ease of use, HUD expects that PHA coronavirus-related expenses may fall within multiple categories simultaneously as they work to combat coronavirus. Some of the expenses listed, and other expenses PHAs incur related to the coronavirus, may be considered normal operating or capital expenses. When reporting costs associated with operations and administrative activity level, the PHA will report both normal operating and administrative costs and operating and administrative costs that are higher than typical historical costs due to the COVID-19 pandemic together. HUD is not requiring any distinction between the two costs.

HUD provided instructions on accounting for and FDS reporting of CARES Act funds in PIH Notice PIH 2020-24. HUD must meet its monitoring responsibilities and provide transparency in the PHAs' receipt and use of CARES Act supplemental funding. Therefore, the Real Estate Assessment Center (REAC), a division of HUD's Office of Public and Indian Housing has established the following six new columns on the FDS for reporting CARES Act supplemental funds.

#	New Column #	Column Name
1	14.PHC	Public Housing CARES Act Funding
2	14.HCC	HCV CARES Act Funding (both HAP and Administrative Fee)
3	14.MSC	Mainstream CARES Act Funding (both HAP and Administrative Fee)
4	14.MRC	Moderate Rehabilitation CARES Act Funding
5	14.CCC	Central Office Cost Center CARES Act Funding
6	14.CMT	CARES Act Funding Transferred to MTW

If a PHA has received CARES Act funding from any one of the following four programs—1) Public Housing Operating Fund, 2) HCV, 3) Mainstream Voucher, and/or 4) Moderate Rehabilitation (via the PBRA account)—the PHA is required to add the respective reporting column(s) in its FASS-PH submission and report the amounts in accordance with the instructions in PIH Notice 2020-24.

The CARES Act also requires that recipients and sub-recipients of CARES Act funds satisfy quarterly reporting requirements if the recipient has been awarded \$150,000 or more in covered funds. CARES Act quarterly reporting requirements are aligned with PHA FDS reporting guidance in PIH Notice 2020-24. This alignment will allow for consistency in reporting and ensure that PHAs maintain a single record of CARES Act expenses.

**Audit Objectives** Determine whether CARES Act Operating Funds received were used, accounted for, and reported in accordance with program requirements.



**Suggested Audit Procedures**

- a. Obtain supporting documentation for CARES Act Operating Funds received and evaluate to determine whether:
  - (1) the amounts received were accounted for separately under the appropriate program
  - (2) the amount recorded in the general ledger agrees to supporting documentation
  - (3) appropriate columns were included in the FDS and that amounts reported in the FDS agree to amounts in the general ledger
- b. If amounts are reported as transfers into the 14.PHC column on the FDS, select a sample of transfer transactions to determine whether the funds are from an allowable source as defined in the flexible use of funds provisions in PIH Notice 2020-07, and properly recorded in the general ledger and reported in the FDS.
- c. Select a sample of COCC fee disbursements charged to CARES Act Operating Funds and determine whether the fee amounts were allowable and properly recorded in the general ledger and reported in the FDS under the provisions in PIH Notice 2020-24.
- d. Select a sample of disbursements reported in the Public Housing Cares Act column on the FDS and test to determine:
  - (1) Whether the funds were used for expenses allowable under the applicable program, other expenses related to COVID-19 allowable pursuant to PIH Notice 2020-07, and not duplicative of services provided through other federally funded programs.
  - (2) Whether the transactions for amounts disbursed were accurately recorded in the appropriate program in the general ledger and follow the guidance provided in PIH Notice 2020-24.
- e. Determine whether amounts reported in CARES Act FDS columns resulting from CARES Act Operating Fund expenses agree to amounts recorded in the general ledger.
- f. If HUD has implemented quarterly CARES Act funds reporting requirements:
  - (1) Determine whether required reporting has been completed.
  - (2) Determine whether amounts in the quarterly reports are consistent with amounts reported in the FDS.

## 20. UEL Formula (Form 52722)

**Compliance Requirements** The Utility Expense Level (UEL) is used to calculate the utility portion of the Operating Fund subsidy. The UEL is a primary component of the operating subsidy grant revenue provided to the PHAs annually. 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 the Form 52722. The auditors should perform a random sample of each of the main utility types (gas, water/sewer, electric, etc.) to review 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 cost and consumption. Verify that all needed adjustments due to changing unit of measurements and eligible unit months have been accurately completed. Complete a trend analysis that identifies any abnormal variances of the historic utility data to include the cost and consumption.

### Suggested Audit Procedures

- a. Auditors must verify the consumption unit of measure is consistent on the Form 52722 (i.e., the utility ledger and the utility invoice (bill)) (line 01a on the Form 52722).
- b. Auditors must test a sample of invoices to ensure that the actual consumption ties to the utility ledger.
- c. Auditor must test the aggregated consumption on the utility ledger to ensure it ties to line 01 of the Form 52722.
- d. Auditor must verify that each rolling base consumption amount and units of measure tie to the prior year Form 52722. The auditor must test rolling base invoice 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 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. Auditors must test a sample of invoices to ensure that the actual cost ties to the utility ledger.
- g. Auditor must test the aggregated cost on the utility ledger to ensure it ties to line 16 of Form 52722.

- h. The auditor must 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.

## 21. Formula Income

**Compliance Requirements** The formula income is used to calculate the Operating Fund Revenue for each PHA. This calculation is generally based on prepopulated data calculated by HUD. However, in some cases Formula Income is not prepopulated. For further guidance review [Formula Income Guidance](#) the Operating Fund Web Page, 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. Auditor should determine Formula Income was not prepopulated by reviewing the prepopulated data available in the Operating Fund Web Portal. The PHA can provide the Auditor this data if the Auditor does not have access to the Operating Fund Web Portal.

The auditor should review the following documents to ensure Formula Income was calculated correctly. These documents are located on the HUD Financial Management Division (FMD) annual operating subsidy webpage.

- Guidance on Formula Income
- Guidance on Non-Asset Management PHAs Reporting a Single FDS with Multiple PIC Projects and HUD-52723s: Calculation of Formula Income and other Miscellaneous Add-ons including Audit and PILOT Funding.
- Guidance on the How to Reverse the Impact of Rent Reductions From the Jobs Plus Earned Income Disregard (JPEID) on Formula Income
- Financial Reporting for the Family Self-Sufficiency (FSS) Program ACCOUNTING BRIEF #23
- Annual Operating Subsidy Processing Notice

Where Formula Income was not prepopulated, or the prepopulated amount was adjusted, ensure that 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 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 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.

#### **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:

- Section 8 Housing Choice Vouchers (Assistance Listing 14.871)
- Public Housing Capital Fund (Assistance Listing 14.872)
- 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 of 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 (CDBG) program is the development of viable Indian and Alaskan Native communities, including decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. Indian CDBG 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 Indian CDBG 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). If the imminent threat grant was awarded pursuant to the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. No. 116-136), please note the “Special Provisions for Indian CDBG -CARES Imminent Threat Grants” below.

**Source of Governing Requirements**

Implementing regulations are published at 24 CFR Part 1003.

**Availability of Other Program Information**

Additional information about the Indian CDBG program is available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing).

**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	N	Y	N	N	Y	N	Y	N	Y

#### **A. Activities Allowed or Unallowed**

*Indian CDBG* – Funds (including program income generated by activities carried out with grant funds) may only be used for the following activities: (1) the acquisition of real property; (2) the acquisition, construction, reconstruction, or installation of public works, facilities, and sites, or other improvements; (3) code enforcement in deteriorated or deteriorating areas; (4) clearance, demolition, removal, and rehabilitation of buildings and improvements; (5) special projects for removal of material and architectural barriers that restrict accessibility by elderly and handicapped individuals; (6) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (7) disposition of real property acquired under this program; (8) provision of public services (subject to limitations contained in regulations and to certain HUD determinations); (9) payment of the nonfederal share for a grant program that is part of the assisted activities; (10) payment to complete a Title 1 Federal Urban Renewal project; (11) relocation assistance; (12) planning activities; (13) administrative costs; (14) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (15) assistance to community-based development organizations; (16) activities related to energy use; (17) assistance to private, for-profit business, when appropriate to carry out an economic development project; (18) substantial reconstruction of housing owned and occupied by low- and moderate-income persons (subject to certain HUD determinations); (19) direct assistance to facilitate and expand homeownership; (20) technical assistance to public or private entities for capacity building (exempt from planning/administration cap); (21) housing counseling and housing activity delivery costs under Indian CDBG; (22) assistance to colleges and universities to carry out eligible activities; and (23) assistance to public and private entities (including for-profits) to assist micro-enterprises (24 CFR sections 1003.201 through 1003.206).

