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*City of Las Vegas*

**Neighborhood Services Department**

**SUBRECIPIENT  
PROGRAM  
MANUAL**

**EMERGENCY SHELTER GRANTS**



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# EMERGENCY SHELTER GRANTS PROGRAM MANUAL

## PROGRAM INTRODUCTION

This manual sets forth policies and procedures for the administration of programs funded by the City of Las Vegas Emergency Shelter Grants program. Although some portions of these procedures are complicated and involve Federal regulations and policies, this manual summarizes the essential elements for proper program operation.

**POLICY-**The Project Sponsor agrees to comply with the requirements, policies, regulations and criteria as specified in the Neighborhood Services ESG Program Manual concerning ESG Programs, a copy of which the Project Sponsor acknowledges possession thereof. Project Sponsor shall obtain the necessary federal, state and local permits and licenses required to execute the Program. The Project Sponsor further agrees to comply with all applicable federal, state and local codes, regulations, statutes, ordinances and laws. Failure to comply with any of the above may result in forfeiture of the ESG Funding provided to Project Sponsor under the Agreement.

No manual can address every type of problem or situation that may arise during the course of the contract year; therefore, the City's Neighborhood Development (NDD) staff is available to respond to requests for clarification or additional information.

In the event that new policies or procedures are implemented during the contract period, NDD staff will provide timely notification and technical assistance.

This manual is neither intended to be all-inclusive nor so restrictive that it cannot be amended.

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## DESCRIPTION

“The Emergency Shelter Grants (ESG) program is designed to be the first step in a continuum of assistance to prevent homelessness and to enable homeless individuals and families to move toward independent living” (Emergency Shelter Grant Program-576.1). The fundamental components of a continuum of assistance system are:

- ❑ Outreach and assessment to identify a homeless person’s needs;
- ❑ Immediate (emergency) shelter as a safe, decent alternative to the streets;
- ❑ Transitional housing with appropriate supportive services to help people reach independent living; and
- ❑ Permanent housing or permanent supportive housing for the disabled homeless.

ESG is a formula funded program that uses the Community Development Block Grant (CDBG) formula as the basis for allocating funds to eligible jurisdictions, including States, territories and qualified metropolitan cities and urban counties for:

- ❑ Renovation, rehabilitation or conversion of buildings into homeless shelters;
- ❑ Operating expenses;
- ❑ Essential services;
- ❑ Homeless prevention activities; and
- ❑ Administration.

Additionally, ESG is a “funding match” program. This means that each recipient must provide matching funds itself or through voluntary efforts. Recipients may use any of the following in calculating the amount of matching funds provided:

- ❑ Cash;
- ❑ The value or fair rental value of any donated material or building;
- ❑ The value of any lease on a building;
- ❑ Any non-ESG salary paid to staff to carry out the ESG program; or
- ❑ The value of the time and services contributed by volunteers.

The City of Las Vegas administers the ESG program through the Neighborhood Services Department, Neighborhood Development Division (NDD). Funds are allocated among community service organizations in response to an application process. The actual allocations are made pursuant to review by the Community Development Recommending Board (CDRB), a 13 member group appointed by the Mayor and Council and facilitated by NDD staff. Final approval is subject to a vote of the Las Vegas City Council.

Each year, NDD will publish a notice of application availability in the local newspaper with a due date for applications. NDD staff will review the timely applications received, taking particular care that each applicant has completed the identified “threshold items”. “Threshold items” must be provided in order for an application to move forward in the funding process. These items are enumerated in the application.

Qualifying applications are then distributed to the CDRB at a scheduled meeting. Applicants make presentations to the Board regarding their projects and the members will make recommendations concerning allocation of available funds. In making these decisions, certain HUD mandated limitations must be considered, as follows:

- ❑ Funding for Essential Services cannot exceed 30% of the total ESG;
- ❑ Funding for Homeless Prevention cannot exceed 30% of the total ESG, and
- ❑ Funding for Operational Staff Costs cannot exceed 10% of the total ESG.

These recommendations are then presented to the City Council for discussion and possible approval.

**It is imperative to be aware of the fact that all funding is provisional, depending entirely upon receipt of the annual ESG allocation from HUD.**

Each successful applicant must execute an “Emergency Shelter Grant Funding Agreement” with the City of Las Vegas. In general, these agreements define:

- ❑ Key program components of activities (including benchmarks);
- ❑ The level of ESG funding and a budget of how it may be spent;
- ❑ The anticipated source and amount of matching funds; and
- ❑ Documentation and/or reporting requirements.

The recipients of ESG funding implement, deliver and document the day-to-day services to the homeless clients as per the terms of their grant agreements. The City has the contractual responsibility for ensuring that the stated goals and objectives for each of their recipients’ projects are successfully carried out and documented according to the applicable federal regulations. This contractual responsibility encompasses oversight on each of the recipients that includes compliance with the grant agreement, regulations and sound financial record keeping and reporting.

## **ELIGIBLE ACTIVITIES UNDER THE ESG PROGRAM**

While flexible in terms of serving all homeless subpopulations and preventing persons from becoming homeless, the ESG program legislation and implementing regulations do limit the types of activities and amounts of funds that can be spent on different activities. While HUD allows other categories of eligible activities, due to the limited funding, the city of Las Vegas has elected to fund only one of these categories;

- ❑ Shelter Operational costs.

## OPERATIONAL COSTS

ESG funds can cover a broad array of emergency shelter and transitional housing operating costs. The legislation and regulations specify various eligible operating costs related to the provision of emergency and transitional housing. These include shelter maintenance, rent, operation, repairs, security, fuel, equipment, insurance, utilities, food and furnishings.

**Not more than 10 percent of the grant amount may be used for costs of staff, including fringe benefits.**

## ADMINISTRATION

This section describes the basic program requirements and responsibilities under the ESG program for recipients. These include:

- ❑ Record Keeping;
- ❑ Standards for Documentation of Homelessness;
- ❑ Termination of Participation;
- ❑ Participation of Homeless Persons in Policy Making;
- ❑ Ensuring Confidentiality; and
- ❑ Basic Habitability Standards.

### **Record Keeping**

Maintaining accurate records is an important aspect of quality management of ESG projects. Measurement of project performance relies on the tracking of information about services and activities. In order to report fully on program outcomes and activities (Exhibit "C"), recipients should consistently gather demographic information on the Population being served by the program and the types of activities provided to participants. ESG regulations require that records are maintained for a period of at least five years after end of the grant term.

### **Standards for Documentation of Homelessness**

ESG recipients are required to maintain adequate documentation of homeless status to determine the eligibility of persons served by HUD's homeless assistance programs. The documentation is typically obtained from the participant or a third party at the time of entry, intake or orientation to the ESG funded project. Examples of such documentation would be a letter from a homeless shelter or a letter from a landlord indicating eviction. A copy of the documentation must be retained in the file.

### **Termination of Participation and Grievance Procedures**

Recipients in the ESG program may terminate assistance provided by ESG funded activities to participants who violate program requirements. The termination, however, must allow for the due process of the terminated participant's rights. Therefore, recipients must have in place a procedure that governs the termination and grievance process.

### **Participation of Homeless Persons in Policy Making and Operations**

The ESG program requires that recipients encourage the participation of homeless persons in projects in a number of ways. Recipients are required by law to provide for the participation of at least one homeless or formerly homeless person in a policy making function within the organization. This requirement may be waived if the recipient agrees to consult with a homeless or formerly homeless person in making policy or decisions. Additionally, all recipients are required to involve participants in the operation of the ESG funded program. This involvement can include paid and/or volunteer work.

