

FY 2005 AND 2006

EMERGENCY SHELTER GRANTS PROGRAM

REQUEST FOR PROPOSALS



**CITY OF BATON ROUGE
PARISH OF EAST BATON ROUGE
OFFICE OF COMMUNITY DEVELOPMENT
P.O. Box 1471
300 LOUISIANA AVE., 2ND FLOOR
BATON ROUGE, LOUISIANA 70821
PHONE: (225) 389-3039**

**ROBERT MCNEESE, URBAN DEVELOPMENT DIRECTOR
CAROLYN D. BREAU, GRANTS MANAGER
TONI EDWARDS, ESGP COORDINATOR**

TABLE OF CONTENTS

PUBLIC NOTICE

PART A SUMMARY INFORMATION

I.	Introduction.....	1
II.	Anticipated Funding.....	1
III.	Goal and Intent.....	1
IV.	Application Components.....	2
V.	General Instructions.....	2-3
VI.	Applicant Eligibility Criteria and Required Documents.....	3
VII.	Proposal Deadline.....	3
VIII.	Proposal Parameters/Clarifications.....	4
IX.	Technical Assistance and Addenda.....	4
X.	Proposal Review.....	4
XI.	Proposal Conditions.....	4-5

PART B PROGRAM REQUIREMENTS

I.	Background.....	7
II.	Design and Purpose.....	7
III.	Eligible Applicants.....	7
IV.	Eligible Activities.....	8
V.	Limitations on the Use of Assistance.....	10
VI.	Grant Amounts.....	11
VII.	Local Match Requirement.....	11-12
VIII.	Homeless Management Information System.....	12
IX.	Application Selection Criteria and Procedures.....	12-13
X.	Priorities.....	13-15
XI.	Required Use of Buildings as a Shelter.....	15-16
XII.	Environmental Review.....	16

XIII.	Deadlines for Using Grant Amounts.....	16
XIV.	Reporting Requirements.....	16-17
XV.	Nondiscrimination and Equal Opportunity Requirements.....	17
XVI.	Insurance Requirements.....	17
XVII.	Worker’s Compensation.....	17

Part C PROPOSAL SUBMISSION INSTRUCTIONS

I.	Proposal Delivery.....	19
II.	Proposal Clarification.....	19-20
III.	Proposed Use of Funds.....	20
IV.	General Instructions.....	20
V.	RFP Clarifications.....	20-21
VI.	Required Documents.....	21

PART D PROPOSAL FORMS

CHECKLIST OF REQUIRED DOCUMENTS.....	23
--------------------------------------	----

FORMS ESG-H05

01	Request for Qualifications (A-L).....	24-27
02	Project Summary.....	28
02(a)	Project Summary (HUD IDIS Form).....	29-30
03	Project/Budget Summary.....	31
03(a-c)	Shelter Working Budget Sheets.....	32-34
04	Rehabilitation.....	35
05	Services.....	36
06	Operations.....	37
07	Homeless Prevention.....	38
08	Matching Funds Table.....	39
09	Additional Information.....	40

PART E - ATTACHMENTS

- ATTACHMENT 1 Federal Definitions
- ATTACHMENT 2 Faith Based Regulations – 24 CFR Part 92 et al
- ATTACHMENT 3 Lead Based Paint Requirements
- ATTACHMENT 4 Homeless Management Information System Regulations
- ATTACHMENT 5 Guidelines for Emergency Shelter Grants Applicants
- ATTACHMENT 6 Emergency Shelter Grants Program Regulations and Applicable Statutes

**PUBLIC NOTICE
PUBLISHED FEBRUARY 13, 2005
IN THE ADVOCATE**

SOLICITATION OF PROJECT PROPOSALS
Emergency Shelter Grants Program

The City of Baton Rouge-Parish of East Baton Rouge has been issued an application package for the 2005 Emergency Shelter Grants Program (ESGP) administered by the Louisiana Department of Social Services (DSS). The City-Parish is also anticipating ESGP funds directly from the U.S. Department of Housing and Urban Development (HUD) for Fiscal year 2005. Funding available under the Emergency Shelter Grants Program is dedicated for the rehabilitation, renovation, or conversion of buildings for use as shelters for the homeless, and for payment of certain operating costs and social services expenses relating to homeless emergency shelter. The Program also allows funding for use in homeless prevention activities as an adjunct to other eligible activities.

Applicants for grants under the State ESG Program are limited to units of local government which may distribute all or part of their grant amounts to private nonprofit organizations for use in eligible Program activities. Grant funds under the HUD ESGP Program are also planned to be awarded by the City-Parish to eligible nonprofit organizations. Nonprofit organizations interested in developing a project proposal for possible inclusion under either, or both, the State or HUD ESGP funding application under consideration by the City-Parish may request a copy of the proposal materials by contacting the City-Parish Office of Community Development by mail at P.O. Box 1471, Baton Rouge, Louisiana 70821 or by telephone at 389-3039. Proposal materials will be available to interested parties after 8:00 a.m., Monday, February 14, 2005. No materials will be released prior to this date and time.

To qualify for funding participation, a private nonprofit organization as defined by Program regulations must be one which is exempt from taxation under subtitle A of the Internal Revenue Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance. Matching funds (including in-kind contributions) equal to the amount of grants funds must be provided except under special circumstances when an exemption can be allowed. Program Rules require that ESGP recipients involve, to the maximum extent practicable, homeless individuals and families in ESGP funded activities, including constructing, renovating maintaining, and operating facilities assisted under the ESG Program, and in providing services for occupants of these facilities.

No funding obligations shall be implied based on the information in this solicitation of ESGP project proposals. The City-Parish (unit of local government) reserves the right to accept any proposals or reject any and all proposals on such a basis as may be deemed to be in its best interest. The deadline for receipt of a proposal is **5:00 p.m., Monday, March 14, 2004.**

**Office of Community Development
City of Baton Rouge
Parish of East Baton Rouge**

EMERGENCY SHELTER GRANTS PROGRAM
CITY OF BATON ROUGE AND PARISH OF EAST BATON ROUGE

REQUEST FOR PROPOSALS

PART A - SUMMARY INFORMATION

Introduction

This "Request for Proposals" (RFP) for FY 2005 and FY 2006 Emergency Shelter Grants Program (ESGP) funds is solicited in anticipation of receipt of the annual entitlement grant from the U. S. Department of Housing & Urban Development (HUD) and the annual competitive grant through the Louisiana Department of Social Services, Office of Community Services. Both the entitlement and the competitive grants are being submitted in compliance with the City-Parish's Consolidated Plan. The Consolidated Plan is a comprehensive planning document required by HUD, that mandates that state agencies and local governments, incorporate their planning processes into one master plan for use of allocated federal funds for four community planning and development programs. The Emergency Shelter Grants Program is one of the four HUD programs included in the Consolidated Plan.

This RFP is for consideration of funding assistance to eligible non-profit organizations for eligible activities to assist the homeless under the Emergency Shelter Grants Program. This RFP will consider proposals in connection with FY'05 and FY'06 (Anticipated) ESGP funds to the City-Parish under a formula grant from the U. S. Department of Housing and Urban Development and under a competitive proposal solicitation to local governments by the State of Louisiana. A grant application to the State is planned prior to April 1, 2005. State grant approval, if made, is estimated prior to July 1, 2005.

Estimated Anticipated Funding (Available for non-profits)

FY'05 (HUD)	\$177,072
FY'05 (State)	<u>\$178,453</u>
Total:	\$355,525

Proposals will be considered under either grant source, or under both grant sources. Proposals, or parts of proposals, that are not recommended for funding under the State competitive grant will be held for consideration under the HUD grant upon a later Consolidated Plan submission to HUD, provided that said proposals are complete and otherwise eligible for assistance. Because the State ESGP application is competitive, the City-Parish reserves the right to recommend proposals that the Office of Community Development (OCD) believes offer the best competitive funding advantage regardless of the overall ranking of complete proposals. **Note: ESGP funds may not be used for administrative costs of non-profit recipients.**

Goal and Intent

This solicitation is to cover two funding cycles of anticipated funding for FY 2005 and 2006. Proposals should reflect need and budget for both grant cycles. The Office of Community Development (OCD) anticipates offering two types of funding for the covered period: 1) **Level I** or "Foundation" funding is guaranteed funding for the entire period covered by this RFP provided that the sub-recipient is adequately administering its program. (A finding by the OCD of inadequacy may result in any or all of the "Foundation" funding being de-obligated and reallocated to another better performing organization); **Level II** or "Ancillary" funding is for currently unfunded organizations and first time ESGP proposers. Level II "Ancillary" funding will be awarded for a single grant period only. Applicants may receive

either Level I “Foundation” Funding, or Level II “Ancillary” Funding, or neither at the sole discretion of the OCD.

The intent of this solicitation is: 1) To established a base funding level for adequately performing shelters funded under the 2005 grant; 2) To renew that funding level under the FY 2006 funding cycle, based on performance evaluation; and 3) To allow for funding of possible new emerging shelters and for expansion projects of established organizations. While the intent of Level I funding is to establish long term funding for ESG shelters, organizations funded under the FY’05 grant will be contacted to provide required information for submission of both the FY 2006 HUD and State Applications. The City-Parish will monitor expenditure rates and performance of funded organizations quarterly. Sub-recipient agreements will be for a term of only one year.

Application Components

Level I Foundation funding is for organizations with a minimum of two (2) years of satisfactorily ESGP grant administration through the City-Parish Office of Community Development, and for which OCD has determined has exhibited effective management of ESGP funds. Foundation funding is designed to provide a secured source of funding for established organizations and to reduce the annual paperwork burden of application development and submission. Level I Foundation Funding may be used only for operations, essential services and homeless prevention activities. Organizations granted Level I funding under this RFP will be allowed to apply for Level II Ancillary funding only if they are also proposing to materially maintain or expand (greater than 20%) their shelter capacity. Maintenance of Level I funding is contingent upon continued ESGP funding from HUD and the State. **Organizations granted Level I status under the two prior grant cycles (FY’03 & FY’04) should consider this Request for Proposals as a new funding cycle for consideration of Foundation funding status. Expenditure and required report submission patterns under prior grants will be reviewed to evaluate the applicant’s ability to implement and complete program activities appropriately and on a timely basis.**

Level II Ancillary funding is for: 1) currently unfunded organizations; and 2) first time ESGP proposers. Level II funding may be used for building rehabilitation, operations, essential services and homeless prevention services. Level II funding is also available to organizations that have been determined to meet Level I status for building rehabilitation only. For building rehabilitation, both Level I and Level II applicants must demonstrate that ESG funds will be used to materially maintain or expand (greater than 20%) the shelter capacity. Level II funding will be provided in an amount not to exceed \$15,000 for any one shelter. Level II funded organizations approved under this solicitation will be subject to full evaluation with each notice of funds, until such time that the City-Parish determines the organization has the capacity and experience to receive Level I funding status.

During the three prior proposal solicitations, the City-Parish established funding proportions at 85% for Foundation Funding and 15% for Ancillary Funding. The City-Parish will continue to use this allocation for distribution of Level I and Level II funding. Both Level I Foundation funding and Level II Ancillary funding are subject to increase or decrease contingent upon future funding allocations and the availability of funds.

General Instructions

Enclosed is our Request for Proposals under the FY 2005 and FY 2006 (Anticipated) Emergency Shelter Grants Program. If you intend to submit a proposal, we encourage you to thoroughly review the program requirements (Part B), and proposal instructions.

Funding assistance made available under the Emergency Shelter Grants Program is awarded to the City-Parish, which then contracts with eligible non-profit organizations that provide shelter and services to

homeless individuals and families. Program assistance 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. Program recipients must meet the federal definition of homeless. (*See attachment I*)

- < This Request for Proposals is for consideration of funding under both our direct grant from HUD and under a pending grant application to the State and is for a period to cover anticipated funding under the FY 2005 ESGP. Funding may be for either Foundation (Level I) or Ancillary (Level II) funding. While an organization may, and is encouraged to state what level of funding they are seeking, the Office of Community Development (OCD) will make the final determination on both the type of funding offered and the source of such funds. Such consideration may also involve partial funding under both grants, if found to best meet program goals.

Applicant Eligibility Criteria and Required Documents

- < Current non-profit 501 (c) (3) certification, tax exempt status from the Internal Revenue Service;
- < Current Certification of Incorporation from the Secretary of State and Articles of Incorporation, etc.;
- < Current list of Board of Directors;
- < Audited Financial Statements for the agency's fiscal year ending no more than one year prior to the time of application. If the applicant does not have an audit then it must include its most recent independent financial statement. In such a situation an audit or financial statement will be required by the end of the program year for recipients of Level I Foundation Funding;
- < Written statement(s) on financial management policies and procedures;
- < Provides shelter and services to the homeless within East Baton Rouge Parish.

In order to assure that we have the most current information concerning each organization requesting ESGP assistance, the documents listed in the proposal package must be submitted with the proposal. Organizations that submitted these documents during a prior grant solicitation are exempt from this requirement, provided that there have been no changes since the last submission. The organization is responsible for ensuring that documents on file with Community Development are current and complete.

Proposal Deadline

- < The complete proposal package must be returned on or before the submission deadline **Monday, March 14, 2005 at 5:00 p.m.** A complete proposal package includes all completed forms in Part D of this proposal package, plus all attachments that have been listed in Part D on the "Checklist of Required Documents." Proposals that lack any required submissions will be considered incomplete, and will not be given further consideration for funding under an ESGP application to the State. Submitters of incomplete proposals will be allowed 15 days from the date of written notice by the Office of Community Development in order to correct any completeness deficiencies for subsequent consideration of the proposal under the direct HUD grant.
- < Proposals may be submitted on or prior to the submission deadline. However, no funding decisions will be made until after expiration of the proposal submission deadline. Information concerning submitted proposals will not be disclosed until after the submission deadline. **Proposal forms may be copied, but should not be re-typed.** Illegible and altered forms will render the application invalid and it will not be considered.
- < **Note:** Upon request, our office will copy on to a disk required forms in WordPerfect or MS Word format. Further, all forms will be available at the OCD Internet site located at: <http://www.brgov.com/dept/ocd>

Proposal Parameters/Clarifications

- < During our review of proposals, we may request additional clarification concerning a particular funding request or proposed activity. Please note that the proposal instructions specify deadlines for submission of this clarifying information. In order to provide a timely review of all proposals and to complete funding recommendations, we will not delay review of a proposal for which clarifications are not received by our deadlines. Proposal clarification requests will only address items for which additional information is needed in order to complete our review of a proposal. While we may request clarifications of required submission documents, one or more omitted required documents will constitute an incomplete proposal. Incomplete proposals/clarification requests that have not been satisfactorily addressed within this time allowed will not be considered for funding recommendation under the State application. It is the responsibility of the applicant to ensure that all required documents are submitted and include requested information.

Technical Assistance and Addenda

- < No assistance in developing a proposal will be individually provided to potential applicants by the Office of Community Development. Applicants should rely on no clarifications, nor interpretations of these submission requirements, except for any that are issued in writing and made available to all known recipients of RFP packages. A required pre-submission conference will be held on **Friday, March 4, 2005 at 1:30 p.m.** to answer questions concerning proposal submission requirements. The meeting will be held at the **Delmont Service Center**, 3525 Riley Street, Baton Rouge, Louisiana. **All first time proposers are encouraged to attend.**
- < Potential submitters may make written requests for proposal clarifications. Responses to such written requests will be written and made available to all known potential proposal submitters. No clarifications will be issued later than three (3) days before the submission deadline.
- < Questions or clarifications concerning this Request for Proposals package or process, may be directed to Carolyn Breaux or Toni Edwards at (225) 389-3039.

Proposal Review

The OCD reserves the right to:

- < determine which program category will be used to fund specific proposals
- < negotiate and award contracts to multiple applicants,
- < reject any or all submittals,
- < offer less than requested in the funding proposal,
- < cancel, in whole or in part, this NOFA if it is in the best interest of the City-Parish to do so.

Funded proposals must comply with the regulation of the Emergency Shelter Grants Program and applicable OMB circulars. Copies of these regulations and circulars are attached and made a part of this RFP. Additional copies of the regulations and circulars are available at OCD or on its website located at: <http://www.ci.baton-rouge.la.us/dept/ocd>. An ESGP Desk Guide is located on the internet and can be downloaded at: www.hud.gov/offices/cpd/homeless/library/esg/esgdeskguide/index/cfm

Proposal Conditions

This proposal solicitation is based upon anticipated funding availability through both grant sources. Availability of ESGP funding through the State is subject to HUD's approval of the State's Consolidated Annual Action Plan for Fiscal Year 2005. Availability of ESGP funding through a direct HUD grant to

the City-Parish is subject to HUD's approval of the City-Parish's Consolidated Annual Action Plan for Fiscal Year 2005.

No expenditure authority or funding obligations shall be implied based on the information in this request for proposals; and the City-Parish is under no requirement to fund any proposal nor execute any ESGP funding agreement on the basis of this solicitation. By submitting a proposal respondent acknowledges and agrees to the terms and conditions of this NOFA and to the accuracy of the information submitted. All proposals become the property of the OCD and, as such, are subject to the Public Information Act and become public property.

PART B – PROGRAM REQUIREMENTS

**EMERGENCY SHELTER GRANTS PROGRAM
CITY OF BATON ROUGE AND PARISH OF EAST BATON ROUGE**

REQUEST FOR PROPOSALS

PART B. PROGRAM REQUIREMENTS

I. BACKGROUND

The Stewart B. McKinney Homeless Assistance Act of 1987, as amended, authorizes the Emergency Shelter Grants Program (ESGP) under the U.S. Department of Housing and Urban Development (HUD). From funds appropriated for this program, HUD is authorized to make formula grants to States, certain designated local governments (formula grantees), and for Indian Tribes. The City-Parish receives formula ESGP funds from the U.S. Department of Housing and Urban Development, and competes annually for ESGP funding made available through the Louisiana Department of Social Services/ Office of Community Services. Through a competitive Request for Proposals (RFP) process, funds may be awarded to successful non-profit applicants to carry out the purposes of the Emergency Shelter Grants Program. For the 2005 ESG Program, the total amount anticipated for contracting to eligible organizations from the U.S. Department of Housing and Urban Development to the City-Parish is \$177,072. The City-Parish Office of Community Development anticipates a City-Parish application to the State of Louisiana for additional ESGP funds available through the State, with \$178,543 of those funds available to eligible nonprofit organizations. This RFP is soliciting proposals in connection with both grants.

II. DESIGN AND PURPOSE

The Emergency Shelter Grants Program (ESGP) 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.

The purpose of the program is to:

- . help improve the quality of existing emergency shelters for the homeless,
- . help make available additional emergency shelter,
- . help meet the costs of operating emergency shelters and of providing certain essential social services to homeless individuals, so that homeless persons have access not only to safe and sanitary shelter, but also to the supportive services and other kinds of assistance they need to improve their living situations,

The program is also intended to:

- . restrict the increase of homelessness through the funding of homeless prevention programs and activities.

III. ELIGIBLE APPLICANTS

Eligible applicants for Emergency Shelter Grant funds are States, units of general local government, territories, and Indian tribes. These entities may in turn disburse ESGP funds to eligible private non-profit organizations as sub-grantees.

Eligible non-profit organizations under this RFP must:

- * be a private nonprofit organization, with a **current designation** as a 501 (c) organization under the Internal Revenue Code of 1988 and exempt from taxation under Subtitle A of the Code;
- * have an acceptable accounting system and a voluntary governing board;
- * practice non-discrimination in its provision of assistance;
- * provide assistance to the homeless within East Baton Rouge Parish.

Through the City-Parish Office of Community Development, proposals are being solicited from qualified applicants for the provision of eligible activities in connection with emergency shelters.

IV. ELIGIBLE ACTIVITIES

Eligible activities under the Emergency Shelter Grants Program are set forth in 42 U.S.C Part 11374 (Title IV B of the Stewart B. McKinney Homeless Assistance Act) and HUD Program regulations at 24 CFR 576.21(a)[61] *Federal Register* Page 51549; Oct. 2, 1996]. Copies of ESGP statutory provisions and rules are included in this application packet. Only those activities specifically authorized under statutory provisions and Program regulations are eligible for use of ESGP funds. Other uses are ineligible.

As described under the Program law and regulations, ESGP grant amounts may be used for one or more of the following activities relating to emergency shelter for the homeless:

- A. Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless. [If proposal contains renovation, rehabilitation, or conversion activities, a copy of appraisal of property to be affected is required, if possible. A copy of the property appraisal must be on file before a contract will be finalized. Also, a copy of the lease agreement for shelter property that is leased by the nonprofit organization, if applicable.]

NOTE: Emergency Shelter Grants Program regulations require that in the administration of grant funds: to the maximum extent practicable, through employment, volunteer services, or otherwise, homeless individuals and families will be involved in constructing, renovating, maintaining, and operating facilities assisted under the ESG program, and in providing services for occupants of facilities assisted with ESGP funds.

- B. Provision of essential services to the homeless. Essential services include services concerned with employment, health, drug abuse, and education and may also 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; and income support assistance such as Supplemental Security Income benefits, Aids 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.

Grant amounts may be used to provide an essential service only if:

1. The service is:
 - a. a new service, or
 - b. 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 receipt of initial grant amounts; and
 2. Not more than **30 percent** of the City-Parish's ESG Program funding can be used for essential service activities. For FY '05 ESGP funding, this is up to \$53,122 under HUD formula grant funding and \$53,536 under the proposed State funding application.
- C. Payment of shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings. An amount not to exceed ten (10) percent of total ESGP grant funds, may be spent on staff costs of operations related to emergency shelter.
- D. Developing and implementing homeless prevention activities subject to certain limitations. Homeless prevention activities are those designed to prevent the incidence of homelessness, including (but not limited to):
- . short-term subsidies to defray rent and utility arrearages for families that have received eviction or utility termination notices;
 - . security deposits or first month's rent to permit a homeless family to move into its own dwelling;
 - . mediation programs for landlord-tenant disputes;
 - . legal services programs for the representation of indigent tenants in eviction proceedings;
 - . payments to prevent foreclosure on a home and other innovative programs and activities designed to prevent the incidence of homelessness.

If grant funds for homeless prevention activities are to be used to assist families that have received eviction notices or notices of termination of utility services, the following conditions must be met:

- 1) The inability of the family to make the required payments must be the result of a sudden reduction in income;
- 2) The assistance must be necessary to avoid eviction of the family or termination of services;
- 3) There is a reasonable prospect that the family will be able to resume payments within a reasonable period of time (this "reasonable period of time" means a time period determined reasonable by the ESGP grantee and applied consistently to all recipients); and

- 4) The assistance must not supplant funding for preexisting homeless prevention activities from any other sources.

Note: The references to "family" in the above conditions are interpreted by HUD to include one-person families. Subgrantee non-profits will be required to maintain detailed records of qualifying persons/families for this assistance.

If grant funds for homeless prevention activities are used to assist families to pay security deposits, first month's rent, or first month's utilities, for those families with children less than 6 years of age the units selected must be free from lead-based paint contamination. (See Attachment 3)

Not more than 30 percent of ESG program funding may be used for homeless prevention activities. This is a separate cap from the 30 percent maximum, applicable to essential service activities. For the FY'05 HUD grant, this maximum again is up to \$53,122 (HUD) and \$53,536 (State).

Any proposal containing homeless prevention activities must describe the type(s) of activities to be undertaken and a specific implementation plan, and specific clients and/or special population groups to be served. Any proposed homeless prevention activity must be described in relationship to other homeless assistance activities of the organization.

- E. ESG program regulation as stated in 42 U.S.C. 11375(d) require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient under this part. This may be waived only if the recipient is unable to meet this program requirement and if the recipient agrees to consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

V. LIMITATIONS ON THE USE OF ASSISTANCE

A. Limitations - Primarily Religious Organizations

- ESGP assistance may be provided to a primarily religious organization if the organization agrees to provide eligible activities in a manner that is free from religious influences and in accordance with principles stated at 24 CFR 576.23. Faith-Based Activities (*See Attached Faith-Based Regulations – Part 576, page 56406, Attachment 2*)

B. Administrative Costs

- The use of ESGP funds for general administrative costs of non-profit sub-grantees is not allowed under this grant

VI. GRANT AMOUNTS

The City-Parish has not established specific minimum or maximum grant amounts that an eligible non-profit can apply. However, potential proposal submitters are advised of the following: Individual proposals for funding in excess of anticipated ESGP financial assistance are not competitive. The ESGP cost per number of homeless to be served is a factor in proposal evaluations. Proposals with a high cost per homeless are less competitive than those with a lower cost per homeless person under this evaluation criterion. Proposals that rely almost exclusively upon ESGP assistance for shelter funding are typically not competitive. It is the Office of Community Development's intention that, ESGP assistance be made available to a diversity of shelters serving various homeless population categories. Except in cases of ESGP assistance that expands shelter bed capacity and address under served homeless groups and/or priority needs, proposals that involve high levels of financing assistance, to the detriment of ESGP resources being able to be made available to a diversity of shelters, may not be competitive. Availability of ESGP funds for distribution is subject to HUD approval of the City-Parish's Consolidated Plan (ESGP application) for Fiscal Years 2004 and 2005; and State approval of a City-Parish ESGP application, as well as Federal appropriations authority. **No expenditure authority or funding obligations shall be implied based on the information in this request for proposals; and the City-Parish is under no legal requirement to execute any contracts on the basis of this solicitation for proposals.**

If the maximum of 30% of a grant is awarded for each of the essential services and homeless prevention categories, available funding by category would be as shown in the table below. If less than 30% is awarded in either or both of these categories, there would be a corresponding increase in funding availability for the rehabilitation and operations categories. Not more than ten (10) percent of ESGP funding may be budgeted for staff costs of operations related to emergency shelter.

<u>ESGP Categories</u>	<u>HUD</u>	<u>State</u>
Essential Services	\$ 53,121.50	\$ 53,536
Homeless Prevention	\$ 53,121.50	\$ 53,536
Rehabilitation/Operations*	\$ 70,829.00	\$ 71,381
Total (FY 2005 Anticipated):	\$177,072	\$178,453

The City-Parish expects that grant proposals will greatly exceed available funding notices. It is our intent to assist as many qualified shelters as available funds will allow. Proposal submitters should submit realistic funding requests that fall within the announced funding expectations. Proposal budgets should consider long term project projections in consideration of the grant application and grant obligation process. Project budget worksheets are attached to assist with development of long term project budgets. Worksheets are a required submission. (*Attachment Form ESG-H05-03(a)-04(c)*)

VII. LOCAL MATCH REQUIREMENT

Except for limited exceptions, recipients shall be required to provide matching funds in an amount at least equal to their approved ESGP funding amounts for eligible program activities. Matching funds must be derived from sources other than the Program, and only funds provided after the date of the grant award to the City-Parish will be considered as eligible matching funds. Funds used to match a previous ESGP grant award or another Federal or State grant may not be used to match a subsequent grant. A recipient local government such as the City-Parish may comply with this requirement by providing the matching funds itself, or through supplementary funds or voluntary efforts provided by non-profit recipients. The City-Parish has chosen the latter method for meeting this matching funds requirement.

In calculating the amount of matching funds, the following types may be included: "hard cash" amounts dedicated for homeless assistance activities; the value of any donated material or building; the value of

any lease on a building; any salary paid to staff of the nonprofit sub-recipient in carrying out the Emergency Shelter Grants Program; and the time and services contributed by volunteers to carry out the emergency shelter program, determined at the rate of \$5 per hour. The City-Parish shall determine the value of any donated materials, or building, or any lease, using any method reasonably calculated to establish a fair market value.

The provisions of matching funds as specified by applicants in these proposal documents will be considered a commitment to provide the stated amounts and types of matching contributions as stated in each applicant's proposal, if the applicant is provided assistance under this grant solicitation. The provision of matching funds will be a contractual requirement of any assistance agreement.

During the review of proposals, the City-Parish reserves the right to require additional information concerning matching funds commitments, as necessary to be reasonably assured that such resources will be available. **ESGP funds will not be released until after sufficient matching funds requirements have been met.**

VIII. HOMELESS MANAGEMENT INFORMATION SYSTEMS (HMIS)

Congress has directed HUD to improve the collection of data on the extent of homelessness locally and nationally. Communities must collect an array of data including an unduplicated count of homeless persons, analyze their patterns of the use of McKinney-Vento and other assistance, including information on how they enter and exit the homelessness assistance system and assess the effectiveness of that assistance. Through Federal Register Notice, the Emergency Shelter Grants Program was made a part of this mandate. **Therefore, all proposed projects/organizations must provide written certification of their participation in an existing HMIS or, where applicable, written commitment to an HMIS which is being implemented. (See Attachment 4)**

IX. APPLICATION SELECTION CRITERIA AND PROCEDURES

This section of the RFP serves as the description of the process and criteria utilized by the City-Parish's Office of Community Development for award recommendations of these grant funds to eligible private non-profit organizations. While these guidelines are general in nature, it is felt that this is necessary to retain flexibility in dealing with local homeless problems.

There is a formal application process for non-profits to request ESGP assistance from the City-Parish. Specific forms are required to be completed. Information required from non-profits will depend on their past participation with ESGP projects, as well as the specific project for which funds are being requested. Typical information required at the earlier stages are: Evidence of status as a private nonprofit organization, and as a tax-exempt (501(c)) organization (these items are required for all applicants); specifics on the project, including type and number of clients (to be) served, services provided, location, and proposed budget; written assurances that grant matching requirements can be adequately met, as well as all other grant certifications; eligibility of proposed activities; and the person or staff to be responsible for the grant administration, if funded.

A part of this RFP includes a Request for Qualifications (RFQ), Part D. The RFQ portion of the proposal process is used to determine whether or not the non-profit proposer meets regulatory eligibility criteria, has the capacity to successfully undertake the proposed activities, to identify basic information concerning the nonprofit, the shelter and the homeless population served. The RFP portion of the proposal format is used to identify the specifics of each proposed use of ESGP funds. Proposals that do not adequately demonstrate sufficient nonprofit qualifications requirements of this solicitation, will not be given further consideration for award of ESGP funds.