**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 \$161,900). The Executive Pay Schedule may be obtained at <https://www.opm.gov/policy-data-over-sight/pay-leave/salaries-wages> (24 CFR section 1003.501(b)).

**C. Cash Management**

The auditor should refer to Part III 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 Indian CDBG 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 Indian CDBG program funds in excess of \$25,000 is disposed of, the Indian CDBG 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).

**I. Procurement and Suspension and Debarment**

1. For the Indian CDBG 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
  - (3) Develop, subject to Area 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

### **2. Performance Reporting**

*HUD 60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each Indian CDBG that



involves development, operating, or modernization assistance, the prime recipient must submit Form HUD 60002 information using the automated Section 3 Performance Evaluation and Registry System (SPEARS) (24 CFR sections 135.3(a), 135.5 and 135.90).

Information on the automated system is available at [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/spears](https://www.hud.gov/program_offices/field_policy_mgt/section3/spears). The system was launched on August 24, 2015. The due date for submission of 2013 and 2014 reports was extended to December 15, 2015. SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle.

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

1. Number of new hires that meet the definition of a Section 3 resident
2. Total dollar amount of construction contracts awarded during the reporting period
3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
4. Number of Section 3 businesses receiving the construction contracts
5. Total dollar amount of nonconstruction contracts awarded during the reporting period
6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
7. Number of Section 3 businesses receiving the nonconstruction contracts

**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 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/>.

## **2. Special Provisions for Indian CDBG-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 Act provides for up to \$100,000,000 in Indian CDBG 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 Indian CDBG 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 Indian CDBG-CARES grant funds to prevent, prepare for, and respond to COVID-19.

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 2020-33\(HA\), REV-2](#), issued on November 30, 2020. [PIH Notice 2020-33\(HA\), REV-2](#), describes in detail the various updated waivers and alternative requirements that have been issued thus far with respect to Indian CDBG-CARES grants and FY 2019/2020 Indian CDBG grants repurposed to address COVID-19.

Before auditing an Indian CDBG-CARES grant recipient, auditors are strongly advised to review the Indian CDBG-CARES Implementation Notice, [PIH Notice 2020-11](#), and [PIH Notice 2020-33\(HA\), REV-2](#), particularly Section 14 of [PIH Notice 2020-13](#) addressing the waivers and alternative requirements affecting Indian CDBG IT program with respect to Indian CDBG-CARES grants and FY 2020 Indian CDBG grants.

The following section identifies allowability considerations for the Indian CDBG program, followed by a summary of waivers and alternative requirements affecting the Indian CDBG program considered important by HUD. Because the COVID-19 pandemic was 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 [PIH Notice 2020-33\(HA\), REV-2](#), for Indian CDBG-CARES funding that were in place at the time of the audit. This can be done by visiting at [COVID-19 Recovery Programs site](#) of ONAP's website, CodeTalk, <https://www.hud.gov/codetalk>.

**b. Activities Allowed or Unallowed**

The CARES Act requires Indian CDBG-CARES grants to be used to prevent, prepare for, and respond to COVID-19.

To comply with this requirement, Indian CDBG-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:

- Activities, Projects, or Programs to Prevent COVID-19.
- Activities, Projects, or Programs to Prepare for COVID-19.
- Activities, Projects, or Programs to Respond to COVID-19.

Indian CDBG-CARES grant funds may also be used to cover or reimburse allowable costs paid with nonfederal funds by the Indian CDBG-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:

- **Prepare for:** Indian CDBG-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.
- **Prevent:** Indian CDBG-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.
- **Respond to:** Once COVID-19 has spread in the community, examples of how Indian CDBG-CARES grantees may choose to respond to COVID-19 may include using Indian CDBG-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 Indian CDBG-CARES grant activities that can be carried out. Provided a grantee can reasonably tie their Indian CDBG-CARES activities back to one or more eligible purposes, HUD will accept the classification.

Ineligible Activities include:

- Activities, projects, or programs that are not reasonably tied to preparing for, preventing, and responding to COVID-19 are ineligible under the Indian CDBG-CARES program.
- Unless waived or modified by HUD, as provided in [PIH Notice 2020-13](#) 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 Indian CDBG-CARES Funding**

The following waivers and alternative requirements apply only to Indian CDBG-CARES grants (the new Indian CDBG funding provided under the CARES Act), FY 2020 Indian CDBG 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 Indian CDBG funds appropriated under the FY 2019 Consolidated Appropriations Act (Public Law 116-6). With respect to the FY 2019 and FY 2020 Indian CDBG funds, application of these waivers is permitted only on funding reprogrammed to address COVID-19.

These waivers and alternative requirements do not apply to Indian CDBG funds appropriated in any other prior year.

- (1) Removal of Public Services 15 Percent Cap under FY 2019 and FY 2020 Indian CDBG Grants

**Statutory Authority:** Section 105 of HCD Act.

**Regulatory Authority:** 24 CFR section 1003.201(e); FY 2019/2020 Indian CDBG NOFA.

**Description:** Section 105 of the HCD Act and the Indian CDBG implementing regulation at 24 CFR section 1003.201(e) authorize the use of Indian CDBG funds to carry out public services activities but provide that the amount of Indian CDBG funds used for public services shall not exceed 15 percent of the respective Indian CDBG grant. Congress lifted the 15 percent cap on public services funded under the Indian CDBG IT

funding appropriated under the CARES Act and for FY 2019 and FY 2020 Indian CDBG 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 Indian CDBG NOFA to the extent necessary to remove the 15 percent cap on FY 2019/2020 Indian CDBG funding (both Single Purpose and IT grants), to align with Indian CDBG IT funding provided under the CARES Act.

Indian CDBG grantees that have been awarded FY 2019/2020 Indian CDBG 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 Indian CDBG funds for a variety of public services. Under the implementing regulation at 24 CFR section 1003.207(b)(4), the general rule is that Indian CDBG funds may not be used for income payments. For purposes of the Indian CDBG 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) Indian CDBG 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 [PIH Notice 2020-13](#), 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 Indian CDBG-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 the “[COVID-19 Recovery Programs](#)” site of HUD’s [CodeTalk](#) website 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 Indian CDBG grantee in cases where the Indian CDBG 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. Indian CDBG 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 Indian CDBG-CARES funds used for this purpose are expended on eligible activities. In all cases, Indian CDBG grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible.

Indian CDBG 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 Indian CDBG 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 Indian CDBG 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 Indian CDBG-CARES program income.

The auditor should check whether HUD issued further guidance on the disposition of program income after grant closeout.

Indian CDBG grantees must ensure that Indian CDBG 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 Indian CDBG 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 waved 24 CFR section 1003.207(b)(2) to the extent necessary to allow the use of Indian CDBG 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, Indian CDBG grantees may not use this waiver to pay for associated staffing costs of such public facilities. Indian CDBG grantees must also ensure that Indian CDBG 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 Indian CDBG funds for new housing construction, with some exceptions.



Indian CDBG 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 Indian CDBG 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.

**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 units. An additional objective is to revitalize the sites on which severely distressed public housing projects are located 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 implementation grants is to transform neighborhoods of poverty into viable and sustainable mixed-income neighborhoods by revitalizing severely distressed public and assisted projects and by linking housing improvements with appropriate services, schools, public assets, transportation, and access to jobs. Choice Neighborhoods grants build upon the successes of public housing transformation under HOPE VI to provide support for the preservation and rehabilitation of public and Department of Housing and Urban Development (HUD)-assisted housing, within the context of a broader approach to concentrated poverty.

**II. PROGRAM PROCEDURES****A. Notice of Funding Availability**

For HOPE VI, HUD awarded demolition and revitalization grants to eligible PHAs through a competitive process. The procedure was set out in the Notices of Funding Availability (NOFAs) 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; and the requirements and procedures to be followed in filing an application for the applicable FY.

For Choice Neighborhoods grants, HUD awards planning or implementation grants to eligible organizations through a competitive process. The procedures and requirements are set out in the NOFAs for the applicable FY. The NOFA establishes the eligibility requirements for PHAs, local governments, nonprofit organizations, and for profit developers to apply for a Choice Neighborhoods grant. The Choice Neighborhoods program will replace the HOPE VI program.