### **Ensuring Confidentiality**

To ensure the safety and security of ESG program participants fleeing domestic violence, ESG recipients are required to develop and implement procedures to guarantee the confidentiality of records concerning program participants. In addition, the addresses and location of family violence shelter facilities receiving ESG funding may not be publicly disclosed.

### **Building and Habitability Standards**

Any building for which ESG funding is used for renovation, rehabilitation or conversion must meet local government safety and sanitation standards. In addition, the following are a number of basic standards to ensure that shelter and housing facilities funded through the ESG program are safe, sanitary and adequately maintained.

*Structure and Materials.* The shelter building should be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents.

*Access.* The shelter must be accessible, and there should be a second means of exiting the facility in the case of emergency or fire.

*Space and Security.* Each resident should have adequate space and security for themselves and their belongings. Each resident must have an acceptable place to sleep.

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

*Water Supply.* The shelter's water supply should be free of contamination.

*Sanitary Facilities.* Each resident should have access to sanitary facilities that are in proper operating condition. These facilities should be able to be used in privacy and be adequate for personal cleanliness and the disposal of human waste.

*Thermal Environment.* The shelter facility must have any necessary heating/cooling facilities in proper working order.

*Illumination and Electricity.* The shelter facility should have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There should be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.

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

*Sanitary Conditions.* The shelter should be maintained in a sanitary condition

*Fire Safety-Sleeping Areas.* There should be at least one working smoke detector in each occupied unit of the shelter facility. In addition, smoke detectors should be located near sleeping areas where possible. The fire alarm system should be designed for hearing-impaired residents.

*Fire Safety-Common Areas.* All public areas of the shelter must have at least one working smoke detector.

## **FINANCIAL MANAGEMENT**

ESG recipients make requests to the City for program funds to meet project costs on a cost-reimbursement basis, and submit performance reports, payment vouchers and documentary evidence that reimbursable costs and expenses have been paid for (Exhibit “B”). Such evidence shall be in the form of either copies of cancelled checks, front and back, or a copy of the bank statement showing that the checks have cleared. The ESG grantee’s contractual responsibility to ensure that a recipient’s project is carried out and documented according to the applicable federal regulations includes oversight of financial management. The ESG recipient delivers the day-to-day services to homeless participants and makes requests to the grantee for program funds to meet project costs. The responsibility for authorizing and making payments and maintaining financial records rests primarily with the recipient, with the grantee responsible for oversight. Recipients in the ESG program must ensure compliance with regulations and requirements pertaining to the following key areas of financial management:

- ❑ Usage of funds
- ❑ Required funding match
- ❑ Internal controls
- ❑ Budget controls
- ❑ Accounting controls
- ❑ Procurement
- ❑ Property/asset controls
- ❑ Audits

### **Usage of Funds**

Recipients must use ESG program funds as originally indicated in their approved application request. ESG funds may not be used for activities other than those authorized in the regulations. Furthermore, all expenditures must be in accordance with the project budget and

conditions such as ceilings and other limitations.

Funds must be expended in a timely manner. If funds are not being expended, it is indicative that homeless persons are not receiving the benefits that this program is intended to deliver. Therefore, subrecipients are expected to expend their ESG in the following manner:

- 25% by September 30<sup>th</sup> of the funding year;
- 50% by December 31<sup>st</sup> of the funding year;
- 75% by March 31<sup>st</sup> of the funding year; and
- 100% by June 30<sup>th</sup> of the funding year.

Funds that are not expended in a timely manner are subject to rescission and subsequent reallocation to another agency.

There will be no allowed carry-over of ESG funds beyond the end of the funding year.

### **Required Funding Match**

Each ESG recipient must match the funding provided with an equal amount of funds from other sources. In general, matching funds may include:

- ❑ Funds from other sources;
- ❑ Non-ESG salary paid to staff to carry out the project;
- ❑ Time contributed by volunteers; and
- ❑ The value of any donated material, building, or lease, at fair market value.

### **Internal Controls**

Internal controls refer to the combination of policies, procedures, defined responsibilities, personnel and records that allow an organization to maintain adequate oversight and control of its finances. For example, an agency should maintain written procedures that define staff qualifications and duties, lines of authority, separation of functions and access to assets and sensitive documents. Additionally, there should be written accounting procedures for approving and recording transactions and periodic reviews comparing financial records to actual assets and liabilities.

### **Budget Controls**

The agency should maintain an up to date (approved) budget for all funded activities and perform a comparison of that budget with actual expenditures for each budget category. Further, regular comparisons should be made between actual expenditures and progress toward achievement of goals. Additionally, each agency should be able to predict, with accuracy, the cash needs of the organization.

### **Accounting Controls**

Recipients must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant awards, obligations, unobligated balances, assets, liabilities, expenditures and income. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payroll and attendance records, contract awards documents, etc.

## **Procurement**

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

- ❑ Standards that prohibit conflict of interest. No employee, board member, agent or consultant of subrecipients which are receiving CDBG funds who have responsibilities with respect to CDBG activities or who participate in decision making process or have access inside information can obtain a financial interest or benefit from a CDBG funded activity during their tenure or one year thereafter;
- ❑ Plans to purchase materials, products or services under the CDBG program must follow a free and open competitive process. This process must be documented;
- ❑ Affirmative efforts to hire minority and women owned enterprises. All procurement undertakings must make an effort to outreach/utilize Minority Business Enterprises (MBE) and Women Business enterprises (WBE) firms. Documentation of this outreach must be maintained; and
- ❑ All contractual activities must be controlled by a contract administration system.

## **Property/Asset Controls**

Regulations regarding property/asset controls are intended to ensure that the recipient maintains a system for tracking property and other assets purchased with ESG funds, and that the recipient has procedures for ensuring such property and assets are secure and used for authorized purposes only.

## **Audits**

All applicants must submit either an A-133 Audit, Audited Financials, or a Certified Annual Financial Statement. All submittals may not be older than two years. Applicants who do not meet the criteria above must submit one of the following with the application:

**A-133:** Organizations that expend \$500,000 or more in one year in federal awards shall have a single or program specific audit (A-133) conducted for that year. A copy of your most recent A-133 must be attached. No A-133 over two years old will be accepted.

**Audited Financials:** Effective July 1, 2005, the City has implemented the following audit policy: Any agency what expends between \$200,000 and \$499,000 in federal funds (one or multiple federal sources) will be required to have a CPA Audited Financial Statement.

**Certified Annual Financial Statement:** This is the lowest threshold criteria and will only be accepted from those non-profits who can document that they did not qualify for an A-133 or regular audit, or who are first time federal grant applicants. Certified Annual Financial Statements (CAF) must be certified by the Treasurer and Board President.

## MONITORING

Monitoring progress of recipients under the ESG program is an important function to ensure that the basic ESG program goals are being met. Monitoring can take a number of forms and can include review of progress reports, telephone consultation and performance of on-site assessments. The three basic goals for oversight and monitoring of the progress and performance of ESG recipients include:

- a) Ensure that ESG funds are used effectively to assist homeless individuals and families and that the basic ESG program goals are met;
- b) Ensure compliance with ESG regulations and program requirements in the usage of funds and in carrying out program activities; and
- c) Enhance and develop the management capacity of recipients.