Based upon HUD's (or the State's) application commitment deadlines, the City-Parish Office of Community Development establishes RFP-RFQ submission deadlines. The City-Parish receives annual

ESGP formula funding from HUD, and competes for ESGP funds annually via application to the State (Louisiana Department of Social Services). All known current, past or possible ESGP sub-recipients, as well as organizations identified under the Baton Rouge Continuum of Care- Capital Area Alliance for the Homeless are notified as to the availability of ESGP funding and proposal submission packages. Notice of funding availability will also be posted on the OCD Web site and in the local newspaper.

Proposals are evaluated by the Office of Community Development after the proposal submission deadline has expired. Proposals must meet required eligibility requirements before the specifics of individual funding requests are considered. Two levels of funding will be considered during the review process. Level I funding is established to provide a consistent level of funding for a two year solicitation period FY 2004 and FY 2005 to those organizations previously funded that have demonstrated to OCD their capacity to effectively administer ESGP funds. Level II funding will be awarded to currently unfunded and new proposers, or established proposers seeking rehabilitation funds for the material maintenance or expansion of shelter capacity. During the review process, the Office of Community Development may seek to negotiate the amounts of individual funding proposals when appropriate to meeting funding priorities and to enable assistance to be made available to as many eligible entities as possible. For both prior sub-grantees and new applicants, the capacity to manage grant funds, including financial management, and to satisfactorily perform proposed assistance is a consideration in the review and evaluation of proposals. **For current ESGP non-profit participants, this includes a review of current ESGP assistance, expenditure rates, and performance.**

As stated in the funding notice, ESGP funds through the State are on a competitive basis and recommendations for grant awards to sub-recipients must be included with the State application submission. The City-Parish is required to submit its application to the State by April 1, 2005. The review process will provide consideration for State ESGP grant awards prior to consideration of grant awards under the HUD ESGP grant. No contracts with shelter organizations will be executed until after grant funding has been provided to the City-Parish under agreements with the State and HUD. Grant award from the State, if the City-Parish application is successful, is not expected before July 1, 2005. Grant approval from HUD is not expected to be available before October 1, 2005. ESGP recipients must execute satisfactory contracts with the City-Parish within no more that 180 days from the date of obligation of the grant award to the City-Parish.

X. PRIORITIES

Regarding ESGP funding priorities, it is felt that flexibility is necessary in order to adequately address assistance needs appropriate to individual shelters and the homeless population. However, the following priorities are strongly considered in reviewing project proposals:

- (1) Compliance/consistency with the City-Parish's Consolidated Planning Strategy;
- (2) Priority is generally given to shelters that are significantly expanding their capacity to serve the homeless;
- (3) Serving the unmet needs of special population groups;
- (4) Repair/rehabilitation of substandard conditions in existing shelters;
- (5) Homeless prevention activities particularly those that enable shelter occupants to become established in other housing;
- (6) Avoiding duplication of homeless services whereby there is evidence available that adequate services to a particular group are not being sufficiently provided for;
- (7) Project feasibility, as determined by financial review, property inspections, appraisals,

management experience, etc; and

- (8) Review of grant expenditure rates for those non-profits with prior or current ESGP contracts with the City-Parish.

To address federal legislation that calls for involvement of homeless persons with ESGP assisted facilities and services, a required part of the RFP submission process will include written statements from proposal submitters as to how homeless persons/families will be so involved, or, if not to be involved, why it is not practical. Among equally competitive proposals, priority will be given to those that provide the most extensive levels of homeless involvement. A proposal commitment to involve homeless will be incorporated into any subsequent contract with the non-profit.

Federal regulations that allow up to 10% of ESGP funds to be utilized for staff costs of operations related to emergency shelters will be considered as follows: Such staff costs will be given low priority for funding assistance. In reviewing such requests, greater consideration will be given to proposals that can demonstrate that the staff cost assistance is directly related to increased cost burdens imposed as a result of other ESGP assistance. However, as a general rule, staff costs will only be considered if other facility and operating assistance needs have been adequately met.

In order to be considered for funding, a proposal must first meet priority #1 above, compliance/consistency with the City-Parish Consolidated Planning Strategy, and must meet applicable nonprofit and shelter eligibility requirements. For non-profits currently or previously receiving ESGP assistance, consideration is also contingent upon there being no outstanding or unresolved contract noncompliance issues by the nonprofit. Any such issues must be satisfactorily resolved, or sufficient progress toward resolution be underway, before additional funding will be considered.

When negotiating and considering reductions to proposed funding, in order to conform total assistance to the grant amount and other grant requirements, reductions will first be considered in cost areas that can be addressed over time. That is, the Office of Community Development would typically look to a reduction in proposed long-term utility payments assistance, for example, while a short-term expense for a building improvement would be less apt to be reduced if the estimated cost appears reasonable. Such short-term, single-purpose expenses may not be able to be significantly reduced and still remain feasible, while other expenses over time may be, especially non-construction activities.

For ESGP categories having expenditure caps (essential services and homeless prevention), proposed funding may be negotiated so as to enable assistance to remain within those caps and to enable such assistance to be offered to a diversity of homeless persons according to relative need levels.

The criteria and priorities used during this process are as follows:

- 1) Priority is given to funding, as fully as possible, those proposals from qualified organizations that will expand occupancy capacity of existing shelters for previously un-served homeless populations.
- 2) Building repairs/rehabilitation to correct housing quality deficiencies, deferred maintenance, and/or improve the efficiency of the shelter facility or that will extend its useful life.
- 3) Those funding needs identified by the shelter as most important to its operations.
- 4) Those shelters that demonstrate a view toward a "*Continuum of Assistance*" that will focus on the extent to which basic shelter is coordinated with services and delivery capacity and to which it integrates short-term with longer-term self-sufficiency goals.

Priority will also be given to proposals that define assistance to the homeless in line with specific objectives outlined in the Five Year Consolidated Plan. Consolidated Plan objectives are:

- 1) To maintain a level of at least 500 beds for homeless individuals and families through emergency shelter or transitional housing;
- 2) To provide an additional 30 beds for women with children, especially women with male children over the age of 5 years;
- 3) To provide an additional 12 beds for single women who are not a part of a family unit, and who are not part of a homeless sub-population, e.g. severely mentally ill, alcohol or drug dependent, victims of domestic violence, or HIV/AIDS;
- 4) To identify and plan for additional appropriate permanent supportive housing units for homeless individuals in an effort toward family reunification;
- 5) To provide at least 10 emergency shelter beds for larger size families;
- 6) To document the need for shelter and services for dually diagnosed individuals.

Proposals reviewed for consideration under the State ESGP must meet priorities set forth in the State Consolidated Plan as follows:

Priority: To give preference in awarding homeless assistance funds and in endorsing grant proposals to those proposed activities and projects which are designed within the context of a regional or community based “Continuum of Care” collaborative process and which are integral to a local “Continuum of Care” resource system.

Priority: To increase the availability of longer term shelter and transitional housing projects that incorporate treatment components and special supportive services for homeless persons with addictive disorders and/or mental illness, and/or projects incorporating life skills training and independent living components designed for the special needs of homeless families with children.

Optional (preference items for State Application):

Indicate whether the proposed project is (or will be) an integral strategic component of the local Continuum of Care (Capital Area Alliance for the Homeless) resource system.

When applicable, documentary evidence that the proposed project incorporates treatment components and special supportive services for persons with addictive disorders and/or mental illness; or incorporates life skills training and independent living services for the special needs of homeless families with children.

X1. REQUIRED USE OF BUILDINGS AS A SHELTER

If grant amounts are used for major rehabilitation or conversion of a building (i.e., where rehabilitation or conversion involves costs **in excess of 75%** of the value of the building prior to rehabilitation or conversion), the building must be maintained as a shelter for the homeless for not less than a **10-year period**.

When ESGP assisted renovation or rehabilitation of a building involves costs of **75% or less** of the value of the building before rehabilitation, the building must be maintained as a shelter for the homeless for not less than a **3-year period**.

Any building for which emergency shelter grant amounts are used for essential services or operational costs as described in [42 U.S.C. Section 11374(a)] must provide services or shelter to homeless individuals and families for the period during which such assistance is provided, without regard to a particular site or structure as long as the same general population is served.

Any renovation carried out with ESGP assistance must be sufficient to ensure that the building involved is safe and sanitary.

XII. ENVIRONMENTAL REVIEW

Funds may not be obligated or expended for activities in projects that have not been environmentally cleared. The environmental effects of each application must be assessed by the City-Parish in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and related authorities at 24 CFR parts 50 and 58. The City-Parish's Office of Community Development will perform the necessary assessments, and secure necessary releases and certifications and notify grant sub-recipients as to when grant funds may be expended and/or obligated.

Activities that are to be assisted with ESGP funds which are located in any 100-year flood plain as designated by maps prepared by the Federal Emergency Management Agency (FEMA) are subject to the flood plain review requirements of *Executive Order 11988*, Flood plain Management. In the event of rehabilitation involving property located within a flood plain, flood insurance on the property will be required of the sub-recipient if the project is funded.

In cases where ESGP assistance and matching contributions solely involve operating costs for facilities or the provision of essential services, and the structures and sites involved in the project meet program requirements, these activities are categorically excluded under NEPA and may be determined fully exempt from environmental review by the City-Parish.

XIII. DEADLINES FOR USING GRANT AMOUNTS

The City-Parish, as a grant recipient, must have its grant amounts obligated within 180 days of the date on which HUD and the State makes the grant amounts available (i.e., formally approves the grant). Obligated means that the grant recipient 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 awards to private non-profit organizations by written agreements or letters of award requiring payment from the grant amount are considered obligated.

Note: Program rules stipulate that costs may not be obligated nor expended on projects until environmental clearance has been completed.

All grant amounts must be expended within 24 months of the date on which any grant amounts were made available to the City-Parish. Sub-recipient contracts will be only for a 12 month period.

XIV. REPORTING REQUIREMENTS

Each sub-recipient will be required to submit:

- (1) Cost reports, listing ESGP expenditures by eligible activity category, and describing sources and amounts of matching funds.
- (2) Annual performance reports on the obligation and expenditure of funds for each ESGP assisted category, and on project accomplishments.

- (3) Other reports or information in such form and manner as may be requested by the City-Parish, U. S. Department of Housing & Urban Development and/or by DSS/Office of Community Services.

Organizations that receive \$25,000 or more per year in federal financial assistance are required to have an annual independent audit covering all funding, including ESGP. This applies to total annual federal assistance, and thus may apply in instances where ESGP assistance is below the \$25,000 threshold. Regardless of federal or state funding levels, ESGP sub-recipients must maintain financial records in accordance with applicable requirements of Federal Office of Management and Budget Circulars A-110, A-122, and A-133. Financial records of sub-recipients are subject to review by the City-Parish, HUD and the State (in the case of State ESGP assisted organizations). All proposals must be accompanied by a description of the financial management system of the organization.

XV. NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS

Applicants must provide assurances that shelter facilities and services are available to all on a nondiscriminatory basis. ESGP recipients must adopt and implement procedures designed to make available to interested persons information concerning the existence and location of services and facilities that are accessible to person with a handicap.

XVI. INSURANCE REQUIREMENTS

Applicant's approved for funding under the ESG program will be required to procure and maintain liability, automobile and worker's compensation insurance during the term of ESGP assistance. Required liability and automobile insurance shall be in limits not less than \$1,000,000. Prior to execution of a grant agreement, the funded organization must furnish the City-Parish with a certificate of insurance showing that such coverage is in full force and effect. The cost of the insurance shall be in an amount and contain such provisions as are reasonably required by the City-Parish. The City-Parish shall be named as an additional insured on all liability policies.

XVII. WORKER'S COMPENSATION

Worker's Compensation insurance coverage will be required for all employees engaged in services of the organization/shelter facility in compliance with laws of the State of Louisiana.

PART C – PROPOSAL SUBMISSION

INSTRUCTIONS

**EMERGENCY SHELTER GRANTS PROGRAM
CITY OF BATON ROUGE-PARISH OF EAST BATON ROUGE**

REQUEST FOR PROPOSALS

PART C. PROPOSAL SUBMISSION INSTRUCTIONS

I. Proposal Delivery

The deadline for receipt and consideration of a proposal is **Monday, March 14, 2005, 5:00 P.M.**

Each proposal must be mailed or delivered in person to the following address:

Mailing Address:

**Office of Community Development
City of Baton Rouge and
Parish of East Baton Rouge
P.O. Box 1471
Baton Rouge, LA 70821**

Delivery Address:

**Office of Community Development
City of Baton Rouge and
Parish of East Baton Rouge
300 Louisiana Avenue, 2nd Floor
Baton Rouge, LA 70802**

Proposals must be received on or before the stated deadline. The City-Parish assumes no responsibility for proposals delivered by mail or commercial carrier after the deadline date. Proposals hand delivered to the Office of Community Development will be issued a receipt. **Deadlines are firm and late proposals will not be accepted.**

Proposal forms must be typed. Narrative statements must be on standard 8 1/2" by 11" paper with a font size no smaller than "11".

Applications transmitted via fax will not be accepted.

ALL PROPOSALS MUST BE IN A SEALED ENVELOPE.

II. Proposal Clarification

The Office of Community Development expects to complete all proposal reviews for consideration of the State application submission within fifteen (15) working days of the submission deadline. In the event that clarification of any item in a proposal is needed during the review process, applicants must submit the clarification within five (5) days of receipt of written notice from OCD.

Proposals will first be reviewed for completeness. Incomplete proposals will not be considered for funding under the State application. Submitters of incomplete proposals will be allowed fifteen (15) days to correct any deficiencies, for subsequent consideration under the HUD grant. Proposals remaining incomplete fifteen (15) days past the Office of Community Development's notice date will not be considered. All proposal items that are shown as required must be included with the original submission.

At the conclusion of the proposal review, each applicant will be provided written notice as to the status of the applicant's proposal.

III. Proposed Use of Funds

EACH ACTIVITY PROPOSED FOR FUNDING UNDER THE EMERGENCY SHELTER GRANTS PROGRAM MUST ADDRESS ONE OF THE ELIGIBLE CATEGORIES LISTED BELOW.

CATEGORIES:

- A. Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless.
- B. Provision of essential services to the homeless, including services concerned with employment, health, drug abuse, and education.
- C. Payment of maintenance, operations, rent, repairs, security, fuel and equipment, insurance, utilities and furnishings.
- D. Developing and implementing homeless prevention activities.

IV. General Instructions

- . All proposal forms must be completed and submitted. In the case of forms for a budget category for which no assistance is being proposed under this ESGP proposal, enter "-0-" or "NA" in the columns for funding totals.
- . If a proposal involves a joint venture with more than one qualified non-profit, a single proposal may be submitted. However, both non-profits must be identified and all questions answered for each organization. On the ESGP Budget Category forms, indicate which entity is proposed to receive the assistance. On the Matching Funds Table, indicate which entity will be responsible for providing each source of matching funds.
- . Attach additional pages behind each form, if necessary, to clarify or further explain that form.
- . If an organization is submitting proposals involving more than one shelter, a separate proposal for each shelter is necessary; however, only one set of corporate documents in support of the organization's nonprofit status is required.
- . If property improvements/rehabilitation are proposed, specify how the cost estimate was determined, as an attachment to *Form ESG-H05-04 (Rehabilitation)*.

V. RFP Clarifications

A workshop with interested applicants will be held at 1:30 p.m. on Friday, March 4, 2005 at the Delmont Service Center, 3525 Riley Street, Baton Rouge, LA. Attendance is not required in order for a proposal to be considered, but is encouraged. The meeting will be held to answer any potential applicant questions concerning proposal submission requirements. All first time proposers are encouraged to attend.

Organizations wishing to have a representative attend should contact the Office of Community Development @ 389-3039, or by writing to the Office of Community Development. Because of space

limitations, organizations are requested to limit attendance to no more than two persons.

General questions concerning this RFP may be addressed to Ms. Carolyn Breaux or Ms. Toni Edwards during the time period of this proposal solicitation.

Any revisions to the proposal instructions/requirements will only be issued in writing and sent to those recipient's of OCD record who have been sent a proposal solicitation.

VI. Required Documents

Included with this RFP is a "Checklist of Required Documents". **ALL** items on this checklist must be completed and submitted with the application package by the proposal deadline. The completed checklist should be returned with the application package.

Required attachments should be placed behind the form referencing the attachment. Shelter Budget Worksheets have been attached to assist with long range planning goals. Lengthy responses are not required, however, clear concise information must be provided.

PART D – PROPOSAL FORMS

CHECKLIST OF REQUIRED DOCUMENTS

 1. *ATTACHMENTS

REQUEST FOR QUALIFICATIONS: FORM ESG-H05-01

- A-G Applicant Information
- H-I 501(c) IRS determination
- a) State Incorporation Certificate
- b) Articles of Incorporation
- c) Corporation By-laws
- d) Current Board Member list

SUMMARY DESCRIPTION: FORM ESG -H05-01

- J.1 Narrative description
- J.2 Certificate of insurance and/or Lease agreement
- J.3 Services Description (1, 2, 3, 4, 5)
- J.4 Grant Certifications (a, b, c, d, e)
- J.5 Participation of homeless individuals (*no required attachment*)
- J.6 Funding Sources (a, b, c, d, e)

FINANCIAL MANAGEMENT SUMMARY: FORM ESG-H05-01

- K.1 Audit Report, if response is "YES"
 (*Attach **separately** or with corporation documents*)
- K.2 Financial Records (*no attachment required*)
- K.3 Federal Assistance (2004)
- K.4 Federal Funding Sources (2005)
- K.5 Non-Federal Assistance (2004 and 2005)
- K.6 Audit Requirement Explanation
- K.7 Governing Board List, if K.6 is "Yes"
- K.8 Explanation of Financial Interest, if applicable
- L. All Proposals: Financial Management System (a, b, c, d, e)

- 2. PROJECT SUMMARY (Form ESG-H05-02)
- 3. PROJECT SUMMARY - HUD IDIS (Form ESG-H05-02(a))
- 4. PROJECT/BUDGET SUMMARY *(Form ESG-H05-03)
 Attachment: (Narrative description and 2 Yr. Shelter Budget Sheets)
- 5. REHABILITATION CATEGORY *(Form ESG-H05-04)
- 6. SERVICES CATEGORY* (Form ESG-H05-05)
- 7. OPERATIONS CATEGORY *(Form ESG-H05-06)
- 8. HOMELESS PREVENTION Category *(Form ESG-H05-07)
- 9. MATCHING FUNDS TABLE (Form ESG-H05-08)
 Attachment: Exception request, if proposed
- 10. ADDITIONAL INFORMATION (Form ESG-H05-09)
 Attachment:
 - Essential Services need description (#2), if #1 is "YES"
 - Homeless Prevention activities description (#4)

* If assistance is not proposed for a category of Eligible ESGP funding, so state on the appropriate category form and enter "-0-" or "NA" on the Total line for that form.

* If Corporation Document attachments H-I submitted under a prior solicitation are still current, enter "**PS**". A current board member list is required. NOTE: Currently funded organizations may contact the Office of Community Development for verification of required information on file.

PART D. REQUEST FOR QUALIFICATIONS

TYPE/S OF FUNDING: 9 **Level I Foundation Funding**
 9 **Level II Ancillary Funding**

This form must be completely filled out and all referenced documents attached. If not, this proposal will be given low priority under the proposal review process.

APPLICANT INFORMATION

- A. ORGANIZATION NAME: _____
- B. ORGANIZATION ADDRESS: _____
- C. SHELTER ADDRESS: _____
- D. CONTACT PERSON: _____
- E. PHONE: _____
- E-MAIL ADDRESS: _____
- FAX # OF CONTACT: _____

F. FEDERAL EMPLOYER TAX ID #: _____

G. PERSON AUTHORIZED TO SUBMIT THIS PROPOSAL ON BEHALF OF
 APPLICANT ORGANIZATION:

[NAME (PRINT/TYPE)]	[TITLE]
[SIGNATURE]	[DATE]

INFORMATION REQUESTED IN ITEMS (H-I) MUST BE SUBMITTED UNLESS PREVIOUSLY SUBMITTED UNDER A PRIOR ESG PROGRAM SOLICITATION. ALL PREVIOUSLY SUBMITTED INFORMATION MUST STILL BE CURRENT.

H. NON-PROFIT STATUS: Is the applicant organization a 501(c) non-profit entity as determined by the Internal Revenue Service? ___ YES ___ NO

If "YES", attach a copy of the IRS determination. If "NO", organization is not eligible for ESGP assistance.

I. CORPORATION DOCUMENTS

Attach the following:

- ___ a) Incorporation Certificate (Registration with LA Secretary of State)
- ___ b) Articles of Incorporation
- ___ c) Corporation By-Laws
- ___ d) List of Current Board Members (Note: homeless or formerly homeless individual on list, when applicable)

J. SUMMARY DESCRIPTION

1. Is this an existing, operating homeless shelter? ____ YES ____ NO

If "YES", how long has it been in operation?

If "NO", attach a narrative description (no more than 2 pages) describing the planned shelter facility, including a schedule for development and opening of the facility, an explanation of why the facility is needed to address homeless needs.

2. Is the shelter property _____ owned or _____ leased by the organization?
If owned by the organization attach a copy of certificate of insurance. If property is leased, attach a copy of lease agreement and certificate of insurance.
3. **Services Description: Attach** a narrative summary (not to exceed 3 pages) to include the following: 1) Description of organization and shelter facility to include services offered, or to be offered, in connection with the shelter facility (identify services regardless of whether or not proposed for, or currently ESGP assisted); 2) Explain how your program implements a *continuum of assistance* that enables homeless individuals and families to move toward independent living as well as to prevent homelessness. 3) List or describe appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living and other Federal, State, local and private assistance for such individuals. 4) Describe the nature and extent of the unmet need for adequate shelter and related assistance for the homeless population served by your organization. Provide information on numbers served as well as numbers of requests for shelter which could not be fulfilled; State the source of your information, e.g. previous studies, reports, inventory of existing homeless resources. Describe any unique or significant circumstances which are pertinent to the particular homeless population served by your organization. 5) When applicable, include documentary evidence that the proposed project incorporates treatment components and special supportive services for persons with addictive disorders and/or mental illness; or the proposed project incorporates life skills training and independent living services for the special needs of homeless families with children.
4. **Grant Certifications:** Attach a narrative description (not to exceed 3 pages) to include a description of the following:
- shelter **admission** procedures;
 - shelter **termination** procedures to an individual or family;
 - current or planned **involvement** of homeless individuals/families in constructing, renovating, maintaining and operating shelter facilities;
 - policy concerning **confidentiality of records** pertaining to the provision of family violence prevention or treatment services, if applicable;
 - certification of participation in an existing **HMIS**.
5. **Participation of Homeless Individuals:** Does a homeless individual or formerly homeless individual serve on the board of directors or other equivalent policy making entity of your organization?
_____ YES _____ NO
6. **Funding Sources:**
- Fiscal Year of Applicant: From _____ Through _____
 - Current annual budget for the shelter being proposed for assistance (including any currently contracted ESG assistance): _____

- c. Estimated next annual budget for the shelter being proposed for assistance (including any currently contracted and proposed ESG assistance) to be undertaken in this time period: _____
- d. Current staff of the proposed assisted shelter for services and operations not including general administrative staff: _____
- e. Attach a list of all current funding sources applicable to the shelter. Include amounts for each source. If volunteer time forms a part of the shelter operations, estimate total annual time in man-hours, and summarize the use of that time, but do not show as shelter budget cost under *b* and *c* above. Similarly, summarize any estimated donations of materials and supplies that are not a part of the actual shelter expense budget.

K. FINANCIAL MANAGEMENT SUMMARY

- 1. Audit Report: Does the organization have an independent audit of your financial records conducted?
 YES NO Annually Every (2) Years
 If yes, enclose a copy of the most recent audit report.
- 2. Financial Records: Does the organization maintain financial records that allow for a separation of expenses and revenues?
 YES NO
- 3. Federal Assistance: During the calendar year 2004, did your organization receive more than \$25,000 in federal assistance? If yes, list all sources including ESGP.
 YES NO
- 4. Federal Funding Sources: If your proposal is fully funded as submitted, will your organization receive more than \$25,000 in assistance from federal sources during calendar year 2005? If yes, list all proposed federal funding sources, including ESGP.
 YES NO
- 5. Non-Federal Assistance: What is the amount of non- federal assistance that your organization received in 2004 _____ estimated to receive in 2005 _____
- 6. If your organization does not have an audit report, and if your organization will receive more than \$25,000 in federal assistance, attach a narrative explanation of how you will meet the audit requirements.
- 7. Governing Board: Are there members of the Organization's governing board who are City-Parish, State or Federal employees, including elected officials?
 YES NO
 If "YES", attach a list of such persons.
- 8. If #7 is "YES", do any of these persons have a financial interest in the services or operations of the organization?
 YES NO NA
 If "YES", attach an explanation of that financial interest.

L. ALL PROPOSALS:

ATTACH A NARRATIVE DESCRIPTION OF YOUR FINANCIAL MANAGEMENT SYSTEM (NOT TO EXCEED 2 PAGES). IN THIS NARRATIVE, ADDRESS:

- a) How your financial management system provides for accurate, current and complete disclosure of the financial results of each federally sponsored project or program.
- b) How records are maintained so as to adequately identify the source and application of funds for all activities.
- c) How your organization maintains effective control over and accountability for all funds, property and other assets.
- d) A summary description of your budget process, including how actual outlays are compared with budgeted amounts.
- e) How your accounting (financial) records are maintained so as to demonstrate that all federally assisted costs are supported by source documentation.

PROJECT SUMMARY

(To be completed for each shelter/facility/project to receive ESGP assistance)

Applicant/Shelter Name: _____

Bed Capacity: If the proposed project is a shelter, indicate the nightly bed capacity for homeless persons to be served. _____ # of beds.

If facility is to be newly established, enter planned capacity: _____

If an existing facility, enter Current Capacity: _____ and Capacity after Increase from ESGP assistance _____
*when applicable. (*Enter N/A if no increase in shelter capacity anticipated)

If an existing shelter indicate:

1. Racial Beneficiaries (Proportion Served) from 1/01/04 - 12/31/04:
 Black _____ White/Non Hispanic _____
 Hispanic _____ American Indian _____ Asian _____

If the proposed project is a day facility, indicate projected numbers served per day:

Homeless Beneficiaries: From the following list, indicate the type/s of beneficiaries to be served by the proposed project. If more than one type to be served, list all, with the predominant type of beneficiary first:

- | | | | |
|-----|---------------------------------------|-----|--------------------------------|
| UM | Unaccompanied Men | SPF | Single Parent Families |
| UW | Unaccompanied Women | TPF | Two Parent Families |
| UFY | Unaccompanied Female Youth - Under 18 | AC | Adult Couples without Children |
| UMY | Unaccompanied Male | DK | Don't Know |

ESGP Assistance and Proposed Accomplishments by Eligible Activity

Indicate the proposed amount of ESGP assistance by activity type and briefly described the accomplishments anticipated through use of ESGP funds. [For rehabilitation, indicate whether proposed activity involves costs in excess of 75% of the value of the building before rehabilitation (Major Rehabilitation).

Rehabilitation \$ _____ (ESGP assistance requested)
Proposed Accomplishments (brief description):

Essential Services \$ _____ (ESGP assistance requested)
Summary of Proposed Services:

Operations/Maintenance \$ _____ (ESGP assistance requested)
Proposed Operational Cost Items to be met:

Homeless Prevention Services \$ _____ (ESGP assistance requested)
Summary of Proposed Homeless Prevention Activities:
Project number of homeless prevention recipients*: _____
(*Single person households and/or family groups)

TOTAL ASSISTANCE REQUEST: \$ _____

IDIS FORM

IDIS FORM

PROJECT/BUDGET SUMMARY

Funding Level Proposed: 9 **Level I (Foundation)** 9 **Level II (Ancillary)**

Applicant: _____

ATTACH a narrative statement describing *each* proposed use of ESGP funds, by ESG category,(such as rehabilitation, essential services, operations or homeless prevention), including a schedule for initiating and completing the proposed activity; and an explanation as to why the assistance is needed and its anticipated effect on meeting homeless needs in East Baton Rouge Parish. Complete the attached 2 Year Shelter Budget Worksheet.

Estimated Services:

Shelter Projects

Average number of Persons to be served daily _____

Unduplicated number of Persons to be served annually _____

Other Services: [List type(s) and annual number of services for each type] _____

ESG Category	ESG Funds Applied For	Matching Funds	Totals
A) Rehabilitation			
B) Essential Services			
C) Operations Staff (Up to 10%) All Other			
D) Homeless Prevention Services			
TOTALS			

ESGP BUDGET CATEGORY Rehabilitation

Applicant: _____

Project/Sponsor: _____

*Description of Cost Item and Basis of Valuation	ESG Budget	Matching Funds	Source of Matching Funds	Budget Total
TOTAL				

*ATTACH ADDITIONAL PAGES IF NECESSARY TO ADEQUATELY DESCRIBE THE PROPOSED COST ITEM AND/OR VALUATION BASIS. ATTACH LEASE AGREEMENT, IF APPLICABLE.

ESGP BUDGET CATEGORY Services

Applicant: _____

Project/Sponsor: _____

*Description of Cost Item and Basis of Valuation Show itemized cost hourly, annually, etc.	ESG Budget	Matching Funds	Source of Matching Funds	Budget Total
TOTAL				

*ATTACH ADDITIONAL PAGES IF NECESSARY TO DESCRIBE THE PROPOSED SERVICES AND/OR BASIS OF VALUATION.

ESGP BUDGET CATEGORY Operations

Applicant: _____

Project/Sponsor: _____

*Description of Cost Item and Basis of Valuation. Show itemized average monthly/annual costs	ESG Budget	Matching Funds	Source of Matching Funds	Budget Total
TOTAL				

*ATTACH ADDITIONAL PAGES IF NECESSARY TO ADEQUATELY DESCRIBE THE PROPOSED COST ITEM AND/OR VALUATION BASIS.