## **B. Grant Agreement**

For both HOPE VI and Choice Neighborhoods, the grant agreement (Agreement) establishes grant requirements; the procedures and content for the HOPE VI Revitalization Plan or the Choice Neighborhoods planning or implementation grant; the time periods for implementation of the grant; the requirements and procedures for grant-supported activities, including development, rehabilitation, homeownership, demolition, disposition, relocation, acquisition, community and supportive services, administrative fees and costs, and amendment to the Revitalization Plan or Transformation Plan (for Choice Neighborhoods only). In addition, the Agreement defines the various development types in a mixed-income development, including replacement units, rental units, homeownership units, and market rate units and their allowed sources of funding, and the HUD regulations governing their development and location.

## **C. Development and Mixed-Finance Development**

For both HOPE VI and Choice Neighborhoods, the selection of a development partner and the general administrative requirements are governed by 24 CFR Part 85 or 2 CFR Part 200. The detailed steps to be followed in the phase-by-phase development of an all-public housing development are governed by 24 CFR Part 941 – Public Housing Development and 24 CFR Part 968 – Public Housing Modernization. The detailed steps to be followed in the phase-by-phase development of a mixed-income/mixed-finance development are governed by the provisions of 24 CFR Part 941 Subpart F – Public/Private Partnerships for the Mixed-Finance Development of Public Housing.

The components of a mixed-income/mixed-finance development may be public housing units, low-income tax credit and Section 8 units, and privately financed market rate units. All of the components of the mixed-finance development, other than public housing, must be funded from other financial sources. These objectives are accomplished through the PHA forging partnerships with other public agencies, including local governmental agencies, nonprofit organizations, and private businesses to leverage community support and public housing-funded financial sources for the development.

In general, the procedures to be followed for each phase of development are as follows. A mixed-finance proposal (Rental Term Sheet) is prepared that describes the development and development partners; number and types of units; sources and uses of funds (FIs) by specific phase (HOPE VI Budget); schedules; any waivers required; loans and operating subsidy payments to the development entity; estimated construction cost; and any other matters pertinent to the development. Upon approval of the Rental Term Sheet, the PHA or Choice Neighborhoods grantee has the evidentiary documents for the transaction prepared for review and approval by HUD.

An approval letter is issued by HUD, authorizing the execution of the applicable HUD documents and the recording of the evidentiaries. A copy of the recorded evidentiaries and the HUD documents are forwarded to HUD Headquarters. Upon review and approval, the HOPE VI, or Choice Neighborhoods, funds for the phase, as set out in the

HOPE VI or Choice Neighborhoods' Budgets, and the FIs are placed in Line of Credit Control System to fund the development costs for the phase. Upon completion of construction, and the meeting of the end of the initial operating period and the date of full availability, the agreed-upon Operating Subsidy is provided for the public housing units. Upon completion of all of the phases of development funded by HOPE VI or Choice Neighborhoods, the grant is closed out in accordance with the procedures for each program.

#### **D. Moving to Work Demonstration Program**

Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134, 110 Stat. 1321-281 through 284) established the Moving to Work (MTW) Demonstration Program (Assistance Listing 14.881). The MTW Demonstration Program offers 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 and permitting PHAs to combine operating, capital, and tenant-based assistance funds into a single agency-wide funding source, as approved by HUD. HOPE VI or Choice Neighborhoods funds cannot be included as part of that funding source, 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, the auditor should look to the MTW agreement 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-financing are contained in 24 CFR Part 941, Subpart F.

#### **Availability of Other Program Information**

No program-specific regulations have been published. Each grant is subject to the terms of its 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](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](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/cn), to provide information on timelines, budgets, financial instructions, and other program guidance. HUD also publishes a *Mixed-Finance Guidebook* that is available to the public by calling 1-800-955-2232. 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/react](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/react).

### 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	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)). Such activities include:
  - a. The demolition of severely distressed public housing developments or portions thereof (42 USC 1437v(d)(1)(C)),
  - 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)),
  - e. Development of new public housing units and community facilities (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 development activities (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 dwelling units and non-dwelling structures, relocation of affected residents, site restoration, as appropriate, and reasonable administrative costs (42 USC 1437v(d)).
  - 3. The components of mixed-finance development, other than public housing, may not be financed with public housing funds (42 USC 1437v(d)).

**G. Matching, Level of Effort, Earmarking**

**1. Matching**

Grantees must provide a 5 percent overall match, and if more than 5 percent of the grant is used for community and supportive services, any amount over 5 percent must be matched (42 USC 1437v(c)).

**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* – Applicable

- d. *Financial Reports (OMB No. 2535-0107)* – Financial Assessment Subsystem, FASS-PHA. The 24 CFR Part 902 – Public Housing Assessment System (PHAS) Subpart C-Phase Indicator #2 Financial Condition requires the PHA to provide reports on an annual basis. The report requires an assessment on a PHA entity-wide basis, which allows for the oversight of all individual grants and subsidy programs and provides HUD access to any factors it determines are appropriate (42 USC 1437d(j)(1)(K)). Financial reporting requirements in 24 CFR section 902.33(a)(2) provide that the information be “submitted electronically in the format prescribed by HUD using the Financial Data Schedule (FDS).” 24 CFR section 902.35, “Financial condition scoring and threshold,” establishes the procedures to be observed by the PHA.

*Key Line Items* – The line items under the following headings contain critical information:

1. Headings for HUD Programs and Business Activities
  - (a) HOPE VI and Choice Neighborhoods (Revitalization of Severely Distressed Public Housing)
  - (b) Component Units (Non-Profit Entities)
2. Line Items
  - (a) FDS Line 125 – (Accounts Receivable – Misc)
  - (b) FDS Line 144 – (Inter-Program – Due From)
  - (c) FDS Line 171 – (Notes, Loans, & Mortgages Receivable – Non-Current)
  - (d) FDS Line 172 – (Notes, Loans, & Mortgages Receivable – Non-Current – Past Due)
  - (e) FDS Line 174 – (Other Assets)
  - (f) FDS Line 176 – (Investment in Joint Ventures)
  - (g) FDS Line 347 – (Inter-Program – Due To)
  - (h) FDS Line 348 – (Loan Liability – Current)
  - (i) FDS Line 355 – (Loan Liability – Non-Current)
  - (j) FDS Line 10010 – (Operating Transfer In)
  - (k) FDS Line 10020 – (Operating Transfer Out)

- (l) FDS Line 10030 – (Operating Transfers From/To Primary Government)
- (m) FDS Line 10093 – (Transfers Between Programs and Projects – In)
- (n) FDS Line 10094 – (Transfers Between Programs and Projects – Out)

## 2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – Each recipient that administers covered public and Indian housing assistance, regardless of the amount expended, and each recipient that administers covered housing and community development assistance in excess of \$200,000 in a program year, must submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry (SPEARS) System (24 CFR sections 135.3(a)(1) and 135.90).

Information on the automated system is available at [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/spears](https://www.hud.gov/program_offices/field_policy_mgt/section3/spears). The system was launched on August 24, 2015. The due date for submission of 2013 and 2014 reports was extended to December 15, 2015. SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle.

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

- 1. Number of new hires that meet the definition of a Section 3 resident
- 2. Total dollar amount of construction contracts awarded during the reporting period
- 3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
- 4. Number of Section 3 businesses receiving the construction contracts
- 5. Total dollar amount of nonconstruction contracts awarded during the reporting period
- 6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
- 7. Number of Section 3 businesses receiving the nonconstruction contracts



**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** HOPE VI and Choice Neighborhoods projects developed in accordance with 24 CFR Part 941 – Public Housing Development and 24 CFR Part 968 – Public Housing Modernization that contain only public housing replacement units, and HOPE VI mixed-finance projects developed in accordance with 24 CFR Part 941 Subpart F – Public/Private Partnerships for the Mixed-Finance Development of Public Housing where the development entity has been procured by the PHA in accordance with 24 CFR Part 85 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.

**2. FASS – PHA, Public Housing Assessment System Phase Indicator #2 – Financial Condition, and HUD-50075, PHA Plans**

**Compliance Requirements** On an annual basis, the PHA must report on the financial condition of the PHA and on the transactions that the PHA is entering into with private and nonprofit entities (24 CFR section 902.33). In the FASS-PHA Financial Assessment Sub System, the PHA transactions with nonprofit and private development entities are shown under the headings for HUD Programs and Business Activities for HOPE VI and Choice Neighborhoods (Revitalization of Severely Distressed Housing) and the Component Units (Non-Profit Affiliates). Such transactions would be noted in the FDS line items shown in Section III.L.1.d.(2) above. The FASS-PHA Financial Report is reviewed and approved or rejected by the REAC.

The PHA is required to report in the PHA Plan, in accordance with HUD 50075 (*OMB No. 2577-0226*) any transactions to be entered into with nonprofit and private development entities. The PHA submits the Annual Statement, Component 7, for HOPE VI, Choice Neighborhoods, and Mixed-Finance in Part III of the PHA Plan. The PHA Plan, Implementation Schedule, for each active grant, details the eligible activities to be funded and the budget of estimated sources and uses.