## HUD INFORMATION

### **Non-discrimination and Equal Opportunity**

The use of ESG funds requires that the recipient make facilities and services available to all on a nondiscriminatory basis and publicizes this fact. The procedures that a recipient uses to convey the availability of such facilities and services should reach persons with handicaps or persons of any particular race, color, origin, sex, sexual orientation, status or national origin within their service area who may qualify for them. If not, the recipient must establish additional procedures that will ensure that these persons are made aware of the facilities and services. Recipients must adopt procedures to disseminate information to anyone who is interested regarding the existence and location of handicap accessible services or facilities.

### **Lead-based Paint Requirements**

The purpose of these requirements is to ensure that housing receiving ESG funding does not pose lead-based paint hazards to young children. Most emergency shelters are exempt from lead-based paint regulations.

### **Relocation and Displacement**

Recipients are required to take reasonable steps to minimize the displacement of persons, families, individuals, businesses, nonprofit organizations or farms as a result of administering projects funded through ESG.

Rehabilitation of real property for a project under ESG is subject to the requirements of the Uniform Relocation Act and the requirements contained in 49 CFR part 24, Subpart B.

### **Conflict of Interest**

Recipients must avoid any conflict of interest in carrying out activities funded by ESG.

Generally, this means that an employee in a decision-making position, or who has information about decisions made by the organization, may not obtain a personal or financial interest or benefit from the organization's activity, including through contracts, subcontracts or agreements. This exclusion continues during the employee's tenure and for one year following. Recipients are required to have a "code of conduct" in place that prohibits employees, officers or agents of the organization from participating in the decision making process related to procurement if that person or that person's family, partner or any organization employing any of the above has a direct financial interest or benefit from that procurement.

**Environmental Review/Compliance**

ESG recipients are required to submit certification of compliance with environmental review requirements in order for the entity to receive a release of funds certification. A recipient should keep comprehensive records on any environmental problems, lead-base paint concerns, or any corrective actions required.

**Limits on Funding to Primarily Religious Organizations**

As a general rule, in accordance with First Amendment Church/State Principles, ESG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities, except as cited at 24 CFR 576.23.

**OMB Circulars**

Administration of the ESG Program is subject to the uniform policies and requirements of the Office of Management and Budget (OMB) Circulars and Federal Regulations implementing the Circulars. The Circulars set standards for the administration of grants, principles for determining what costs are allowable and requirements for independent audits. The Circulars also address many other management issues, including record keeping, procurement, bank accounts and program income. All recipients of the City of Las Vegas grant funding are required to be familiar with the OMB Circulars as they pertain to the grant funding received.

Description of this program can be found on HUD's web site at:  
<http://www.hud.gov/cpd/homeless.html>.

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EXHIBIT "A"

**Emergency Shelter Grant Manual**  
Request for Funds Form  
Instructional

***LINE ITEM***

PROJECT YEAR-Must show beginning and end, i.e. 2008/09

PROJECT NUMBER-This will be provided by the City.

PERIOD COVERED-Not less than one month

PROJECT TITLE-This should match the title used in your application.

COUNCIL APPROVAL DATE-This will be provided by the City.

DESCRIPTION-Specifically; Food Costs, Bus Tokens, Utilities, Apparel, etc.

CALCULATION-     Amount Authorized  
                      -Previous Drawdowns  
                      -Amount of This Request  
                      =Balance Available

SIGNATURE-No request will be processed without an original, authorized signature.

DOCUMENTATION-All requests must be accompanied by documentary evidence to support the claim. Such documentation shall consist of copies of invoices and proof of payment, either a copy of the cancelled check(s), front and back or a copy of the appropriate bank statement with the check(s) clearly marked.

**EXHIBIT "B"**  
**CITY OF LAS VEGAS**  
**NEIGHBORHOOD SERVICES DEPARTMENT**  
**REQUEST FOR RELEASE OF FUNDS**

This form must be used to request reimbursement from the City of Las Vegas Neighborhood Development Division for Emergency Shelter Grant (ESG) funds expended for the \_\_\_\_\_ Fiscal Year. Failure to properly submit this form, along with back-up documentation such as: copies of canceled checks, invoices, purchase orders, and an accounts payable printout, or check register, will result in a non-pay status for the request. Do not alter this form.

Request #	Amount of Request	Period Covered	
		From	To

Agency:	Phone:
Project:	FAX:
Contact Person:	e-mail

Account Title	Budgeted Amount	Request Amount	Previous Drawdowns	Remaining Funds
Wages & Benefits				
Operating Costs				
Travel & Transportation				
Food (client)				
Employment Training				
Direct Client Services				
Machinery & Equipment				
<b>TOTAL</b>				

*I, the undersigned, certify that the information contained herein is correct, is recorded as such in the official accounting records of the program and that the expenses reflected herein were incurred in accordance with the agreement with the City of Las Vegas.*

Signature \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT “C”**  
**MONTHLY CLIENT STATUS REPORT**  
**THIS FORMAT MUST BE FOLLOWED EXACTLY USE BOTH PAGE 1 AND PAGE 2**

Unduplicated Clients Served & Program Goals Met This Month

Neighborhood Services Department – Neighborhood Development Division  
 400 Stewart Ave., 2<sup>nd</sup> Floor  
 Las Vegas, NV 89101

RE: Agency/Project: \_\_\_\_\_  
 Represents Month \_\_\_\_\_

Below are the HUD race categories, which must be reported for clients served with ESG funds. In addition, HUD requires that the Hispanic ethnicity be counted for every race sub category as applicable.

\*Hispanic must be counted for each category as appropriate and totaled in column C. Example: White column may have 25 clients, 4 of which are also Hispanic. The White column would have 25 and the Hispanic column would have 4, the total clients would still be 25, do not add the two columns together. There may be other categories that also have Hispanic clients. Therefore, column (C) would have the total Hispanic count for the month and column (E) would be the total for the year. The Year to Date Columns should reflect the numbers for each monthly column of clients served to date. Remember to add current monthly totals to the previous year to date totals. In addition, the number served for all categories should add up: ie: female and male clients should equal the total number; the income column totals should also match. The only number that may not match is the female head of household, as not all clients served will fit this category.

Clients can only be counted once if assisted for more than one month. If the same clients are assisted each month, then the year to date total will match the monthly total. When new clients are added, then the monthly and yearly total will change to reflect the amount of new clients.

A	B	C	D	E
Race Category	Monthly Client Total	Monthly Hispanic Total*	Year To Date Client Total	Year to Date Hispanic Total
White				
Black/African American				
Asian				
American Indian/Alaskan				
Native Hawaiian/Other Pac. Islander				
American Indian Alaskan Native & White				
Asian & White				
Black & White				
American Indian/Alaskan Native & Black				
Asian/Pacific Islander				
Other Multi Racial				
Total				

**Monthly Client Status Report**  
**Page 2**

- 1-Number of unduplicated clients enrolled in life skills training \_\_\_\_\_
- 2-Number of unduplicated clients enrolled in employment training. \_\_\_\_\_
- 3-Number of clients transitioned into their own home or apartment \_\_\_\_\_

## **Title 24: Housing and Urban Development**

### **PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. McKINNEY HOMELESS ASSISTANCE ACT**

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#### **Section Contents**

##### **Subpart A—General**

- § 576.1 Applicability and purpose.
- § 576.3 Definitions.
- § 576.5 Allocation of grant amounts.

##### **Subpart B—Eligible Activities**

- § 576.21 Eligible activities.
- § 576.23 Faith-based activities.
- § 576.25 Who may carry out eligible activities.

##### **Subpart C—Award and Use of Grant Amounts**

- § 576.31 Application requirements.
- § 576.33 Review and approval of applications.
- § 576.35 Deadlines for using grant amounts.