ESGP BUDGET CATEGORY Homeless Prevention

Applicant: _____

Project/Sponsor: _____

*Description of Cost Item and Basis of Valuation	ESG Budget	Matching Funds	Source of Matching Funds	Budget Total
TOTAL				

*ATTACH ADDITIONAL PAGES IF NECESSARY TO DESCRIBE THE PROPOSED SERVICES AND/OR BASIS OF VALUATION.

ADDITIONAL INFORMATION

ESSENTIAL SERVICES

1. Is "essential services" assistance proposed? _____ YES _____ NO

If "YES", is the proposed assistance to:

_____ establish a new service

_____ increase the level of a current service

_____ maintain the level of a service previously/currently funded through ESGP

_____ other (specify):

2. If a new or increased level of a proposed "essential service" is being proposed, attach a summary description of the need for the proposed service.

3. Describe how the homeless will be involved in the provision of "essential services", or why such involvement is not practical in connection with this proposal. (Attach additional pages if necessary)

HOMELESS PREVENTION

4. Are "Homeless Prevention" activities proposed? _____ YES _____ NO

If "YES" describe the type{s} of activities to be undertaken and a specific implementation plan,(i.e. who will provide the homeless prevention activities; what criteria will be used to determine who will receive assistance, method for determining if the homeless prevention assistance applicant meets the guidelines set forth for provision of this assistance through ESGP funding.

PROPOSAL PRIORITY

5. For each proposed ESGP assistance activity, rank each in your priority order according to your overall funding needs ("1" being highest priority, "2" second highest, etc.) in the space below.

Rank	Activity
_____	_____
_____	_____
_____	_____
_____	_____

PART E - ATTACHMENTS

DEFINITIONS

The following definitions are from the federal regulations governing the Emergency Shelter Grants Program.

Homeless means:

- (a) An individual who lacks a fixed, regular, and adequate nighttime residence; and
- (b) An individual who has a primary nighttime residence that is:
 - 1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - 2) An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - 3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
 - 4) The term "homeless" or homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

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.

Income Eligibility means:

- 1) In general, a homeless individual shall be eligible for assistance under any program provided by Title 42 Chapter 119, only if the individual complies with the income eligibility requirements otherwise applicable to such program.
- 2) Exception - Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.)

Major Rehabilitation means:

Rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

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.

ESGP assisted rehabilitation must meet local government safety and sanitation standards, and applicable accessibility requirements of federal law.

Renovation means:

Rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

24 CFR PART 92 et al.

**PARTICIPATION IN HUD PROGRAMS BY FAITH-BASED
ORGANIZATIONS; PROVIDING FOR EQUAL TREATMENT OF ALL
HUD PROGRAM PARTICIPANTS; FINAL RULE**



Federal Register

**Tuesday,
September 30, 2003**

Part IV

Department of Housing and Urban Development

24 CFR Part 92 et al.

**Participation in HUD Programs by Faith-
Based Organizations; Providing for Equal
Treatment of all HUD Program
Participants; Final Rule**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 92, 570, 572, 574, 576, 582, 583, and 585**

[Docket No. FR-4782-F-02]

RIN 2501-AC89

Participation in HUD Programs by Faith-Based Organizations; Providing for Equal Treatment of all HUD Program Participants**AGENCY:** Office of the Secretary, HUD.**ACTION:** Final rule.

SUMMARY: This final rule revises HUD regulations to remove barriers to the participation of faith-based organizations in certain HUD programs. In general, no group of applicants competing for HUD funds should be subject, as a matter of HUD's discretion, to greater or fewer requirements than other organizations solely because of their religious character or affiliation, or absence of religious character or affiliation. Applicants for HUD funds and those applicants selected to receive HUD funding should generally be subject to the same requirements. The purpose of the revisions made by this rule is to ensure that faith-based organizations are able to compete on an equal footing with other organizations for HUD funding. This final rule follows publication of a January 6, 2003, proposed rule and takes into consideration the public comments received on the proposed rule.

DATES: Effective Date: October 30, 2003.**FOR FURTHER INFORMATION CONTACT:**

Ryan Streeter, Director, Center for Faith-Based and Community Initiatives, Department of Housing and Urban Development, Room 10184, 451 Seventh Street, SW., Washington, DC 20410, telephone: (202) 708-2404 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this telephone number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

For program specific information, contact the following offices in HUD's Office of Community Planning and Development: For the HOME Program and the HOPE for Homeownership of Single Family Homes (HOPE 3) Program, Virginia Sardone, Director, Program Policy Division, Office of Affordable Housing Programs, (202) 708-2864; for the Community Development Block Grants Program, Robert Duncan, Office of Block Grant Assistance, (202) 708-3587; and for the remaining programs, John Garrity, Office of Special Needs Assistance

Programs, (202) 708-4300. (These numbers are not toll-free numbers.) Hearing- or speech-impaired individuals may access these telephone numbers through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**I. Background—The January 6, 2003, Proposed Rule**

On January 6, 2003 (68 FR 648), HUD published a proposed rule to amend certain HUD regulations that imposed (or appeared to impose) unwarranted barriers to the participation of faith-based organizations in HUD programs. HUD recognizes that faith-based organizations are an important part of the social services network of the United States, offering a multitude of social services to those in need. These organizations frequently have the experience that HUD seeks to administer social services to beneficiaries under HUD programs. Consistent with the President's Executive Order 13198 (Agency Responsibilities with Respect to Faith-Based and Community Initiatives), issued January 31, 2001 (66 FR 8497), HUD undertook a comprehensive review of its program requirements and regulations, particularly those that would be expected to attract interest and participation by nonprofit organizations. Executive Order 13198 directed five agencies, including HUD, to undertake this review and to take steps to ensure that Federal policy and programs are fully open to faith-based community groups in a manner that is consistent with the Constitution.

In response to the directive of the President's Executive Order, HUD identified regulations for eight programs administered by HUD's Office of Community Planning and Development that imposed (or appeared to impose) barriers to participation of faith-based organizations in these programs. HUD's proposed rule of January 6, 2003, was designed to eliminate these barriers and to ensure that these HUD programs are open to all qualified organizations, regardless of their religious character. The January 6, 2003, rule proposed to amend the regulations for the following HUD programs:

1. HOME Investment Partnerships (24 CFR part 92);
2. Community Development Block Grants (CDBG) (24 CFR part 570);
3. Hope for Homeownership of Single Family Homes (HOPE 3) (24 CFR part 572)¹

¹ Funds are no longer being appropriated for the HOPE 3 program; however, the part 572 regulations

4. Housing Opportunities for Persons With AIDS (HOPWA) (24 CFR part 574);
5. Emergency Shelter Grants (ESG) (24 CFR part 576);
6. Shelter Plus Care (24 CFR part 582);
7. Supportive Housing (24 CFR part 583); and
8. Youthbuild (24 CFR part 585).

The January 6, 2003, rule proposed to amend each set of program regulations to achieve the following objectives:

1. *Clarify that organizations are eligible to participate in HUD programs without regard to their religious character or affiliation.* The proposed amendments clarified that faith-based organizations are eligible to compete for funding on the same basis and under the same eligibility requirements as all other nonprofit organizations. The fact that an organization is a faith-based organization is not a basis for exclusion from a competition for HUD funds. The Federal government, as well as State and local governments administering funds under HUD programs, are prohibited from discriminating against organizations on the basis of religion or their religious character.

2. *Clearly delineate eligible and ineligible uses of HUD funds for all program participants.* The proposed rule provided that eligible and ineligible uses of HUD funds are applicable to all recipients of HUD funds. The proposed rule provided that a recipient organization may not use direct HUD funds to support inherently religious activities, such as worship, religious instruction, or proselytization. If the participating organization engages in these activities, the activities must be offered separately, in time or location, from the programs or services directly funded with HUD assistance, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services. This requirement ensures that HUD funds provided directly to any recipient are not used to support inherently religious activities. This restriction does not mean that an organization that receives HUD funds cannot engage in inherently religious activities. It means that an organization cannot pay for these activities with direct HUD funds.

3. *Clarify that faith-based organizations will retain their independence.* The proposed rule clarified that a faith-based organization that participates in HUD programs will

remain in place to provide regulatory guidance to existing HOPE 3 grantees. The regulations in part 572 are included within the scope of this rule to reflect the regulatory revisions applicable to faith-based participation and ensure their consistency with the similar regulations in the other parts covered by this final rule.

retain its independence and may continue to carry out its mission, including the practice and expression of its religious beliefs, provided that it does not use direct HUD 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 HUD-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization participating in a HUD program 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.

4. *Emphasize that participating organizations cannot discriminate in providing assistance.* The proposed rule clarified that an organization that participates in a HUD program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Accordingly, faith-based organizations, in providing services funded in whole or in part by HUD, may not discriminate against current or prospective program beneficiaries on the basis of religion or religious belief.

5. *Clarify that HUD funds may not be used for acquisition, construction, or rehabilitation of structures to the extent those structures are used for inherently religious activities.* The proposed rule clarified that HUD funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under the specific HUD program. Where a structure is used for both eligible and inherently religious activities, the proposed rule clarified that HUD funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

6. *Remove additional assurance requirements imposed only on faith-based organizations.* The proposed rule removed those provisions of HUD's regulations that required only faith-based organizations to provide assurances that they would conduct eligible program activities in a manner that is "free from religious influences." HUD imposes no comparable assurance requirements in any other context. HUD determined that it is inappropriate to require that only faith-based organizations submit additional assurances of compliance with program requirements above and beyond those

that any other applicant or recipient is required to provide. All organizations that participate in HUD programs, including faith-based organizations, must carry out eligible activities in accordance with all program requirements and other applicable requirements governing the conduct of HUD-funded activities, including those prohibiting the use of direct HUD funds to engage in inherently religious activities. In addition, to the extent that HUD's regulations may have disqualified faith-based organizations or indicated that faith-based organizations could be disqualified from participating in HUD's programs because the organizations are motivated or influenced by religious faith to provide social services, the proposed rule clarified that this type of restriction is inconsistent with governing law.

7. *Clarify the inapplicability of Executive Order 11246 in the context of grants.* The proposed rule amended the CDBG regulations to provide that Executive Order (E.O.) 11246 (Equal Employment Opportunity), regarding equal employment opportunity, and the implementing regulations issued by the Department of Labor at 41 CFR part 60, do not apply to CDBG grantees.

II. Significant Differences Between the January 6, 2003, Proposed Rule and This Final Rule

This final rule follows publication of the January 6, 2003, proposed rule and takes into consideration the public comments received on the proposed rule. After consideration of the public comments, the significant changes made at the final rule stage are the following:

1. *Clarification of applicability of nondiscrimination requirements.* Some public commenters questioned whether the rule would reverse or supersede the applicability to program participants of nondiscrimination requirements. To the extent that statutory nondiscrimination requirements applied to participants in the HUD programs that were the subject of the January 6, 2003, proposed rule, those statutory requirements continue to apply. They are not altered by this rule.

2. *Clarification of when HUD funds may be used for acquisition, construction, or rehabilitation of real property.* The final rule clarifies that HUD funds may not be used for acquisition, construction, or rehabilitation of sanctuaries, chapels, or any other rooms that a religious congregation that is a recipient or subrecipient of HUD assistance uses as its principal place of worship. Separate rooms located in a structure that contain sanctuaries, chapels, or other rooms that a HUD-funded religious congregation

uses as its principal place of worship, however, may qualify for such assistance to the extent that they are used for eligible, HUD-funded activities. This final rule also clarifies the rules governing disposition of HUD-improved real property after the term of the grant and where there is a change in the use of the property. The following provide examples of application of the revised rule:

Example 1. A one-room church applies for CDBG funds to make several necessary repairs. On Sunday morning, the church serves as a place for congregational worship. During weekdays, the church is used to operate a "soup kitchen" for homeless individuals. Accordingly, except for the few hours on Sunday morning when the church holds worship services, the one-room church is used for the purpose of providing meals to homeless individuals—a purpose that is eligible for HUD assistance. The one-room church is ineligible for CDBG-funded improvements because it is the congregation's principal place of worship.

Example 2. A synagogue with several rooms applies for CDBG funds to make necessary repairs to its "soup kitchen," which is operated from two rooms located within the synagogue basement. The congregation does not use these rooms as its principal place of worship; they are used exclusively for the "soup kitchen." Accordingly, repairs to the two rooms are eligible for CDBG assistance.

Example 3. A church applies for HUD funding to construct a homeless shelter, which will contain several rooms for use as a shelter as well as a one-room chapel to be used for weekly religious services and nightly prayer meetings. With the exception of the chapel, the homeless shelter will be used exclusively for eligible HUD-funded activities; no inherently religious activities, such as worship or religious instruction, will be conducted outside of the chapel. Homeless individuals staying at the shelter will be offered the opportunity to participate in the religious services, but attendance will be purely voluntary. HUD may assist the construction on a prorated basis, excluding the costs of the chapel.

Example 4. A mosque purchases an abandoned church and applies for HUD funding to renovate it and use it as an elderly daycare center. The planned renovation will retain the existing exterior facade of the former church, including the stained-glass windows. No inherently religious activities will be conducted within the new daycare center. Although the proposed rehabilitation involves a building formerly used as a church, the entire renovation is eligible for HUD funding because the building will be used solely for eligible HUD activities.

3. *Clarification of Applicability of E.O. 11246.* The proposed rule's exclusion of E.O. 11246 from the CDBG regulations was intended only to reflect the exemption of religious organizations from the religious nondiscrimination requirements of E.O. 11246, as provided in an amendment to E.O. 11246 by E.O.

13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), issued by President Bush on December 12, 2002. The final rule reinstates the reference to E.O. 11246 in the CDBG regulations, and includes the amendment to E.O. 11246 by E.O. 13279, thus making E.O. 11246, as amended, applicable to HUD grantees to the same extent that it would otherwise apply.

4. *Clarification regarding the commingling of funds.* This final rule clarifies that 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, the requirements of this final rule apply to all of the commingled funds.

III. Discussion of the Public Comments Received on the January 6, 2003, Proposed Rule

The public comment period on the proposed rule closed on March 7, 2003. HUD received 188 public comments on the proposed rule. Comments were received from members of Congress, faith-based organizations, public housing agencies (PHAs) and other State and local community development agencies (as well as the national organizations representing PHAs and these State and local agencies), advocates of low-income housing, organizations concerned about First Amendment issues, law firms, and other interested members of the public.

Approximately eight commenters expressed support for the proposed rule, without reservation or request for change. The commenters commended HUD for issuing the proposed rule, writing that the changes "are long overdue." The commenters stated their belief that the regulatory changes proposed by HUD are consistent with constitutional principles, and that the "proposed regulation not only eliminates unnecessary obstacles, but retains those restrictions necessary under the Establishment Clause." One of the commenters urged HUD to expand the scope of the proposed rule to include all HUD programs, and not to limit regulatory changes to the eight community development programs identified in the rule.

The majority of commenters opposed the proposed rule or expressed strong reservations about the rule. The reasons for opposition or reservation varied. In some instances, these commenters supported the overall goals of the proposed rule, but were concerned about certain aspects of the proposal.

The majority of the commenters expressed concern that the proposed regulatory changes would conflict with the Establishment Clause and related Supreme Court cases by authorizing Federal funding for churches and other "pervasively sectarian organizations." Other commenters expressed concerns about the civil rights implication of the proposed rule, writing that the proposed changes would open the door to discriminatory practices by faith-based organizations. Other commenters objected to any Federal funding for faith-based organizations on policy grounds.

The following sections of this preamble present a more detailed discussion of the most significant issues and concerns raised by the public commenters on the January 6, 2003, proposed rule and HUD's responses to these comments. The summary of the public comments is organized as follows:

Section IV of this preamble discusses general comments on the proposed rule.

Section V of this preamble discusses the comments regarding faith-based activities.

Section VI of this preamble discusses the comments regarding the use of religious art, icons, scriptures, and other religious symbols.

Section VII of this preamble discusses the comments regarding nondiscrimination in providing assistance.

Section VIII of this preamble discusses the comments regarding Executive Order 11246 and consideration of religion in employment decisions.

Section IX of this preamble discusses the comments regarding structures used for religious activities.

Section X of this preamble discusses the comments regarding the removal of the assurance requirements.

IV. General Comments

Several commenters submitted comments on the proposed rule generally, and did not raise issues or questions about a specific regulatory change.

Comment: Insufficient justification for the proposed rule. Several commenters disagreed that there are currently barriers that prevent participation of faith-based organizations in HUD's programs. The commenters wrote that faith-based organizations have been successfully competing for HUD funds for many years. Another commenter stated that the impetus for the rule appeared to be based on anecdotal evidence. The commenter suggested that if some faith-based organizations are

experiencing participation difficulties in localities, HUD should address those situations on a case-by-case basis. Another commenter suggested that the rule is unnecessary because religious institutions already receive a large government subsidy through tax exemption.

HUD Response. HUD disagrees with the statement that obstacles addressed in the proposed rule are based only on anecdotal evidence or that the appropriate method to resolve obstacles is on a case-by-case basis. In its own review of its regulations, HUD found barriers to faith-based organizations partnering with HUD. For example, under the previous rule, HOME program funds, which communities around the country use to construct affordable housing, may not be provided to faith-based organizations "for any activity, including secular activities" (See 24 CFR 92.257). This final rule, therefore, is necessary to remove these regulatory barriers (whether intentional or unintentional when promulgated) and to ensure that all organizations are able to compete on an equal footing for Federal financial assistance, in a manner that is consistent with constitutional church-state requirements.

Comment: Determination of legitimate faith-based organizations. Several commenters asked how HUD would determine which organizations are legitimate faith-based organizations. The commenters wrote that without guidance or a definition of faith-based organization, the Federal faith-based initiative would be a source of confusion and controversy for both recipients and subrecipients. One commenter recommended that HUD set minimum neutral standards for all eligible grantees, including faith-based organizations, such as a governing board requirement, a plan for public service programs approved by the governing board, and a certification of board responsibility for the programs that are open to the public. Another commenter wrote that the final rule should define the terms "faith-based" and "religious" organization based on the definition contained in the Internal Revenue Code.

HUD Response. HUD declines to adopt these suggestions. One of the objectives of this rule is to move away from unnecessary Federal inquiry into the religious nature, or absence of religious nature, of an applicant for HUD funds. With respect to any applicant for HUD funds, HUD's focus should always be that (1) the applicant is an eligible applicant for a program, as "eligible applicant" is defined for that program; (2) the applicant meets any

other eligibility criteria that the program may require; and (3) the applicant commits to undertake only eligible activities with HUD funds and abide by all program requirements that govern those funds.

Comment: Assessment of management and fiscal capability of faith-based organizations. Several commenters questioned how HUD would determine the management and fiscal capability of faith-based organizations. Some of the commenters asked whether faith-based organizations would be required to be nonprofits with section 501(c)(3) status under the Internal Revenue Code. These commenters wrote that many faith-based organizations have secured section 501(c)(3) status in order to receive government funding. The commenters wrote that obtaining and maintaining this status demonstrates a certain level of competence and fiscal accountability, and suggested that section 501(c)(3) status be a requirement for participation in HUD programs. One commenter wrote that faith-based organizations should be explicitly required to comply with OMB Circulars A-122 and A-133 to ensure the degree of financial separation necessary to protect the "wall" between church and state. The commenter wrote that "Federal cost principles are carefully designed to preclude passing any element of an unallowable cost (such as lobbying) through to the government. These cost principles also apply to Federal grant funds (except block grants) that are passed through State or Local governments, as well as any matching funds raised from non-governmental sources."

HUD Response. As noted in the response to the preceding comment, faith-based organizations participating in HUD programs must generally meet the same criteria as all other applicants for HUD funds. These criteria help to ensure that Federal dollars are allocated only to those program providers with sufficient administrative and financial controls to properly administer the Federal funds. The purpose of this rule is to ensure that HUD is not imposing greater requirements on faith-based organizations because they are faith-based organizations. For example, if regulations for a HUD program require participating nonprofit organizations to have section 501(c)(3) status, then all participating organizations must have this status to receive HUD funds. If there is no section 501(c)(3) requirement imposed on nonprofit organizations by the HUD regulation, HUD is not going to impose this requirement on faith-based organizations simply because they

are faith-based organizations. Similarly, if the program regulations require grant recipients to comply with OMB cost accounting circulars, then all grantees, including grantees that are faith-based organizations, must comply with these circulars. If the program regulations, however, provide for other cost accounting procedures, then the grantees, including faith-based grantees, need comply only with the specified cost accounting procedures.

Comment: Difficulty in overseeing and enforcing compliance with regulations by faith-based organizations. Several commenters wrote that the monitoring and enforcement of faith-based organizations would be administratively burdensome, and raise the constitutionally troubling prospect of excessive government oversight of religious activity. The commenters raised concerns about the enforceability of the rule as a whole, but some commenters focused on the provisions authorizing the acquisition, construction, and rehabilitation of religious structures. One of these commenters wrote: "Allowing HUD and religious organizations to split the cost of building a facility (yet barring the use of such a facility for religious activity) will cause HUD and the religious organization to enter into what is, at best, unseemly negotiations as to what counts as religious activity or not." The commenters urged that HUD provide guidance on the monitoring and enforcement of the new requirements and consider the use of mandatory training sessions as part of this guidance.

HUD Response. The enforcement of HUD regulations does not increase because some program participants are faith-based organizations. HUD has a responsibility to monitor all program participants to ensure that HUD funds (taxpayer funds) are used in accordance with HUD program and any government-wide requirements. Inappropriate use of HUD funds or failure to comply with HUD program requirements is not a possibility that arises only when program participants are faith-based organizations. Nonprofit organizations generally obtain funds for their social service purposes from several sources, not just HUD or the Federal government. Failure of a nonprofit organization (or any grantee) to ensure that the Federal portion of their funds is not used for non-Federal purposes or prohibited purposes (such as lobbying) will result in the imposition of sanctions or penalties on the organization. Violations of HUD program requirements can be committed by all types of program participants. All

HUD program participants must carefully manage their various sources of Federal funds and abide by OMB cost accounting circulars, where applicable, or other cost accounting methods that may be specified in individual program regulations. Moreover, any inherently religious activities would be non-HUD activities, so the normal monitoring procedures would not require HUD to distinguish between religious and nonreligious ineligible activities and would more than suffice to address the commenters' concerns. Therefore, HUD does not see the need for additional requirements or guidance in this area.

V. Comments Regarding Inherently Religious Activities

Comment: Define the term "inherently religious activities." Several commenters requested a definition of "inherently religious activities." The commenters wrote that while a definition need not be exhaustive of all possible inherently religious activities, the final rule should provide a list of activities that are clearly ineligible. Another commenter suggested that HUD should retain the current wording used in the regulations, which refers to activities being "free from religious influences" and/or "entirely for secular purposes."

HUD Response. The final rule specifies that inherently religious activities include "worship, religious instruction, or proselytization." As the commenters themselves note, it would be difficult to establish an acceptable list of all inherently religious activities. Inevitably, the regulatory definition would fail to include some inherently religious activities or include certain activities that are not inherently religious. Rather than attempt to establish an exhaustive regulatory definition, this final rule retains the language of the proposed rule, which provides examples of the general types of activities that are prohibited by the regulations. This approach is consistent with Supreme Court precedent, which likewise has not comprehensively defined inherently religious activities. For example, prayer and worship are inherently religious, but social services do not become inherently religious merely because they are conducted by individuals who are religiously motivated to undertake them or view the activities as a form of "ministry." If HUD determines that additional guidance is needed regarding specific activities that are "inherently religious," HUD will provide this guidance.

Comment: Clarify the term "separation in time or location." Several commenters requested that HUD clarify

the separation “in time or location” restriction. The commenters wrote that the vagueness of the current language would lead to confusion among service providers. Some commenters offered suggestions for how the language could be clarified. For example, one commenter wrote that the rule should provide that the term “separation in time or location” means that clients must be allowed the opportunity to not participate in religious activities in a meaningful manner such that they do not have to hear or see the inherently religious activities. Another commenter wrote that greater clarity could be provided by specifying that religious activities must be separated by both time *and* location. Yet another commenter wrote that the final rule could more clearly define “time” by providing guidelines on an acceptable length of time between activities, such as 15 or 30 minutes.

HUD Response. HUD declines to adopt the suggestions raised by the commenters. HUD does not believe that the separation of time or location requirement is ambiguous and necessitates additional regulation for proper adherence. HUD believes that existing regulations and this rule are clear that faith-based organizations, using direct Federal funds for certain activities, must separate their inherently religious activities from the federally funded activities. HUD believes that a common sense approach to this regulation supported by HUD guidance, not a detailed regulatory approach, is the better one. For example, suppose that a community center is used for adult education in the evening, and that one of the organizations participating in the adult education initiative provides classes in English proficiency. The organization cannot use the English language class as a means of providing inherently religious instruction. The religious study class has to be provided in another classroom or building (separate in location) or at another time (if the same classroom is to be used). Concerning the recommendation that inherently religious activities be separated from HUD-funded activities by both time *and* location, HUD believes that this is legally unnecessary and that it would impose an unnecessarily harsh burden on small faith-based organizations, which may have access to only one location that is suitable for the provision of HUD-funded services.

Comment: Restrict activities that are “inherently infused with religious doctrine.” Two commenters wrote that there might be services provided to clients that are not inherently religious activities, but that are inherently

infused with religious doctrine. For example, case management services by counselors could be infused with religious teachings and doctrine. The commenters wrote that the final rule should prohibit any services that are infused with religious doctrine.

HUD Response. HUD believes that existing HUD regulations and this rule are sufficiently explicit that direct HUD funds may not be used for religious proselytization. Program participants cannot use supportive services directly funded by HUD, such as counseling, to serve as a format for proselytization. This is a violation of program requirements, and the program participant that violates the prohibition on proselytization will be subject to applicable sanctions and penalties. No additional regulatory changes are required.

Comment: Ensure the availability of secular alternative service providers. Several commenters wrote that HUD should clarify that beneficiaries have the right to receive services from a different or non-religious provider, and that the beneficiaries be informed of this right by the faith-based provider. Some commenters suggested that a list of alternative service providers be in place and distributed to all beneficiaries or potential beneficiaries. Other commenters suggested that HUD ensure that funding be made available to a variety of providers within a service area to ensure that secular alternatives are viable, appropriate, and available. The commenters wrote that without reasonable secular alternatives, beneficiaries might be forced to participate in programs provided by faith-based organizations where they may be required to participate in religious activity in order to receive essential government-funded benefits.

HUD Response. HUD declines to adopt the recommendations of the commenters. Under this rule, no beneficiary served by a HUD-funded provider directly funded by HUD will be required to participate in inherently religious activities as a condition of receiving services. The commenters’ recommendations run counter to the objectives that HUD is trying to achieve through this rule. HUD’s general objective is to eliminate barriers to faith-based organizations, to welcome their participation in HUD programs, and most important, to ensure they are treated like other program participants. To develop a list that highlights which HUD program providers may be faith-based organizations and which are not, would defeat the “neutrality” objective sought by this rulemaking.

VI. Comments Regarding Religious Art, Icons, Scriptures, and Other Religious Symbols

Comment: Use of religious art or icons should not be permitted. Several commenters wrote that the use of religious art or icons can constitute a subtle but powerful form of proselytization or may be offensive to some persons. The commenters suggested that HUD prohibit the use of rooms or other space for providing HUD-funded services unless such items have been removed. Two commenters wrote that although a faith-based organization should not be required to remove icons from an existing chapel or chapel annex if they are used for providing HUD-funded services, the organization should not be permitted to have religious icons in the common area or the individual units of a HUD-funded shelter or housing project, or other HUD-funded space that is not also used for inherently religious activities.

HUD Response. HUD declines to impose this restriction on HUD program participants that are faith-based organizations. A number of Federal statutes affirm the principle embodied in this rule. (See, e.g., 42 U.S.C. 290kk-1(d)(2)(B).) For no other program participant do HUD regulations prescribe the types of artwork, statues, or icons that may be placed within or without the structures or rooms in which HUD-funded services are provided. A prohibition on the use of religious icons would make it more difficult for many faith-based organizations to participate in the program than other organizations, and would thus be an inappropriate and excessive restriction, typical of the types of regulatory barriers that this final rule seeks to eliminate. Consistent with constitutional church-state guidelines, a faith-based organization that participates in HUD programs will retain its independence and may continue to carry out its mission, provided that it does not use direct HUD funds to support any inherently religious activities. Accordingly, this final rule continues to provide that faith-based organizations may use space in their facilities to provide HUD-funded services, without removing religious art, icons, scriptures, or other religious symbols.

VII. Comments Regarding Nondiscrimination in Providing Assistance

Comment: Include a more explicit statement prohibiting faith-based organizations from requiring program beneficiaries to participate in religious

activities. Two commenters wrote that HUD should strengthen the provisions of the rule specifying that participation by a beneficiary in religious activities offered by a faith-based service provider is voluntary, and that the faith-based organization may not discriminate against a prospective beneficiary for refusing to participate in such activities. The commenters wrote that while the preamble to the proposed rule provides that a religious organization may not discriminate based on "refusal to actively participate in a religious service," the regulatory text only prohibits discrimination on the basis of "religion or religious belief." The commenters suggested that the regulatory text should be revised to track the stronger language of the preamble. The commenters, however, objected to the use of the word "actively" in this preamble language and urged that HUD clarify that faith-based organizations may not discriminate against clients who refuse to participate in religious activities—whether actively or passively.

HUD Response. HUD believes that the language in the rule prohibiting faith-based organizations from requiring program beneficiaries to participate in religious activities is sufficiently explicit. A prohibition on discrimination against beneficiaries on the basis of religion or religious belief is straightforward and requires no further elaboration.

Comment: Require fair housing training for staff of HUD-funded faith-based organizations. Require faith-based organizations to advertise HUD-funded services in a manner that welcomes all beneficiaries. Two commenters wrote that training of Fair Housing Act requirements is vital to ensure that the employees of faith-based organizations understand their responsibility to provide housing services free from discrimination. Two commenters stated that the final rule should require faith-based organizations to advertise HUD-funded services in a manner that welcomes all beneficiaries, regardless of religious persuasion. Another commenter stated that HUD's rule should prohibit organizations participating in HUD-funded programs from discussing religious beliefs with prospective beneficiaries.

