HOMELESSNESS PREVENTION AND RAPID RE-HOUSING CONTRACT

31329

THIS HOMELESSNESS PREVENTION AND RAPID RE-HOUSING CONTRACT (this "Contract") is made and entered, in duplicate, as of September 1, 2009 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on May 5, 2009, by and between BEYOND SHELTER, a nonprofit California corporation ("Organization"), with offices located at 1200 Wilshire Boulevard, Suite 600, Los Angeles, California 90017, and the CITY OF LONG BEACH, a municipal corporation (the "City").

WHEREAS, the City has received a grant from the U.S. Department of Housing and Urban Development ("HUD") from the Homelessness Prevention Fund, hereafter referred to as the Homelessness Prevention and Rapid Re-Housing Program ("HPRP"), under Title XII of the American Recovery and Reinvestment Act of 2009, to provide financial assistance and services to either prevent individuals and families from becoming homeless or help those who are experiencing homeless to be quickly re-housed and stabilized; and

WHEREAS, as part of Grant Agreement No. S09-MY-06-0522 between HUD and the City (the "HUD Agreement") the City is required to enter into subcontracts with organizations that provide homelessness prevention assistance to households who would otherwise become homeless, many due to the economic crisis, and to provide assistance to rapidly re-house persons who are homeless, and the City has selected Organization as a sub-recipient of grant funds; and

WHEREAS, Organization provides homelessness prevention assistance to households who would otherwise become homeless, or assistance to rapidly re-house persons who are homeless; and

WHEREAS, City wishes to support these services by providing HPRP funds to carry out HPRP activities; and

WHEREAS, the City Council has authorized the City Manager to enter into

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a contract with Organization that provides grant funding within a maximum amount and program accountability by the City; and

WHEREAS, Organization agrees to perform these services and provide to the City the information and supporting documentation required in this Contract;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the parties agree as follows:

Section 1. The above recitals are true and correct and are incorporated in the Contract.

Section 2.

A. Organization shall provide homelessness prevention assistance to households who would otherwise become homeless, or assistance to rapidly re-house persons who are homeless, in accordance with the terms of HUD Agreement, Attachment "A" entitled "Statement of Work", Attachment "B" entitled "Budget", Attachment "C" entitled "HUD Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 ("HPRP Notice")", Attachment "D" entitled "Office of Management Budget ("OMB") Circular A-110", Attachment "E" entitled "OMB Circular A-122",

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Codes, City of Long Beach Grants Monitoring Guidelines, this Contract, the City's contract with HUD for the funds dispersed under this Contract, the Notice of Interest ("NOI"), Organization's proposal in response to the NOI, and all Information Bulletins issued by the City's Department of Health and Human Services, Homeless Services Division. In addition to and without in any way limiting the foregoing, Organization shall comply with all laws and regulations set forth in 24 CFR Part 576 and 24 CFR 5.105(a).

Section 3. The terms of this Contract shall commence at midnight on September 1, 2009, and, unless sooner terminated as provided herein, shall terminate at September 30, 2010. The term of this Contract may be extended by mutual written agreement between the City and Organization. City may reclaim any unused balance of funds for reallocation to other City approved projects.

Section 4.

A. Total disbursements made to Organization under this Contract by the City shall not exceed Five Hundred Ninety Thousand One Hundred Twenty-Four Dollars ($590,124) for eligible costs and activities over the term of this Contract. Upon execution of this Contract, the City shall disburse the funds payable hereunder in due course of payments following receipt from Organization of billing statements in a form approved by the City showing expenditures and costs identified in Attachment "B".

B. The City shall pay to Organization the amounts specified in Attachment "B" for the categories, criteria and rates established in that Attachment. Organization may with the prior written approval of the Director of the City's Department of Health and Human Services, or his designee, make adjustments within and among the categories of expenditures in Attachment "B" and modify the performance to be rendered hereunder stated in Attachment "A"; provided, however, that such adjustment in expenditures shall not cause the amount of the total budget stated in Attachment "B" to be exceeded.