##### **Subpart D—Reallocations**

- § 576.41 Reallocation; lack of approved consolidated plan—formula cities and counties.
- § 576.43 Reallocation of grant amounts; lack of approved consolidated plan—States, territories, and Indian tribes.
- § 576.45 Reallocation of grant amounts; returned or unused amounts.

##### **Subpart E—Program Requirements**

- § 576.51 Matching funds.
- § 576.53 Use as an emergency shelter.
- § 576.55 Building standards.
- § 576.56 Homeless assistance and participation.
- § 576.57 Other Federal requirements.
- § 576.59 Relocation and acquisition.

##### **Subpart F—Grant Administration**

- § 576.61 Responsibility for grant administration.
- § 576.63 Method of payment.
- § 576.65 Recordkeeping.
- § 576.67 Sanctions.

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**Authority:** 42 U.S.C. 3535(d) and 11376.

**Source:** 54 FR 46799, Nov. 7, 1989, unless otherwise noted.

#### **Subpart A—General**

##### **§ 576.1 Applicability and purpose.**

This part implements the Emergency Shelter Grants program contained in subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371–11378). The program authorizes the Secretary to make grants to States, units of general local government, territories, and Indian tribes (and to private nonprofit organizations providing assistance to homeless individuals in the case of grants made with reallocated amounts) for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating expenses and essential services in connection with emergency shelters for the homeless, and for homeless prevention activities. The program is designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as to prevent homelessness.

[61 FR 51548, Oct. 2, 1996]

### **§ 576.3 Definitions.**

The terms *Grantee* and *HUD* are defined in 24 CFR part 5.

*Administrative costs* means as the term is defined in §583.135(b) of this part, except that the exclusion relates to the costs of carrying out eligible activities under §576.21(a).

*Consolidated plan* means the plan prepared in accordance with part 91 of this title. An approved consolidated plan means a consolidated plan that has been approved by HUD in accordance with part 91 of this title.

*Conversion* means a change in the use of a building to an emergency shelter for the homeless under this part, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building after conversion.

*Emergency shelter* means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for specific populations of the homeless.

*Essential services* includes services concerned with employment, health, drug abuse, and education and may include (but are not limited to):

- (1) Assistance in obtaining permanent housing.
- (2) Medical and psychological counseling and supervision.
- (3) Employment counseling.
- (4) Nutritional counseling.
- (5) Substance abuse treatment and counseling.
- (6) Assistance in obtaining other Federal, State, and local assistance including mental health benefits; employment counseling; medical assistance; Veteran's benefits; and income support assistance such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps;
- (7) Other services such as child care, transportation, job placement and job training; and
- (8) Staff salaries necessary to provide the above services.

*Formula city or county* means a metropolitan city or urban county that is eligible to receive an allocation of grant amounts under §576.5.

*Homeless* means as the term is defined in 42 U.S.C. 11302.

*Homeless prevention* means activities or programs designed to prevent the incidence of homelessness, including (but not limited to):

- (1) Short-term subsidies to defray rent and utility arrearages for families that have received eviction or utility termination notices;
- (2) Security deposits or first month's rent to permit a homeless family to move into its own apartment;

- (3) Mediation programs for landlord-tenant disputes;
- (4) Legal services programs for the representation of indigent tenants in eviction proceedings;
- (5) Payments to prevent foreclosure on a home; and
- (6) Other innovative programs and activities designed to prevent the incidence of homelessness.

*Indian tribe* means as the term is defined in 42 U.S.C. 5302(a).

*Major rehabilitation* means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

*Metropolitan city* means a city that was classified as a metropolitan city under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

*Nonprofit recipient* means any private nonprofit organization providing assistance to the homeless, to which a State or unit of general local government distributes emergency shelter grant amounts.

*Obligated* means that the grantee or State recipient, as appropriate, has placed orders, awarded contracts, received services, or entered similar transactions that require payment from the grant amount. Grant amounts that a unit of general local government or State awards to a private nonprofit organization by a written agreement or letter of award requiring payment from the grant amount are obligated.

*Private nonprofit organization* means as the term is defined in 42 U.S.C. 11371.

*Rehabilitation* means the labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75 percent of the value of the building before the change in use.

*Renovation* means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

*Responsible entity* means as the term is defined in §58.2 of this title, as applied though §58.1(b)(3) of this title and §576.57(e).

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

*Territory* means each of the following: the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Palau (Trust Territory of the Pacific), and any other territory or possession of the United States.

*State recipient* means any unit of general local government or nonprofit organization to which a State makes available emergency shelter grant amounts.

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

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

*Value of the building* means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or the State recipient.

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56128, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995; 61 FR 5210, Feb. 9, 1996; 61 FR 51548, Oct. 2, 1996]

### **§ 576.5 Allocation of grant amounts.**

(a) *Territories.* HUD will set aside for allocation to the territories an amount equal to 0.2 percent of the total amount of each appropriation under this part in any fiscal year. HUD will allocate this set-aside amount to each territory based upon its proportionate share of the total population of all territories.

(b) *States, metropolitan cities, urban counties, and Indian tribes.* HUD will allocate the amounts that remain after the set-aside to territories under paragraph (a) of this section, to States, metropolitan cities, urban counties, and Indian tribes, as provided in 42 U.S.C. 11373. HUD will subsequently distribute the amount set aside for Indian tribes under this paragraph as provided in §576.31.

(c) *Notification of allocation amount.* HUD will notify in writing each State, metropolitan city, urban county, and territory that is eligible to receive an allocation under this section of the amount of its allocation.

[61 FR 51549, Oct. 2, 1996]

## **Subpart B—Eligible Activities**

### **§ 576.21 Eligible activities.**

(a) *Eligible activities.* Emergency shelter grant amounts may be used for one or more of the following activities relating to emergency shelter for the homeless:

(1) Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless;

(2) Provision of essential services to the homeless, subject to the limitations in paragraph (b) of this section;

(3) Payment for shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food, and furnishings. Not more than 10 percent of the grant amount may be used for costs of staff;

(4) Developing and implementing homeless prevention activities, subject to the limitations in 42 U.S.C. 11374(a)(4) and paragraph (c) of this section. Grant funds may be used under this paragraph to assist families that have received eviction notices or notices of termination of utility services only if the conditions stated in 42 U.S.C. 11374(a)(4) are met; and

(5) Administrative costs, in accordance with 42 U.S.C. 11378.

(b) *Limitations on provision of essential services.* (1) Grant amounts provided by HUD to units of general local government, territories, or Indian tribes, and grant amounts provided by a State to State recipients, may be used to provide an essential service under paragraph (a)(2) of this section only if the service is a new service, or is a quantifiable increase in the level of a service above that which the unit of general local government (or, in the case of a nonprofit organization, the unit of general local government in which the proposed activities are to be located), territory, or Indian tribe, as applicable, provided with local funds during the 12 calendar months immediately before the grantee or State recipient received initial grant amounts.

(2) Limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) are applicable even when the unit of local government, territory, or Indian tribe provides some or all of its grant funds to a nonprofit recipient. This limitation may be waived in accordance with 42 U.S.C. 11374.

(c) *Limitation on homeless prevention activities.* Limits on the use of assistance for homeless prevention activities established in 42 U.S.C. 11374(a)(4) are applicable even when the unit of local government, territory, or Indian tribe provides some or all of its grant funds to a nonprofit recipient.