HUD Response. HUD believes that its existing regulations and this rule are clear that HUD program participants cannot discriminate in providing services to beneficiaries on the basis of their religious belief, or the absence of such belief. With respect to fair housing training and advertising standards, HUD declines to impose requirements on

faith-based organizations participating in HUD programs that are not imposed on all program participants.

Comment: Nondiscrimination provisions fail to properly take into account the distinction between "direct" and "indirect" assistance appearing elsewhere in the proposed rule. One commenter wrote that where the assistance is indirect, a faith-based organization, consistent with the Establishment Clause, may require beneficiaries to participate in its religious program.

HUD Response. This rule does not subject religious organizations that receive HUD funds as the result of a genuine and independent choice of a beneficiary—for example, where the entity administering HUD funds has established a voucher, coupon, certificate, or similar funding mechanism—to the restrictions on inherently religious activities that apply to organizations directly funded by HUD. This rule does not, therefore, prohibit "indirectly funded" organizations from offering assistance that integrates faith and social services and requires participation in all aspects of their programs. As noted in section II of the preamble to this final rule, however, the proposed rule did not offer amendments to any nondiscrimination provisions of existing statutes. Thus, to the extent that such statutes restrict the activities of indirectly funded organizations, those restrictions remain in effect. Accordingly, the statute that applies to each program should be reviewed for the scope of its applicability.

VIII. Comments Regarding Executive Order 11246 and Religion as a Factor in Employment Decisions

This final rule clarifies the applicability of E.O. 11246 to the CDBG regulations, and includes the amendment of E.O. 11246 by E.O. 13279. E.O. 13279, issued by the President on December 12, 2002, allows a government contractor or subcontractor that is a religious organization, corporation, association, educational institution, or society to take religion into consideration in the employment of individuals to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempt or excused from complying with the other requirements contained in Executive Order 11246. Thus, E.O. 11246, as amended, is applicable to HUD grantees to the same extent that it would otherwise apply.

Comment: HUD's rationale for eliminating compliance with E.O. 11246 is flawed. Several comments advised that HUD's approach to E.O. 11246 was flawed.

HUD Response. As discussed earlier in this preamble, the final rule clarifies the applicability of E.O. 11246 as amended, to the same extent that it would otherwise apply.

Comment: Do not permit faith-based organizations to consider religion in employment decisions. Rule should prohibit employment discrimination on the basis of sexual orientation. Several of the commenters wrote that the final rule should expressly prohibit discrimination against any employee or applicant for employment on the basis of religion. Other commenters wrote that faith-based organizations and other secular organizations may be generally able to discriminate on the basis of sexual orientation or gender identity because there does not currently exist a Federal law prohibiting this discrimination.

HUD Response. The purpose of this rulemaking is to eliminate barriers that HUD has imposed administratively to the participation of faith-based organizations in HUD programs. The purpose of this rule is not to establish nondiscrimination requirements or to alter existing nondiscrimination requirements. Current requirements of statute or Executive Order apply to HUD programs to the same extent that they applied under the prior rule.

Comment: Clarify that any equal employment opportunity exemption is consistent with Title VII. Several commenters suggested that HUD clarify that any exemption to the employment nondiscrimination requirements contained in the rule is consistent with the exemption provided by Title VII, and does not constitute a blanket exemption of equal employment opportunity. The commenters wrote that, under Title VII, religious organizations are allowed to employ individuals of a particular religion to perform the work of the religious organization, but are not exempt with respect to any other type of discrimination.

HUD Response. Again, it was not HUD's objective in this rulemaking to revise program requirements imposed by statute. HUD's objective in this rulemaking was to identify program requirements, imposed by HUD through rulemaking as a matter of administrative discretion, that constitute unwarranted barriers to the participation of faith-based organizations in HUD programs. As noted earlier in this preamble, existing nondiscrimination

requirements are not altered by this rule.

Comment: Faith-based organizations should be required to abide by State and local civil rights laws. Several commenters wrote that HUD should clarify that the rule will not preempt State and local laws regarding the funding of faith-based organizations, including civil rights statutes governing employment nondiscrimination. The commenters wrote that some States and localities have stringent laws regarding the funding of faith-based groups with Federal, State, and local funds, and that it is unclear whether the proposed rule, as written, would preempt these laws that have been in effect for decades.

HUD Response. The requirements that govern funding under the HUD programs at issue in these regulations do not raise a question of preemption of State or local laws. Federal funds, however, carry Federal requirements. No organization is required to apply for funding under these programs, but organizations that apply and are selected for funding must comply with the requirements applicable to the program funds. As noted above in this preamble, language has been added to the rule clarifying that 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, these regulations apply to all of the commingled funds.

IX. Comments Regarding Structures Used for Religious Purposes

As noted in section II of the preamble to this final rule, the final rule clarifies this requirement by stating that HUD funds may not be used for acquisition, construction, or rehabilitation of sanctuaries, chapels, or any other rooms that a religious congregation that is a recipient or subrecipient of HUD assistance uses as its principal place of worship. This final rule also clarifies the rules governing disposition of HUD-improved real property after the term of the grant and where there is a change in the use of the property.

Comment: Government funding for religious structures is unconstitutional. Several commenters objected to the use of any HUD funds in the acquisition, construction, or rehabilitation of religious structures. The objection to this proposal included the comment that the proposed "attribution" requirements would be unenforceable by State and local agencies administering the HUD grant, and are contrary to Supreme Court decisions

that prohibit spending government funds on structures that are not exclusively secular in their use. Other comments offered that, even if the proposed rule could be effectively enforced, it would require such excessive monitoring as to constitute excessive government entanglement with religious institutions. The commenters wrote that HUD would need to establish effective safeguards to avoid the perceived constitutional pitfalls.

Other comments stated that nothing in the rule would prevent a faith-based organization from converting a HUD-funded portion of a structure for religious use at some future date. The overall concern expressed by these commenters was that these provisions would inevitably lead to the unconstitutional government funding of religion. One of the commenters wrote that, under governing legal precedent, public funds may be used by religious institutions for capital improvements only when the structures are wholly limited to secular use. Other commenters suggested that HUD require that the HUD-funded portions of a structure be used for secular purposes for the life of the building. Several commenters suggested that HUD establish procedures for recapturing the Federal assistance if the HUD-funded portion of the structure is ever used for a religious purpose.

HUD Response. In the preamble to this final rule, HUD previously addressed the issue of monitoring and enforcement. HUD finds no basis for requiring greater oversight and monitoring of faith-based organizations than other program participants simply because they are faith-based organizations. All program participants must be monitored for compliance with program requirements, and no program participant may use HUD funds for any ineligible activity, whether that activity is an inherently religious activity or a nonreligious activity that is outside the scope of the program at issue. Many nonreligious organizations participating in HUD programs also receive funding from several sources (private sources, State, or local sources) to carry out activities that are ineligible for funding under HUD programs. In many cases, the non-eligible activities are secular activities but not activities eligible for funding under HUD programs. All program participants receiving funding from various sources and carrying out a wide range of activities must ensure through proper accounting principles that each set of funds is applied only to the activities for which the funding was provided. The regulations for the

programs prescribe the cost accounting procedures that are to be followed in using HUD funds.

With respect to structures, HUD believes that the prorated funding of improvements to a structure that has a mixed use—both religious and nonreligious—is not itself a violation of the Constitution. In a neutral program in which the government directly funds the capital improvements of institutions that administer Federal social welfare programs, the government need only put in place safeguards to ensure that public money is not used to finance inherently religious activities. The proposed rule satisfied this requirement by prohibiting the use of HUD funds for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities—a prohibition that is enforced by generally applicable cost-accounting standards carefully designed to ensure that HUD monies are not used to support any ineligible activity. Therefore, the final rule's prohibition on the funding of capital improvements for sanctuaries, chapels, or any other rooms that a religious congregation that is a recipient or subrecipient of HUD assistance uses as its principal place of worship simply provides extra assurance that HUD-funded capital improvements will not be used to support inherently religious activities, and HUD's rule is well within the bounds of the Constitution.

HUD disagrees with those who commented that preventing the use of direct HUD capital-improvement funds for inherently religious activities would necessarily fail or, in the process, excessively entangle the government in the affairs of recipients or subrecipients that are religious organizations. As to the question whether limiting HUD funding to eligible, nonreligious activities is possible, it merits emphasis that HUD must generally perform the very same cost-accounting functions to all organizations. Because inherently religious activities are non-HUD activities, HUD need not distinguish between program participants' religious and nonreligious non-HUD activities; the same mechanism by which HUD polices the line between ineligible and eligible activities will serve to exclude inherently religious activities from funding. This system of monitoring is more than sufficient to address the commenters' concerns, and the amount of oversight of religious organizations necessary to accomplish these purposes is no greater than that involved in other publicly funded programs that the Supreme Court has sustained.

With respect to the concern about the funding of capital improvements for religious structures that are later converted to non-HUD uses, the final rule clarifies that disposition of HUD-improved property after the term of grants to religious organizations, and changes in the use of property improved for use by religious organizations, are subject to government-wide regulations governing real property disposition. HUD has regulations (see 24 CFR parts 84 and 85) that address the terms under which such grantees must use the property for eligible activities, and the terms under which federally funded improvements must be "bought back" if such grantees decide to discontinue their involvement in the program.

X. Comments Regarding the Removal of Assurance Requirements

Comment: HUD should not remove the assurance requirements. Several commenters wrote that by removing the assurance requirements, HUD is condoning religious influences and activities in HUD-funded programs. The commenters wrote that the Federal government has rightly recognized that faith-based organizations are unique in their mission and require unique assurances. The commenters disagreed with HUD's rationale for removing the requirements, writing that HUD requires many certifications and assurances that grantees will comply with various laws and regulations. The commenters wrote that retaining this assurance would not be inconsistent with requiring other assurances of compliance with laws and regulations. Two commenters agreed that it is unfair to apply the assurance requirement only to faith-based organizations, and suggested that rather than eliminating the requirement, HUD should make it applicable to all grantees.

HUD Response. The final rule remains unchanged from the proposed rule on this matter. Additional assurances, such as those that are being removed by this rule, only perpetuate, and unfairly so, a presumption that program requirements applicable to all program participants are insufficient to bind faith-based organizations, and additional requirements and assurances must be imposed on these organizations. No additional requirements are needed.

In issuing this rule, HUD's general approach is that faith-based organizations are not a category of applicants or program participants that require additional requirements or additional oversight in order to ensure compliance with program regulations. In issuing this rule, HUD's approach is that faith-based organizations well

understand that inherently religious activities cannot be undertaken with Federal funding and must remain separate from federally funded activities, and no additional requirements are necessary. The requirements for use of funds under a HUD program apply to, and are binding on, all HUD program participants.

XI. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to the rule as a result of that review are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, requires that Federal agencies consult with State and local governments in the development of regulatory policies with federalism implications. Consistent with Executive Order 13132, HUD specifically solicited comment from State and local government officials on the January 6, 2003, proposed rule, and no comments from these entities were submitted that raised federalism concerns.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). That Finding remains applicable to this final rule and is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Regulations Division, Office of General

Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this final rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose any new costs, or modify existing costs, applicable to HUD grantees. Rather, the purpose of the final rule is to remove regulatory prohibitions that currently restrict the equal participation of faith-based organizations (large and small) in HUD's programs.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this rule are 14.218, 14.219, 14.225, 14.227, 14.228, 14.231, 14.235, 14.237, 14.238, 14.239, 14.241, 14.243, 14.246, 14.248, 14.512, 14.514, and 14.515.

List of Subjects

24 CFR Part 92

Administrative practice and procedure, Grant programs—housing and community development, Grant programs—Indians, Indians, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands trust territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

24 CFR Part 572

Condominiums, Cooperatives, Fair housing, Government property, Grant programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 574

AIDS/HIV, Community facilities, Disabled, Grant programs—health programs, Grant programs—housing and community development, Grant programs—social programs, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 576

Community facilities, Emergency shelter grants, Grant programs—housing and community development, Grant programs—social programs, Homeless, Reporting and recordkeeping requirements.

24 CFR Part 582

Homeless, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 583

Homeless, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 585

Grant programs—housing and community development, Homeless, Low and very low-income families, Reporting and recordkeeping requirements, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

■ For the reasons stated in the preamble, HUD amends title 24 of the Code of Federal Regulations as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

■ 1. The authority citation for 24 CFR part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

■ 2. Revise § 92.257 to read as follows:

§ 92.257 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 HOME program. Neither the Federal government nor a State or local government receiving funds under HOME 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 HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the assistance funded under this part. If an organization conducts such

activities, the activities must be offered separately, in time or location, from the assistance funded under this part, and participation must be voluntary for the beneficiaries of the assistance provided.

(c) A religious organization that participates in the HOME 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 HOME 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, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HOME-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 HOME 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) HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOME funds may be used for the acquisition, construction, or 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, HOME funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to HOME funds in this part. Sanctuaries, chapels, or other rooms that a HOME-funded religious congregation uses as its principal place of worship, however, are ineligible for HOME-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.

§ 92.504 [Amended]

■ 3. In § 92.504, remove paragraph (c)(3)(x) and redesignate paragraph (c)(3)(xi) as paragraph (c)(3)(x).

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

■ 4. The authority citation for 24 CFR part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301–5320.

■ 5. Revise § 570.200(j) to read as follows:

§ 570.200 General policies.

* * * * *

(j) *Faith-based activities.* (1)

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

(2) Organizations that are directly funded under the CDBG 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.

(3) A religious organization that participates in the CDBG 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 CDBG 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 CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-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.

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

(5) CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or 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, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-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).

(6) 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.

§ 570.503 [Amended]

- 6. Amend § 570.503 as follows:
 - a. Remove paragraph (b)(6);
 - b. Redesignate paragraphs (b)(7) and (b)(8) as paragraphs (b)(6) and (b)(7), respectively; and
 - c. In newly designated paragraph (b)(7)(ii), replace all references to "paragraph (b)(8)(i) of this section" with "paragraph (b)(7)(i) of this section."
- 7. Revise § 570.607 to read as follows:

§ 570.607 Employment and contracting opportunities.

To the extent that they are otherwise applicable, grantees shall comply with:

- (a) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-1965 Comp. p. 339; 3 CFR, 1966-1970

Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.

PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)

- 8. The authority citation for 24 CFR part 572 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12891.

- 9. Revise § 572.405(d) to read as follows:

§ 572.405 Nondiscrimination and equal opportunity requirements.

* * * * *

(d) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOPE 3 program. Neither the Federal government nor a State or local government receiving funds under HOPE 3 programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the HOPE 3 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.

(3) A religious organization that participates in the HOPE 3 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 HOPE 3 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 HOPE 3-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HOPE 3-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.

(4) An organization that participates in the HOPE 3 program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) HOPE 3 funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOPE 3 funds may be used for the acquisition, construction, or 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, HOPE 3 funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to HOPE 3 funds in this part. Sanctuaries, chapels, or other rooms that a HOPE 3-funded religious congregation uses as its principal place of worship, however, are ineligible for HOPE 3-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).

(6) 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.

PART 574—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

- 10. The authority citation for 24 CFR part 574 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12901-12912.

- 11. Revise § 574.300(c) to read as follows:

§ 574.300 Eligible activities.

* * * * *

(c) *Faith-based activities.* (1) Organizations that are religious or faith-

based are eligible, on the same basis as any other organization, to participate in the HOPWA program. Neither the Federal government nor a State or local government receiving funds under HOPWA programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the HOPWA 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.

(3) An organization that participates in the HOPWA 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 HOPWA 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 HOPWA-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HOPWA-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.

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

(5) HOPWA funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOPWA funds may be used for the acquisition, construction, or 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, HOPWA funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are

attributable to eligible activities in accordance with the cost accounting requirements applicable to HOPWA funds in this part. Sanctuaries, chapels, or other rooms that a HOPWA-funded religious congregation uses as its principal place of worship, however, are ineligible for HOPWA-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).

(6) 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.

PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

■ 12. The authority citation for 24 CFR part 576 continues to read as follows:

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

■ 13. Revise § 576.23 to read as follows:

§ 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.

PART 582—SHELTER PLUS CARE

■ 14. The authority citation for 24 CFR part 582 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11403–11470b.

■ 15. Revise § 582.115(c) to read as follows:

§ 582.115 Limitations on assistance.

* * * * *

(c) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the S+C program. Neither the Federal government nor a State or local government receiving funds under S+C programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the S+C 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.

(3) A religious organization that participates in the S+C 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 S+C 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 S+C-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an S+C-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.

(4) An organization that participates in the S+C program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) 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.

* * * * *

PART 583—SUPPORTIVE HOUSING PROGRAM

■ 16. The authority citation for 24 CFR part 583 continues to read as follows:

Authority: 42 U.S.C. 11389 and 3535(d).

■ 17. Revise § 583.150(b) to read as follows:

§ 583.150 Limitations on use of assistance.

* * * * *

(b) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Supportive Housing Program. Neither the Federal government nor a State or local government receiving funds under Supportive Housing programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the Supportive Housing 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.

(3) A religious organization that participates in the Supportive Housing 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 Supportive Housing Program 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 Supportive Housing Program-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a Supportive Housing Program-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.

(4) An organization that participates in the Supportive Housing Program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Program funds may be used for the acquisition, construction, or 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, program funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to Supportive Housing Program funds in this part. Sanctuaries, chapels, or other rooms that a Supportive Housing Program-funded religious congregation uses as its principal place of worship, however, are ineligible for Supportive Housing Program-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).

(6) 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.

PART 585—YOUTHBUILD PROGRAM

■ 18. The authority citation for 24 CFR part 585 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 8011.

■ 19. Revise § 585.406 to read as follows:

§ 585.406 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 Youthbuild program. Neither the Federal government nor a State or local government receiving funds under Youthbuild 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 Youthbuild 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 Youthbuild 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 Youthbuild Program 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 Youthbuild Program-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a Youthbuild Program-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 Youthbuild 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) Youthbuild funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Youthbuild funds may be used for the acquisition, construction, or 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, Youthbuild funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the

cost accounting requirements applicable to Youthbuild funds in this part. Sanctuaries, chapels, or other rooms that a Youthbuild-funded religious congregation uses as its principal place of worship, however, are ineligible for Youthbuild-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.

Dated: September 22, 2003.

Mel Martinez,
Secretary.

[FR Doc. 03-24326 Filed 9-29-03; 8:45 am]

BILLING CODE 4210-32-P

LEAD-BASED PAINT REQUIREMENTS

Lead-based Paint Requirements

Background

The purpose of these requirements is to ensure that housing receiving federal assistance (or being sold by the federal government) does not pose lead-based paint hazards to young children. As such, ESG grantees are subject to the requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (LBPPPA) and the Act's implementing regulations at 24 CFR Part 35 (see [Memorandum summarizing the Rule's requirements and effective dates at: http://www.hud.gov/lea/donovan_letter.pdf](http://www.hud.gov/lea/donovan_letter.pdf)). This Act, first passed by Congress in 1971 and amended several times since then, found that lead poisoning in children causes permanent damage to the brain and many other organs and results in reduced intelligence, low attention span, reading and learning disabilities, and can be linked to behavioral problems. The Centers for Disease Control and Prevention (CDC) have claimed lead poisoning to be the most common environmental disease that threatens our young children today. The most common sources of childhood exposure to lead are deteriorated lead-based paint and lead-contaminated soil in the residential environment.

In 1992, Congress passed the [Residential Lead-Based Paint Hazard Reduction Act](http://www.hud.gov/lea/leatilex.html), (<http://www.hud.gov/lea/leatilex.html>) referred to as "Title X." This law redefined the lead-paint hazard and set out specific requirements that necessitated a comprehensive revision of HUD's lead-based paint regulations. Title X stressed identification of hazards, notification to occupants of the existence of these hazards, and control of these hazards. HUD developed a [Final Rule](http://www.hud.gov/lea/1012_3final.pdf) (http://www.hud.gov/lea/1012_3final.pdf) in September 1999 to implement sections 1012 and 1013 the statutory requirements of Title X (the sections that amend the LBPPPA) and to update and consolidate all of its lead-based paint regulations. The provisions of the new rules went into effect on September 15, 2000.

Effect of Lead-Based Paint Rules on ESG Projects

Since the ESG program deals primarily with the operation of short-term emergency shelters and the delivery of essential services to formerly homeless persons, ESG is governed by Subpart K of the Lead-Based Paint Hazard regulations. According to the *Interpretive Guidance* (http://www.hud.gov/lea/1012QA_final_sept21.PDF) to the regulations, most emergency shelters are exempt from the lead-based paint regulations. Thus, emergency housing using efficiencies, studio apartments, dormitories, single room occupancy units, barracks, group homes, or room rentals in residential dwellings are all excluded from the lead-based paint requirements. The only ESG-assisted housing covered under the lead-based paint requirements is longer-term transitional housing in an apartment with one or more bedrooms AND which has family residents who are part of a program requiring continual residence of more than 100 days.

The majority of ESG projects, with their relatively short stays in HUD-assisted housing, are exempt from the Lead-based Paint requirements. Additionally, ESG projects providing essential services only are also excluded from the lead-based paint regulations. However, any ESG housing or services sites regularly frequented by children less than 6 years of age are encouraged to use ESG funds for testing and may use ESG rehabilitation funds for necessary abatement procedures.

In ESG projects where the residents select their own housing or where the grantee or recipient provides services such as housing search and homeless prevention services such as first month's rent, the units selected must be free from lead-based paint contamination. The remainder of Section 8.2 of the ESG Guide provides a summary of the basic requirements for transitional housing programs where the grantee or recipient provides the apartment units using ESG funds.

Section 8.2 of the ESG Guide summarizes the basic provisions of the lead-based paint regulations pertaining to ESG funded activities, such as rehabilitation and conversion of property. While the requirements pertaining to rehabilitation differ according to level of federal support (see below), the requirements around notification and provision of an information pamphlet apply for *all* types of federal housing assistance. Exemptions to the lead-based paint regulation are provided at the end of the section. Note that the lead-based paint requirements do not apply to housing assistance (such as for homeless persons) unless the assistance lasts more than 100 days.

Notice of Evaluation, Presumption, and Hazard Reduction Activities

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

- 1.a summary of the nature, scope and results of the evaluation;
- 2.contact name, address and telephone number for more information; and
- 3.the date of the notice.

When hazard reduction activities are undertaken, the responsible party must provide notice to occupants no more than 15 days after the activity is completed. The notice should include the same elements as above, but also include available information on the location of any remaining lead-based paint hazards. The grantee/recipient should also provide the *Lead Hazard Information Pamphlet* available through HUD.

Rehabilitation, Renovation or Conversion

Requirements differ depending on the level of federal funding provided for these activities. The three categories include: 1) assistance of up to and including \$5,000 per unit; 2) assistance of more than \$5,000 per unit and up to and including \$25,000 per unit; and 3) assistance of more than \$25,000 per unit.

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

- 1.Conduct paint testing (or presume the presence of lead-based paint);
- 2.Implement safe work practices during rehabilitation work if paint testing shows the presence of lead-based paint; repair any paint surfaces that are disturbed; and
- 3.Perform a clearance examination of the work site after completion of rehab disturbing painted surfaces. A clearance is not necessary if the rehab does not disturb painted surfaces.

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

- 1.Conduct paint testing (or presume the presence of lead-based paint);

2.Perform a risk assessment in the units, common areas and exteriors of those being rehabilitated using federal assistance; and

3.Perform interim controls. Interim controls include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above those specified in 24 CFR 35.1320, dust control and lead-contaminated soil control. *Paint stabilization* means: repair of any defective substrate that is causing paint deterioration, and removal of loose paint and other material using methods such as wet scraping, wet sanding or power sanding in conjunction with use of a HEPA filtered local exhaust attachment (dry sanding or scraping is allowed only for electrical safety reasons) and application of a new protective coating or paint.

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

1.Conduct paint testing (or presume the presence of lead-based paint);

2.Perform a risk assessment in the units, common areas and exteriors of those being rehabilitated using federal assistance; and

3.Abate all lead hazards identified in the test or assessment as well as any lead-based paint hazards created as a result of the rehab work.

Essential (Support) Services and Operations

For eligible ESG housing properties that receive federal assistance for essential support services or operations, a number of lead-based paint requirements apply. The grantee/recipient should conduct the following activities:

1.A visual assessment of all painted surfaces to identify deteriorated surfaces;

2.Complete paint stabilization of all deteriorated surfaces.

3.Incorporate ongoing lead-based paint maintenance activities into the regular building maintenance operations; and

4.Notification as described above.

Inspection and Abatement

In addition to complying with the regulations at 24 CFR 35, the grantee (or in the case of States, the State recipient) must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

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

ATTACHMENT #3 CONT'D

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

Type of Program	Construction Period	Requirements
Rehabilitation - Property receiving less than \$5,000 per unit	Pre-1978	Provision of pamphlet. Paint testing of surfaces to be disturbed, or presume LBP. Safe work practices in rehab. Repair disturbed paint. Clearance of the worksite. Notice to Occupants.
Rehabilitation - Property receiving more than \$5,000 and up to \$25,000 per unit	Pre-1978	Provision of pamphlet. Paint testing of surfaces to be disturbed, or presume LBP. Risk assessment Interim Controls. Notice to Occupants.
Type of Program	Construction Period	Requirements
Rehabilitation - Property receiving more than \$25,000 per unit	Pre-1978	Provision of pamphlet. Paint testing of surfaces to be disturbed, or presume LBP. Risk assessment. Abatement of LBP hazards. Notice to Occupants.
Support Services or Operation	Pre-1978	Provision of pamphlet. Visual Assessment. Paint stabilization. Notice to Occupants. Ongoing LBP maintenance

Are there Exemptions from these Regulations?

A number of properties are exempt from this regulation. For the properties that fall under the following categories, the lead-based paint regulations do not apply:

- Housing built after January 1, 1978 (the date when lead-based paint was banned for residential use);
- Housing exclusively for the elderly or persons with disabilities, unless a child under age 6 is expected to reside there;
- Zero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks;

ATTACHMENT #3 CONT'D

- Property that has been found to be free of lead-based paint by a certified inspector;
- Property from which all lead-based paint has been removed, and clearance has been achieved;
- Unoccupied housing that will remain vacant until it is demolished;
- Non-residential property;
- Any rehabilitation or housing improvement that does not disturb a painted surface;
- Emergency repair actions which are needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage;
- Emergency housing assistance (such as for the homeless) unless the assistance is for long-term assistance that lasts more than 100 days. **In the case where long-term housing assistance lasts for more than 100 days, then the rule does apply.**

Copies of the lead-based paint regulation can be obtained by downloading it from the HUD Office of Lead Hazard Control web site at www.hud.gov/lea or by calling 1-800-424-LEAD.

Information in Attachment G was taken from Emergency Shelter Grants [ESG] Program Desk Guide, March 2001, U. S. Department of Housing and Urban Development, Office of Community Planning and Development, pp 84-89.

**HOMELESS MANAGEMENT INFORMATION SYSTEM
REGULATIONS DATA AND TECHNICAL
STANDARDS NOTICE**



Federal Register

**Tuesday,
July 22, 2003**

Part II

Department of Housing and Urban Development

**Homeless Management Information
Systems (HMIS) Data and Technical
Standards Notice; Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 4848-N-01]

Homeless Management Information Systems (HMIS) Data and Technical Standards Notice

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice states the intent of HUD to implement Homeless Management Information Systems (HMIS).

DATES: *Comment Due Date:* September 22, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to Michael Roanhouse, Office of Special Needs Assistance Programs, Office of the Assistant Secretary for Community Planning and Development, Room 7262, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000. Comments should refer to the above docket number and title.

FOR FURTHER INFORMATION CONTACT: Michael Roanhouse, Office of Special Needs Assistance Programs, Office of the Assistant Secretary for Community Planning and Development, Room 7262, Department of Housing and Urban

Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone (202) 708-1226, ext. 4482 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

1. Introduction

This notice sets forth the Department's intention to implement Homeless Management Information Systems (HMIS). An HMIS is a computerized data collection application designed to capture client-level information over time on the characteristics and service needs of homeless persons. This notice presents background information on Congressional direction on improving homeless data collection and analysis at the local and national levels and specific statutorily based programmatic and planning requirements for addressing homeless needs. The notice also describes the benefits of developing an HMIS for: Homeless persons; local homeless assistance providers; local bodies that plan for and coordinate homeless services, known as Continuums of Care (CoC); and national policy makers. The notice provides detailed guidance on the development of data and technical standards that will allow local CoC to generate consistent

reports so that the characteristics of homeless populations across the United States can be determined. The notice also describes how data are to be collected and safeguarded.

This notice is being published as a draft to permit CoC planning bodies, homeless service providers, local and state governments, advocates, and homeless clients an opportunity to review and comment on the proposed standards. The next two sections lay out Congressional direction to HUD on HMIS specifically and then on homelessness-related data collection generally.

It has been determined in concert with the Office of Management and Budget (OMB) that the information collection implicit in this notice requires OMB clearance. For purposes of the OMB clearance, this notice will serve as the 60-day **Federal Register** Notice under the Paperwork Reduction Act of 1995, as amended. The final report based on the public comments received on this draft version will include an estimate of burden for all potential users of the Notice. As an interim step, this draft version sets out below the existing HUD information collection requirements that HMIS will support when fully operational in American communities and the proposed paperwork burden already submitted to OMB for each:

Information collection*	Annual burden hours	Support entire collection	Support part of collection
Annual Performance Report (Competitive Programs)	200,000	X	
Application/Competitive Homeless Programs	203,280		X
Application/HOPWA	28,625		X
Consolidated Plan	549,925		X

Paperwork Reduction Act

The information collection requirements in this notice have been approved by the Office of Management and Budget (OMB) and assigned OMB control numbers 2506-0145, 2106-0112, 2506-0133, and 2506-0117, respectively. In accordance with the Paperwork Reduction Act of 1995 U.S.C. (44 U.S.C. 3501-3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

1.1. Congressional Direction on Homeless Management Information Systems

Expressions of Congressional concern for better homeless data collection and analysis at both the local and national levels has resulted in Congressional

direction in conference and committee reports over the past several years. The Omnibus Appropriations Act of 2003 (Pub. L. 108-7, approved February 20, 2003), provides money to HUD to implement these responsibilities. The Act appropriated \$1,225,000,000 to HUD for Homeless Assistance Grants and specifically provided "[t]hat \$11,000,000 of the funds appropriated under this heading shall be available for the national homeless data analysis project." The Conference Report provided guidance as to some of the steps that HUD should take in implementing this project. Specifically, the report stated as follows:

The conferees are concerned that the Department is not taking the proper steps to determine the extent to which HUD's homeless assistance programs are meeting the needs of chronically homeless people.