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C. Organization shall prepare monthly invoices and submit them to the City within ten (10) days after the end of the month in which Organization provided services. Organization shall attach cancelled checks and other documentation supporting the charges to each invoice. Invoices shall also show units of service and costs identified in Attachment "B". Failure to submit an invoice and its accompanying documentation within the 10-day period may result in late payment or no payment from the City. Submission of incorrect invoices with ineligible/inallocable expenses or inadequate documentation shall result in a Disallowed Cost Report. The Disallowed Cost Report was created to provide detail to Organization for the purpose of communicating disallowed costs due to reasons of insufficient source documentation, ineligible expenses, exceeded line

Year.

F. If the City is unable to draw down funds from HUD for reimbursement to Organization due to failure of Organization to submit required fiscal and programmatic documents within fifteen (15) days after the end of the Operational Year, the City cannot guarantee payment to Organization. The City will not be obligated to pay Organization for costs incurred unless HUD releases funds to the City. For this reason, failure of Organization to submit the final invoice and final reports within fifteen (15) days after the end of the Operational Year may result in loss of reimbursement of funds.

G. The City reserves the right to withhold payment of an invoice pending satisfactory completion of an audit, as determined by the City in its sole discretion, or Organization's cure of a breach of or noncompliance with this Contract, as determined by the City in its sole discretion, after being notified of such breach or noncompliance by the City.

H. All reimbursement by the City is contingent upon the City's receipt of funds from HUD. The City reserves the right to refuse payment of an invoice until such time as it receives funds from HUD sufficient to cover the expenses in the invoice.

I. Under this Contract and applicable rules and regulations, Organization may be allowed one (1) cash advance during the full term of this Contract, including extensions thereof. A one-time, lump sum of funds may be advanced to Organization, at the discretion of the Director of the City's Department of Health and Human Services, or his designee (referred to as "Director" in this paragraph), provided Organization demonstrates an urgent need for funds and meets certain requirements. Director may authorize a one-time cash advance to Organization, which shall be deducted from the first reimbursement request, provided the following provisions are met:

1. Organization submits a written request, together with

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accompanying documentation, to City to provide reasonable justification supporting the urgent need for the cash advance and to demonstrate that Organization will not be able to pay incurred costs without funds being advanced.

[redacted]

[redacted] organizations trustees directors associates

[redacted]

b. Costs of bonding required pursuant to [redacted] officers, or the immediate families thereof.

portion of the grant funds, then the City will terminate all activities of Organization under this Contract and pursue appropriate legal action to collect the funds. Alternatively, to the extent the City has been refusing payment of any invoices, the City may continue to withhold such funds equal to the amount of improperly used grant funds, regardless of whether the funds being withheld by the City were improperly used.

B. In addition, Organization shall provide any information that the City Auditor and other City representatives require in order to monitor and evaluate Organization's performance hereunder. The City reserves the right to review and request copies of all documentation related, directly or indirectly, to the program funded by this Contract, including by way of example but not limited to, case files, program files, policies and procedures. Organization shall provide all reports, documents or information requested by the City within three (3) days after receipt of a written or oral request from a City representative, unless a longer period of time is otherwise expressly stated by said representative.

C. Organization shall submit all requested data necessary to complete the Integrated Disbursement and Information System (IDIS) to draw down HPRP funding and report on grant expenditures, as specified by City.

D. Organization shall participate in the City's Homeless Management Information System (HMIS) and obtain funding to ensure participation. Organization shall ensure implementation, operation and maintenance necessary for participation throughout the term of this Contract. Further, Organization shall enter data into the HMIS system on a regular basis (at least weekly) and in a timely manner.

E. If Organization spends $500,000 or more in Federal funds in an Operational Year, then Organization shall submit an audit report to the City in accordance with OMB Circular A-133 no later than thirty (30) days after receipt of the audit report from Organization's auditor or no later than nine (9) months after

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the end of the Operational Year, whichever is earlier. If Organization spends less than $500,000 in Federal grant funds in an Operational Year, submission of the audit report is optional.

Section 6.

A. Organization shall comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a).

B. In the performance of this Contract, Organization shall not discriminate against any employee or applicant for employment because of race, religion, national origin, color, age, sex, sexual orientation, gender identity, AIDS, AIDS related condition, age, disability or handicap. Organization shall take affirmative action to assure that applicants are employed or served, and that employees and applicants are treated during employment or services without regard to these categories. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

C. Organization shall permit access by the City or any other agency of the County, State or Federal governments to Organization's records of employment, employment advertisements, application forms and other pertinent data and records for the purpose of investigation to ascertain compliance with the fair employment practices provisions of this Contract.