[61 FR 51549, Oct. 2, 1996]

### **§ 576.23 Faith-based activities.**

(a) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Emergency Shelter Grants program. Neither the Federal government nor a State or local government receiving funds under Emergency Shelter Grants programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(b) Organizations that are directly funded under the Emergency Shelter Grants program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location,

from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(c) A religious organization that participates in the Emergency Shelter Grants program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct Emergency Shelter Grants funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide Emergency Shelter Grants-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an Emergency Shelter Grants-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(d) An organization that participates in the Emergency Shelter Grants program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(e) Emergency shelter grants may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. Emergency shelter grants may be used for the rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, emergency shelter grants may not exceed the cost of those portions of the rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to emergency shelter grants in this part. Sanctuaries, chapels, or other rooms that an Emergency Shelter Grants-funded religious congregation uses as its principal place of worship, however, are ineligible for Emergency Shelter Grants-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition ( *see* 24 CFR parts 84 and 85).

(f) If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

[68 FR 56406, Sept. 30, 2003]

#### **§ 576.25 Who may carry out eligible activities.**

(a) *Generally.* As provided in 42 U.S.C. 11373 eligible activities may be carried out by all State recipients and grantees, except States.

(b) *States.* All of a State's formula allocation, except for administrative costs, must be made available to the following entities:

(1) Units of general local government in the State, which may include formula cities and counties even if such cities and counties receive grant amounts directly from HUD; or

(2) Private nonprofit organizations, in accordance with 42 U.S.C. 11373(c).

(c) *Nonprofit recipients.* Units of general local government, territories, and Indian tribes may distribute all or part of their grant amounts to nonprofit recipients to be used for emergency shelter grant activities.

[61 FR 51549, 51550, Oct. 2, 1996]

#### **Subpart C—Award and Use of Grant Amounts**

**Source:** 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

#### **§ 576.31 Application requirements.**

(a) *Indian tribes.* After funds are set aside for allocation to Indian tribes under §576.5, HUD will publish a Notice of Funding Availability (NOFA) in the Federal Register. The NOFA will specify the requirements and procedures applicable to the allocation and competitive awarding of these set-aside funds to eligible Indian tribe applicants.

(b) *States, territories, and formula cities and counties.* To receive emergency shelter grant amounts, a State, territory, or formula city or county must:

(1) Submit documentation required under this part, part 5 of this title, or any other applicable provisions of Federal law; and

(2) Submit and obtain HUD approval of a consolidated plan that includes activities to be funded under this part. This consolidated plan serves as the jurisdiction's application for funding under this part.

[61 FR 51550, Oct. 2, 1996]

### **§ 576.33 Review and approval of applications.**

(a) *Conditional grant.* HUD may make a conditional grant restricting the obligation and use of emergency shelter grant amounts. Conditional grants may be made where there is substantial evidence that there has been, or there will be, a failure to meet the requirements of this part. In such a case, the reason for the conditional grant, the action necessary to remove the condition, and the deadline for taking those actions will be specified. Failure to satisfy the condition may result in imposition of a sanction under §576.69, or in any other action authorized under applicable Federal law.

(b) *Grant agreement.* The grant will be made by means of a grant agreement executed by HUD and the grantee. HUD will not disburse funds before the grant agreement is fully executed.

[54 FR 46799, Nov. 7, 1989, as amended at 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51550, Oct. 2, 1996]

### **§ 576.35 Deadlines for using grant amounts.**

(a)(1) *States.* Each State must make available to its State recipients all emergency shelter grant amounts that it was allocated under §576.5 within 65 days of the date of the grant award by HUD. Funds set aside by a State for homeless prevention activities under §576.21(a)(4) must be made available to State recipients within 180 days of the grant award by HUD.

(2) *State recipients* —(i) *Obligation of grant funds.* Each State recipient must have its grant amounts obligated (as that term is defined at §576.3) within 180 days of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities under §576.21(a)(4), State recipients are required to obligate grant amounts within 30 days of the date on which the State made the grant amounts available to the State recipient.

(ii) *Expenditure of grant funds.* Each State recipient must spend all of its grant amounts within 24 months of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities, State recipients must spend such sums within 180 days of the date on which the State made the grant amounts available to the recipient.

(b) *Formula cities and counties, territories and Indian tribes—Expenditure of grant funds.* Each formula city or county, territory, and Indian tribe must spend all of the grant amounts it was allocated or awarded under §576.5 or 576.31 within 24 months of the date of the grant award by HUD.

(c) *Failure to meet deadlines.* (1) Any emergency shelter grant amounts that are not made available or obligated within the applicable time periods specified in paragraph (a)(1) or (b) of this section will be reallocated under §576.45.

(2) The State must recapture any grant amounts that a State recipient does not obligate and spend within the time periods specified in paragraph (a)(2) of this section. The State, at its option, must make these amounts and other amounts returned to the State (except amounts referred to in §576.22(b)(6) available as soon as practicable to other units of general local government for use within the time period specified in paragraph (a)(2) of this section or to HUD for reallocation under §576.45.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51550, Oct. 2, 1996]

#### **Subpart D—Reallocations**

**Source:** 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

#### **§ 576.41 Reallocation; lack of approved consolidated plan—formula cities and counties.**

(a) *Applicability.* This section applies where a formula city or county fails to submit or obtain HUD approval of its consolidated plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year.

(b) *Grantee.* HUD will make available to the State in which the city or county is located the amounts that a city or county referred to in paragraph (a) of this section would have received.

(c) *Notification of availability.* The responsible HUD field office will promptly notify the State of the availability of any reallocation amounts under this section.

(d) *Eligibility for reallocation amounts.* In order to receive reallocation amounts under this section, the State must:

(1) Execute a grant agreement with HUD for the fiscal year for which the amounts to be reallocated were initially made available.

(2) If necessary, submit an amendment to its application for that fiscal year for the reallocation amounts it wishes to receive. The amendment must be submitted to the responsible HUD field office no later than 30 days after notification is given to the State under paragraph (c) of this section.

(e) *Amendment review and approval.* (1) Section 576.33 governs the review and approval of application amendments under this section. HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(2) Program activities represented by proposed amendments are subject to environmental review under §576.57 in the same manner as original proposals.

(f) *Deadlines for using reallocated grant amounts.* Section 576.35 governs the use of amounts reallocated under this section.

(g) *Amounts that cannot be reallocated.* Any grant amounts that cannot be reallocated to a State under this section will be reallocated as provided by §576.43. Amounts that are reallocated under this section, but that are returned or unused, will be reallocated under §576.45.

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56128, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

#### **§ 576.43 Reallocation of grant amounts; lack of approved consolidated plan—States, territories, and Indian tribes.**

(a) *Applicability.* This section applies when:

(1) A State, territory, or Indian tribe fails to obtain approval of its consolidated plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year; or

(2) Grant amounts cannot be reallocated to a State under §576.41.

(b) *Grantees.* (1) HUD will reallocate the amounts that a State or Indian tribe referred to in paragraph (a)(1) of this section would have received:

(i) In accordance with 42 U.S.C. 11373(d)(3); and

(ii) If grant amounts remain, then to territories that demonstrate extraordinary need or large numbers of homeless individuals.

(2) HUD will make available the amounts that a territory under paragraph (a)(1) of this section would have received to other territories that demonstrate extraordinary need or large numbers of homeless individuals.

(c) *Notification of funding availability.* HUD will make reallocations to States and Indian tribes under this section by direct notification or Federal Register notice that will set forth the terms and conditions under which amounts under this section are to be reallocated and grant awards made. In the case of reallocations to Territories, the responsible HUD field office will promptly notify each Territory of any reallocation amounts under this section, and indicate the terms and conditions under which reallocation amounts are to be made available and grant awards made.