Therefore, HUD is directed to begin collecting data on the percentage and number of beds and supportive services programs that are serving people who are chronically disabled and/or chronically homeless.

The conferees reiterate the direction and reporting requirement included in the Senate report regarding the collection and analysis of data to assess the effectiveness of the homeless system, and direct that such report also include HUD's timeline for finalizing data requirements for the Homeless Management Information Systems.

The Senate Report referenced above states that:

The Committee remains supportive of the Department's ongoing work on data collection and analysis within the homeless programs. HUD should continue its collaborative efforts with local jurisdictions to collect an array of data on homelessness in order to analyze patterns of use of assistance, including how people enter and exit the homeless assistance system, and to

assess the effectiveness of the homeless assistance system. The Committee directs HUD to take the lead in working with communities toward this end, and to analyze jurisdictional data within one year. The Committee directs HUD to report on the progress of this data collection and analysis effort by no later than May 12, 2003. The Conference Report (H.R. Report 106-988) for Fiscal Year (FY) 2001 HUD.

Appropriations Act (Pub. L. 106-377, approved October 27, 2000), stated:

The conferees reiterate and endorse language included in the Senate report regarding the need for data and analysis on the extent of homelessness and the effectiveness of McKinney Act programs * * *. The conferees concur with the importance of developing unduplicated counts of the homeless at the local level, as well as taking whatever steps are possible to draw inferences from this data about the extent and nature of homelessness in the nation as a whole.

Likewise, the conferees agree that local jurisdictions should be collecting an array of data on homelessness in order to prevent duplicate counting of homeless persons, and to analyze their patterns of use of assistance, including how they enter and exit the homeless assistance system and the effectiveness of the systems. HUD is directed to take the lead in working with communities toward this end, and to analyze jurisdictional data within three years. Implementation and operation of Management Information Systems (MIS), and collection and analysis of MIS data, have been made eligible uses of Supportive Housing Program funds. The conferees direct HUD to report to the Committees within six months after the date of enactment of this Act on its strategy for achieving this goal, including details on financing, implementation, and maintaining the effort.

Congress directed HUD to take the lead in requiring every jurisdiction to have unduplicated client-level data within three years. The reasons for the emphasis and the specific directives on encouraging these systems were articulated in FY 2001 Senate Report 106-410:

The Committee believes that HUD must collect data on the extent of homelessness in America as well as the effectiveness of the McKinney homeless assistance programs in addressing this condition. These programs have been in existence for some 15 years and there has never been an overall review or comprehensive analysis on the extent of homelessness or how to address it. The Committee believes that it is essential to develop an unduplicated count of homeless people, and an analysis of their patterns of use of assistance (HUD McKinney homeless assistance as well as other assistance both targeted and not targeted to homeless people), including how they enter and exit the homeless assistance system and the effectiveness of assistance.

Previously, in the FY 1999 HUD Appropriations Act, Congress had

directed HUD to collect data from a representative sample of existing local HMIS. Specifically, House Report 105-610 states that HUD should:

* * * collect, at a minimum, the following data: The unduplicated count of clients served; client characteristics such as age, race, disability status, units [days] and type of housing received (shelter, transitional, permanent); and services rendered. Outcome information such as housing stability, income, and health status should be collected as well.

In the FY 2001 HUD appropriations process, Senate Report 106-410 directed HUD to build on its earlier preliminary work with communities with an advanced HMIS and continue assessing data from these communities:

* * * to continue on an annual basis to provide a report on a nationally representative sample of jurisdictions whose local MIS data can be aggregated yearly to document the change in demographics of homelessness, demand for homeless assistance, to identify patterns in utilization of assistance, and to demonstrate the effectiveness of assistance.

* * * The Committee instructs HUD to use these funds to contract with experienced academic institutions to analyze data and report to the agency, jurisdictions, providers, and the Committee on findings.

1.2. Statutory Direction to HUD and Other Federal Agencies on Homeless Data Collection

Section 1.1 outlined Congressional direction relating to Homeless Management Information Systems—a subset of the more general Congressional mandates for homeless data collection. HUD, other federal agencies, and the Interagency Council on the Homeless are required under various statutory authorities and Congressional direction to collect extensive information about the nature and extent of homelessness. In addition, individual programs authorized under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 *et seq.*) require the assessment of homeless needs, the provision of services to address those needs, and reporting on the outcomes of federal assistance in helping homeless people to become more independent. The major Congressional imperatives in HUD's McKinney-Vento Act programs are:

- Assessing the service needs of homeless persons;
- Ensuring that services are directed to meeting those needs;
- Assessing the outcomes of the services in nurturing efforts by homeless

persons to become more self-sufficient; and

- Reporting to Congress on the characteristics and effectiveness of federal efforts to address homelessness.

Both individually and as a whole, these provisions provide statutory imperatives for collecting data on homeless individuals and their needs. This section progresses from the most general of the statutory authorities to the most specific programmatic authorities.

Interagency Council on the Homeless

The McKinney-Vento Homeless Assistance Act directs the Interagency Council on the Homeless (ICH) to undertake a number of tasks on interagency coordination, evaluation, and reporting that mandate the collection and dissemination of information on homeless individuals and their needs:

(a) Duties.

The Council shall—

(1) Review all federal activities and programs to assist homeless individuals;

(2) Take such actions as may be necessary to reduce duplication among programs and activities by federal agencies to assist homeless individuals;

(3) Monitor, evaluate, and recommend improvements in programs and activities to assist homeless individuals conducted by federal agencies, state and local governments, and private voluntary organizations;

* * * * *

(5) Collect and disseminate information relating to homeless individuals;

(6) Prepare the annual reports required in subsection (c)(2) of this section; (Section 203(a), McKinney-Vento Homeless Assistance Act).

Each federal agency is required to report to the Council a description of each program to assist homeless individuals and the number of homeless individuals served by the program, impediments to the use of the program by homeless individuals and to obtain services and benefits and efforts by the agency to increase homeless assistance services. The Council, in turn, is required to submit an annual report to the President and Congress that:

(A) Assesses the nature and extent of the problems relating to homelessness and the needs of homeless individuals;

(B) Provides a comprehensive and detailed description of the activities and accomplishments of the Federal Government in resolving the problems and meeting the needs assessed pursuant to subparagraph (A); (Section 203(a), McKinney-Vento Homeless Assistance Act)

In the following excerpt from the 2001 Senate Report on the HUD Appropriations Act, at page 53, Congress further directed the revitalized Council to assess how mainstream programs can prevent homelessness.

The committee also recognizes that homelessness cannot be ended by homeless assistance providers alone—it requires the involvement of a range of federal programs. Accordingly it has included \$500,000 for the staffing of the Interagency Council on the Homeless. It instructs the Council specifically to require HUD, HHS, Labor, and VA to quantify the number of their program participants who become homeless, to address ways in which mainstream programs can prevent homelessness among those they serve, and to describe specifically how they provide assistance to people who are homeless * * *

Comprehensive Housing Affordability Strategy/Consolidated Plan

Every jurisdiction that receives funding from certain HUD programs (HOME, Community Development Block Grant, Housing Opportunities for Persons with AIDS, Emergency Shelter Grants) must submit a comprehensive housing strategy that includes a section dealing with homeless needs. Every jurisdiction is required to:

describe the nature and extent of homelessness, including rural homelessness, within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, including tabular presentation of such information; and a description of the jurisdiction's strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living. (Section 105(a)(2), Cranston-Gonzalez National Affordable Housing Act (42 U. S. C. 12701 *et seq.*)

The implementing regulations and administrative directions detail how the 50 States, Puerto Rico, the territories, and over 1000 metropolitan cities and urban counties present narratives and data tables on homeless needs, current services, and the plans to address and prevent homelessness.

HUD'S McKinney-Vento Act Program Requirements

The McKinney-Vento Act contains a consistent philosophy and an accompanying set of statutory mandates concerning the framework for assessing homeless needs and addressing them with appropriate services. The

McKinney-Vento Act also recognizes the importance of ensuring confidentiality in recordkeeping and public disclosure of information concerning homeless persons seeking domestic violence shelter and services. In addition, all of HUD's McKinney-Vento Act assistance must be consistent with the local jurisdiction's Consolidated Plan.

Emergency Shelter Grant (ESG) Program

Each governmental and nonprofit recipient of Emergency Shelter Grant (ESG) funds is required to certify to HUD that it will undertake certain responsibilities regarding the provision of services, including that:

* * * * *

(3) It will assist homeless individuals in obtaining—

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

(B) Other federal, state, local, and private assistance available for such individuals;

* * * * *

(5) It will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(6) activities undertaken by the recipient with assistance under this subtitle are consistent with any housing strategy submitted by the grantee in accordance with Section 105 of the Cranston-Gonzalez National Affordable Housing Act (Sections 415(c)(3), (5) and (6), McKinney-Vento Homeless Assistance Act).

Supportive Housing Program

The Supportive Housing Program (SHP) funds transitional and permanent supportive housing and supportive services only projects that require grant recipients to collect specific information from clients concerning their qualification for services, their service needs, and progress toward assisting clients to independent living. HUD requires projects to report on the number and characteristics of clients served and their outcomes.

The statute provides that—

(a) IN GENERAL—To the extent practicable, each project shall provide

supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

(b) REQUIREMENTS—Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project (Section 425 (a) and (b), McKinney-Vento Homeless Assistance Act).

The McKinney-Vento Act requires every project in the Supportive Housing Program to conduct an on-going assessment of client needs for services and their availability for the client. This information is necessary to assess the progress of the project in moving clients to independent living and to report to HUD. In addition, special protections on confidentiality of recordkeeping involving persons provided domestic violence services are specified.

Section 426 of the McKinney-Vento Homeless Assistance Act provides that—

(c) REQUIRED AGREEMENTS—The Secretary may not provide assistance for any project under this subtitle unless the applicant agrees—

(1) To operate the proposed project in accordance with the provisions of this subtitle;

(2) To conduct an ongoing assessment of the supportive services required by homeless individuals served by the project and the availability of such services to such individuals;

(3) To provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents and users of the project;

(4) To monitor and report to the Secretary on the progress of the project;

(5) To develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through any project assisted through this subtitle, and (B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person or persons responsible for the operation of such project;

* * * * *

(7) To comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.

Shelter Plus Care Program

The Shelter Plus Care (SPC) Program funds tenant-, sponsor-, and project-

based rental assistance and rental assistance in connection with moderate rehabilitation for single room occupancy units in conjunction with supportive services funded from other sources for homeless persons with disabilities. Specific information is required to establish both the initial disability status of the client to enter the program and to ensure that appropriate supportive services are provided during the full term of the program to address the needs of the client and to meet the match requirement of the program.

* * * * *

Section 454(b) of the McKinney-Vento Homeless Assistance Act provides in part that—

(b) MINIMUM CONTENTS—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

* * * * *

(2) A description of the size and characteristics of the population of eligible persons;

* * * * *

(4) The identity of the proposed service provider or providers * * *;

(5) A description of the supportive services that the applicant proposes to assure will be available for eligible persons;

(6) A description of the resources that are expected to be made available to provide the supportive services required by section 453;

(7) A description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan * * *

The McKinney-Vento Act also requires recipients to provide for ongoing client assessments and provision of needed services. Section 456 states that the Secretary may not approve assistance under this subtitle unless the applicant agrees—

(1) To operate the proposed program in accordance with the provisions of this subtitle;

(2) To conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

(3) To assure the adequate provision of supportive services to the participants in the program.

1.3 The Vision and the Development of a Local HMIS

The development of a local HMIS is about: (1) Bringing the power of computer technology to the day-to-day operations of individual service

providers; (2) knitting together service providers in a more coordinated and effective service delivery system for the benefit of homeless clients; and (3) obtaining and reporting critical aggregate information about the characteristics and service needs of homeless persons. While some sophisticated service providers have developed in-house management information systems using technology of the time, many providers have not been able or willing to do so. Even those with working systems have not always been able to keep up with the latest technology. A number of communities have developed computer systems to manage large government programs (e.g., New York, Philadelphia). Others have pioneered systems linking decentralized service providers around a centralized bed-registry (St. Louis) or other services, such as emergency utility assistance (Kansas City) or an information and referral system. In the mid-1990s, HUD and HHS supported a comprehensive planning effort to develop comprehensive intake and assessment software. While the Automated National Client-specific Homeless services Recording (ANCHoR) software developed as a result of that initiative did not meet expectations, much was learned from that effort.

Reflecting experiences at both local and national levels to develop and test first-generation HMIS software, today's most advanced HMIS software combines a number of functionalities to enhance individual service provider operations and to link providers together into a broader CoC data-sharing system. These functionalities include:

Client Profile: Client demographic data obtained at intake and exit.

Client Assessment: Information on clients' needs and goals, as well as case management or treatment plans.

Service Outcomes: Client-level data on services provided, progress, outcomes, and follow-up.

Information and Referral/Resource Directories: Timely data on the network of available services within the Continuum to determine eligibility and provide referrals. Some systems provide documentation and tracking of a referral from one provider to the next and messaging capability.

Operations: Operational functionality that permits staff to manage day-to-day activities, including bed availability, and incident reporting.

Accounting: Traditional accounting tools and special components to record service activity/expenditures against specific grants. Some systems have donor and fundraising elements.

All these functionalities provide local providers and agencies with the ability to generate reports on their internal operations and for various funders. Because each agency agrees to share certain information with the HMIS, there is also the ability to generate reports on the operations of the Continuum of Care system as a whole.

One of HUD's major goals in this HMIS initiative is to help individual homeless service providers access the very best computer technology to assist them in their day-to-day operations and to help increase the effective coordination of services in the Continuum of Care. To this end, HUD has developed several publications to assist local jurisdictions including: Homeless Management Information System Consumer Guide: A Review of Available HMIS Solutions, January 2003; and Homeless Management Information Systems: Implementation Guide, September 2002. These guides can be found at <http://www.hud.gov/offices/cpd/homeless/hmis/guide>.

The Benefits of an HMIS

An HMIS provides significant opportunities to improve access to, and delivery of, services for people experiencing homelessness. An HMIS can accurately describe the scope of homelessness and the effectiveness of efforts to ameliorate it. An HMIS can strengthen community planning and resource allocation.

Homeless Clients

An HMIS offers many benefits to persons seeking and receiving homeless assistance services. Homeless clients can benefit from more effective and streamlined referrals from on-line information and referral and service directories. Clients can benefit from enhanced intra-agency coordination. For example, advanced HMIS software has been developed that both calculates client eligibility for multiple programs and generates ready-to-sign applications for those programs.

If information about clients is shared across providers, these systems can be used to reduce the number of times that clients are required to complete intake forms and assessments. They also allow providers to coordinate and track activities and services more effectively within a locality, streamline the referral process, and improve case management services for homeless clients. Finally, homeless persons benefit from the Continuum of Care's ability to better understand their characteristics and needs as well as the system's effectiveness in responding to homelessness in general and the unique

needs of various homeless subpopulations.

Service Providers

An HMIS offers front-line service staff tools for providing more effective client services through improved referrals, interagency case management, and service coordination. At local discretion, an HMIS can be used as an operational tool to share assessments of client needs, to link clients to needed services from multiple providers, to track the provision of services across providers, and to determine the current location of clients within the service system. Many communities have already used HMIS in this way, and many more are likely to do so. Agency administrators can better manage operational information through ready access to a variety of agency, program, and client reports.

Through funding and technical assistance, HUD intends to help communities develop HMIS to facilitate service delivery.

The Local Continuum of Care

Policy makers and advocates benefit from access to CoC data that describe the extent and nature of homelessness and provide a greater understanding of service usage, effectiveness, and gaps. This information can be used to target limited resources and inform planning and policy decisions. Local CoCs can use HMIS to demonstrate the size and characteristics of their homeless population and current patterns of service use by that population, including access to mainstream services. CoCs can and should use analysis of HMIS data to demonstrate the need for additional resources to public and private funding sources. HMIS data can also be used to understand how to realign housing resources and service delivery within the CoC and how to create the links to mainstream programs that are essential to the prevention of homelessness and to sustaining formerly homeless people in permanent housing. Compared to other commonly used methods for gathering information on homeless persons, notably point-in-time census counts, HMIS present local CoCs with the opportunity to obtain significantly better data about homelessness in their communities and to analyze that information over time.

National Policy Makers

HMIS will also help national policy makers and advocates more effectively address homelessness. Congress has charged HUD with producing an Annual Homeless Assessment Report (AHAR) based on HMIS data. To carry out that

responsibility, HUD is developing the national HMIS data and technical standards described in this notice. In addition, HUD will develop a representative sample of 80 jurisdictions and will help those jurisdictions develop their HMIS, collect good quality data, and conduct analysis to support unduplicated counts of homeless service users and their characteristics at the local level. Analysis of HMIS data from the 80-jurisdiction sample will form the core of the AHAR and will enable Congress and HUD to better understand the needs of homeless persons and target federal resources accordingly.

HUD also has responsibility for funding and monitoring several McKinney-Vento Act programs. HMIS will make it possible for HUD to request—and grantees to provide—information for Annual Progress Reports that will enable HUD to report program results to Congress and the American public as required by the Government Performance Results Act and to meet its administrative and program responsibilities.

1.4 Major HMIS Policy Decisions

A National Client—Level HMIS or Annual Progress Report (APR) Database Will Not Be Created

The HMIS initiative will include no federal effort to track homeless people and their identifying information beyond the local level. HUD has no plans to develop a national client-level database with personal identifiers of homeless service users, having concluded that such plans would create serious impediments to provider participation in local HMIS and to client recourse to local services. This consideration was weighed against the advantages of a national database with personal identifiers that could be used to more accurately identify mainstream service use by homeless persons and analyze data on the characteristics of homeless persons nationwide. It was decided that these objectives can be accomplished through analysis of de-identified HMIS data compiled from CoCs across the country.

Certain Data Must Be Collected by CoCs To Obtain an Unduplicated Count of Homeless Persons and To Fulfill Program Requirements

In order to obtain an unduplicated count of homeless persons at the CoC level, a data standard is proposed for all local HMIS that requires homeless clients be asked for personal identifying information, including name, date of birth, and Social Security number, when

seeking housing or services. At the time that personal identifying information is collected from each client, he or she must be given an explanation of how the information will be used, how it will be protected, and the advantages of providing accurate information. Standards for notification about the purposes of data collection, non-disclosure, and protection of data are discussed in Part 4 of this notice.

Providers will be required to report the client-level data specified in this notice on a regular basis to a central data storage facility. The CoC will be responsible for aggregating the data and preparing an unduplicated local count of homeless persons. This body must also retain the data for a period of five years adhering to the security provisions set forth in Part 4 of this notice.

In addition to data required for creating unduplicated counts, HUD, other federal agencies, state and local governments, and private funders of homeless services often require certain information to determine eligibility for housing or services or to assess needed services. This eligibility-related information is often statutory and/or regulation-based and is contained in provider agreements. Therefore, some providers are required to obtain certain information from homeless persons as a condition for receiving services. (See HUD's McKinney-Vento Act client-eligibility and assessment program requirements above.) Exceptions to this requirement may occur in outreach programs to the street homeless or other nonresidential-based services such as soup kitchens. In such cases, an intake is often not taken, or even possible, and no information is required to access the service. It is not HUD's intention that clients be denied service if they refuse to supply identifying information.

Sharing of HMIS Data Among Providers Is Encouraged But Not Required

While local providers will be required to report a limited amount of client-level data to a CoC's central data storage facility on a regular basis, sharing of HMIS data among providers within the CoC is not required by HUD and is at the discretion of each CoC. CoCs that share data may choose to share all of the information that is collected about clients or limit that information to a small number of data elements. If the CoC decides to share limited data among providers, it should allow access to at least the name, Social Security number, and birthdate of the persons served in order to determine whether the individual who is applying for services was previously served within the CoC.

Sharing of HMIS information among providers within a CoC allows local providers and clients to obtain maximum benefits from such systems. From an operational perspective, it improves the ability of service provider staff to coordinate and deliver services to homeless clients. From a policy and research perspective, sharing enables the CoC to obtain most efficiently and accurately an unduplicated count of homeless persons at the CoC level, analyze its needs and service patterns, and determine the extent to which mainstream programs are serving homeless persons.

Regardless of whether sharing among providers occurs or not, protected personal identifiers must be encrypted within the HMIS using the highest current standards. Unencrypted data should only be accessible through the local HMIS application at the site. Encryption standards are discussed in Part 4 of this notice.

Special Provisions for Domestic Violence Shelters

Domestic violence shelters and other programs targeting victims of domestic violence play an important role in many CoCs and have received significant funding through local Continuums. Domestic violence victims are also served in many general purpose emergency and transitional facilities funded by HUD. HUD is aware of, and is sensitive to, the data confidentiality and security concerns that many domestic violence shelters have with respect to their participation in a local HMIS. HUD is also aware of a range of provider practices and protocols for collecting intake and other information from clients who are victims of domestic violence.

As mentioned in Section 1.2, the ESG and SHP programs have specific domestic shelter/victims protections. These programs must still aggregate basic demographic and other information to submit to the ESG Integrated Disbursement and Information System (IDIS) and/or the SHP Annual Progress Report. The key to many domestic shelters' participation in existing HMIS hinges on the availability of sophisticated specific HMIS software that addresses data security issues and the protocols for data security, confidentiality, and sharing developed at the local level.

At a minimum, HUD will not expect a domestic violence shelter it funds to participate in a local HMIS where HMIS software or data protocols raise a significant risk to its clients. In addition, providers of homeless assistance services will not be required to report

personal identifying information for victims of domestic violence or for people in witness protection programs to a central storage facility given the unique concerns about personal safety for these populations. However, providers will be expected to provide unduplicated project-level data about participant characteristics without personal identifiers.

It should be emphasized that HMIS have the potential for providing valuable data concerning domestic violence victims' needs at the local and national levels. HUD invites continued dialogue with domestic violence shelters and advocates concerning appropriate national data and technology standards to protect domestic violence victims and encourage participation in local HMIS, thus extending HMIS benefits to victims of domestic violence.

1.5 Who Must Participate in Homeless Management Information Systems

Given the benefits of an HMIS for improving housing and service provision at the local level and providing accurate estimates of the homeless population and its needs, all recipients of HUD McKinney-Vento Act program funds are expected to participate in an HMIS. The HUD McKinney-Vento Act programs include Emergency Shelter Grants, Supportive Housing Program, Shelter Plus Care, and Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO). In the FY 2003 funding notices for the Supportive Housing, Shelter Plus Care, and Section 8 SRO Moderate Rehabilitation programs, HUD announced that providing data to an HMIS is a condition of funding for grantees. It is expected that all recipients of Housing Opportunities for Persons with AIDS (HOPWA) funding whose projects intentionally target assistance, conduct outreach, and/or conduct other specialized efforts to serve HOPWA eligible persons who are homeless, should ensure that reporting on assistance to these persons is integrated within the area's HMIS efforts. HOPWA projects that serve homeless persons are expected to, and strongly encouraged to, participate in the area's HMIS.

The annual CoC application requires information about a CoC's progress in developing and implementing its HMIS. This information is used to rank CoCs in order to determine annual program funding. The application questions will be more detailed in the future to make possible an accurate determination of the extent of coverage and stage of implementation of each HMIS.

Recipients of funds under most HUD McKinney-Vento Act programs and HOPWA are required to submit Annual Progress Reports (APRs) to HUD. In the future, much of the information to be included in APRs will be derived from HMIS data. This will be possible since guidelines for reporting to the APR will reflect the data standards set forth in this notice and used in the HMIS. HUD will also be considering the value of automatic submission of aggregate APR data. For ESG and HOPWA grantees and recipients who are covered under the area's Consolidated Plan, performance reporting involves the annual submission of a Comprehensive Annual Performance Evaluation Report (CAPER) along with the use of the Department's Integrated Disbursement and Information System (IDIS). HMIS will also provide a valuable tool to communities to provide the basic data that will be used to inform the performance reports used for these formula programs.

HUD may at some point use an APR driven by HMIS data to measure the performance of both McKinney-Vento Act program grantees and CoC more generally. Should that occur, performance indicators would be developed through a process of consultation with providers of services to homeless persons. Performance indicators would need to be carefully designed to include appropriate adjustments for the characteristics of the population served by a CoC and individual providers and the nature of the services provided. CoC grantees and software developers would be given sufficient time to adopt enhancements to their systems to accommodate these new outcome indicators.

1.6 Staging of Local HMIS Implementation

HUD recognizes that developing and implementing an HMIS is a difficult and time-consuming process and must necessarily be done in stages. A CoC's first priority is to bring on board the emergency shelters and transitional housing programs that receive HUD McKinney-Vento Act funding. However, HUD also encourages CoCs to actively recruit providers that receive HUD funding through sources other than the McKinney-Vento Act. These providers should be included in the HMIS as early as possible.

Other federal agencies that fund McKinney-Vento Act programs have their own data collection and reporting requirements. Key federal agency representatives were invited and participated in consideration of proposed HMIS data elements for this

notice. HUD continues to work with those agencies to maximize standardization of McKinney-Vento Act reporting requirements and to broaden adoption of HMIS-based data.

The inclusion of any other local homeless assistance programs in an HMIS is encouraged, but it is a matter of local choice and will depend on the nature of the local service system. The decision to include other programs may require local HMIS designers to make trade-offs between the desirability of

including as many homeless service providers as possible and the feasibility of obtaining high quality data. At the same time, given the benefits of HMIS to clients, service providers, and the larger CoC system, a high degree of coverage is both desirable and advantageous.

As the later standards indicate, HUD does not expect every CoC to implement the widest range of functionality for every homeless shelter and service provider in the short-run. HUD

encourages CoCs to focus initially on developing demographic information about homeless clients. However, it should be noted that client assessment and service outcome modules are valuable tools to track client needs and progress. This greater level of data collection will enhance the ability of individual providers and CoCs to document client needs and ensure program requirements are met.

BILLING CODE 4210-29-P

Priority Participation* in HMIS

By Program Type

		Residential			Homeless Prevention	Outreach To Street
		Emergency	Transitional	Permanent Supportive Housing		
McKinney Vento HUD Programs	Supportive Housing	1	1	2	NA	1
	Shelter Plus Care	NA	NA	2	NA	NA
	Section 8 Single Room Occupancy	NA	NA	2	NA	NA
	Emergency Shelter Grants	1	1	NA	3	NA
Other HUD Homeless Programs	Housing Opportunities for Persons with AIDS	1	1	2	NA	1
	Community Development Block Grants	1	1	NA	NA	1
	HOME	NA	1	2	NA	NA
Other Federal Programs	Emergency Food and Shelter (FEMA)	1	1	NA	3	NA
	Runaway and Homeless Youth (HHS)	1	1	NA	NA	1
	Projects for Assistance in Transition from Homelessness (PATH)(HHS)	1	1	NA	NA	1
	Traditional Living for Homeless Youth (HHS)	NA	1	NA	NA	NA
	Family Violence Prevention and Services (HHS)	1	1	NA	NA	1
	Health Center Grants for Homeless Persons (Health Care for the Homeless)(HHS)	NA	NA	NA	NA	1
	Violence Against Women Grants (DOJ)	1	1	NA	NA	1
	VA Homeless Providers Grants and Per Diem	1	1	NA	NA	1
	Non Federally Funded Service Providers	1	1	3	NA	1

* The Department expects that communities will set priorities for HMIS participation by beginning with activities designated as "1", then "2" and finally "3"

1.7 Why Uniform Data Standards Are Necessary

Uniform data standards are needed so that CoCs across the country can generate HMIS-based reports with comparable data elements, definitions, and comprehensiveness. The consistency of the HMIS reports will make it possible to compare the characteristics of homeless populations and the services provided both within and across CoCs. The data collection methods specified in the data standards also provide safeguards to the vulnerable populations that are the subjects of an HMIS.

To advise HUD in developing the data standards set forth in Parts 2 and 3 of this notice, HUD assembled a group of experts on August 27 and 28, 2002. The experts included representatives from CoCs with more advanced HMIS systems, experts from federal agencies that collect data on vulnerable populations, researchers on homelessness, advocacy organizations, and providers of technical assistance to communities that have developed HMIS.

Based on the advice provided in those meetings and following further consultations with those experts and other homelessness specialists, HUD has determined that there are three levels of data that may be included in an HMIS: Universal data elements, program-level data elements, and elective data elements. Only the universal and program-level data elements are discussed in the sections of the notice (Parts 2 and 3) that describe data standards.

- Universal data elements are to be collected from all clients served by all programs reporting to the HMIS. These data elements are needed for CoCs to understand the basic dynamics of homelessness on the local level and for HUD to meet the Congressional direction for an unduplicated count of homeless service users at the local level and a description of their characteristics. Any personal identifiers collected in accordance with these standards shall be encrypted and subject to severely restricted access.

- Program-level data elements are elements to be collected from clients served by programs—federal, state, or local—that include an assessment of the client's needs as a basic element in their provision of service. That assessment elicits key information used to plan service delivery (in some cases), determine eligibility for services, track the provision of services, and record outcomes. Program funders may require the collection of certain program-level

data elements as part of their annual reporting requirements. Several projects under HUD's McKinney-Vento Act programs, including the Supportive Housing Program, Shelter Plus Care, and Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings, and for Housing Opportunities for Persons with AIDS (HOPWA), intentionally target assistance, conduct outreach, and/or conduct other specialized efforts to serve HOPWA eligible persons who are homeless. For these projects, program participants should ensure that reporting on assistance to persons who are homeless is integrated within the area's HMIS efforts. HOPWA projects that serve homeless persons are expected to, and encouraged to, participate in the area's HMIS. This is discussed in more detail in Part 3 of this notice.