**Audit Objectives** Determine whether the expenditures set out in the FDS line items that indicate participation by nonprofit and private development entities (FDS Line Items 125, 144, and 347) agree with the data reported in the PHA Plan.

**Suggested Audit Procedures**

- a. Review the data in FDS Line Items 125, 144, and 347 to determine the extent of nonprofit and private development entities' use of HOPE VI and Choice Neighborhoods.
- b. Ascertain that the data in the FDS Line Items 125, 144, and 347 are substantially in agreement with the estimated sources and uses reported in the PHA Plan, Implementation Schedule (i.e., expenditures do not exceed the budget by 10 percent).

**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 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).

**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](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/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	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 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 Housing and Urban Development 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 amount of reserves. The maximum amount 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).
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 (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 \$161,900). The Executive Pay Schedule may be obtained at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2019/executive-senior-level> (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))).

**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 24 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)).
- 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)).

**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

**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 either HUD's online EPIC system 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. To access EPIC, log into this site: [https://portalapps.hud.gov/app\\_epic/](https://portalapps.hud.gov/app_epic/). User IDs and passwords are required to log into EPIC. The user must be registered in HUD's Secure Systems to have a valid ID and password for EPIC. Secure Systems registration: [https://hudapps.hud.gov/public/wass/public/pha/phareg\\_page.jsp](https://hudapps.hud.gov/public/wass/public/pha/phareg_page.jsp). If the user already has registered with Secure Systems, the user must contact an Area Office of Native American Programs to complete the EPIC registration process.

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

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. SF-425, *Federal Financial Report*. Review SF-425s submitted during the audit period to determine their completeness, accuracy, and timeliness of submissions. Review Box 12 (or attachment) of the form for the reasonableness of the investment status explanation.



- c. HUD-60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – Each recipient that does not meet the provisions of 24 CFR section 1000.42(c) and administers covered housing and community development assistance in excess of \$200,000 in a program year must submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry System (SPEARS) (24 CFR sections 135.3(a)(1) and 135.90). Information on the automated system is available at [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/spears](https://www.hud.gov/program_offices/field_policy_mgt/section3/spears). The system was launched on August 24, 2015. The due date for submission of 2013 and 2014 reports was extended to December 15, 2015. SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle.

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

1. Number of new hires that meet the definition of a Section 3 resident
2. Total dollar amount of construction contracts awarded during the reporting period
3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
4. Number of Section 3 businesses receiving the construction contracts
5. Total dollar amount of nonconstruction contracts awarded during the reporting period
6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
7. Number of Section 3 businesses receiving the nonconstruction contracts

**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 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 58.35b, 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 that 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 component of the formula.

**Audit Objectives** Determine whether the investment of IHBG funds by the recipient meets the requirements of 24 CFR section 1000.58.

**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.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****ASSISTANCE LISTING 14.871 SECTION 8 HOUSING CHOICE VOUCHERS****ASSISTANCE LISTING 14.879 MAINSTREAM VOUCHER PROGRAM (MV)****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.

HUD enters into Annual Contributions Contracts (ACCs) with PHAs under which the Department of Housing and Urban Development (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 amount of 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 annually 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 982.641).

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. *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 in order to effectively deliver and administer HUD-VASH voucher assistance.

The HUD-VASH operating requirements (including the waivers and alternative requirements from HCVP rules) were published in the *Federal Register* on March 23, 2012 (see Notice FR-5596-N-01, 77 FR 17086-17090, Implementation of the HUD-VA Supportive Housing Program). Notice PIH 2011-53 (HA) provides further guidance on the reporting and portability requirements of VASH and Notice PIH 2015-10 (HA) addresses how PHAs can use project-basing of HUD-VASH vouchers. The VASH program is included in Assistance Listing 14.871; however, for FASS-PH reporting for PHAs with a fiscal year end of March 31, 2011, and earlier, PHAs were to record rental assistance activities under Assistance Listing 14.VSH. Starting in calendar year (CY) 2011, all original VASH increments and renewals will be funded under the “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. Because of this change in funding, CY 2011 and subsequent VASH HAP reporting was to be accounted for under the HCVP (Assistance Listing 14.871) and no longer was to be reported under 14.VSH. Special reporting instructions were provided to PHAs and are located at [http://portal.hud.gov/huddoc/vash\\_reporting\\_inst.pdf](http://portal.hud.gov/huddoc/vash_reporting_inst.pdf). 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). 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](https://www.hud.gov/program_offices/public_indian_housing/reac/products/fass/pha_briefs).

## 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. As required by statute, 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. FUP vouchers enable these families and youths to lease decent, safe, and sanitary housing that is affordable in the private-housing market. Funding for the FUP (Assistance Listing 14.880) has expired, but FUP vouchers still are being issued

(renewed) to FUP-eligible families and FUP-eligible youth through voucher renewals under HCVP.

3. *Non-Elderly Disabled*

Various appropriations acts have provided separate funding for non-elderly disabled (NED) vouchers, which are administered in accordance with regular HCVP requirements (24 CFR Part 982) and are included in under Assistance Listing 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 catastrophic 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 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 has now been extended to assist eligible families displaced by Hurricane Sandy (DHAP-Sandy) (with funds from 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 report DHAP-Sandy family information to HUD through the Disaster Information System (DIS). A PHA administering DHAP-Sandy does not complete a HUD-50058 or enter any information on a DHAP-Sandy family 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 Voucher Program (Former Mainstream 5-Year Program)*

The Omnibus Appropriations Act of 2009, Pub. L. No. 111-8, authorized funding for the MV 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 apply for housing vouchers. The MV provide housing assistance payments to participating owners on behalf of eligible tenants (i.e., families having the head, spouse, or co-head with disabilities). The MV is 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. MV 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. Unlike the HCV program, administrative fees expenses under the MV are not reported in VMS (HUD-52681-B). Only HCV program administrative expenses are reported.

6. *Coronavirus Aid, Relief, and Economic Security Act (CARES Act)*

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. No. 116-136), enacted on March 27, 2020, provided additional appropriations for HAP and administrative fee funding to prevent, prepare for, and respond to coronavirus (COVID-19). This included funding for PHAs to maintain normal operations and take other necessary actions during the period the program is impacted by COVID-19. The total supplemental appropriation for the HCV program is \$1.25 billion.

PIH Notice 2020-17, *CARES Act -HCV Program HAP Supplemental Funding*, covers the requirements related to the supplemental HAP funding totaling \$400 million for the HCV program, including mainstream vouchers. The supplemental HAP funding was made available for PHAs that either (1) experience a significant increase in voucher per unit costs (PUC) due to extraordinary circumstances, or (2) despite taking reasonable cost saving measures, as determined by the secretary, would otherwise be required to terminate rental assistance for families as a result of insufficient funding (herein referred to as Shortfall Funds).

At the same time, PIH Notices 2020-08 and 2020-18 *CARES Act – HCV Program Administrative Fees First and Second Award*, respectively covered the supplemental administrative fee portion totaling \$850 million for the HCV program, including mainstream vouchers. This supplemental administrative fee funding was made available to PHAs to cover administrative expenses and other expenses related to COVID-19, which are the eligible activities initially defined by the secretary and clarified in PIH Notice 2020-08, in addition to new eligible activities described in this PIH Notice 2020-18. The latter contain a complete list of the additional eligible activities (both those activities defined in PIH Notice 2020-08 and the new activities) is provided in section 4 of PIH Notice 2020-18.

PHAs were also instructed to request eligibility for COVID-19 related costs that were not explicitly included in the notice.

The CARES Act also authorized the secretary to use of administrative fees under Pub. L. No. 116-94 for COVID-19 related activities. In addition, the CARES Act authorized the secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the secretary administers in connection with the use of the amounts made available under this heading and the same heading of Pub. L. No. 116-94 (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding by the secretary that any such waivers or alternative requirements are necessary for the safe and effective administration of these funds. And that any such waivers or alternative requirements shall remain in effect for the time and duration specified by the secretary in such public notice and may be extended, if necessary, upon additional notice by the secretary.