(d) *Eligibility for reallocation amounts.* In order to receive reallocation amounts under this section, the formula city or county, State, territory, or Indian tribe must:

(1) Submit an amendment, in accordance with 24 CFR part 91, to its consolidated plan for that program year to cover activities for the reallocation amount it wishes to receive; and

(2) Execute a grant agreement with HUD for the fiscal year for which the amounts to be reallocated were initially made available.

(e) *Review and approval.* (1) Section 576.53, and such additional requirements as HUD may specify in the notification under paragraph (c) of this section, govern the review and approval of application amendments under this section. HUD will rank the amendments and make grant awards under this section on the basis of the following factors:

(i) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(ii) The extent to which the proposed activities address this need; and

(iii) The ability of the grantee to carry out the proposed activities promptly.

(2) HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(f) *Grant amounts.* HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application amendment.

(g) *Deadlines for using reallocated amounts.* Section 576.35 governs the use of amounts reallocated under this section.

(h) *Amounts not reallocated.* Any grant amounts that are not reallocated under this section, or that are reallocated, but are unused, will be reallocated under §576.45(d). Any amounts that are reallocated, but are returned, will be reallocated under §576.45(c).

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56129, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

#### **§ 576.45 Reallocation of grant amounts; returned or unused amounts.**

(a) *General.* From time to time, HUD will reallocate emergency shelter grant amounts that are returned or unused, as those terms are defined in paragraph (f) of this section. HUD will make reallocations under this section by direct notification or Federal Register Notice that will set forth the terms and conditions under which the grant amounts are to be reallocated and grant awards are to be made.

(b) *FEMA boards.* HUD may use State and local boards established under the Emergency Food and Shelter Program administered by the Federal Emergency Management Agency, as a resource to identify potential applicants for reallocated grant amounts.

(c) *Reallocation—returned grant amounts* —(1) *States and formula cities and counties*. HUD will endeavor to reallocate returned emergency shelter grant amounts that were initially allocated under §576.5 to a State or a formula city or county, for use within the same jurisdiction. Reallocation of these grant amounts is subject to the following requirements:

(i) Returned grant amounts that were allocated to a State will be made available (A) first, to units of general local government within the State and (B) if grant amounts remain, then to other States.

(ii) Returned grant amounts that were allocated to a formula city or county will be made available:

(A) First, for use in the city or county, to units of general local government that are authorized under applicable law to carry out activities serving the homeless in the jurisdiction;

(B) If grant amounts remain, then to the State in which the city or county is located;

(C) If grant amounts remain, to units of general local government in the State; and

(D) If grant amounts remain, to other States.

(2) *Indian tribes*. Returned grant amounts that were allocated to an Indian tribe will be made available to other Indian tribes.

(3) *Territories*. Returned grant amounts that were allocated to a territory will be made available, first, to other territories and, if grant amounts remain, then to States.

(4) *Further reallocation: States, formula cities and counties, territories, and Indian tribes*. HUD will reallocate under paragraph (e) of this section any grant amounts that remain after applying the preceding provisions of paragraph (c) of this section or that are returned to HUD after reallocation under those provisions.

(5) The responsible HUD field office will announce the availability of returned grant amounts. The announcement will establish deadlines for submitting applications, and will set out other terms and conditions relating to grant awards, consistent with this part. The announcement will specify the application documents to be submitted.

(6) The responsible HUD field office may establish maximum grant amounts, considering the grant amounts available, and will rank the applications using the criteria in paragraph (e) of this section.

(7) HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application, based on competing demands for grant amounts and the extent to which the respective activities address the needs of the homeless.

(8) HUD will endeavor to make grant awards within 30 days of the application deadline or as soon thereafter as practicable.

(9) Grants awarded under this section are subject to environmental review under §576.57.

(d) *Reallocation—unused grant amounts*. Unused grant amounts will be added to the appropriation for the fiscal year immediately following the fiscal year in which the amounts become available to HUD for reallocation, and will be allocated in accordance with the provisions of §576.5 of this part.

(e) *Selection criteria*. HUD will award grants under paragraph (c) of this section based on consideration of the following criteria:

(1) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(2) The extent to which the proposed activities address this need; and

(3) The ability of the grantee to carry out the proposed activities promptly.

(f) *Definitions—returned or unused grant amounts*. (1) For purposes of this section, emergency shelter grant amounts are considered “returned” when they become available for reallocation because a jurisdiction does not execute a grant agreement with HUD for them.

(2) For purposes of this section, emergency shelter grant amounts are considered “unused” (i.e., Federal deobligation):

(i) When they become available for reallocation by HUD after a grantee has executed a grant agreement with HUD for those amounts; or

(ii) The amounts remain after reallocation under §576.43 or paragraph (c) of this section.

[54 FR 46799, Nov. 7, 1989, as amended at 57 FR 54507, Nov. 19, 1992; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

### **Subpart E—Program Requirements**

**Source:** 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

#### **§ 576.51 Matching funds.**

(a) *General.* Each grantee, other than a territory, must match the funding provided by HUD under this part as set forth in 42 U.S.C. 11375. The first \$100,000 of any assistance provided to a recipient that is a State is not required to be matched, but the benefit of the unmatched amount must be shared as provided in 42 U.S.C. 11375(c)(4). Matching funds must be provided after the date of the grant award to the grantee. Funds used to match a previous ESG grant may not be used to match a subsequent grant award under this part. A grantee may comply with this requirement by providing the matching funds itself, or through matching funds or voluntary efforts provided by any State recipient or nonprofit recipient (as appropriate).

(b) *Calculating the matching amount.* In calculating the amount of matching funds, in accordance with 42 U.S.C. 11375(a)(3), the time contributed by volunteers shall be determined at the rate of \$5 per hour. For purposes of this paragraph, the grantee will determine the value of any donated material or building, or of any lease, using a method reasonably calculated to establish a fair market value.

[61 FR 51552, Oct. 2, 1996]

#### **§ 576.53 Use as an emergency shelter.**

(a)(1) *Restrictions and definition.* Period of use restrictions applicable to assistance provided under this part are governed by 42 U.S.C. 11375(a). Use of grant amounts for developing and implementing homeless prevention activities does not trigger period of use requirements.

(2) For purposes of the requirements under this section, the term *same general population* means either the same types of homeless persons originally served with ESG assistance (i.e., battered spouses, runaway children, families, or mentally ill individuals), or persons in the same geographic area.

(b) *Calculating the applicable period.* The 3- and 10-year periods applicable under paragraph (a) of this section begin to run:

(1) In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant amounts under this part, on the date of initial occupancy as an emergency shelter for the homeless.

(2) In the case of a building that was operated as an emergency shelter before receipt of grant amounts under this part, on the date that grant amounts are first obligated for the shelter.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51552, Oct. 2, 1996]

#### **§ 576.55 Building standards.**

(a) Any building for which emergency shelter grant amounts are used for conversion, major rehabilitation, rehabilitation, or renovation must meet local government safety and sanitation standards.

(b) For projects of 15 or more units, when rehabilitation costs are:

(1) 75 percent or more of the replacement cost of the building, that project must meet the requirements of §8.23(a) of this title; or

(2) Less than 75 percent of the replacement cost of the building, that project must meet the requirements of §8.23(b) of this title.