Program-level data elements include private or sensitive information on topics such as income, physical disabilities, behavioral health status, and whether the client is currently at risk of domestic violence. At the time this information is collected, the client will be told the purpose for which the question is being asked and the way in which the client may benefit from answering the question (for example, by suggesting need or eligibility for a particular service). Local CoCs will have to establish firm policies and procedures to protect against unauthorized disclosure of personal information. This will be discussed in more detail in Part 4 of this notice.

- Elective data elements are any data elements not specified as universal or program-level. Some HMIS, particularly those used directly as a tool in the provision of services, may be very complex. Particular programs (or the entire local CoC) may wish to collect assessment, service tracking, and outcome information in more detail than required by the uniform HMIS standards. For example, with regard to behavioral health, a program may wish to capture significantly more information about a client's psychiatric history or current status than is specified under the program-level data elements. Such elective data elements and response categories are developed at the discretion of each CoC. However, if the CoC or a local provider collects more information than is required by the HMIS data standards, the CoC or provider must be able to transform the more detailed data into the broader data elements and response categories of HMIS data standards.

Furthermore, HMIS are not limited to the topics covered by the data elements in this notice. Local patterns for

delivery of services and local decisions on the scope of participation in the HMIS may call for additional data collection modules that are entirely different from the data elements that are the subject of this notice.

The next two parts of the notice set forth the HMIS data standards. Part 2 presents the universal data elements to be collected from all clients. Part 3 presents program-level data elements to be collected from clients in certain types of programs. Recommended data collection guidelines, question wording, and required response categories are provided for each data element, and, when appropriate, there is a discussion of special issues. Part 4 of this notice describes in more detail the standards for data confidentiality and security to which an HMIS will be expected to adhere. Finally, Part 5 addresses technical standards for the creation of data systems.

2. Data Standards for Universal Data Elements

HUD has determined that some data elements should be collected by all agencies serving homeless persons. HUD carefully weighed the reporting burden of the universal data elements against the importance of the information for producing meaningful reports. Of special concern to HUD was the reporting burden for shelters that register large numbers of applicants on a nightly basis, with little time to collect information from each applicant. As a result, the number of universal data elements was kept to a minimum, and the ease of providing the information requested was considered for each element.

The Department is inviting comments on how Homeless Management Information Systems can be used to measure chronic homelessness. At present, the universal data standards will provide information on the month and year a homeless individual left his or her last permanent address. Further, HMIS will generate information on shelter stays and homelessness episodes over time. However, given shelter worker demands and other considerations, a determination of disability is currently outside the scope of what is collected as part of the universal data elements.

The universal data elements include:

- 2.1: Name
- 2.2: Social Security Number
- 2.3: Date of Birth
- 2.4: Ethnicity and Race
- 2.5: Gender
- 2.6: Veteran Status
- 2.7: Residence Prior to Program

Entry

- 2.8: Zip Code of Last Permanent Address
- 2.9: Month and Year Person Left Last Permanent Address
- 2.10: Program Entry Date
- 2.11: Program Exit Date
- 2.12: Unique Person Identification Number

- 2.13: Program Identification Number
- 2.14: Program Event Number
- 2.15: Household Identification Number

2.16: Children's Questions
Data elements 2.1 through 2.11 require that staff from a homeless assistance agency enter information provided by a client into the HMIS database. For each of these data elements one or more questions and multiple response categories are provided. There is no requirement that the questions appear on the computer screens generated by the HMIS application. At the same time, staff are highly encouraged to use them.

The response categories are required and the HMIS application must include these responses exactly as they are presented in this section. Part 5 of this notice, Technical Standards, discusses approaches for handling missing response categories throughout the HMIS application.

The universal data questions must be asked of each adult who applies for a homeless assistance service. Where a group of persons apply for services together (as a household or family), the intake worker will first ask for information from the household head who is applying for services and then request information from him/her about any children under the age of 18 who are applying for services with the household head. (The children do not need to be present at the time the household head applies for services.) Any other adults (18 years of age or older) who are applying for services with this group of persons will be interviewed separately. One adult should not provide information for another adult.

Because this section follows an interview format, all of the data elements that are asked of an adult are presented first in this section, followed by the data elements that are required for any children (presented in 2.16).

Elements 2.12 to 2.15 are automatically generated by the data collection software, although staff inquiries are essential for the proper generation of these elements.

All protected personal information, including data elements 2.1, 2.2, 2.3, 2.8, 2.10, 2.11, 2.12, and 2.13 will be encrypted using at least 128-bit

encryption standards. This will render the data unusable to any casual viewer, as the information will not be able to be unencrypted and viewed except through the local HMIS application.

Jurisdictions must have the capacity to unencrypt HMIS data at the local level. HMIS user access to this information will be highly restricted in accordance with Part 4 of this notice.

2.1 Name

Rationale: The first, middle, and last names should be collected to support the unique identification of each person served.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults and children served.

Recommended Interview Questions and Required Response Categories:

Q: "What is your first, middle, and last name?" (legal names only; avoid aliases or nicknames)

(example: John David Doe, Jr.)

88—Don't know

99—Refused

Q: "Have you ever received services under a different name?"

0—No

1—Yes

88—Don't know

99—Refused

If yes:

Q: "What was the other name under which you received services?"

Special Issues: Four fields should be created in the HMIS database to capture suffixes such as "Junior" or "II" in addition to their full first, middle, and last names. Part 5 of this notice discusses how to treat missing information for open-ended questions.

This data standard should be treated as a protected personal identifier and is subject to the security standards for personal identifiers set forth in Part 4 of this notice.

2.2 Social Security Number

Rationale: The Social Security number should be collected to support the unique identification of each person served.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults and children served.

Recommended Interview Questions and Required Response Categories:

Q: "What is your Social Security number?" (use "X" for missing numbers) [If client declines to provide his/her SSN, he/she cannot be declined services on that basis].

_____/_____/_____(example: 123 45 6789, or 123 45 XXXX)

77—Does not have a Social Security number

88—Don't know

99—Refused

Special Issues: Clients cannot be denied services if they refuse to provide their Social Security number.

Although the HMIS application's data entry form may include hyphens within the SSN to improve readability, one alphanumeric field without hyphens should be created within the HMIS database.

This data standard should be treated as a protected personal identifier, and is subject to the security standards for personal identifiers set forth in Part 4 of this notice.

2.3 Date of Birth

Rationale: The date of birth can be used to calculate the age of persons served at time of program entry or at any point in receiving services. It will also support the unique identification of each person served.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults and children served.

Recommended Interview Questions and Required Response Categories:

Q: "What is your birth date?" (use "X" for missing numbers)

____/____/_____(example: 01/31/2002, or 01/XX/2002)(Month) (Day) (Year)

If complete birth date is not known:

Q: "In what year were you born?"

88—Don't know

99—Refused

Q: "In what month were you born?"

88—Don't know

99—Refused

If neither year nor month of birth is known:

Q: "What is your age?"

____ years old

88—Don't know

99—Refused

Special Issues: One date-format field for complete birth dates should be created in the HMIS database.

This data standard should be treated as a protected personal identifier, and is subject to the security standards for personal identifiers set forth in Part 4 of this notice.

2.4 Ethnicity and Race

Rationale: Ethnicity and race can be used to count the number of homeless persons who identify themselves as Hispanic and to count the number of homeless persons who identify themselves within five different racial categories. In the October 30, 1997, issue of the **Federal Register** (62 FR 58782), the Office of Management and Budget (OMB) published "Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity." All existing federal recordkeeping and report requirements must be in compliance with these Standards as of January 1, 2003.

Data Collection Methods: Interview or self-administered form. Staff observations should not be used to collect information on ethnicity and race.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults and children served.

Recommended Interview Questions and Required Response Categories:

Ethnicity

Q: "Are you Hispanic or Latino?"

- 0—No (Non-Hispanic/Non-Latino)
- 1—Yes (Hispanic or Latino)
- 88—Don't know
- 99—Refused

Race

Q: "What is your race (you may name more than one race)?"

- 1—American Indian or Alaska Native (A person having origins in any of the original peoples of North and South America—including Central America—and who maintains tribal affiliation or community attachment.)
- 2—Asian (A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.)
- 3—Black or African American (A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American".)
- 4—Native Hawaiian or Other Pacific Islander (A person having origins in any of the original peoples of Hawaii,

Guam, Samoa, or other Pacific Islands.)

5—White (A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.)

- 88—Don't know
- 98—Not applicable
- 99—Refused

Special Issues: The HMIS should treat race as five separate fields to account for multiple race responses. For instance, if a respondent identifies herself as White and Asian, code "5" is recorded in the first data field, "2" is recorded in the second data field, and "98" (Not applicable) in the remaining data fields.

2.5 Gender

Rationale: To create separate counts of homeless men and homeless women served.

Data Collection Methods: Interview, observation, or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults and children served.

Recommended Interview Questions and Required Response Categories:

Q: "Are you male or female?"

- 0—Male
- 1—Female
- 88—Don't know
- 99—Refused

Special Issues: The gender questions are meant to capture the self-perceived sexual identity of the person interviewed and the caregiver's perception of the children who are with him/her. If the person replies that he/she is unsure of gender for any member of the household, the interviewer should record "Don't know."

Programs may add a "transgender" category as needed. However, for reporting purposes this category will be represented as "Don't know."

2.6 Veteran Status

Rationale: To determine the number of homeless veterans.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults served.

Recommended Interview Question and Required Response Categories:

Q: "Have you ever served on active duty in the Armed Forces of the United States?"

- 0—No
- 1—Yes
- 88—Don't know
- 99—Refused

Special Issues: The "Armed Forces" do not include inactive military reserves

or the National Guard unless the person has been called up to active duty.

2.7 Residence Prior to Program Entry

Rationale: To identify the type of residence experienced just prior to program admission.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults and, if necessary, children served.

Recommended Interview Questions and Required Response Categories:

Q: "Where did you stay last night?"

- 1—Emergency shelter
- 2—Transitional housing for homeless persons
- 3—Permanent housing for formerly homeless persons
- 4—Psychiatric facility
- 5—Substance abuse treatment facility
- 6—Hospital
- 7—Jail
- 8—Prison
- 9—Hotel or motel
- 10—Foster care home
- 11—Own room, apartment, or house
- 12—Living with someone else (family and friends)
- 13—A car or other vehicle
- 14—An abandoned building
- 15—At a transportation site (bus station, airport, subway station, etc.)
- 16—Anywhere outside (streets, parks, campgrounds, cardboard boxes, etc.)
- 17—Other
- 88—Don't know
- 99—Refused

Q: "How long did you stay at that place?"

- 1—Less than one week
- 2—One to two weeks
- 3—Three weeks to one month
- 4—Two to three months
- 5—Four to six months
- 6—Seven months to one year
- 7—More than one year
- 88—Don't know
- 99—Refused

Special Issues: This standard does not preclude the collection of residential history information beyond the residence experienced the night prior to program admission.

2.8 Zip Code of Last Permanent Address

Rationale: To identify the former geographic location of persons experiencing homelessness.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults and, if necessary, children served.

Recommended Interview Questions and Required Response Categories:

Q: "What is the zip code of the apartment, room, or house where you last lived for six consecutive months or more?"

_____ (5 digits)

88—Don't know

99—Refused

If zip code is unknown, ask:

Q: "What was the street address?"

(Number and Street) (City) (State)

Special Issues: If the last permanent address was institutional (e.g., prison, psychiatric hospital), ask for its address. If a street address is provided, three separate fields for number/street, city, and state should be generated. Use standard state abbreviations for the state data field. Part 5 of this notice discusses how to treat missing information for open-ended questions.

This data standard should be treated as a protected personal identifier and is subject to the security standards for personal identifiers set forth in Part 4 of this notice.

2.9 Month and Year Person Left Last Permanent Address

Rationale: To estimate the amount of time a person has been homeless or unstably housed.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adults and, if necessary, children served.

Recommended Interview Question and Required Response Categories:

Q: "What month and year did you leave the last apartment, room, or house where you lived for six months or more?" (use "X" for missing numbers)

_____/_____/_____
(example: 01/2002, or XX/2002) (Month) (Year)

88—Don't know

99—Refused

2.10 Program Entry Date

Rationale: To calculate the length of stay in a homeless residential program or the amount of time spent participating in a services-only program.

Data Collection Methods: Recorded by the staff responsible for registering program entrants.

When Data Are Collected: Upon any program entry (whether or not it is an initial program entry).

Subjects: All adults and children served.

Recommended Interview Question and Required Response Categories:

_____/_____/_____
(example: 01/31/2002) (Month) (Day) (Year)

Special Issues: For a shelter visit, this date would represent the first day of residence in a shelter program following residence outside of the shelter or in another program. For example, the first date of service may be the date a person is admitted into a shelter, after residing in an abandoned building or with relatives the night before. It may also represent the first date of residence in a transitional program after transferring from an emergency shelter program. For services, this date may represent the day a service was provided, or the first date of a period of continuous service. For example, if a person receives daily counseling as part of an ongoing treatment program, the first date of service could be the date of enrollment in the treatment program.

Any return to a program one day or more after the last date of utilization must be recorded as a new program entry date.

This data standard should be treated as a protected personal identifier and is subject to the security standards for personal identifiers set forth in Part 4 of this notice.

2.11 Program Exit Date

Rationale: To calculate the length of stay in a homeless residential program or the amount of time spent participating in a services-only program.

Data Collection Methods: Recorded by the staff responsible for monitoring program utilization or conducting exit interviews.

When Data Are Collected: Upon any program exit.

Subjects: All adults and children served.

Recommended Interview Question and Required Response Categories:

_____/_____/_____
(example: 01/31/2002) (Month) (Day) (Year)

Special Issues: For a shelter visit, this date would represent the last day of residence in a shelter program before the day that the client transfers to another residential program or otherwise leaves the shelter. For example, the last date of service would be the last night the person stayed at the shelter prior to moving into permanent or transitional housing, or failing to return to the shelter. For services, this date may represent the day a service was provided or the last date of a period of continuous service. For example, if a person has been receiving daily counseling as part of an ongoing treatment program and either formally terminates their involvement or fails to return for counseling, the last date of

service could be the date of termination or date of the last counseling session.

If a client has not utilized a program for one day or more, the last day of utilization must be recorded as the program exit date.

This data standard should be treated as a protected personal identifier and is subject to the security standards for personal identifiers set forth in Part 4 of this notice.

2.12 Unique Person Identification Number

Rationale: Every client receiving homeless assistance services within a CoC is assigned a Personal Identification Number (PIN), which is a permanent and unique number generated by the HMIS application. The PIN is used to obtain an unduplicated count of persons served within a CoC.

Data Collection Methods: Where data are shared across programs in a CoC, staff will determine at intake whether a client has been previously assigned a PIN. To make this determination, the staff enters personal identifying information (Name, Social Security Number, Date of Birth, and Gender) into the HMIS application. The application then searches a CoC's centralized database for matching records. If a match is found and a PIN is retrieved, the same PIN will be assigned to the client. If no matches are found, a new randomly generated PIN is assigned to the client.

Where data are not shared across programs, programs will provide client-level information on a regular basis to the CoC system administrator. The CoC administrative staff are responsible for assigning PINs by searching and matching client records using personal identifying information.

When Data Are Collected: When data are shared across programs, upon program entry or as soon as possible thereafter. When data are not shared across programs, the assignment of PINs occurs after client records are submitted to the CoC system administrator.

Subjects: All adults and children served.

Recommended Interview Question and Required Response Categories:

The following question may facilitate the search for an existing Personal Identification Number:

Q: "Have you ever been served by this [name of facility or program] before?"

0—No

1—Yes

88—Don't know

99—Refused

Special Issues: The PIN is a random number automatically generated by the

HMIS application (see Part 5 of this notice).

This data standard should be treated as a protected personal identifier and is subject to the security standards for personal identifiers set forth in Part 4 of this notice.

2.13 Program Identification Number

Rationale: Program identification numbers will indicate the geographic location of a program, its facility and CoC affiliation, and whether the program is a street outreach, emergency shelter, transitional housing, permanent supportive housing, or services-only type of program.

Data Collection Methods: Selected by staff from a list of programs available within a particular agency or the CoC. Upon selection of a program from the list, the HMIS application will assign the program identification number to the client's record.

When Data Are Collected: Upon any program entry (whether or not it is an initial program entry).

Subjects: All adults and children served.

Special Issues: The program identification number will be constructed in a way that identifies the geographic location of a program, its facility and CoC affiliation, and whether it is a street outreach, emergency shelter, transitional housing, permanent supportive housing, or services-only type of program. On an HMIS data entry screen, program staff may view and select from a listing of programs. The HMIS application then generates the program identification number. For more information, see Part 5 of this notice. This data standard should be treated as a protected personal identifier and is subject to the security standards for personal identifiers set forth in Part 4 of this notice.

2.14 Program Event Number

Rationale: To distinguish the unique episodes of program service utilization.

Data Collection Methods: A Program Event Number is automatically generated for each episode of service by the HMIS application. The number is generated from program entry and exit dates, program identifier numbers, and Personal Identification Numbers.

Subjects: All adults and children served.

Special Issues: This number is necessary for identifying unique episodes of program service utilization. It is particularly useful when a client has received multiple services from a single program or provider on the same day. For example, if a client receives mental health counseling and general

medical services from a single provider on the same day, separate program event numbers will be generated for each service. For more information, see Part 5 of this notice.

2.15 Household Identification Number

Rationale: To count the number of households served.

Data Collection Methods: Interview or staff observation that client is participating in a program with other members of a household.

When Data Are Collected: Upon any program entry (whether or not it is an initial program entry) or as soon as possible thereafter. Persons can join a household with members who have already begun a program event, or leave a program although other members of the household remain in the program.

Subjects: All adults and children served.

Recommended Interview Questions and Required Response Categories:

If it is not evident that others are applying for or receiving assistance with the client, then ask:

Q: "Who else is applying for (or receiving) assistance with you?"

Q: "What is their first, middle, and last name?" (legal names only; avoid aliases and nicknames)

(example: John David Doe, Jr.)

88—Don't know

99—Refused

Special Issues: A household is a group of persons who together apply for and/or receive a specific homeless assistance service.

A common household identification number should be assigned to each member of the same household. Individuals in a household (adults and/or children) who are not present when the household initially applies for assistance and later join the household should be assigned the same household identification number that links them to the rest of the persons in the household. Part 5 of this notice discusses how to treat missing information for open-ended questions.

See section 2.16 for questions that may be asked about household members under 18 years of age.

2.16 Children's Questions

Recommended Interview Questions and Required Response Categories:

Name

Q: "Do you have any children under 18 years of age with you?"

0—No

1—Yes

88—Don't know

99—Refused

If yes,

Q: "What is (are) the first, middle, and last name(s) of the child(ren) with you?"

(example: Jane Mary Doe)

88—Don't know

99—Refused

Social Security Number

Q: "What is (are) the Social Security number(s) for [name of child]?" (use "X" for missing numbers)

(example: 123 45 6789 or 123 45 XXXX)

77—Does not have a Social Security number

88—Don't know

99—Refused

Date of Birth

Q: "What is the birth date of [name of child]?" (use "X" for missing numbers)

/ / (example: 01/31/2002 or 01/XX/2002) (Month) (Day) (Year)

If complete birth date(s) is(are) not known:

Q: "What year was [name of child] born in?"

88—Don't know

99—Refused

Q: "What month was [name of child] born in?"

88—Don't know

99—Refused

If neither year nor month of birth is known:

Q: "What is the age of [name of child]?"

_____ years old

88—Don't know

99—Refused

Ethnicity

Q: "Is [name of child] Hispanic or Latino?"

0—No (Non-Hispanic/Non-Latino)

1—Yes (Hispanic or Latino)

88—Don't know

99—Refused

Race

Q: "What is the race of [name of child] (you may name more than one race)?"

1—American Indian or Alaska Native (A person having origins in any of the original peoples of North and South America—including Central America—and who maintains tribal affiliation or community attachment.)

2—Asian (A person having origins in any of the original peoples of the Far

- East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.)
 - 3—Black or African American (A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” can be used in addition to “Black or African American”.)
 - 4—Native Hawaiian or Other Pacific Islander (A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.)
 - 5—White (A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.)
 - 88—Don’t know
 - 98—Not applicable
 - 99—Refused
- Gender
- Q: “Is [name of child] male or female?”
- 0—Male
 - 1—Female
 - 88—Don’t know
 - 99—Refused

- Residence Prior to Program Entry
- Q: “Where did [name of child] stay last night?”
- 1—Emergency shelter
 - 2—Transitional housing for homeless persons
 - 3—Permanent housing for formerly homeless persons
 - 4—Psychiatric facility
 - 5—Substance abuse treatment facility
 - 6—Hospital
 - 7—Jail
 - 8—Prison
 - 9—Hotel or motel
 - 10—Foster care home
 - 11—Own room, apartment, or house
 - 12—Living with someone else (family and friends)
 - 13—A car or other vehicle
 - 14—An abandoned building
 - 15—At a transportation site (bus station, airport, subway station, etc.)
 - 16—Anywhere outside (streets, parks, campgrounds, cardboard boxes, etc.)
 - 17—Other
- Q: “How long did [name of child] stay at that place?”
- 1—Less than one week
 - 2—One to two weeks
 - 3—Three weeks to one month
 - 4—Two to three months

- 5—Four to six months
 - 6—Seven months to one year
 - 7—More than one year
 - 8—Don’t know
 - 9—Not applicable
 - 10—Refused
- Zip Code of Last Permanent Address
- Q: “Was [name of child] living with you at the last place you lived for six consecutive months or more?”
- 0—No
 - 1—Yes
 - 88—Don’t know
 - 99—Refused
- Month and Year Child Left Last Permanent Address
- If response to “Was [name of child] living with you at the last place you lived for six consecutive months or more” question is “No,” ask:*
- Q: “What month and year did [name of child] leave the last place where [he or she] lived for six months or more?” (use “X” for missing numbers)
- ____/____/____ (example: 01/2002, or XX/2002) (Month) (Year)
- 88—Don’t know
 - 99—Refused

SUMMARY OF UNIVERSAL DATA ELEMENTS

Data standards	Subjects	Protected personal information	Data entry or computer-generated
Name	Adults and Children	Protected	Data Entry.
SSN	Adults and Children	Protected	Data Entry.
Date of Birth	Adults and Children	Protected	Data Entry.
Ethnicity and Race	Adults and Children .....	.....	Data Entry.
Gender	Adults and Children .....	.....	Data Entry.
Veteran Status	Adults .....	.....	Data Entry.
Residence Prior to Program Entry	Adults and Children .....	.....	Data Entry.
Zip Code of Last Permanent Address.	Adults and Children	Protected	Data Entry.
Month and Year Left Last Permanent Address.	Adults and Children .....	.....	Data Entry.
Program Entry Date	Adults and Children	Protected	Data Entry.
Program Exit Date	Adults and Children	Protected	Data Entry.
Unique Personal Identification Number.	Adults and Children	Protected	Computer-Generated.
Program Identification Number	Adults and Children	Protected	Computer-Generated.
Program Event Number	Adults and Children .....	.....	Computer-Generated.
Household Identifier Number	Adults and Children .....	.....	Computer-Generated.

3. Data Standards for Program-Level Data Elements

Program-level data elements are to be collected from all clients served by some types of programs. These are programs that include as a basic element in their provision of service an assessment of the client’s needs. That assessment elicits key information used to plan service delivery, determine eligibility for services (in some cases), track the provision of services, and record outcomes.

The program-level data elements are to be completed as required by a locality or funder. They are provided as part of this notice so that consistent information can be obtained from programs that collect this type of data from homeless persons. For the Supportive Housing Program, Shelter Plus Care, Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings (SRO) Program, and the Housing Opportunities for Persons with HIV/AIDS (HOPWA)

Program, the following program-level data elements and definitions are needed to complete Annual Progress Reports: 3.1 (Income and Sources) through 3.4 (Developmental Disability), 3.7 (HIV/AIDS Status), 3.8 (Behavioral Health Status), 3.9 (Domestic Violence), 3.11 (Employment), 3.13 (Services Received), 3.14 (Destination), and 3.15 (Follow-up After Program Exit).

The program-level data elements include:

- 3.1: Income and Sources

- 3.2: Non-Cash Benefits
- 3.3: Physical Disability
- 3.4: Developmental Disability
- 3.5: General Health Status
- 3.6: Pregnancy Status
- 3.7: HIV/AIDS Status
- 3.8: Behavioral Health Status
- 3.9: Domestic Violence
- 3.10: Education
- 3.11: Employment
- 3.12: Veterans
- 3.13: Services Received
- 3.14: Destination
- 3.15: Follow-up After Program Exit
- 3.16: Children's Education
- 3.17: Other Children's Questions

Most of the data elements require that staff from a homeless assistance agency enter information provided by the client into the HMIS database. For each data element one or more questions and multiple response categories are provided. As with the universal data elements, there is no requirement that the questions appear on the computer screens generated by the HMIS application. At the same time, staff are highly encouraged to use them. For APR-required data elements, the response categories are required and the HMIS application must include these responses exactly as they are presented in this section.

The program-level data questions are asked of each adult who applies for a homeless assistance service. Where a group of persons apply for services together (as a household or family), the intake worker will first ask for information from the household head who is applying for services and then request information from him/her about any children under 18 years of age who are applying for services with the household head. (The children do not need to be present at the time the household head applies for services.) Any other adults who are applying for services with this group of persons should be interviewed separately, unless an adult is unable to provide information for himself/herself.

Because these standards are presented in an interview format, all of the data elements that are asked of an adult are presented first in this section, followed by the data elements that are required for any children.

Since many program-level data elements include private or sensitive information, HUD requires that the client be told the purpose for which the question is being asked and the ways in which the client may benefit from answering the question (e.g., by suggesting need or eligibility for a particular service). Local CoCs will have to establish firm policies and procedures to protect against

unauthorized disclosure of, or misuse of, personal information. These issues will be discussed in more detail in Part 4 of this notice.

3.1 Income and Sources

Rationale: Income and sources of income are important for determining service needs of people at the time of program entry, determining whether they are accessing all income sources for which they are eligible, assessing their degree of vulnerability to chronic homelessness, and describing the characteristics of the homeless population. Capturing the amount of cash income from various sources will help to: Assure all income sources are counted in the calculation of total income; enable program staff to take into account the composition of income in determining needs; determine if people are receiving the mainstream program benefits to which they may be entitled; help clients apply for benefits assistance; and allow analysis of changes in the composition of income between entry and exit from the program.

Data Collection Method: Interview or self-administered form.

When Data Are Collected: Upon initial program entry (or as soon as possible thereafter), at program exit and during periodic follow-up. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults served by the program.

Recommended Questions and APR-Required Response Categories:

Earned Income

Q: "Have you [and/or the children who are coming into this program with you] received money from working in the last month?"

- 0—No
- 1—Yes
- 88—Don't know
- 99—Refused

If yes, then ask the following question:

Q: "Over the last month, how much money did you [and/or the children who are coming to this program with you] receive from working?"

- \$ _____ .00
- 88—Don't know
- 99—Refused

Income from Other Sources

Q: Have you [and/or the children who are coming to this program with you] received money from any other sources in the last month?"

- 0—No
- 1—Yes

88—Don't know

99—Refused

If yes, then ask the following questions:

Q: "Over the last month, how much money did you [and/or the children who are coming into this program with you] receive from the following sources?"

Q: "Unemployment Insurance?"

\$ _____ .00

88—Don't know

99—Refused

Q: "Supplemental Security Income or SSI?"

\$ _____ .00

88—Don't know

99—Refused

(For household head with children)

Q: "Was this SSI for you or for a child who is with you?"

1—Self

2—A child

Q: "Over the last month, how much money did you [and/or the children who are coming into this program with you] receive from the following sources?" (Ask each)

\$ _____ .00

88—Don't know

99—Refused

a—Social Security Disability Income (SSDI)

b—A veteran's disability payment

c—Private disability insurance

d—Worker's compensation

e—Temporary Assistance for Needy Families (TANF) (or replace with local name)

f—General Assistance (GA) (or replace with local name)

g—Retirement income for Social Security

h—Veteran's pension

i—Pension from a former job

j—Child support

k—Alimony or other spousal support

l—Any other sources

If the client reported any sources of income as "Don't Know" or "Refused," then ask:

Q: "Over the last month, what was your total income? Please do not include the income of any persons in your household who are 18 years of age or older."

\$ _____ .00

88—Don't know

99—Refused

Special Issues: Note that this is the only data element that combines information for an adult and his or her children under 18 years of age who are participating in a program. Income for any other adult members of the household should be reported separately. Programs may choose to

disaggregate the sources of income into more detailed categories as long as these categories can be aggregated into the above stated sources of income.

3.2 Non-Cash Benefits

Rationale: Non-cash benefits are important to determine whether people are accessing all mainstream program benefits for which they may be eligible and to ascertain a more complete picture of their situation.

Data Collection Method: Interview or self-administered form.

When Data Are Collected: Upon initial program entry or as soon as possible thereafter, at program exit, and during periodic follow-up. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults served by program.

Recommended Questions and APR-Required Response Categories:

Q: "Have you [and/or the children who are coming into this program with you] received food stamps or money for food on a benefits card in the past month?"

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you participate in the MEDICAID health insurance program?" (or replace with local name)

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you participate in the MEDICARE health insurance program?" (or replace with local name)

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you participate in the State Children's Health Insurance Program (SCHIP)?" (or replace with local name)

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you participate in WIC?"

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you receive Veteran's Administration (VA) Medical Services?"

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you receive TANF Child Care services?" (or replace with local name)

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you receive TANF transportation services?" (or replace with local name)

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you receive any other TANF-funded services?" (or replace with local name)

0—No
1—Yes
88—Don't know
99—Refused

Q: "Do you receive help paying for your rent, for instance, Section 8, public housing, or a housing voucher?"