For CARES Act waivers and alternative requirements, HUD issued PIH Notice 2020-33: *COVID-19 Statutory Requirements and Regulatory Waivers and Alternative Requirements for the Public Housing, Housing Choice Voucher (including Mainstream and Mod Rehab), Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program, Revision 2*,

[https://www.hud.gov/sites/dfiles/PIH/documents/PIH%202020-33\\_rev%2012.14.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/PIH%202020-33_rev%2012.14.pdf). This notice restates the waivers and alternative requirements included previously in Notice PIH 2020-13, carries forward information on previously specified HUD actions, adds new waivers and alternative requirements, and incorporates the waivers and alternative requirements for mainstream vouchers and the Mod Rehab program. In addition, this Notice extends the period of availability of certain waivers, such as those related to Income Verification and Annual Examinations, until June 30, 2021.

Additionally, the CARES Act authorized the secretary to award any remaining unobligated balances appropriated under this heading in prior Acts for incremental tenant-based assistance contracts under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 USC 8013). No less than 25 percent of such amounts was allocated proportionally to public housing agencies who received awards in the 2017 and 2019 competitions for such purposes.

Furthermore, HUD provided instructions on Financial Data Schedule (FDS) reporting of CARES Act funds in PIH Notice PIH 2020-24.

### **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 headquarters. Any additions to or 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.

HUD uses HUD-52681-B via the VMS to monitor the PHA's HCVP financial and operational performance. In 2015, HUD published Notice PIH 2015-16, which clarified the financial reporting requirements and deadlines for those PHAs that administer the HCV program and HCV program-related programs. PIH Notice 2017-06, March 23, 2017) provides guidance on cash management procedures.

### **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](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/pih).

The Supplement to the Financial Management Handbook, Department of Housing and Urban Development Handbook 7475.1, Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule (Handbook 7475.1) can be found at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_9191.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_9191.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/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	N	Y	N	N	N	N	N	Y	N	Y

#### A. Activities Allowed or Unallowed

##### 1. *Activities Allowed*

- 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).
  - (1) Accumulated administrative fees prior to 2004 may be used for any housing-related purpose. Unspent administrative fees accumulated after January 1, 2005 (i.e., fees from 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 still are 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 2004 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) CY HAP funding must be used for CY HAP and later HAP expenses. 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 have to be alert that the PHAs do not 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 may use DHAP-Sandy funds
  - (1) to provide eligible families with rental assistance, security, and utility deposit assistance; and
  - (2) for administrative, placement, and broker fees (see Section 4.d, PIH Notice 2013-14, Disaster Housing Assistance Program - Sandy (DHAP-Sandy) Operating Requirements, dated June 10, 2013).
- c. 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.

**HUD is required to publish a notice in the Federal Register that reflects the amount that can be claimed by PHAs administering the program. As of September 6, 2006, HUD has determined that, for PHAs that elect to use a fee-for-service methodology for their HCVPs (as allowed under 2 CFR Part 200, Subpart E), a management fee of up to 20 percent of the prorated administrative fee earned or up to \$12 per unit month (PUM) per voucher leased, whichever is higher, is reasonable. PHAs also can charge the HCVP a bookkeeping fee of \$7.50 PUM per voucher leased (see 71 FR 52710, HUD Notice – Public Housing Operating Fund Program; Guidance on Implementation of Asset Management, September 6, 2006, Section VIII, which is available at <https://portal.hud.gov/hudportal/documents/huddoc?id=fedregister5099-n-01.pdf> (42 USC 1437f(q)(1)).**

## 2. *Activities Unallowed*

- a. HAP funding can only be used to support the payment of HAP expenses.
- 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 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 \$164,200) (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 restrictions in HUD’s annual appropriations” ([https://www.hud.gov/program\\_offices/public\\_indian\\_housing/publications/notices](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 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. Under some circumstances, other members of the family are required to sign these forms (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) Select tenants from 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).
- (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 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
- d. *HUD-52681-B, Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169)*. The PHA submits this form monthly to HUD electronically via the VMS. Congress has instructed

HUD to use VMS data to determine renewal funding levels. HUD also uses VMS data for other funding, monitoring, and SEMAP-related decisions. HUD relies on the audit of the key line items below to determine the reasonableness of the data submitted for the purposes of calculating funding under the program.

*Key Line Items* – The following categories contain critical information:

1. *Unit Months Leased*
  2. *HAP Expenses*
  3. *All Specific Disaster Voucher Programs*
- e. *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. The FASS-PH system is one of HUD’s main monitoring and oversight systems for the HCVP.

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

1. Line Items: The accuracy of these revenue items should be reviewed in conjunction with the participant’s annual budget authority, payment schedules, and other reports.
  - (a) FDS Line 70600-010 – (Housing Assistance Payments)
  - (b) FDS Line 70600-020 – (Ongoing Administrative Fees Earned)
  - (c) FDS Line 71100 – (Investment Income – Unrestricted)
  - (d) FDS Line 72000 – (Investment Income – Restricted)
2. FDS Expenditure Line Items: The accuracy of these expenditure items should be reviewed in conjunction with Chapter 7 of the Supplement to HUD Handbook 7475.1, revised April 2007, which provides HUD guidance on maximum fees allowed and associated fee expenses.
  - (a) FDS Line 91300 – (Management Fee)
  - (b) FDS Line 91310 – (Book-Keeping Fee)
  - (c) FDS Line 96900 – (Total Operating Expenses)
  - (d) FDS Line 97300 – (Housing Assistance Payments)



3. FDS Transfer Line Items: The accuracy of these transfer items should be reviewed in conjunction with supporting documentation and/or HUD approvals. For FDS reporting, cash and investments in a cash pool or working capital account should be reported as such and not reflected as due to/due from. Amounts reported on these FDS Lines could represent unallowable costs (see III.A.1.c, “Activities Allowed or Unallowed”).
  - (a) FDS Line 144 – (Inter Program – Due From)
  - (b) FDS Line 10020 – (Operating Transfer Out)
  - (c) FDS Line 10030 – (Operating Transfers From/To Primary Government)
  - (d) FDS Line 10040 – (Operating Transfer From/To Component Unit)
  - (e) FDS Line 11040 – (Prior Period Adjustments, Equity Transfers, and Correction of Errors)
4. FDS Equity Line Items:
  - (a) FDS Line 11170 – (Administrative Fee Equity)

This line represents the administrative fee equity for the Section 8 HCVP only. Amounts reported in this line should not be commingled with other voucher-related activities. It is equal to the beginning administrative fee equity balance plus the total administrative fee revenue minus total administrative expense.
  - (b) FDS Line 11180 – (Housing Assistance Payments Equity)

This line represents the HAP equity for the HCVP only. Amounts reported in this line should not be commingled with other voucher-related activities as outlined in PIH-Notice 2012-21. It is equal to the beginning HAP equity plus total HAP revenues minus total HAP expenses. Current CY appropriated HAP funding cannot be used to fund prior CY HAP deficits.
  - (c) Recent Office of Inspector General (OIG) reports have noted deficiencies in the reporting of equity balances. Material deficiencies by the entity may require reconciling of prior-year data to establish valid equity balances.

## 2. Performance Reporting

- a. *HUD-52648, SEMAP Certification – Addendum for Reporting Data for Deconcentration Bonus Indicator (OMB No. 2577-0215)* – 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)).

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

1. Line 1a – Number of Section 8 families with children assisted by the HA 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
- b. *HUD 60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – Each recipient that administers covered public and Indian housing assistance, regardless of the amount expended, and each recipient that administers covered housing and community development assistance in excess of \$200,000 in a program year, must submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry System (SPEARS) (24 CFR sections 135.3(a)(1) and 135.90).

Information on the automated system is available at [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/spears](https://www.hud.gov/program_offices/field_policy_mgt/section3/spears). SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by

Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle.

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

1. Number of new hires that meet the definition of a Section 3 resident
2. Total dollar amount of construction contracts awarded during the reporting period
3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
4. Number of Section 3 businesses receiving the construction contracts
5. Total dollar amount of nonconstruction contracts awarded during the reporting period
6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
7. Number of Section 3 businesses receiving the nonconstruction contracts

### **3. Special Reporting**

*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 (24 CFR Part 908 and 24 CFR section 982.158).

*Key Line Items* – The following line items contain critical information.

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’s 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 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 5 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. Housing Quality Standards Inspections**

**Compliance Requirements** The PHA must inspect the unit leased to a family at least annually 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)).

**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, the PHA must require the owner to correct any life threatening HQS deficiencies within 24 hours after the inspections and all other HQS deficiencies within 30 calendar days or within a specified PHA-approved extension. 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**

- a. Select a sample of units with failed HQS inspections during the audit period from the PHA's logs or records of failed HQS inspections.

- b. 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.
- c. 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.
- d. 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.
- e. 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).