[61 FR 51552, Oct. 2, 1996]

**§ 576.56 Homeless assistance and participation.**

(a) *Assistance.* (1) Grantees and recipients must assure that homeless individuals and families are given assistance in obtaining:

(i) Appropriate supportive services, including permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(ii) Other Federal, State, local, and private assistance available for such individuals.

(2) Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375(c)(5).

(3) Grantees and recipients may, in accordance with 42 U.S.C. 11375(e), terminate assistance provided under this part to an individual or family who violates program requirements.

(b) *Participation.* (1) Each unit of local government, Indian tribe, and nonprofit recipient that receives funds under this part must provide for the participation of homeless individuals on its policymaking entity in accordance with 42 U.S.C. 11375(d).

(2) Each State, territory, Indian tribe, unit of local government, and nonprofit recipient that receives funds under this part must involve homeless individuals and families in providing work or services pertaining to facilities or activities assisted under this part, in accordance with 42 U.S.C. 11375(c)(7).

[61 FR 51552, Oct. 2, 1996]

**§ 576.57 Other Federal requirements.**

In addition to the Federal requirements set forth in 24 CFR part 5, use of emergency shelter grant amounts must comply with the following requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements at 24 CFR part 5 are modified as follows:

(1) *Rehabilitation Act requirements.* HUD's regulations at 24 CFR part 8 implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). For purposes of the emergency shelter grants program, the term "dwelling units" in 24 CFR part 8 shall include sleeping accommodations.

(2) Use of emergency shelter grant amounts must also comply with the requirement that the grantee or the State recipient make known that use of the facilities and services is available to all on a nondiscriminatory basis. If the procedures that the grantee or recipient intends to use to make known the availability of the facilities and services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such facilities and services, the grantee or recipient must establish additional procedures that will ensure that such persons are made aware of the facilities and services. Grantees and recipients must also adopt procedures which will make available to interested persons information concerning the location of services and facilities that are accessible to persons with disabilities.

(b) *Applicability of OMB Circulars* .<sup>1</sup> The policies, guidelines, and requirements of 24 CFR part 85 (codified pursuant to OMB Circular No. A-102) and OMB Circular No. A-87, as they relate to the acceptance and use of emergency shelter grant amounts by States and units of general local government, and Nos. A-110 and A-122 as they relate to the acceptance and use of emergency shelter grant amounts by private nonprofit organizations.

<sup>1</sup> OMB Circulars referenced in this section are available at the Entitlement Cities Division, Room 7282, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(c) The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title apply to activities under this program.

(d) *Conflicts of interest*. In addition to the conflict of interest requirements in OMB Circulars A-102 and A-110, no person—

(1)(i) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, State recipient, or nonprofit recipient (or of any designated public agency) that receives emergency shelter grant amounts and

(ii) Who exercises or has exercised any functions or responsibilities with respect to assisted activities, or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter. HUD may grant an exception to this exclusion as provided in §570.611 (d) and (e) of this chapter.

(e) *Environmental review responsibilities* —(1) *Generally*. Responsible entities must assess the environmental effects of each application under part 58 of this title. An applicant must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under the National Environmental Policy Act of 1969 (NEPA) and related authorities listed in part 58 of this title. The grant award is subject to completion of the environmental responsibilities set out in part 58 of this title within a reasonable time period after notification of the award. This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.

(2) *Awards to States*. In the case of emergency shelter grants to States that are distributed to:

(i) Units of general local government, the unit of general local government shall be the responsible entity, and the State will assume HUD's functions with regard to the release of funds; or

(ii) Nonprofit organizations, the State shall be the responsible entity, and HUD will perform functions regarding release of funds under part 58 of this title.

(3) *Release of funds*. HUD will not release funds for an eligible activity if the grantee, recipient, or any other party commits emergency shelter grant funds before the grantee submits, and HUD approves, any required Request for Release of Funds.

(f) *Audit*. The financial management systems used by a State, formula city or county, governmental entity, or an Indian tribe that is a grantee under this program must provide for audits in accordance with part 44 of this title. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in part 45 of this title. (OMB Circulars are available from the Executive Office of the President, Publication Service, 725 17th Street, NW., Suite G-2200, Washington, DC 20503, Telephone, 202-395-7332.)

(g) *Audit*. The financial management system used by a State or unit of general local government that is a grantee or State recipient must provide for audits in accordance with 24 CFR part 44. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in 24 CFR part 45.

(h) *Lobbying and disclosure requirements*. The disclosure requirements and prohibitions of 42 U.S.C. 3537a and 3545 and 31 U.S.C. 1352 (the Byrd Amendment), and the implementing regulations at parts 4 and 87 of this title.

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

(j) *Intergovernmental review.* The requirements of Executive Order 12372 and the regulations issued under the order at 24 CFR part 52, to the extent provided by Federal Register notice in accordance with 24 CFR 52.3.

[54 FR 46799, Nov. 7, 1989, as amended at 57 FR 33256, July 27, 1992; 61 FR 5210, Feb. 9, 1996. Redesignated and amended at 61 FR 51552, Oct. 2, 1996; 64 FR 50226, Sept. 15, 1999]

#### **§ 576.59 Relocation and acquisition.**

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, grantees and recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655).

(c) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Responsibility of grantees and recipients.* Each grantee and recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this part, or funds available from other sources.

(e) *Appeals.* A person who disagrees with the grantee's or recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the grantee or recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

(f) *Definition —(1) Displaced person.* (i) The term “displaced person” means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. Permanent, involuntary moves for an assisted project include:

(A) A permanent move from the real property (building or complex) following notice by the grantee, recipient or property owner to move permanently from the property, if the move occurs on or after the date that the grantee or recipient submits to HUD an application for assistance that is later approved and funded;

(B) A permanent move from the real property that occurs before the submission of the application to HUD, if the grantee, recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project, or

(C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:

( 1 ) The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex following the completion of the project at a rent, including estimated average utility costs, that does not exceed the greater of the tenant's rent and estimated average utility costs before the initiation of negotiations, or 30 percent of gross household income; or

( 2 ) The tenant has been required to relocate temporarily but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and the tenant does not return to the building/complex; or

( 3 ) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) A person does not qualify as a “displaced person” if:

(A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The grantee or recipient may, at any time, request a HUD determination of whether a displacement is or would be covered under this section.

(2) Initiation of negotiations. For purposes of determining the type of replacement housing payment to be made to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term “initiation of negotiations” means the execution of the agreement between the grantee and HUD.

(Approved by the Office of Management and Budget under OMB control number 2506–0089)

[54 FR 46799, Nov. 7, 1989, as amended at 54 FR 52397, Dec. 21, 1989. Redesignated at 61 FR 51553, Oct. 2, 1996]

## **Subpart F—Grant Administration**

**Source:** 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

### **§ 576.61 Responsibility for grant administration.**

Grantees are responsible for ensuring that emergency shelter grant amounts are administered in accordance with the requirements of this part and other applicable laws. The State, territory, Indian tribe, or unit of local government is responsible for ensuring that its recipients carry out the recipients' emergency shelter grant programs in compliance with all applicable requirements in the case of:

(a) A State making grant amounts available to State recipients; or

(b) A territory, Indian tribe, or unit of general local government distributing grant amounts to nonprofit recipients.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

### **§ 576.63 Method of payment.**

Payments are made to a grantee upon its request after the grant agreement has been fully executed, and may include a working capital advance for 30 days' cash needs or an advance of \$5,000, whichever is greater. Thereafter, the grantee will be reimbursed for the amount of its actual cash disbursements. If a grantee requests a working capital advance, it must base the request on a realistic, firm estimate of the amounts required to be disbursed over the 30-day period in payment of eligible activity costs.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

### **§ 576.65 Recordkeeping.**

(a) Each grantee must ensure that records are maintained for a 4-year period to document compliance with the provisions of this part.