0—No
1—Yes
88—Don't know
99—Refused

Special Issues: Programs may choose to disaggregate the non-cash sources of income into more detailed categories as long as these categories can be aggregated into the above-stated non-cash sources of income. Programs may also choose to ask additional questions about non-cash sources of income, including: information related to benefit eligibility (e.g., if a person is not receiving a service is it because they are not eligible or eligibility has not yet been determined); and start and stop dates for receipt of benefits.

3.3 Physical Disability

Rationale: To count the number of physically disabled persons served by homeless programs, and to determine eligibility for disability benefits.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon program entry or as soon as possible thereafter. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults and children served.

Recommended Question and APR-Required Response Categories:

Q: "Do you consider yourself to have a physical disability? By physical disability, I mean that you have a physical problem that is not temporary and that limits your ability to get around or work, or your ability to live on your own."

0—No
1—Yes
88—Don't know
99—Refused

3.4 Developmental Disability

Rationale: To count the number of developmentally disabled persons served by homeless programs, and to determine eligibility for disability benefits.

Data Collection Methods: Interview or self-administered form.

When Data Are Collected: Upon program entry or as soon as possible thereafter. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults and children served.

Recommended Question and APR-Required Response Categories:

Q: "Have you ever received benefits or services (such as an income supplement or special education classes) for a developmental disability?"

0—No
1—Yes
88—Don't know
99—Refused

Special Issues: Those with developmental disabilities may include persons who have a severe, chronic disability that is attributed to a mental or physical impairment (or combination of physical and mental impairments) that occurs before 22 years of age and limits the capacity for independent living and economic self-sufficiency.

3.5 General Health Status

Rationale: Information on general health status is a first step to identifying what types of health services a client may need. Changes in health status between intake and exit can be a valuable outcome measure. This data element permits the self-reported health status of homeless persons to be compared with the self-reported health status of the U.S. population in general.

Data Collection Method: Interview or self-administered form.

When Data are Collected: Upon initial program entry (or as soon as possible thereafter), program exit, and during periodic follow-up.

Subjects: All adults and children served by the program.

Recommended Questions and Response Categories:

Q: "Compared to other people your age, would you say your health is excellent, very good, good, fair, or poor?"

1—Excellent
2—Very Good
3—Good
4—Fair
5—Poor
88—Don't know
99—Refused

3.6 Pregnancy Status

Rationale: To determine eligibility for benefits and need for services, and to determine the number of women entering programs for homeless persons while pregnant.

Data Collection Method: Interview or self-administered form.

When Data are Collected: Upon initial program entry or as soon as possible thereafter.

Subjects: All adult females served by the program.

Recommended Questions and Response Categories:

Q: "Are you pregnant?"

0—No

1—Yes

88—Don't know

98—Not applicable

99—Refused

If yes, then ask the following question:

Q: "What is your due date?" (use "X" for missing numbers)

____/____/____ (example: 01/31/
2002, or 01/XX/2002) (Month) (Day)
(Year)

3.7 HIV/AIDS Status

Rationale: To count the number of persons who have been diagnosed with AIDS or have tested positive for HIV.

Data Collection Methods: Interview or self-administered form.

When Data are Collected: Upon program entry or as soon as possible thereafter. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults served.

Recommended Questions and APR-Required Response Categories:

Q: "Have you been diagnosed with AIDS or have you tested positive for HIV?"

0—No

1—Yes

88—Don't know

99—Refused

Special Issue: It is only appropriate to ask these questions if the program is prepared to help persons, in a confidential manner, in order to assess the need for service and/or for programmatic reporting purposes. This assessment process should result in enhanced provision and coordination of both specific HIV-related services and/or other general services addressing a client's needs. As in other areas involving sensitive client information, these questions should be asked and recorded when a program has adequate data confidentiality protections, including adequate training of staff, to ensure that HIV-related information on this person, such as their HIV status or

their participation in related care, cannot be learned by anyone whom they themselves do not voluntarily provide or give permission to have this information. For more information on security and confidentiality, see Part 4 of this notice.

3.8 Behavioral Health Status

Rationale: To count the number of persons served with substance abuse and mental illness problems, and to assess the need for treatment.

Data Collection Methods: Interview or self-administered form.

When Data are Collected: Upon program entry or as soon as possible thereafter. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults served.

Recommended Questions and APR-Required Response Categories:

Q: "Have you ever been in a residential, day, or outpatient treatment program (detox) or hospitalized for the treatment of alcoholism?"

0—No

1—Yes

88—Don't know

99—Refused

Q: "Do you feel that you have a problem with alcohol?"

0—No

1—Yes

88—Don't know

99—Refused

Q: "Have you ever been in a residential, day, or outpatient treatment program (detox) or hospitalized for treatment of drug dependency?"

0—No

1—Yes

88—Don't know

99—Refused

Q: "Do you feel that you have a problem with drugs?"

0—No

1—Yes

88—Don't know

99—Refused

Q: "Have you ever been treated or hospitalized for a psychiatric problem?"

0—No

1—Yes

88—Don't know

99—Refused

Q: "Do you feel that you have any current psychiatric or emotional problem(s) such as serious depression, serious anxiety, hallucinations, violent behavior, thoughts of suicide?"

0—No

1—Yes

88—Don't know

99—Refused

3.9 Domestic Violence

Rationale: Ascertaining whether a person is a victim of domestic violence is necessary to provide the person with the appropriate services to prevent further abuse and to treat the physical and psychological injuries from prior abuse. Also, ascertaining that a person may be experiencing domestic violence may be important for the safety of program staff and other clients. At the aggregate level, knowing the size of the homeless population that are victims of domestic violence can provide information needed for determining the resources needed to address the problem in this population.

Data Collection Method: Interview or self-administered form.

When Data are Collected: Upon initial program entry or as soon as possible thereafter or during assessment phase.

Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults, except those who are entering domestic violence shelters.

Recommended Questions and APR-Required Response Categories:

Q: "Have you experienced domestic or intimate partner violence?"

0—No

1—Yes

88—Don't know

99—Refused

If yes, ask the following question:

Q: "How long ago did you have this experience?"

1—within the past three months

2—three to six months ago

3—from six to twelve months ago

4—more than a year ago

88—Don't know

99—Refused

Special Issues: First, it is only appropriate to ask these questions if the program is prepared to help the person, either by directly providing necessary support services or providing a referral to a program that can provide these services. Second, these questions are screening questions for identifying potential victims of domestic violence. Local programs have to decide what additional information is needed to assess the appropriate course of treatment or referral. Third, it is paramount that collecting information on domestic violence does not put the person at risk of suffering further abuse. Thus, these questions should only be asked and recorded when a program has adequate data confidentiality protections to ensure that this person or their location cannot be learned by anyone whom they themselves do not voluntarily provide or give permission

to have this information. For more information on security and confidentiality, see Part 4 of this notice.

3.10 Education

Rationale: To assess the program participant's readiness for employment and need for education or employment services. It can also serve as an important outcome measure.

Data Collection Methods: Interview or self-administered form.

When Data are Collected: Upon initial program entry or as soon as possible thereafter, program exit, and during periodic follow-up.

Subjects: All adults served.

Recommended Question and Response Categories:

Q: "Are you in school now, or working on any degree or certificate?"

1—Yes

0—No

88—Don't know

98—Not applicable

99—Refused

Q: "Have you received any vocational training or apprenticeship certificates?"

1—Yes

0—No

88—Don't know

98—Not applicable

99—Refused

Q: "What is the highest level of school that you have completed?"

0—No schooling completed

1—Nursery school to 4th grade

2—5th grade or 6th grade

3—7th grade or 8th grade

4—9th grade

5—10th grade

6—11th grade

7—12th grade, No diploma

8—High school diploma

9—GED

10—More than twelve years

88—Don't know

99—Refused

If client has received a high school diploma or GED, ask the following questions:

Q: "Have you received any of the following degrees?"

[Ask about each degree until the client answers "no."] Code each response as:

0—No; 1—Yes; 88—Don't know; 98—Not applicable; 99—Refused]

a—Bachelors

b—Masters

c—PhD

d—Other graduate degree

3.11 Employment

Rationale: To assess the program participant's employment status. This can serve as an important outcome measure.

Data Collection Methods: Interview or self-administered form.

When Data are Collected: Upon initial program entry or as soon as possible thereafter, program exit, and during periodic follow-up. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults served

Recommended Questions and APR-Required Response Categories:

Q: "Are you currently employed?"

1—Yes

0—No

88—Don't know

99—Refused

If yes, ask the following questions:

Q: "How many hours did you work last week?"

_____ hours of work last week

88—Don't know

99—Refused

Q: "Was this permanent, temporary, or seasonal work?"

1—Permanent

2—Temporary

3—Seasonal

88—Don't know

99—Refused

If client reports that he/she is not working, ask the following question:

Q: "Are you currently looking for work?"

1—Yes

0—No

2—Disabled

3—Retired

88—Don't know

99—Refused

Special Issues: Programs may choose to ask additional information about benefits received through employment.

3.12 Veterans

Rationale: To collect a more detailed profile of the homeless veteran's experience and to determine eligibility for Department of Veterans Affairs programs and benefits. These questions were developed in consultation with the Department of Veterans Affairs.

Data Collection Methods: Interview or self-administered form.

When Data are Collected: Upon program entry or as soon as possible thereafter.

Subjects: All persons who answered "Yes" to Veterans Status data element.

Recommended Question and Response Categories:

Q: "In which military service eras did you serve (choose all that apply)?"

[Ask each. Code each response as: 1—Yes; 0—No; 88—Don't know; 99—Refused]

a. World War I (April 1917—November 1918)

b. Between WWI and WWII (December 1918—August 1940)

c. World War II (September 1940—July 1947)

d. Between WWII and Korean War (August 1947—May 1950)

e. Korean War (June 1950—January 1955)

f. Between Korean and Vietnam War (February 1955—July 1964)

g. Vietnam Era (August 1964—April 1975)

h. Post Vietnam (May 1975—July 1991)

i. Persian Gulf Era (August 1991—Present)

Q: "How many months did you serve on active duty in the military?"

_____ months

Q: "Did you serve in a war zone?"

1—Yes

0—No

88—Don't know

99—Refused

If served in a war zone, then ask:

Q: "What war zone(s) (choose all that apply)?"

[Ask each. Code each response as: 1—Yes; 0—No; 88—Don't know; 99—Refused]

a. Europe

b. North Africa

c. Vietnam

d. Laos and Cambodia

e. South China Sea

f. China, Burma, India

g. Korea

h. South Pacific

i. Persian Gulf

j. Other

Q: "What was the number of months served in a war zone?"

_____ months

Q: "Did you ever receive hostile or friendly fire in a war zone?"

1—Yes

0—No

88—Don't know

99—Refused

Q: "What branch of the military did you serve in?"

1—Army

2—Air Force

3—Navy

4—Marines

5—Other

88—Don't know

99—Refused

Q: "What type of discharge did you receive?"

1—Honorable

2—General

3—Medical

4—Bad Conduct

5—Dishonorable

6—Other

88—Don't know

99—Refused

3.13 Services Received

Rationale: To determine the services provided during a program stay and their outcomes. Some funders may want information on service receipt as a performance measure, and service receipt may also be useful to CoCs to identify service gaps.

Data Collection Methods: Recorded by staff.

When Data are Collected: At or immediately after an assessment interview, at appropriate points during the program stay, and at program exit. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults and children served.

APR-Required Response Categories: For each service encounter, the following information should be recorded:

1. Date of Service

____/____/____ (example: 01/31/
2002)(Month) (Day) (Year)

2. Encounter Type

- 1—Referral
- 2—Service Provided

3. Type of Service Provided

Use service codes from: A Taxonomy of Human Services: A Conceptual Framework with Standardized Terminology and Definitions for the Field, 1994.

Special Issues: The Taxonomy is a classification system for human services that has been adopted by information and referral programs, libraries, crisis lines, and other programs throughout the United States. It features a five-level hierarchical structure that contains 4,300 terms that are organized into 10 basic service categories and a separate target group section. The Taxonomy provides a common language for human services, ensuring that people have common terminology for naming services, agreements regarding definitions for what a service involves, and a common way of organizing service concepts. The taxonomy is co-published by the Alliance of Information and Referral Systems (AIRS) and INFO LINE of Los Angeles. For more information visit <http://www.airs.org>.

3.14 Destination

Rationale: Destination is an important outcome measure.

Data Collection Method: Interview or self-administered form.

When Data Are Collected: At program exit. Needed to complete Annual

Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults and children served by the program.

Recommended Questions and APR-Required Response Categories:

Q: "After you leave this program, where will you be living?"

- 1—Emergency shelter
- 2—Transitional housing for homeless persons
- 3—Permanent housing for formerly homeless persons
- 4—Psychiatric facility
- 5—Substance abuse treatment facility
- 6—Hospital
- 7—Jail
- 8—Prison
- 9—Hotel or motel
- 10—Foster care home
- 11—Own room, apartment, or house
- 12—Living with someone else (family and friends)
- 13—A car or other vehicle
- 14—An abandoned building
- 15—At a transportation site (bus station, airport, subway station, etc.)
- 16—Anywhere outside (streets, parks, campgrounds, cardboard boxes, etc.)
- 17—Other
- 88—Don't know
- 99—Refused

Q: "Is this move permanent (more than 90 days) or temporary?"

- 1—Permanent
- 2—Temporary
- 88—Don't know
- 99—Refused

Q: [For staff only]: Did your agency provide assistance for this move?

- 0—No
- 1—Yes
- 88—Don't know

Special Issues: Programs may choose to ask additional questions such as the reason for the client's departure, or whether upon leaving the program the client will be reuniting with other family members who have not been with them during the program stay.

3.15 Follow-Up After Program Exit

Rationale: Follow-up after program exit provides for important outcome measurements.

Data Collection Method: Interview or self-administered form.

When Data are Collected: Timing of follow-up is at the discretion of the local program. Needed to complete Annual Progress Reports for certain HUD McKinney-Vento Act programs.

Subjects: All adults served by the program.

Questions and Response Categories: Obtain follow-up information on six data elements previously described in this notice:

- 3.1 Income and Sources
- 3.2 Non-Cash Benefits
- 3.10 Education
- 3.11 Employment

The system should provide for changes in household composition at the time of the follow-up data collection—in particular, for dropping individuals from the household record or recording the addition of adults or children to the household. Changes in household composition can lead to changes in several of the required follow-up data elements, particularly a household's income and types of income sources.

Read names of members of household at exit and then ask:

Q: "Are they all living with you now?"

- 0—No
- 1—Yes
- 88—Don't know
- 98—Not applicable
- 99—Refused

If not all living with person, ask:

Q: "Who is not?" (list all separately)

(example: John David Doe, Jr.)

- 88—Don't know
- 99—Refused

Q: "Does anyone else live with you now?"

- 0—No
- 1—Yes
- 88—Don't know
- 99—Refused

If there are additional members, ask:

Q: "How many new additional adults?"

Q: "How many new additional children?"

Staff: For each time a follow-up interview occurs, when did the interview happen?

____/____/____ (example: 01/31/
2002) (Month) (Day) (Year)

- 88—Don't know

3.16 Children's Education

Rationale: To determine if homeless children and youth have the same access to free, public education, including public preschool education, that is provided to other children and youth. It can also serve as an important outcome measure. These questions were developed in consultation with the U.S. Department of Education.

Data Collection Methods: Interview or observations of program staff.

When Data are Collected: Upon initial program entry or as soon as possible thereafter, program exit, and during periodic follow-up.

Subjects: All children between 5 and 17 years of age.
Question and Response Categories:
 Q: "Is [name of child] currently enrolled in school?"
 1—Yes
 0—No
 88—Don't know
 98—Not applicable
 99—Refused

If child is currently enrolled in school, ask:
 Q: "What is the name of the child's school(s)?"

88—Don't know
 98—Not applicable
 99—Refused

Q: "What type of school is it? Is it a public or private school?"
 1—Public school
 2—Parochial or other private school
 88—Don't know
 98—Not applicable
 99—Refused

If child is currently not enrolled in school, ask:

Q: "When was [name of child] last enrolled in school?" (use "X" for missing numbers)
 / / (example: 01/31/2002, or 01/XX/2002) (Month) (Day) (Year)

88—Don't know
 98—Not applicable
 99—Refused

If child is currently not enrolled in school, ask:

Q: "I'm going to read a list of problems that you may have had getting your child into a school. Please tell me if you have experienced any of these problems for [name of child]."
 [Ask each. Code each response as: 0—No; 1—Yes; 88—Don't know; 98—Not applicable; 99—Refused]

- a. Residency requirements
- b. Availability of school records
- c. Birth certificates
- d. Legal guardianship requirements
- e. Transportation
- f. Lack of available preschool programs
- g. Immunization requirements
- h. Physical examination records
- i. Other

Special Issues: If only the month and year of the last enrollment date is known, the HMIS application should record the day as "01." One date-format field for last enrollment date should be created by the HMIS application.

Programs may choose to obtain additional information related to children's education, such as the number of school days missed over a specific period of time and the barriers to school attendance.

3.17 Other Children's Questions

Child's Physical Disability

Q: "Do you consider [name of child] to be physically disabled?"

0—No
 1—Yes
 88—Don't know
 99—Refused

Child's Developmental Disability

Q: "Has [name of child] ever received benefits or services (such as an income supplement or special education classes) for a developmental disability?"

0—No
 1—Yes
 88—Don't know
 99—Refused

Child's General Health Status

Q: "Compared to other children [name of child's] age, would you say [name of child's] health is excellent, very good, good, fair, or poor?"

- 1—Excellent
- 2—Very Good
- 3—Good
- 4—Fair
- 5—Poor
- 88—Don't know
- 99—Refused

Services Received

Record all services received by children, including the date and type of service (see 3.13 above).

Destination

Upon leaving the program, the following question should be asked about each child who has been with the adult client in the program.

Q: "Will [name of child] be staying with you?"

0—No
 1—Yes
 88—Don't know
 98—Not applicable
 99—Refused

If child will not be staying with the person, then ask:

Q: "In what kind of place will [name of child] be staying?"

- 1—Residence of other parent
- 2—Residence of friends or family (excluding other parent)
- 3—Foster care home
- 4—Child care residential institution
- 5—Runaway facility
- 6—Substance abuse treatment facility
- 7—Psychiatric facility
- 8—Juvenile detention center
- 9—Hospital
- 10—Anywhere outside (streets, parks, campgrounds, cardboard boxes, etc.)
- 11—Other

SUMMARY OF PROGRAM—LEVEL DATA ELEMENTS

Data standards	Subjects	Required for APR?	Data entry or computer-generated
Income and Sources	Adults and Children	Yes	Data Entry.
Non-Cash Benefits	Adults and Children	Yes	Data Entry.
Physical Disability	Adults and Children	Yes	Data Entry.
Developmental Disability	Adults and Children	Yes	Data Entry.
General Health Status	Adults and Children	No	Data Entry.
Pregnancy Status	All Adult Females	No	Data Entry.
HIV/AIDS Status	Adults	Yes	Data Entry.
Behavioral Health Status	Adults	Yes	Data Entry.
Domestic Violence	Adults	Yes	Data Entry.
Education	Adults	No	Data Entry.
Employment	Adults	Yes	Data Entry.
Veterans	Adults	No	Data Entry.
Services Received	Adults and Children	Yes	Data Entry.
Destination	Adults and Children	Yes	Data Entry.
Follow-up After Program Exit	Adults and Children	Yes	Data Entry.
Children's Education	Children	No	Data Entry.
Other Children's Questions	Children	No	Data Entry.

4. Standards for Data Confidentiality and Security

This section describes standards for the security of data collected and stored in HMIS at a local program or at a central storage facility, and the rights of individuals who are participating in the HMIS to have personal information kept secure. The intent of this section is to ensure the privacy and confidentiality of information collected by HMIS, while allowing for the use of data as needed by homeless assistance programs, CoCs and researchers. The information contained in this section of the notice is based upon common practice and standards within the information technology community, as well as in large measure upon the HIPAA (Health Insurance Portability and Accountability Act of 1996) standards for securing and protecting private medical information.

This section describes the minimum standards required by federal law. State and local laws may require confidentiality and security standards beyond those described in this notice. Local CoCs may also develop additional protocols or policies to further ensure the privacy and confidentiality of information collected through HMIS.

4.1 Protected Personal Information

This section identifies specific types of information that are considered protected personal information.

Any information that can be used to identify a particular individual is protected personal information. An HMIS user for these purposes is defined as program staff (or trained volunteers) and CoC system administrators who use the HMIS. A developer is defined for these purposes as both the individuals and organization responsible for developing the HMIS and any functionality that is built into HMIS. HMIS users and developers should consider the following to be protected personal information of an individual and his or her relatives, employers, or household members:

- Names.
- All geographic subdivisions smaller than a state, including street address, city, county, precinct, zip code, and their equivalent geocodes.
- All elements of dates (except year) directly related to an individual, including birth date, admission date, discharge date, and date of death.
- Telephone numbers.
- Social Security numbers.
- Medical record numbers.
- Vehicle identifiers and serial numbers, including license plate numbers.

- Device identifiers and serial numbers.

- Any other unique identifying number, characteristic, or code.

The HMIS user or developer must not use any other data element to identify an individual. Any other data element that can be used to identify an individual is considered protected personal information.

4.2 Securing HMIS and Data

This section describes the standards for system and application security.

System Security

Applicability. These system security provisions apply to the systems where the HMIS application is installed (networks, desktops, laptops, mini-computers, mainframes and servers).

User authentication. HMIS workstations and server shall be secured with, at a minimum, a user authentication system consisting of a username and a password. Passwords shall be at least eight characters long and meet industry standard complexity requirements, including, but not limited to, the use of at least one of each of the following kinds of characters in the passwords: Upper and lower-case letters, and numbers and symbols. Passwords shall not be, or include, the username, the HMIS name, or the HMIS vendor's name. In addition, passwords should not consist entirely of any word found in the common dictionary or any of the above spelled backwards. The use of default passwords on initial entry into the HMIS application is allowed so long as the application requires that the default password be changed on first use.

Written information specifically pertaining to user access (e.g., username and password) shall not be stored or displayed in any publicly accessible location.

Virus protection. HMIS workstations and server shall be protected from viruses by commercially available virus protection software. Virus protection must include automated scanning of files as they are accessed by users on the system where the HMIS application is housed.

Firewalls. HMIS workstations and server shall be protected from malicious intrusion behind a secure firewall.

Public access. HMIS data shall not be housed on computers with public access to any part of the computer through the Internet, modems, bulletin boards, public kiosks, or similar arenas. HMIS that use such public forums for data collection or reporting must be secured to allow only connections from previously approved computers and

systems through Public Key Infrastructure (PKI) certificates, extranets that limit access based on the Internet Provider (IP) address, or similar means. Further information on these tools can be found in the HMIS Consumer Guide and the HMIS Implementation Guide, both available on HUD's website.

Physical Access to Systems With Access to HMIS Data

Computers that are used to collect and store HMIS data shall be staffed at all times when in public areas. When workstations are not in use and staff are not present, steps should be taken to ensure that the computers and data are secure and not publicly accessible. These steps should minimally include: Logging off the data entry system, shutting down the computer, and storing the computer and data in a locked room.

Disaster Protection and Recovery

HMIS data shall be copied on a regular basis to another medium (e.g., tape) and stored in a secure off site location where these same standards would apply. Ideally, off site storage shall include fire and water protection for the storage medium.

HMIS that store data in a central server, mini-computer, or mainframe shall store the central hardware in a secure room with appropriate temperature control and fire suppression systems.

Surge suppressors shall protect physical systems for collecting and storing the HMIS data.

Application Security

Applicability. These application security provisions apply to how the data are secured by the HMIS application itself, during entry, storage and review, or any other HMIS function.

User authentication. HMIS workstations and server shall be secured with, at a minimum, a user authentication system consisting of a username and a password. Passwords shall be at least eight characters long and meet industry standard complexity requirements, including, but not limited to, the use of at least one of each of the following kinds of characters in the passwords: Upper and lower-case letters, and numbers and symbols. Passwords shall not be, or include, the username, the HMIS name, or the HMIS vendor's name. In addition, passwords should not consist entirely of any word found in the common dictionary or any of the above spelled backwards. The use of default passwords on initial entry into the HMIS application is allowed so

long as the application requires that the default password be changed on first use.

Written information specifically pertaining to user access (e.g., username and password) shall not be stored or displayed in any publicly accessible location.

Electronic data transmission. MIS data that are electronically transmitted over publicly accessible networks or phone lines shall be encrypted to at least 128-bit encryption. Unencrypted data may be transmitted over secure direct connections between the two systems. A secure direct connection is one that can only be accessed by users who have been authenticated on at least one of the systems involved and does not utilize any tertiary systems to transmit the data.

Electronic data storage. HMIS data shall be stored in a binary, not text, format. Protected personal information shall be stored in an encrypted format using at least a 128-bit key. This encryption must be done within the HMIS so that the data are not readable from outside the local HMIS application.

Hard Copy Security

Applicability. This section is intended to provide standards for securing any hard copy that is either generated by or for HMIS, such as reports, data entry forms, and signed consents.

Any paper or other hard copy generated by or for HMIS that contain individually identifiable information as defined in this standard must be under constant supervision by an HMIS user or developer when in a public area. When staff are not present, the information shall be secured in areas that are not publicly accessible.

Written information specifically pertaining to user access (e.g., username and password) shall not be stored or displayed in any publicly accessible location.

4.3 Privacy of Protected Personal Information

An HMIS user or developer may not use or disclose protected personal information except to the individual whose information it is or as permitted or required by this standard or by law.

Uses and Disclosures of Protected Personal Information Assumed by Entry Into the HMIS

By providing data to HMIS user or developer for entry into HMIS, an individual provides oral assent to the uses described in the following section. Such assent should only be assumed if the individual has been advised how he

or she could benefit by providing the requested information, how the data will be protected, and how the data will be used.

An HMIS user or developer may use or disclose protected personal information without the written consent of the individual in situations specified in this notice, subject to the notice's applicable requirements. When the HMIS user or developer is required to inform the individual of, or when the individual may agree to a permitted use or disclosure, oral announcement is sufficient.

Uses and disclosures for administrative purposes. A CoC system administrator or developer may use or disclose protected personal information to program staff within the same program so they may perform necessary administrative functions (e.g., ensure data integrity and create an unduplicated count of homeless persons). For the purpose of creating an unduplicated count within a CoC in which data are accessible across programs, the CoC may decide that oral consent is not sufficient. This notice neither requires nor prohibits the sharing of client information among programs in the CoC, but does require that local policy regarding information sharing be established and that either client notification or written consent be provided for in the event that information is shared.

Uses and disclosures for academic research purposes. An HMIS user or developer may use or disclose protected personal information to individuals performing academic research who have a formal relationship with a local program or CoC. Such research would be conducted either by an individual employed by the program, so long as the research has been approved by a program administrator, or by an outside institution that has entered into a research agreement with the program or CoC. Such data are to be used within the boundaries set by an approved research agreement. Such approvals do not substitute for Institutional Review Board (IRB) approvals, and researchers should seek appropriate IRB approvals.

Use for creating de-identified information. An HMIS user or developer may use protected personal information to create information that is not individually identifiable or disclose protected personal information to a third party to be used only for such purpose, whether or not the de-identified information is to be used by the HMIS user or developer.

Uses and disclosures required by law. An HMIS user or developer may use or disclose protected personal information

to the extent that law requires such use or disclosure and the use or disclosure complies with and is limited to the relevant requirements of such law.

Disclosures about victims of abuse, neglect, or domestic violence. Consistent with applicable law and standards of ethical conduct, an HMIS user or developer may disclose protected personal information about an individual who is reasonably believed to be a victim of abuse, neglect, or domestic violence to a government authority (including a social service or protective services agency) authorized by law to receive reports of such abuse, neglect, or domestic violence. Disclosures to other entities are permissible only if the individual agrees to such disclosure.

Uses and disclosures to avert a serious threat to health or safety. An HMIS user or developer may, consistent with applicable law and standards of ethical conduct, use or disclose protected personal information if the HMIS user or developer, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

Uses and disclosures about decedents.

- Coroners and medical examiners. An HMIS user or developer may disclose protected personal information to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law.
- Funeral directors. An HMIS user or developer may disclose protected personal information to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to a decedent. If necessary for funeral directors to carry out their duties, the HMIS user or developer may disclose the protected personal information prior to, and in reasonable anticipation of, the individual's death.

Disclosures for law enforcement purposes. An HMIS user or developer may, consistent with applicable law and standards of ethical conduct, disclose protected personal information for a law enforcement purpose to a law enforcement official. Such disclosure should meet only the minimum standards necessary for the law enforcement official's immediate purpose and not disclose information about other individuals within the program or CoC not specifically required by that purpose. A court order or search warrant may be required for

the disclosure of information about an individual in an HMIS. Such orders are restricted only to the individual(s) identified in the court order.

Disclosures for national security and intelligence activities. An HMIS user or developer may disclose protected personal information to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, *et seq.*) and implementing authority (*e.g.*, Executive Order 12333).

Disclosures for protective services for the President and others. An HMIS user or developer may disclose protected personal information to authorized federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879.

Uses and Disclosures of De-Identified Protected Personal Information

Information that meets the standard and implementation specifications for de-identification or has been aggregated is considered not to be individually identifiable information and, therefore, is not protected personal information. In order to meet this standard, none of the information listed in this notice as being part of the protected personal information may be included in the de-identified data. The restrictions concerning disclosure in this notice do not apply to information that has been de-identified in accordance with the applicable requirements, provided that there is no disclosure of a code or other means of record identification designed to enable coded or otherwise de-identified information to be re-identified. If de-identified information is re-identified, an HMIS user or developer may use or disclose such protected personal information only as permitted or required by this notice.

Re-Identification

An HMIS user or developer may assign a code or other means of record identification to allow information de-identified under this notice to be re-identified by the HMIS user or developer, provided that: The code or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and the HMIS user or developer does not use or disclose the

code or other means of record identification for any other purpose, and does not disclose the mechanism for re-identification.