**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. 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.

## **7. Operating Transfers and Administrative Fees**

**Compliance Requirements** The ACC establishes the amounts HUD will provide a PHA for HAP and administrative fees. With the exception of Moving to Work Housing Authorities, HAP may not be used to cover administrative expenses nor may HAP (including RNP) be loaned, advanced, or transferred to other component units or other programs such as Public and Indian Housing (Assistance Listing 14.850) (24 CFR sections 982.151 and 982.152).

**Audit Objectives** Determine whether transfers/advances of HCVP funds were properly conducted and HCVP HAP and administrative fee funding were used appropriately.

**Suggested Audit Procedures**

- a. Selected a sample of transactions related to the following FDS Lines:
  - 144 – Inter Program – Due From
  - 124 – Accounts receivable – other government
  - 125 – Accounts receivable – miscellaneous
  - 10020 – Operating transfers out
  - 10030 – Operating transfers from/to primary government
  - 10040 – Operating transfers from/to component unit
  - 11040 – Prior period adjustments, equity transfers, and correction of errors
  - 11170 – Administrative fee equity
  - 11180 – Housing assistance payment equity
- b. Test for improper transfers or inappropriate use of funds

**8. Depository Agreements**

**Compliance Requirements** PHAs are required to enter into depository agreements with their financial institutions in the form required by HUD. The agreements serve as safeguards for federal funds and provide third party rights to HUD. Among the terms in many agreements are requirements for funds to be placed in an interest-bearing account (24 CFR section 982.156).

**Audit Objectives** Determine whether the PHA has entered into the required depository agreements.

**Suggested Audit Procedures**

- a. Verify the existence of the agreements.
- b. Verify that the PHA has met the terms of the agreements, including that funds are placed in an interest-bearing account if required by the depository agreement.

**9. Rolling Forward Equity Balances**

**Compliance Requirements** PHAs are required to maintain complete and accurate accounts. In addition, the ACC requires PHA to properly account for program activity. Proper accounting requires that (1) account balances are properly maintained, (2) records and accounting transactions support a proper roll-forward of equity, and (3) errors are corrected as detected. Several HUD OIG audits reports have noted that PHAs have not



been accounting and reporting HAP and Administrative Fee equity accounts properly. This has resulted in several PHAs not being funded correctly and has resulted in OIG findings against HUD and PHAs. If audit testing, account analysis, or third party (e.g., HUD) information, provides evidence that the current HAP and Administrative Fee equity is not correctly stated, the PHA is required to correct the account balance. Errors affecting these accounts could have begun starting with 2004 or 2005 financial statements (24 CFR section 982.158). (**Note:** The Administrative Fee equity on the Income Statement may include Net Investments in Capital Assets depending on the PHA's situation, whereas the Unrestricted Net Position or Administrative Fee Reserve (discussed in Notice 2015-17, Use and Reporting of Administrative Fee Reserves) does not include capital assets.)

**Audit Objectives** Determine whether equity balances have been reconciled and rolled forward correctly.

### **Suggested Audit Procedures**

- a. If audit testing, account analysis, or third party (e.g., HUD) information provides evidence that the current HAP and Administrative Fee equity is not correctly stated, verify that the PHA has corrected the account balances.
- b. Verify that, like any prior-year correction entry, these accounting transactions were properly made and the account balances for the HAP and Administrative Fee equity accounts were properly corrected.

## **10. CARES Act Funding**

**Compliance Requirements** PIH Notice 2020-17, *CARES Act -HCV Program HAP Supplemental Funding*, covers the requirements related to the supplemental HAP funding totaling \$400 million for the HCV program, including MV. The supplemental HAP funding was made available for PHAs that either (1) experience a significant increase in voucher per unit costs (PUC) due to extraordinary circumstances, or (2) despite taking reasonable cost saving measures, as determined by the secretary, would otherwise be required to terminate rental assistance for families as a result of insufficient funding (herein referred to as Shortfall Funds). CARES Act HAP funding may only be used for current year eligible HAP expenses. HAP funding cannot be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, OIG, Quality Assurance Division (QAD), or other monitoring review findings. HAP also cannot be used for Administrative Fee purposes. Furthermore, CARES Act HAP funds may not roll into RNP and must be tracked and accounted for separately throughout the period of availability.

PIH Notices 2020-08 and 2020-18 *CARES Act – HCV Program Administrative Fees First and Second Award*, respectively, cover requirements related to the supplemental administrative fee funding totaling \$850 million for the HCV program, including MV. This supplemental administrative fee funding was made available to PHAs to cover administrative expenses and other expenses related to COVID-19. Section 4 of PIH

Notice 2020-18 contains a complete list of additional eligible activities for COVID-19 funds. PHAs were also instructed to request eligibility for COVID-19 related costs that were not explicitly included in the notice.

Furthermore, HUD provided instructions on accounting for and FDS reporting of CARES Act funds in PIH Notice PIH 2020-24. HUD must meet its monitoring responsibilities and provide transparency in the PHAs' receipt and use of CARES Act supplemental funding. Therefore, the Real Estate Assessment Center (REAC), a division of HUD's Office of Public and Indian Housing, has established the following six new columns on the FDS for reporting CARES Act supplemental funds.

#	New Column #	Column Name
1	14.PHC	Public Housing CARES Act Funding
2	14.HCC	HCV CARES Act Funding (both HAP and Administrative Fee)
3	14.MSC	Mainstream CARES Act Funding (both HAP and Administrative Fee)
4	14.MRC	Moderate Rehabilitation CARES Act Funding
5	14.CCC	Central Office Cost Center CARES Act Funding
6	14.CMT	CARES Act Funding Transferred to MTW

If a PHA has received CARES Act funding from any one of the following four programs, 1) Public Housing Operating Fund, 2) HCV, 3) MV, and/or 4) Moderate Rehabilitation, (the latter via the PBRA account), the PHA is required to add the respective reporting column(s) in its FASS-PH submission and report the amounts in accordance with the instructions in PIH Notice 2020-24.

The CARES Act also requires that recipients and sub-recipients of CARES Act funds satisfy quarterly reporting requirements if the recipient has been awarded \$150,000 or more in covered funds. CARES Act quarterly reporting requirements are aligned with PHA FDS reporting guidance in PIH Notice 2000-24. This alignment will allow for consistency in reporting and ensure that PHAs maintain a single record of CARES Act expenses.

**Audit Objectives** Determine whether CARES Act HAP funds received were used, accounted for, and reported in accordance with program requirements.

### **Suggested Audit Procedures**

- a. Obtain supporting documentation for CARES Act HAP funds received and evaluate to determine whether:
  - (1) The amounts received were accounted for separately under the appropriate program.
  - (2) The amount recorded in the general ledger agrees to supporting documentation.

- (3) Appropriate columns were included in the FDS and that amounts reported in the FDS agree to amounts in the general ledger.
- b. Select a sample of CARES Act HAP fund disbursements and test to determine:
  - (1) Whether the funds were used for current year eligible HAP expenses.
  - (2) If any funds were inappropriately used for the repayment of debts or any amounts owed to HUD including, but not limited to, OIG, QAD, or other monitoring review findings.
  - (3) Whether funds were inappropriately used for Administrative Fee purposes.
  - (4) Whether funds were inappropriately rolled into RNP.
  - (5) Whether the transactions for amounts disbursed were accurately recorded in the appropriate program in the general ledger.
- c. Determine whether amounts reported in CARES Act columns on the FDS for HAP disbursements agree to amounts recorded in the general ledger.
- d. Obtain supporting documentation for CARES Act Administrative Fee funds received and evaluate to determine whether:
  - (1) The amounts received were accounted for separately under the appropriate program.
  - (2) The amount recorded in the general ledger agrees to supporting documentation.
  - (3) Appropriate columns were included in the FDS and that amounts reported in the FDS agree to amounts in the general ledger.
- e. Select a sample of CARES Act Administrative Fee fund disbursements and test to determine:
  - (1) Whether the funds were used for either administrative expenses allowable under the applicable program, or other expenses related to COVID-19 identified in Section 4 of PIH Notice 2020-18.
  - (2) Whether funds were used for a purpose other than those listed in Section 4 of PIH Notice 2020-18, and if so whether HUD approval was obtained for the use.

- (3) Whether the transactions for amounts disbursed were accurately recorded in the appropriate program in the general ledger and follow the guidance provided in PIH Notice 2020-24.
- f. Select a sample of COCC fee disbursements charged to CARES Act Administrative Fees and determine whether the fee amounts were allowable and properly recorded in the general ledger and reported in the FDS under the provisions in PIH Notice 2020-24.
- g. Determine whether amounts reported in CARES Act FDS columns resulting from Administrative Fee expenses agree to amounts recorded in the general ledger.
- h. If HUD has implemented quarterly CARES Act funds reporting requirements:
  - (1) Determine whether required reporting has been completed.
  - (2) Determine whether amounts in the quarterly reports are consistent with amounts reported in the FDS.