(b) Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375(c)(5).

[61 FR 51553, Oct. 2, 1996]

### **§ 576.67 Sanctions.**

(a) *HUD sanctions.* If HUD determines that a grantee is not complying with the requirements of this part or of other applicable Federal law, HUD may (in addition to any remedies that may otherwise be available) take any of the following sanctions, as appropriate:

- (1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;
- (2) Condition a future grant;
- (3) Direct the grantee to stop the incurring of costs with grant amounts;
- (4) Require that some or all of the grant amounts be remitted to HUD;
- (5) Reduce the level of funds the grantee would otherwise be entitled to receive; or
- (6) Elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.

(b) *State sanctions.* If a State determines that a State recipient is not complying with the requirements of this part or other applicable Federal laws, the State must take appropriate actions, which may include the actions described in paragraph (a) of this section. Any grant amounts that become available to a State as a result of a sanction under this section must, at the option of the State, be made available (as soon as practicable) to other nonprofit organizations or units of general local government located in the State for use within the time periods specified in §576.35(a)(2), or to HUD for reallocation under §576.45(d).

(c) *Reallocations.* Any grant amounts that become available to HUD as a result of the imposition of a sanction under this section will be reallocated under §576.45(d).

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

## Glossary of Commonly Used Terms

**Administrative Costs**-includes 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.

**Consolidated Plan**-means the plan which describes the needs, resources priorities and proposed activities to be undertaken with respect to HUD programs, including the ESG program.

**Conversion**-means the change in the use of a building to an emergency shelter for the homeless, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building after conversion. If such cost do not exceed 75 percent of the value of the building before conversion, they are to be considered rehabilitation.

**Displaced person**-means a person (family, individual, business, nonprofit organization or farm) that moves from real property or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation or demolition.

**Emergency shelter**-means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless.

**Essential services**-includes services concerned with employment, health, drug abuse and education, and may include (but not limited to):

- a-Assistance in obtaining permanent housing.
- b-Medical and psychological counseling and supervision.
- c-Employment counseling.
- d-Nutritional counseling.
- e-Substance abuse treatment and counseling.
- f-Assistance in obtaining other Federal, State and local assistance.
- g-Other services such as child care, transportation, job placement and job training.
- h-Staff salaries necessary to provide the above services.

**Homeless**-a person who is living on the street or in an emergency shelter, or who would be living on the street or in an emergency shelter without HUD'S homelessness assistance.

**Homeless prevention**-means activities or programs designed to prevent the incidence of homelessness, including (but not limited to):

- a-Short term subsidies to defray rent and utility arrearages for families who have received eviction or utility termination notices.
- b-Security deposits or first month's rent to permit a homeless family to move into its own apartment.
- c-Mediation programs for landlord tenant disputes.
- d-Legal services programs for the representation of indigent tenants in eviction proceedings.
- e-Payments to prevent foreclosure on a home.

f-Other innovative programs and activities designed to prevent the incidence of homelessness.

**Major rehabilitation**-means rehabilitation that involves costs in excess of 75% of the value of the building before rehabilitation.

**Private nonprofit organization**-means a secular or religious organization that is exempt from taxation, has an accounting system and a voluntary board, and practices nondiscrimination in provision of assistance.

**Rehabilitation**-means the labor, material, tools and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75% of the value of the building before the change in use.

**Renovation**-means rehabilitation that involves costs of 75% or less of the value of the building before rehabilitation.

**Transitional housing**-is one type of supportive housing used to facilitate the movement of homeless individuals and families to permanent housing. Basically, it is housing in which homeless live for up to 24 months and receive supportive services that enable them to live more independently. The supportive services may be provided by the organization managing the housing or coordinated by them and provided by other public or private agencies.

**Value of the building**-means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or recipient.

## **Neighborhood Development Acronyms**

<b>ACT</b>	Cranston-Gonzales National Affordable Housing Act of 1990
<b>ADA</b>	Americans With Disability Act
<b>AIDS</b>	Acquired Immunodeficiency Syndrome
<b>AMI</b>	Area Median Income
<b>AP</b>	Action Plan
<b>APR</b>	Annual Performance Report
<b>CAPER</b>	Consolidate Annual Performance and Evaluation Report
<b>CBDO</b>	Community-Based Development Organization
<b>CDBG</b>	Community Development Block Grant (CDBG)
<b>CFDA</b>	Catalog of Federal Domestic Assistance (Grant numbers)
<b>CFR</b>	Code of Federal Regulations
<b>CHDO</b>	Community Housing and Development Organization (HOME)
<b>CLV</b>	City of Las Vegas
<b>CPD</b>	Office of Planning and Development
<b>DPR</b>	Down Payment Assistance
<b>EA/ER</b>	Environmental Assessment/Environmental Review
<b>EEO</b>	Equal Employment Opportunity
<b>EIS</b>	Environmental Impact Statement
<b>EMSA</b>	Eligible Metropolitan Statistical Area (HOPWA)
<b>EPA</b>	Environmental Protection Agency
<b>ESG</b>	Emergency Shelter Grant Program
<b>ESL</b>	English as a Second Language
<b>EZ/EC</b>	Empowerment Zone/Enterprise Community
<b>FHEO</b>	Fair Housing Equal Opportunity
<b>FMR</b>	Fair Market Rents
<b>FY</b>	Fiscal Year

<b>GPR</b>	Grantee Performance Report
<b>HAMFI</b>	HUD Adjusted Median Family Income
<b>HCP</b>	HUD Consolidated Plan
<b>HOME</b>	Home Investments Partnership Program
<b>HOPWA</b>	Housing Opportunities for People With Aids
<b>HQS</b>	Housing Quality Standards
<b>HUD</b>	(Department of) Housing and Urban Development
<b>IDIS</b>	Integrated Disbursement and Information System
<b>IRS</b>	Internal Revenue Service
<b>LEP</b>	Limited English Proficiency
<b>LIHTC</b>	Low-Income Housing Tax Credits Program
<b>LIHTF</b>	Low Income Housing Trust Fund
<b>LMA</b>	Low Income/Moderate Income Area (refers to Census Tracts)
<b>LMC</b>	Low Income/Moderate Income Client
<b>IRA</b>	Individual Retirement Account
<b>IRS</b>	Internal Revenue Service
<b>MBE/WBE</b>	Minority and Women Owned Business
<b>MFI</b>	Median Family Income
<b>MOA</b>	Memorandum of Agreement
<b>MOU</b>	Memorandum of Understanding
<b>NDD</b>	Neighborhood Development Division
<b>NPO</b>	Neighborhood Programs Officer
<b>NRS</b>	Nevada Revised Statutes
<b>NSD</b>	Neighborhood Services Department
<b>OMB</b>	Office of Management and Budget
<b>PHA</b>	Public Housing Authority
<b>PI</b>	Program Income
<b>PJ</b>	Participating Jurisdiction
<b>RFA</b>	Request for Application

<b>RFI</b>	Request for Interest
<b>RFP</b>	Request for Proposal
<b>RFQ</b>	Request for Qualifications
<b>SHP</b>	Supportive Housing Program
<b>SRO</b>	Single-Room Occupancy
<b>URA</b>	Uniform Relocation Act
<b>WHHA</b>	Welcome Home Homebuyer Assistance Program