Section 7.

A. In performing services hereunder, Organization is and shall act as an independent contractor and not as an employee, representative or agent of the City. Organization's obligations to and authority from the City are solely as prescribed herein. Organization expressly warrants that it will not, at any time, hold itself out or represent that Organization or any of its agents, volunteers, subscribers, members, officers or employees are in any manner officials,

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employees or agents of the City. Organization shall not have any authority to bind the City for any purpose.

B. Organization acknowledges and agrees that (a) the City will not withhold taxes of any kind from Organization's compensation; (b) the City will not secure workers' compensation or pay unemployment insurance to, for or on Organization's behalf; and (c) the City will not provide, and Organization and Organization's employees are not entitled to, any of the usual and customary rights, benefits or privileges of City employees.

Section 8. This Contract contemplates the personal services of Organization and Organization's employees. Organization shall not delegate its duties or assign its rights hereunder, or any interest herein or any portion hereof, without the prior written consent of City. Any attempted assignment or delegation shall be void, and any assignee or delegate shall acquire no right or interest by reason of such attempted assignment or delegation.

Section 9. Organization shall indemnify and hold harmless the City, its Boards, Commissions, and their officials, employees and agents (collectively in this Section "City") against any and all liability, claims, demands, damage, causes of action, proceedings, penalties, loss, costs and expenses (including attorney's fees, court costs, and expert and witness fees) (collectively "Claims" or Individually "Claim") arising, directly or indirectly, out of any negligent act or omission of Organization, its officers, employees, agents, subcontractors or anyone under Organization's control (collectively "Indemnitor")

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shall assist Organization, as may be reasonably requested, in such defense.

Section 10.

A. Organization shall procure and maintain at Organization's expense (which expense may be submitted to the City for reimbursement from grant funds allocated to Organization if itemized on Attachment "B") for the duration of this Contract the following insurance and bond against claims for injuries to persons or damage to property that may arise from or in connection with the performance of this Contract by Organization, its agents, representatives, employees, volunteers or subcontractors.

1. Commercial general liability insurance (equivalent in scope to ISO form CG 00 01 11 85 or CG 00 01 11 88) in an amount not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) general aggregate. Such coverage shall include but not be limited to broad form contractual liability, cross liability, independent contractors liability, and products and completed operations liability. The City, its Boards and Commissions, and their officials, employees and agents shall be named as additional insureds by endorsement (on the City's endorsement form or on an endorsement equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85), and this insurance shall contain no special limitations on the scope of protection given to the City, its Boards and Commissions, and their officials, employees and agents.

2. Workers' Compensation insurance as required by the California Labor Code.

3. Employer's liability insurance in an amount not less than One Million Dollars ($1,000,000) per claim.

4. Professional liability or errors and omissions insurance in an amount not less than One Million Dollars ($1,000,000) per claim.

5. Commercial automobile liability insurance (equivalent

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in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than Five Hundred Thousand Dollars ($500,000) combined single limit per accident.

6. Blanket Honesty Bond in an amount equal to at least fifty percent (50%) of the total amount to be disbursed to Organization hereunder or Twenty-five Thousand Dollars ($25,000), whichever is less, to safeguard the proper handling of funds by employees, agents or representatives of Organization who sign as the maker of checks or drafts or in any manner authorize the disbursement or expenditure of said funds.

If delivering services to minors, seniors or persons with disabilities, Organization's Commercial General Liability insurance shall not exclude coverage for abuse and molestation. If Organization is unable to provide abuse and molestation coverage, it can request a waiver of this coverage from the City. The City's Risk Manager will consider waiving the requirement if Organization can demonstrate to the satisfaction of the City's Risk Manager that Organization has

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charges to awards.

(b) Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.