#### **IV. OTHER INFORMATION**

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:

- Section 8 Housing Choice Vouchers (Assistance Listing 14.871)
- Public Housing Capital Fund (Assistance Listing 14.872)
- 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. Even though the Mainstream Vouchers program (Assistance Listing 14.879) follows HCVP procedures, that program is excluded from the MTW program. 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 of 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 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.

**Audit Objectives** Determine whether the PHA used proceeds for HUD-approved eligible expenses.

### **Suggested Audit Procedures**

- a. Ascertain if the PHA received any proceeds from disposing of real property under Section 18 or 22 of the 1937 Act;
- b. Verify that proceeds received are placed in a restricted account subject to the HUD General Depository Agreement HUD-51999 (GDA)(4/18); and
- c. Review PHA invoices and other documentation to verify proceeds were used for HUD-approved eligible HCVP expenses.

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

### **ASSISTANCE LISTING 14.872 PUBLIC HOUSING CAPITAL FUND (CFP)**

#### **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 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 posted here:

[https://www.hud.gov/sites/dfiles/PIH/documents/Faircloth%20List\\_9-30-2018.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/Faircloth%20List_9-30-2018.pdf).

#### **II. PROGRAM PROCEDURES**

##### **A. 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: Replacement Housing Factor, Emergency/Disaster, Emergency/Disaster-Safety and Security, Emergency/Disaster-Carbon Monoxide, and Lead-Based Paint grants.

For Replacement Housing Factor RHF grants, these grants can only be used for the development of replacement housing units. In fiscal year (FY) 2014 RHF grants were replaced with Demolition and Disposition Transitional Funding (DDTF), which is included in the annual Capital Fund grant and not given as a separate grant. DDTF

operates in the same way as formula funds and can be used for any eligible Capital Fund activity. PHAs that were receiving years two to five of a first increment RHF grant, or years seven to ten of second increment funding in FY 2014 will continue to receive RHF grants until they have finished that increment. PHAs that were newly eligible for replacement funding in FY 2014 will receive DDTF as part of their formula grant.

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 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 Safety and Security grants, Congress has also set aside \$10 million for Emergency/Disaster Safety and Security grants. 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 Safety and Security-Carbon Monoxide, the Department has awarded \$5 million (of the \$10 million for Emergency Safety and Security) for Emergency Safety and Security-Carbon Monoxide grants. 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.

For Lead-Based Paint grants, Congress has set aside anywhere from \$20 to \$45 million within the Capital Fund account to assist PHAs with lead challenges. These grants support PHAs as they address the safety of public housing residents. Lead-Based Paint 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 the Capital Fund Financing Program, HUD has permitted PHAs to borrow funding secured to a portion of future Capital Fund grants under the Capital Fund Financing Program (CFFP). PHAs have to 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.

## **B. Subprograms/Program Elements**

On an annual basis, the PHA submits a Public Housing Agency Plan (*OMB No. 2577-0226* – Form HUD-50075), based on the PHA fiscal year, to HUD for approval. Prior to submitting the plan to HUD for review and approval, the PHA must hold a public hearing and provide residents, local government officials, and other interested parties with an opportunity to comment on the proposed activities. In FY 2018, the budgeting process was moved to an electronic platform called EPIC for submission and approval.

A PHA, including a PHA qualified as exempt from submission of the CFP Annual Statement (HUD 50075.1 (*OMB No. 2577-0226*)), must have an approved 5-Year Action Plan (HUD 50075.2 (*OMB No. 2577-0226*)) in EPIC to have access to Capital Funds. Once HUD approves the annual statement (HUD 50075.1), it 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 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 additional public housing, including mixed-financed 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.

## **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 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.

PHAs file actual modernization cost certificates (AMCC) and actual development cost certificates (ADCC) with the local HUD Field Office 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 and 3535(d). 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.

## **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	N	N	N	Y	Y	N	N	N	Y

## 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 homeownership (42 USC 1437g(d); 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 may not incur any cost in excess of the total HUD-approved PHA Plan, which includes the project budget. Budget revisions may be approved by HUD 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)).

**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 \$170,800) (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.”

**H. Period of Performance**

1. Unless an extension is approved by HUD, a PHA must obligate at least 90 percent of each Capital Fund grant, including formula grants, RHF, natural disaster, and lead-based paint grants within 24 months of the funds of 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 the HUD executes the ACC Amendment (24 CFR section 905.306).
2. 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.

**N. Special Tests and Provisions****1. Wage Rate Requirements**

**Compliance Requirements** Projects funded with Capital Funds that are developed and/or modernized in accordance with 24 CFR Part 905, Subpart F, including projects that contain only public housing units and mixed-finance projects are subject to the Wage Rate Requirements (42 USC 1437j(a) and (b); 24 CFR section 905.308).

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

**2. FASS – PHA, Public Housing Assessment System Phase Indicator #2, Financial Condition, and HUD-50075, PHA Plans**

**Compliance Requirements** On an annual basis the PHA must report its Financial Data Schedule (FDS) disclosing the financial condition of the PHA and on the transactions that the PHA is entering into with private and nonprofit entities (FDS Line Items 125, 144, and 347) (24 CFR section 902.33). In the FASS-PHA Financial Assessment Sub System,

the PHA transactions with nonprofit and private development entities are shown under the headings for HUD Programs and Business Activities Asset Management Property, or AMP (Low-Rent and Capital Fund Programs) for the Capital Fund Program. Such transactions would be noted in the FDS Line items shown above in Section III.L.1.d.(2). The FASS-PHA FDS is reviewed and approved or rejected by the REAC.

The PHA is required to report in the PHA Plan, in accordance with HUD 50075 (*OMB No. 2577-0226*), any transactions to be entered into with nonprofit and private development entities. The PHA submits the Capital Fund Program in Part III of the PHA Plan. The PHA Plan, Implementation Schedule, for each active grant details the eligible activities to be funded and the budget of estimated sources and uses. The PHA Plan is reviewed and approved by the HUD Field Office in the region in which the PHA is located.

**Audit Objectives** Determine whether the expenditures set out in the FDS line items that indicate participation by nonprofit and private development entities agree with the data reported in the PHA Plan.

### **Suggested Audit Procedures**

- a. Review the data in FDS Line Items 125, 144, and 347 to determine the extent of nonprofit and private development entities utilizing the Capital Fund Program.
- b. Ascertain that the data in the FDS Line Items 125, 144, and 347 are substantially in agreement with the estimated sources and uses reported in the PHA Plan, Implementation Schedule (i.e., expenditures do not exceed the budget by 10 percent).

### **3. Debt Secured to Public Housing Asset**

**Compliance Requirements** 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).

**Audit Objectives** Determine whether any debt incurred by the PHA that is secured to public housing assets is duly authorized by HUD.

### **Suggested Audit Procedures**

- a. Review the PHAs balance sheet to determine if the PHA has incurred a debt.
- b. Examine the documentation that evidences the debt (loan /bond agreement, etc.) to determine if the debt is secured to public housing assets.

- c. If the debt is secured to public housing assets, verify that the PHA has the required HUD approval letter authorizing the debt.

#### **4. Environmental Review**

**Compliance Requirements** An environmental review must be completed for any project or activities before a PHA may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds at an assisted or to-be-assisted site.

Environmental review procedures for PHAs are given in PIH Notice 2016-22 HA, “Environmental Review Requirements for Public Housing Agencies.” The environmental reviews are not tied to specific grants but apply to all the operating and capital activities of the PHA for a five-year period. The Notice cites the governing regulations at 24 CFR parts 50 and 58 and describes the methods of review and types of determinations. All of these methods and types culminate in a final approval document signed by a HUD Approving Official. To be in compliance a PHA must have such an approval document with an approval date that is not over five years old. This approval may be in any the following forms:

- a. Form HUD-7015.16, “Authorization to Use Grant Funds”
- b. Form HUD-4128, “Environmental Assessment and Compliance Findings for the Related Laws”
- c. Form HUD-4128-OHF, “Environmental Assessment and Compliance Findings for the Related Laws”
- d. Determination Letter
- e. An electronic signature in the HUD Environmental Review Online System (HEROS)
- f. Activities listed in Notice 2016-22, Appendix A, require no further environmental review.

**Audit Objectives** Determine whether (1) the required environmental reviews have been performed, (2) exemptions to an environmental assessment are properly documented, and (3) program funds were not obligated or expended prior to completion of the environmental review process.