Consent for Other Uses or Disclosures of Private Information

An HMIS user or developer must obtain the individual's consent prior to using or disclosing protected personal information. A consent form must:

- Be stated in plain language;
- Include full disclosure of all the ways in which otherwise protected personal information might be used;
- State that the terms of its notice may change and describe how the individual may obtain a revised notice;
- State that the HMIS user or developer is not required to agree to additional restrictions that may be requested by the individual;
- Indicate that if the HMIS user or developer agrees to a requested restriction, the restriction is binding on the HMIS user or developer;
- State that the individual has the right to revoke the consent in writing, except to the extent that the HMIS user or developer has taken action in reliance thereon; and,
- Be signed and dated by the individual.

1.1 Notice of Privacy Practices for Protected Personal Information

An individual has a right to adequate notice of the uses and disclosures of protected personal information that may be made by the HMIS user or developer, and of the individual's rights and the HMIS user or developer's legal duties with respect to protected personal information.

The notice should be prominently displayed in the program offices where intake occurs.

The HMIS user or developer must promptly revise and distribute its notice whenever there is a substantive change to the uses or disclosures, the individual's rights, the HMIS user or developer's legal duties, or other privacy practices stated in the notice. Except when required by law, a substantive change to any term of the notice may not be implemented before the effective date of the notice in which a substantive change is reflected.

An HMIS user or developer must maintain documentation of compliance with the notice requirements by retaining copies of the notices issued by the HMIS user or developer.

The individual has the right to obtain a paper copy of the notice from the HMIS user or developer upon request.

An inmate does not have a right to notice, and the requirements of this

notice do not apply to a correctional institution that is an HMIS user.

Content of Notice

The HMIS user or developer must provide a notice that is written in plain language and that contains the elements required by this section. These elements are not exclusive, and either oral or written notice may inform the individual of the uses of information that may help provide service or otherwise benefit the individual.

- The following statement as a header or otherwise must be prominently displayed: "THIS NOTICE DESCRIBES HOW INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY."

- A description of each of the purposes for which the HMIS user or developer is permitted or required by this notice to use or disclose protected personal information without the individual's written consent or authorization. These include administrative, programmatic, and academic research purposes.

- If a use or disclosure is prohibited or materially limited by other applicable law, the description of such use or disclosure must reflect the more stringent law.

- A statement that other uses and disclosures will be made only with the individual's written authorization and that the individual may revoke such authorization.

- A statement of the individual's rights with respect to protected personal information and a brief description of how the individual may exercise these rights.

- A statement that the HMIS user or developer is required by law to maintain the privacy of protected personal information and to provide individuals with notice of its legal duties and privacy practices with respect to protected personal information.

- A statement that the HMIS user or developer is required to abide by the terms of the notice currently in effect.

- A statement that reserves the right to change the terms of this notice and to make the new notice provisions effective for all protected personal information that it maintains. The statement must also describe how it will attempt to provide individuals with a revised notice.

- A statement that individuals may complain to the HMIS user or developer if they believe their privacy rights have been violated.

- A brief description of how the individual may file a complaint with the HMIS user or developer.

- A statement that the individual will not be retaliated against for filing a complaint.

- The name, or title, and telephone number of a person or office to contact for further information.

- The date on which the notice is first in effect, which may not be earlier than the date on which the notice is printed or otherwise published.

4.5 Rights To Request Privacy Protection for Protected Personal Information

Access of Individuals to Protected Personal Information

An individual has a right of access to inspect and obtain a copy of his/her own protected personal information in a record set, for as long as the protected personal information is kept, except for information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding. The individual also has the right to correct protected personal information (such as name and date of birth) when that information is inaccurate.

An HMIS user or developer must permit individuals to request and must accommodate reasonable requests by individuals to receive communications of protected personal information from the HMIS user or developer by alternative means or at alternative locations.

Accounting of Disclosures of Protected Personal Information

An individual has a right to receive an accounting of disclosures of protected personal information made by an HMIS user or developer in the six years prior to the date on which the accounting is requested, except for disclosures for national security or intelligence purposes or to correctional institutions or law enforcement officials.

The HMIS user or developer must temporarily suspend an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement official, for the time specified by such agency or official, if the agency or official provides the HMIS user or developer with a written statement confirming that such an accounting would impede the agency's activities. The notification should specify the time for which such a suspension is required.

4.6 Administrative Requirements Local Protocol

A CoC system administrator is required to have a written policy governing its use and disclosure of information collected by HMIS. This policy should address the specifics of how use and disclosure decisions will be made and who will make them and with what documentation, as well as the specifics of how the data security standard will be met. These decisions should include who will have access to HMIS data and the level of access granted to each user. The policy should also address grievance procedures and penalties for non-compliance. Examples of such policies are discussed in the HMIS Implementation Guide available on HUD's Web site.

To test system and application security, a CoC system administrator is encouraged to periodically conduct penetration testing, a procedure which is also described in the Implementation Guide.

Local Policies

A CoC system administrator or developer who has instituted policies in addition to those listed in this notice must maintain a written copy detailing any and all additions and specifications beyond the content of this notice. Such written policy must be distributed to all staff and included as an additional notice for individuals affected.

Safeguards

A CoC system administrator or developer must have in place appropriate administrative, technical, and physical safeguards to protect the privacy of protected personal information including, but not limited to, those described in this notice and required by law.

Training

A CoC system administrator user or developer must provide orientation and ongoing training to all of its staff on the policies and procedures relating to protected personal information sufficient for staff to carry out their functions.

5. Technical Standards

This section presents the technical standards that will be required for HMIS applications and for the CoCs responsible for storing HMIS data. Except as otherwise provided, these standards do not specify or recommend any particular operating system, development environment, networking environment, database, hardware, or other aspect of the HMIS application.

This part of the notice is primarily directed to HMIS developers and CoC system administrators.

5.1 Required HMIS Capabilities

Automatic Generation of Identification Numbers and Information

Based on the data collected through program staff interviews or self-administered forms, the HMIS application must be capable of automatically generating data for each record. This capability includes the automatic generation of:

- (1) Unique personal identification numbers (PINs) for persons who have not been previously served within the CoC, and re-assignment of PINs for persons who have been served previously within the CoC;
- (2) Household identification numbers for persons who have been identified as members of a household that participated in the same program event;
- (3) Program identification information that is uniquely associated with each program within a CoC and is assigned to every program event; and,
- (4) A program event number that distinguishes each episode of program utilization.

Personal Identification Numbers (PINs)

PIN is a number randomly and automatically generated by the HMIS application. All records associated with the same person should be assigned the same PIN. The PIN is used to produce an unduplicated count of all persons within a CoC.

HMIS must be capable of searching the entire CoC database (whether or not data are shared across programs within a CoC) to determine if clients have been previously served. The search must involve the matching of client records using personal identifier fields (*e.g.*, Name, Social Security Number, Date of Birth, and Gender) to retrieve a record(s) with identical or similar values in each of these fields.

Household Identification Numbers

HMIS must generate the same household identification number for every person designated by program staff as being together for an episode of service (*i.e.*, program event). The household identification numbers assigned will be maintained in each person's permanent record and will be unique for each program event experienced by the client.

As discussed in Parts 2 and 3 of this notice, when a group of persons apply for services together (as a household or family), information is first asked of the household head who is applying for services and then information is

requested from him/her about any children under 18 years of age who are applying for services with the household head. The children do not need to be present at the time the household head applies for services. The same household identification number is assigned to the adult head of household and any children who have been identified as applying for services with the head. If there are other adult members of the household (over 18 years of age) who are reported to be part of this household, a separate intake is conducted. As part of this intake, this individual is assigned the same household identification number as the other household members.

Program Identification Information

Program identification information for every program offered in a CoC consists of the following four fields:

- Federal Information Processing System (FIPS) Code. To find the 10-digit FIPS code consisting of 2-digit state code, 3-digit county code, and 5-digit place code: (1) Go to website <http://geonames.usgs.gov/fips55.html>; (2) Click on "Search the FIPS55 Data Base"; (3) Click on state from "State Number Code" pull down menu (this also tells you 2-digit state code); (4) Type town or city name in "Fips55 Feature Name" box; and (5) Click on "Send Query", and 3-digit county code and 5-digit place code will be shown.

- Facility Code (to be locally determined)
- Continuum of Care (CoC) Code (HUD-assigned)
- Program Type Code:
 - 0—Not applicable
 - 1—Street outreach
 - 2—Emergency shelter (e.g., facility or vouchers)
 - 3—Transitional housing
 - 4—Permanent supportive housing
 - 5—Homeless prevention (e.g., security deposit or one month's rent)
 - 6—Services-only type of program
 - 7—Other

The FIPS code, facility code, CoC code, and program type code may be separate fields in the HMIS application. There is no requirement to merge them into a single field.

For each client intake, staff are only required to enter the program type code. Programs may choose to provide more detailed response categories for the services-only type program response. However, staff must be able to collapse these detailed categories into a single service-only type category. A corresponding FIPS code, facility code,

and CoC code should be automatically generated by the HMIS. Once program identification information has been created, the HMIS must ensure that the information is associated with every program event recorded within the CoC.

Program Event Numbers

The HMIS application should generate unique codes for every program event occurring within the CoC. This will enable the system to distinguish episodes of service that occur on the same date and within the same program (e.g., two counseling sessions conducted on the same day).

Missing Value Categories

Don't know, not applicable, and refused response categories specified for close-ended questions should appear on the same list as the valid responses. For open-ended questions (e.g., name or the name of the child's school), the HMIS application should include the don't know, not applicable, and refused response categories for each field in the data element (e.g., first name, last name, middle initial, and suffix).

Other Response Categories

Certain data elements may contain a response category labeled "other." When a data element contains such an option, there should also be, within the same database table, a separate alphanumeric field where the other value may be entered by program staff. For instance, a coded field that accepts the values 0—Red, 1—Yellow, 9—Other should have an accompanying field that accepts open-ended answers such as tangerine, blue, or magenta. The analysis of such data will allow the standard to adapt to include codes for common answers to questions that may not have been anticipated within the current standard.

Data Export

Although a standard environment is not specified, any HMIS application must be capable of exporting any and all data collected into a comma-separated values text file using the following format:

- All fields in a given record are separated by a comma;
- All records within a given text file contain the same fields;
- Blank fields are signified by the comma ending the previous field (or the beginning of the line if the field is the first in the record) followed by a comma indicating the end of the empty field;
- Fields containing text information (as opposed to numeric) will be

surrounded by double quotes whenever the field includes blank spaces, commas, or other symbols not part of the standard alphabet;

- The first line of the file shall be a list of the field names included in every record in the file; and
- The list of field names shall be in the same format described above.

5.2 Continuum of Care Requirements

Storage Requirements

The CoC must have or designate a central coordinating body that will be responsible for centralized collection and storage of HMIS data.

HMIS data must be collected to a central location at least once a year from all HMIS users within the CoC.

HMIS data must be stored at the central location for a minimum of seven years after the date of collection by the central coordinating body or designee of the CoC.

5.3 Anonymous Data Collection

An anonymous data record is a record that does not provide sufficient (or any) of the protected personal identifiers to uniquely identify the individual in the record. Certain types of service providers, especially those dealing with victims of domestic violence, occasionally use anonymous records to protect a client's privacy and safety. Some HMIS collect anonymous data and assign a system-generated ID to the individual for the purposes of tracking a client's history of services. Other HMIS simply accept anonymous data and do not attempt to associate previously collected data with the data from the current event.

This notice does not preclude the collection of anonymous data within HMIS. It is important to note, however, that there are several important shortcomings associated with the collection of anonymous data. Anonymous data are nearly impossible to be-duplicated at any level. Also, depending on the amount of data collected for the anonymous client, there may be little practical use for the data, except to count intakes within a particular program.

Dated: July 16, 2003.

William H. Eargle,

Deputy Assistant Secretary for Operations, Office of Community, Planning and Development.

[FR Doc. 03-18505 Filed 7-17-03; 2:52 pm]

BILLING CODE 4210-29-P

**GUIDELINES FOR EMERGENCY SHELTER
GRANT APPLICANTS**

GUIDELINES FOR EMERGENCY SHELTER GRANT APPLICANTS

The following guidelines are being provided to assist Grant Applicants in understanding the governing regulations (24 CFR Part 576) of the U. S. Department of Housing and Urban Development. This guidance is provided to ensure that the ESG grants are administered in compliance with statutory and regulatory requirements of the program.

Grant applicants should consider not only ESG programmatic regulations, but should also give careful consideration to all the following federal requirements in developing a proposal for ESGP funding: Financial Management of the Grant; Procurement Procedures, if appropriate; Separation of Church/State Compliance Issues; Certifications Compliance; and Compliance with any other Program Requirements.

The following overview is provided for your consideration during grant preparation. It is our hope that this information will insure for smooth grant start-up and answer any questions which may arise not only during the application process, but during grant implementation, as well.

Sub-Grantees must ensure that facilities meet the requirements of 24 CFR 576.57(c) regarding lead based paint.

Sub-Grantees must ensure that facilities meet the requirements of 42 U.S.C. 4001 *et seq.* regarding flood insurance.

Sub-Grantees must meet the requirements imposed by Section 1352, Title 31, of the U.S. Code regarding lobbying and disclosure of information.

24 CFR 84.48 sets minimum thresholds for bid, performance and payment bonds in connection with construction and improvements contracts over \$100,000 which contractors must meet to ensure, in case of default, the completion of general and subcontract work.

Access to grant records of a nonprofit organization shall be available to HUD authorized personnel and the Comptroller General of the U.S. Records must be kept for at least four years after submission of the final expenditure report, except where there is litigation, claims or findings against the grant requiring a longer period.

Sub-recipients must have source documentation for expenditures associated with real property or equipment. For equipment, additional records are to evidence HUD's participation in the original cost of the equipment, a description of the equipment, a system of coding or tagging, a description of the equipments condition, a record of bi-annual inventories, and property disposition procedures.

Sub-recipients must maintain a system to handle disputes, protest, and other matters arising out of its contract; maintain a code of conduct to prevent conflicts of interest; and use solicitations which are clear and accurately describe the materials, products or services being procured.

Environmental clearances must be conducted and expenditure authority issued by HUD and the State DSS before grant expenditures can begin.

REGULATIONS

**U.S.C. TITLE 42 , CHAPTER 119, SUBCHAPTER 1
(The Public Health and Welfare, Homeless Assistance, General Provisions)**

**24 CFR 576
EMERGENCY SHELTER GRANTS PROGRAM:
(Stewart B. McKinney Homeless Assistance Act)**

**42 U.S.C. 11371 - 11378
TITLE IV
(Stewart B. McKinney Homeless Assistance Act)**

UNITED STATES CODE
TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 119 - HOMELESS ASSISTANCE
SUBCHAPTER I - GENERAL PROVISIONS

§ 11302. General definition of homeless individual

(a) In general

For purposes of this chapter, the term "*homeless*" or "*homeless individual or homeless person*" includes -

- (1) an individual who lacks a fixed, regular, and adequate nighttime residence; and
- (2) an individual who has a primary nighttime residence that is
 - (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(b) Income eligibility

(1) In general

A homeless individual shall be eligible for assistance under any program provided by this chapter, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

(2) Exception

Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(c) Exclusion

For purposes of this chapter, the term "*homeless*" or "*homeless individual*" does not include any individual imprisoned or other-wise detained pursuant to an Act of the Congress or a State law.

PART 576. EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

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

Source: 54 FR 46799, Nov. 7, 1989; 54 FR 52396, Dec. 22, 1989; 56 FR 56128, Oct. 31, 1991; 57 FR 33256, July 27, 1992; [57 FR 54507](#), Nov. 19, 1992; 61 FR 51548, Oct. 2, 1996, 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. 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.

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

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.

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.

[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 Limitations. Primarily religious organizations.

(a) Provision of assistance.

(1) Assistance may be provided under this part to a grantee or recipient that is a primarily religious organization if the primarily religious organization agrees to provide all eligible activities under this program in a manner that is free from religious influences and in accordance with the following principles:

(i) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(ii) It will not discriminate against any person applying for shelter or any of the eligible activities under this part on the basis of religion and will not limit such housing or other eligible activities or give preference to persons on the basis of religion; and

(iii) It will provide no religious instruction or counseling, conduct no religious services or worship (not including voluntary nondenominational prayer before meetings), engage in no religious proselytizing, and exert no other religious influence in the provision of shelter and other eligible activities under this part.

(2) HUD may provide reallocated amounts to a recipient that is a primarily religious organization if the assistance will not be used by the organization to acquire a structure (in the case of homeless prevention activities under § 576.21(a)(4)), or to rehabilitate a structure owned by the organization, except as described in paragraph (b) of this section.

(b) Rehabilitation or conversion of emergency shelters. Grants may be used to rehabilitate or convert to an emergency shelter a structure that is owned by a primarily religious organization, only if:

(1) The structure (or portion thereof) that is to be renovated, rehabilitated, or converted with HUD assistance has been leased to an existing or newly established wholly secular organization;

(2) The HUD assistance is provided to the secular organization (and not the religious organization) to make the improvements;

(3) The leased structure will be used exclusively for secular purposes available to all persons;

(4) The lease payments paid to the primarily religious organization do not exceed the fair market rent for the structure before the renovation, rehabilitation, or conversion;

(5) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the religious organization; and

(6) The primarily religious organization agrees that if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay to the original grantee (from which the amounts used to renovate, rehabilitate, or convert the building were derived) an amount equal to the residual value of the improvements. A private nonprofit organization must remit to HUD this amount

if the organization is the lessee as well as the grantee. The original grantee is expected to use this amount to alleviate homelessness in its jurisdiction, but there is no requirement that funds received after the close of the grant period be used in accordance with the requirements of this part.

(c) Assistance to a wholly secular private nonprofit organization.

(1) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The secular organization may be eligible to receive all forms of assistance available under this part, subject to the following:

(i) The secular organization must agree to provide shelter and services eligible under this part in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (a)(1) of this section.

(ii) The secular organization may enter into a contract with the religious organization to provide essential services or undertake homeless prevention activities. The religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (a)(1) of this section.

(iii) The rehabilitation, conversion, or renovation of emergency shelters are subject to the requirements of paragraph (b) of this section.

(2) HUD will not require the religious organization to establish the secular organization before the selection of its application. In such a case, the religious organization may apply on behalf of the secular organization. The application will be reviewed on the basis of the religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the secular organization after formation. After formation, a secular organization that is not in existence at the time of the application will be required to demonstrate that it meets the definition of private nonprofit organization contained in § 576.3. The obligation of funds will be conditioned upon compliance with these requirements.

[61 FR 51549, Oct. 2, 1996]

§ 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 51550, Oct. 2, 1996]

SUBPART C. AWARD AND USE OF GRANT AMOUNTS

Source: 61 FR 51550, Oct. 2, 1996, unless otherwise noted.

§ 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.

[54 FR 52397, Dec. 21, 1989; 56 FR 56128, Oct. 31, 1991; 57 FR 11430, April 3, 1992; 60 FR 1918, Jan. 5, 1995; 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.

[60 FR 1918, Jan. 5, 1995; 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 paragraphs (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.

[61 FR 51550, Oct. 2, 1996]

SUBPART D. REALLOCATIONS

Source: 61 FR 51550, Oct. 2, 1996, unless otherwise noted.

§ 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.

[56 FR 56128, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995; 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).

[56 FR 56129, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995; 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.

[[57 FR 54507](#), Nov. 19, 1992; 60 FR 1918, Jan. 5, 1995; 61 FR 51551, Oct. 2, 1996]

SUBPART E. PROGRAM REQUIREMENTS

Source: 61 FR 51550, Oct. 2, 1996, unless otherwise noted.

§ 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.

[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. **1** 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.

(c) Lead-based paint. The requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR part 35. In addition, the grantee (or in the case of States, the State recipient) must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

(1) Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity under this part; and

(2) Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

(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.

[57 FR 33256, July 27, 1992; 59 FR 2738, Jan. 19, 1994; 59 FR 33894, June 30, 1994; 61 FR 5210, Feb. 9, 1996; 61 FR 51552, Oct. 2, 1996]

FOOTNOTE 1 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.

§ 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 52397, Dec. 21, 1989; 61 FR 51553, Oct. 2, 1996]

SUBPART F. GRANT ADMINISTRATION

Source: 61 FR 51550, Oct. 2, 1996, unless otherwise noted.

§ 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.

[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.

[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).

[60 FR 1918, Jan. 5, 1995; 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).

Stewart B. McKinney Homeless Assistance Act
Title IV
PART B-EMERGENCY SHELTER GRANTS PROGRAM

§ 11371. Definitions

For purposes of this part:

- (1)The term "local government" means a unit of general purpose local government.
- (2)The term "locality" means the, geographical area within the jurisdiction of a local government.
- (3)The term "metropolitan" city" has the meaning given such term in section 5302 of this title.
- (4)The term "operating costs" means expenses incurred by a recipient operating a facility assisted under this part with respect to-
 - (A) the administration, maintenance, repair, and, security of such housing; and
 - (B) utilities, fuels, furnishings, and equipment for such housing.
- (5) The term "private nonprofit organization means a secular or religious organization described in Section 501 (c) of Title 26 that is exempt from taxation under subtitle A of Title 26, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.
- (6) The term "recipient" means any governmental or private nonprofit entity that is approved by the Secretary as to financial responsibility.
- (7)The term "Secretary" means the Secretary of Housing and Urban Development.
- (8)The term "State," means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.
- (9) The term "urban county" has the meaning given such term in section 5302 of this title.
- (10) The term "Indian tribe" has the meaning given such term in section 5302(a)(17) of this title.

(Pub.L. 100-77, Title IV, § 411, July 22, 1987, 101 Stat. 495; Pub.L. 101-625, Title VE, § 832(f)(1), Nov. 28, 1990, 104 Stat. 4361.)

§ 11372. Grant assistance

The Secretary of Housing and Urban Development shall, to the extent of amounts approved in appropriation Acts under section 11377 of this title, make grants to States and local governments, and to Indian tribes, (and to private nonprofit organizations providing assistance to homeless individuals, in the case of grants made with reallocated amounts) in order to carry out activities described in section 11374 of this title.

(Pub.L. 100-77, Title IV, § 412, July 22, 1987, 101 Stat. 496; Pub.L. 101-625, Title VII §832(f)(2), Nov. 28, 1990, 104 Stat. 4361)

§ 11373. Allocation and distribution of assistance**(a) in general**

The Secretary shall allocate assistance under this part to metropolitan cities, urban counties, and States (for distribution to local governments and private nonprofit organizations in the States), and to Indian tribes, in a manner that ensures that the percentage of the total amount available under this part for any fiscal year that is allocated to any State, metropolitan city, or urban county, or for Indian tribes is equal to the percentage of the total amount available for section 5306 of this title for such prior fiscal year that is allocated to such State, metropolitan city, or urban county, or for Indian tribes.

(b) Minimum allocation requirement

If, under the allocation provisions applicable under this part, any metropolitan city or urban county would receive a grant of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallocated to the State, except that any city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of \$1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allocated to such city under subsection (a) of this section.

(c) Distributions to nonprofit organizations

Any local government or Indian tribe receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals. Any State receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.

(d) Reallocation of funds

(1) The Secretary shall, not less than twice during each fiscal year, reallocate any assistance provided under this part that is unused or returned or that becomes available under subsection (b) of this section.

(2) If a city or County eligible for a grant under subsection (a) of this section fails to obtain approval of its comprehensive plan during a 90-day period following the date funds authorized by this part first become available for allocation during any fiscal year, the amount that the city or county would have received shall be available to the State in which the city or county is located if the State has obtained approval of its comprehensive plan. Any amounts that cannot be allocated to a State under the preceding sentence shall be reallocated to other States, counties, and cities that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(3) If a State or Indian tribe fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this part first become available for allocation during any fiscal year, the amount that the State or Indian tribe would have received shall be reallocated to other States and to cities and counties, or other Indian tribes, as applicable, that demonstrate extraordinary need or large numbers of homeless-individuals, as determined by the Secretary.

(e) Allocations to territories

In addition to the other allocations required in this section, the Secretary shall (for amounts appropriated after July 22, 1987) allocate assistance under this part to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

(Pub.L. 100-77, Title IV, § 413, July 22, 1987, 101 Stat. 496; Pub.L. 100-628, Title IV, § 42 1, Nov. 7, 1988, 102 Stat. 323 1; Pub.L. 10 1-625, Title VIII, § 832(0(3) to (5), Nov. 28, 1990, 104 Stat. 4361.)

§ 11374. Eligible activities

(a) In general

Assistance provided under this part may be used for the following activities relating to emergency shelter for homeless individuals:

- (1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.
- (2) The provision of essential services, including services concerned with employment health, drug abuse, or education, if-
 - (A) such services have not been provided by the local government or Indian tribe during any part of the immediately preceding 12-month period or the use of assistance under this part would complement those services; and
 - (B) not more than 30 percent of the aggregate amount of all assistance to a State, local.. government, or Indian tribe under this part is used for activities under this paragraph.
- (3) Maintenance, operation, insurance, utilities, and furnishings, except that not more than 10 percent of the amount of any grant received under this part may be used for costs of staff.
- (4) Efforts to prevent homelessness such as financial assistance to families who have received eviction notices or notices of termination of utility services if-
 - (A) the inability of the family to make the required payments is due to a sudden reduction in income;
 - (B) the assistance is necessary to avoid the eviction or termination of services;
 - (C) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and
 - (D) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources. Not more than 30 percent of the aggregate amount of all assistance to a State, local government, or Indian tribe under this part may be used for activities under this paragraph.

(b) Waiver authority

The Secretary may waive the 30 percent limitation on the use of assistance for essential services contained in Subsection (a)(2)(B) of this section, if the local government receiving the assistance-demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.

(Pub.L. 100-77, Title IV, § 414, July 22, 1987, 101 Stat. 497; Pub.L. 100-628, Title IV, §§ 422, 423(a), Nov. 7, 1988, 102 Stat. 323 1; ' Pub.L. 101-625, Title VIII, § 832(c), (d), (0)(6), Nov. 28, 1990, 104 Stat. 4360, 4361; Pub-L. 102-550, Title XIV, § 1402(e), Oct 28, 1992, 106 Stat. 4013.)

§ 11375. Responsibilities of recipients

(a) Matching amounts

(1) Except as provided in paragraph (2), each recipient under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this part. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) Each recipient under this part that is a State shall be required to supplement the assistance provided under this part with an amount of funds from sources other than this part equal to the difference between the amount received under this part and \$100,000. If the amount received by the State is \$100,000 or less, the State may not be required to supplement the assistance provided under this part.

(3) In calculating the amount of supplemental funds provided by a recipient under this part a recipient may include the value of any donated material or buildings, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

(b) Administration of assistance

Each recipient shall act as the fiscal agent of the Secretary with respect to assistance provided to such recipient.

(c) Certifications on use of assistance

Each recipient shall certify to the Secretary that

(1) it will-

(A) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 10-year period;

- (B) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 3-year period; or
- (C) in the case of assistance involving solely activities described in paragraphs (2) and (3) of section 11374(a) of this title, provide services or shelter to homeless individuals and families for the period during which such assistance is provided, without regard to a particular site or structure as long as the same general population is served;
- (2) any renovation carried out with assistance under this part shall be sufficient to ensure that the building involved is safe and sanitary;
- (3) it will assist homeless individuals in obtaining-
- (A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and
 - (B) other Federal, State, local, and private assistance available for such individuals;
- (4) in the case of a recipient that is a State, it will obtain any matching amounts required under subsection (a) of this section in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the \$100,000 subtrahend under subsection (a)(2) of this section;
- (5) it will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this part and that the address or location of any family violence shelter project assisted under this part will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;
- (6) activities undertaken by the recipient with assistance under this part are consistent with any housing strategy submitted by the grantee in accordance with section 12705 of this title; and
- (7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this part, in providing services assisted under this part, and in providing services for occupants of facilities assisted under this part.

(d) Participation of homeless individuals

The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this part. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(e) Termination of assistance

If an individual or family who receives assistance under this part from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.

§ 11376. Administrative provisions**(a) Regulations**

Not later than 60 days after July 22, 1987, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall be subject to section 553 of Title 5. The Secretary shall issue requirements based on the initial notice before the expiration of the 12-month period following July 22, 1987. Prior to the issuance of such requirements in final form, the requirements established by the Secretary implementing the provisions of the emergency shelter grants program under the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591 shall govern. the emergency shelter grants program under this part.

(b) Initial allocation of assistance

Not later than the expiration of the 60-day period following the date of enactment of a law providing appropriations to carry out this part, the Secretary shall notify each State, Indian tribe, metropolitan city, and urban county that is to receive a direct grant of its allocation of assistance under this part. Such assistance shall be allocated and must be used notwithstanding any failure of the Secretary to issue requirements under subsection (a) of this section.

(c) Minimum standards of habitability

The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

(Pub.L. 100-77, Title IV, § 416, July 22, 1987, 101 Stat. 498; Pub.L. 101-625, Title VIII, § 832(f)(7), (g), Nov. 28, 1990, 104 Stat. 4361.1)

§ 11377. Authorization of appropriations

There are authorized to be appropriated to carry out this part \$138,000,000 for fiscal year 1993 and \$143,796,000 for fiscal year 1994.

(Publ. 100-77, Title IV, § 417, July 22, 1987, 101 Stat. 498; Publ. 100-628, Title IV, § 425, Nov. 7, 1988, 102 Stat. 3232; Publ. 101-625, Title VIII, § 832(a), Nov. 28, 1990, 104 Stat. 4359; Publ. 102-550, Title MN, § 1402(a), Oct. 28, 1992, 106 Stat. 4012.)

§ 11378. Administrative costs

A recipient may use up to 5 percent of any annual grant received under this part for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.

(Pub.L. 100-77, Title IV, § 418, as added Pub.L. 101-625, Title VIII, § 832(b)(1), Nov. 28, 1990, 104 Stat. 4359.)