(c) The reports must be signed by the indi-

acts that constitute a cause for debarment or suspension (as specified in agency regulations), and acts which violate the False Claims Act, 31 U.S.C., sections 3729–3731, or the Anti-Kickback Act, 41 U.S.C., sections 51 and 54.

days prior written notice to the City, and shall be primary and not contributing to any other insurance or self-insurance maintained by the City. Organization shall notify the City in writing within five (5) days after any insurance required herein has been voided by the insurer or cancelled by the insured.

C. Organization shall require that all contractors and subcontractors which Organization uses in the performance of services hereunder maintain insurance in compliance with this Section unless otherwise agreed in writing by the City's Risk Manager or his/her designee.

D. Prior to the start of performance or payment of first invoice, Organization shall deliver to the City certificates of insurance and required endorsements for approval as to sufficiency and form. The certificate and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. In addition, Organization, shall, within thirty (30) days prior to expiration of the insurance required herein, furnish to the City certificates of insurance and endorsements evidencing renewal of such insurance. The City reserves the right to require complete certified copies of all policies of Organization and Organization's contractors and subcontractors, at any time. Organization shall make available to the City's Risk Manager or designee all books, records and other information relating to the insurance coverage required herein, during normal business hours.

E. Any modification or waiver of the insurance requirements herein shall only be made with the approval of the City's Risk Manager or his/her designee. Not more frequently than once a year, the City's Risk Manager or his/her designee may require that Organization, Organization's contractors and subcontractors change the amount, scope or types of coverages required herein if, in his or her sole opinion, the amount, scope, or types of coverages herein are not adequate.

F. The procuring or existence of insurance shall not be

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construed or deemed as a limitation on liability relating to Organization's performance or as full performance of or compliance with the indemnification provisions of this Contract.

Section 11.

A. Organization shall comply with all requirements of the City's Municipal Code relating to building code standards in undertaking any activities or renovations using grant funds.

B. Organization shall not commence services until the City's Planning and Building Department has completed an environmental review under 24 CFR Part 58, and Organization shall not commence such services until the City

(a) discriminate against any employee or applicant for employment on the basis of religion;

(b) discriminate against any person seeking homelessness prevention assistance, or assistance to rapidly re-house persons who are homeless, on the basis of religion or limit such services or give preference to persons on the basis of religion;

(c) provide religious instruction or counseling, conduct religious worship or services, engage in religious proselytizing, or exert other religious influence in the provision of services or the use of facilities and furnishings;

3. The portion of the facility used for homelessness prevention assistance, or assistance to rapidly re-house persons who are homeless, in whole or in part under this Contract or in which services are provided that are assisted under this Contract shall contain no sectarian religious symbols or decorations.

F. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HPRP program. However, an organization that participates in a HUD funded program shall comply with the following provisions if it is deemed to be a religious or faith-based organization.

1. Organization may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this Contract.

2. If Organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this Contract, and participation must be voluntary for the beneficiaries of the HUD funded programs or services.

3. A religious or faith-based organization will retain its

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1 independence from Federal, State, and local governments, and may
2 continue to carry out its mission, including the definition, practice, and
3 expression of its religious beliefs, provided that it does not use direct HUD
4 funds to support any inherently religious activities, such as worship,
5 religious instruction, or proselytization.

6 4. A religious or faith-based organization may use space
7 in their facilities to provide HUD funded services, without removing religious
8 art, icons, scriptures, or other symbols.

9 5. A religious or faith-based organization retains its
10 authority over its internal governance, and it may retain religious terms in its
11 organization's name, select its board members on a religious basis, and

by the cognizant Federal agency. When the taken at least once every two years (a statis-

depreciation method is introduced for appli- tical sampling basis is acceptable) to ensure

for HUD 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 dispositions.

G. Organization shall provide homeless persons and persons at risk of becoming homeless, with assistance in obtaining:

1. Appropriate financial assistance, housing relocation and stabilization services, and other related services; and

2. Other Federal, State and local private assistance available for such individuals, including mainstream resources.

H. Organization certifies that it will comply with all documents, policies, procedures, rules, regulations and codes identified in Sections 2 and 11 of this Contract, and such other requirements as may from time to time be promulgated by HUD.