#### **Suggested Audit Procedures**

- a. Verify through a review of environmental review certifications that the environmental reviews were conducted for projects and activities unless an exemption was made.
- b. Select a sample of projects or activities when an environmental review was performed.

- c. Test whether program funds were committed only after the PHA has secured environmental clearance.

## 5. 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 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.

**Audit Objectives** Determine whether the PHA has used its insurance proceeds to promptly repair claimed damages and has used the Emergency or Natural Disaster grant funds only for costs in excess of the insurance recoveries. Determine whether the PHA paid the funds back to Emergency and Natural Disaster Reserve, as may be required.

### Suggested Audit Procedures

- a. Ascertain if the PHA has received any insurance proceeds for damaged or destroyed property.
- b. Ascertain if the PHA received a grant from the Emergency and Natural Disaster Reserve.
- c. Verify that insurance proceeds received in advance of contractor or repair bills are placed in a restricted cash account.
- d. Review contractor invoices and repair expenses to verify insurance proceeds were used to cover allowable expenses.
- e. Verify that the PHA used insurance proceeds to meet repair or replacement costs before using emergency or natural disaster grant funds.
- f. Verify that emergency or natural disaster grant funds not needed to meet the capital needs for which the grant was made were returned to HUD.

## 6. Capital Funds for Operating Costs

**Compliance Requirements** 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)).

**Audit Objectives** Determine whether obligations for operations costs are recorded properly.

### Suggested Audit Procedures

- a. Review the PHA's vouchers for funds expended from BLI 1406.
- b. Examine the voucher request dates against the reported obligation amounts in the LOCCS Obligation & Expenditure tab.
- c. Verify that the voucher request dates were before the funds were reported as obligated and the dollar value of the voucher requests corresponds to the reported obligated amount.

## 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:

- Section 8 Housing Choice Vouchers (Assistance Listing 14.871)
- Public Housing Capital Fund (Assistance Listing 14.872)
- 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) programs are (1) to 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) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families; (3) to coordinate activities to provide housing for low-income Native Hawaiian families with federal, state, and local activities to further economic and community development; (4) to plan for and integrate infrastructure resources on the Hawaiian home lands with housing development; and (5) to promote the development of private capital markets; and to allow the private capital markets to operate and grow, thereby benefiting Native Hawaiian communities.

**II. PROGRAM PROCEDURES**

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 the Department of Housing and Urban Development (HUD), and HUD must find that the NHHP meets the requirements of NAHASDA.

**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 [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/ih/codetalk/nap/nhhbgprogram](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/nap/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/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	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. 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. 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. 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. 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. 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 \$161,900). 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 and loan guarantee activities to address a need for housing that cannot be reasonably met without that assistance (24 CFR section 1006.301(b)).

- (3) 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

### **2. Performance Reporting**

- a. HUD-50090, *Native Hawaiian Housing Plan/Annual Performance Report* – The Annual Performance Report section of the report must be submitted to HUD within 60 days of the end of the DHHL program year.

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

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 9, Line 1 – *Inspections of Units* – columns B through F
5. Section 12, Lines 1 and 2 – *Jobs Supported by NAHASDA*
- b. HUD-60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – Each recipient that administers covered public and Indian housing assistance, regardless of the amount expended, and each recipient that administers covered housing and community development assistance in excess of \$200,000 in a program year, must submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry System (SPEARS) (24 CFR sections 135.3(a)(1) and 135.90).

Information on the automated system is available at [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/spears](https://www.hud.gov/program_offices/field_policy_mgt/section3/spears). SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the twelve-month reporting period, typically to coincide with their respective fiscal cycle.

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

1. Number of new hires that meet the definition of a Section 3 resident
2. Total dollar amount of construction contracts awarded during the reporting period
3. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
4. Number of Section 3 businesses receiving the construction contracts
5. Total dollar amount of nonconstruction contracts awarded during the reporting period
6. Dollar amount of nonconstruction contracts awarded to Section 3 businesses during the reporting period
7. Number of Section 3 businesses receiving the nonconstruction contracts

### **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).

**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:

- a. Environmental certifications were supported by an environmental assessment.
- b. For any project where an environmental assessment was not performed, a written determination was made that the assessment was not required and documentation exists to support such determination consistent with the criteria contained in 24 CFR sections 58.34 and 58.35.
- c. Funds were not committed prior to the environmental assessment or a determination that an assessment was not required.

**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 and, with HUD approval, permits PHAs to combine operating, capital, and tenant-based assistance funds into a single agency-wide funding source.

The purpose of the MTW Demonstration program is to give PHAs and 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 by the end of fiscal year (FY) 2022. Approximately 30 of these new agencies are anticipated to join the demonstration in FY 2020. 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 the 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 Operations Notice.

## **B. Statutory Requirements for MTW Agencies**

All PHAs participating in the MTW Demonstration program must meet the following statutory requirements:

- a. 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)));
- b. 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)));
- c. 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)));
- d. 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
- e. 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:

- f. 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)));
- g. 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



- h. 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. It consists of the following:

- a. *Attachment A* of the Standard MTW Agreement contains the calculation of subsidies, customized for each individual PHA.
- b. *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.

(1) *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.

(2) *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").

- c. *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, authorizations related to Section 8 Housing Choice Vouchers only, and authorizations related to family self-sufficiency.

- d. *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.
- e. 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:

- a. *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.

- b. 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.
- c. 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 considerable 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. The funds normally are combined into one single fund budget, commonly referred to as the MTW Block Grant. No other funds can be placed into the MTW Block Grant.

#### **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 [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/mtw](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw). Public Housing notices are available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/regs](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/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

#### 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.

## **Compliance Requirements**

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 \$164,200) (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](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices).

## **Compliance Requirements**

MTW agencies are authorized to use amounts received through the Public Housing Operating Fund, Capital Fund, and HCV Program flexibly. 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.

### **Compliance Requirements**

It should be ensured that MTW agencies 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. *HUD-50058-MTW, Family Report (OMB No. 2577-0083)* – The information on this form is submitted to HUD through the Public and Indian Housing Information Center (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*), which is being developed. 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:

- 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*
- 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

- e. *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).

*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

*Annual MTW Plan and Annual MTW Report – HUD Form 50900 (OMB No. 2577-0216) and MTW Supplement (OMB No. 2577-0226)* – PHAs are required to demonstrate that the statutory objectives of (1) “continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;” (2) “maintaining a comparable mix of families (by family size) is served, as would have been provided had the amounts not been used under the demonstration;” and (3) ensuring 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) (see III.G.3, “Earmarking”). The information needed to demonstrate these objectives can be found in HUD’s Inventory Management System/PIH Information Center (IMS- PIC), the Voucher Management System (VMS) and/or HUD successor systems and in Section II.B of the Annual MTW Plan and Report (Section 204(c)(3)(C) and (D) of Pub. L. No. 104-134 (42 USC 1437f (note))) and MTW Supplement. Additional guidance is provided in PIH Notice 2013-2, Baseline Methodology for Moving to Work Public Housing Agencies, issued January 10, 2013.

*Key Line Items* – The following parts of Section II.B of the Annual MTW Report contain critical information:

1. Section II.B, Report Leasing
  - a. Actual Number of Households Served at the End of the Fiscal Year
  - b. Reporting Compliance with Statutory MTW Requirements: 75 percent of Families Assisted are Very Low-Income

- c. Reporting Compliance with Statutory MTW Requirements: Maintaining Comparable Mix
- 2. Section IV, Approved MTW Activities: HUD approval previously granted Metrics - PHA's are required to use all the applicable "Standard HUD Metrics" under each statutory objective cited for the approved MTW activity. (See the "Standard HUD Metrics" section of the HUD form 50900.)
- 3. Section V.3, Sources and Uses of MTW Funds
  - a. A. Describe the Activities that Used Only MTW Single Fund Activity - PHAs must provide a thorough narrative of each activity that uses only the Single Fund Flexibility in the body of the Plan. In the narrative, PHAs are encouraged to provide metrics to track the outcomes of these programs or activities. Activities that use other MTW waivers in addition to Single Fund Flexibility do not need to be described in this section because descriptions of these activities are found in either Section III, Proposed MTW Activities, or Section IV, Approved MTW Activities in the HUD Form 50900 or in the MTW Supplement.
  - b. C. Commitments of Unspent Funds – The PHA is required to provide a listing of planned commitments or obligations of unspent MTW funds at the end of the PHA's fiscal year.
- 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** 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)).

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 combine funds from the following 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 Agreement to determine which funds are included in the MTW Agreement. Similarly, an auditor 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.