I. Organization shall execute a Certification Regarding Debarment in the form shown in Attachment "H".

J. Organization shall execute a Certification Regarding Lobbying in the form shown in Attachment "I".

Section 12. Organization certifies that it has established a Drug-Free Awareness Program in compliance with Government Code Section 8355, that it has given a copy of said Program to each employee who performs services hereunder, that compliance with the Program is a condition of employment, and that it has published a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and action will be taken for violation.

Section 13. The City shall facilitate the submission of all reports required by HUD based on information submitted by Organization to the City. The City shall act as the primary contact for Organization to HUD for services provided under this Contract.

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The City shall facilitate directly to HUD the submission of any information related to all financial and programmatic matters in this Contract, including but not limited to reimbursements of grant funds, requests for changes to Organization's budget, requests for changes to Organizations' application for grant funds and requests for changes to Organization's Technical Submission.

Section 14. All notices required hereunder shall be in writing and personally delivered or deposited in the U.S. Postal Service, certified mail, return receipt

damages or indemnity stated herein. The waiver of any breach of this Contract shall not constitute a waiver of any other or subsequent breach of this Contract.

Section 19. This Contract shall be governed by and construed pursuant to the laws of the State of California without regard to conflicts of law principles.

Section 20. In the event of any conflict or ambiguity between this Contract and one or more attachments, the provisions of this Contract shall govern.

IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

BEYOND SHELTER, a nonprofit California corporation

September 22, 2009 By Tanya Tull
President/CEO

TANYA TULL
Type or Print Name

September 22, 2009 By C. Hirasy-Glasco
~~Secretary~~ EXECUTIVE DIRECTOR/COO

CHRISTINE HIRASY-GLASCO
Type or Print Name

"Organization"

CITY OF LONG BEACH, a municipal corporation

9.28, 2009 By
Assistant City Manager
City Manager

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

"City"

This Contract is approved as to form on 9/28, 2009.

ROBERT E. SHANNON, City Attorney

By
Deputy

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Attachment “A”

City of Long Beach
Homelessness Prevention and Rapid Re-Housing Program 2009-2010
Scope of Work

RAPID RE-HOUSING COMPONENT

AGENCY NAME: Beyond Shelter **CONTRACT NUMBER:** _____

Program Objective: Provide **Rapid Re-Housing** assistance to eligible households who are homeless.

Goals:	PROJECTED YEAR 1 TOTAL GOALS	PERFORMANCE BENCHMARKS AND MILESTONES				
		YEAR 1 START-UP PERIOD 9/1/2009 - 9/30/2009	YEAR 1 QUARTER 1 10/1/2009 - 12/31/2009	YEAR 1 QUARTER 2 1/1/2010 - 3/31/2010	YEAR 1 QUARTER 3 4/1/2010 - 6/30/2010	YEAR 1 QUARTER 4 7/1/2010 - 9/30/2010
		IPR Report Due: October 5, 2009	QPR Report Due: January 5, 2010	QPR Report Due: April 5, 2010	QPR Report Due: July 5, 2010	QPR Report Due: October 5, 2010

Attachment “B”

CITY OF LONG BEACH

Homelessness Prevention and Rapid Re-Housing Program - 2009-2010

RAPID RE-HOUSING COMPONENT

Annual Program Budget for Beyond Shelter. **City Contract #** _____

ITEM	ALLOCATION	BUDGETED SERVICE ACTIVITIES
FINANCIAL ASSISTANCE - RAPID RE-HOUSING ONLY		
Financial Assistance for **Rapid Re-Housing Activities**	398,100	For financial assistance, to be provided to appropriate third parties, including utility deposits; utility payments; moving cost assistance; rental assistance; security deposits; and hotel/motel vouchers, as detailed in Attachment "C", entitled "Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009"

Attachment “C”

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5307-N-01]

Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of funding allocations and requirements.

SUMMARY: This Notice advises the public of the allocation formula and allocation amounts, the list of grantees, and requirements for the Homelessness Prevention Fund, hereafter referred to as the "Homelessness Prevention and Rapid Re-Housing Program (HPRP)," under Title XII of the American Recovery and Reinvestment Act of 2009 ("Recovery Act"). Congress has designated $1.5 billion for communities to provide financial assistance and services to either prevent individuals and families from becoming homeless or help those who are experiencing homelessness to be quickly re-housed and stabilized. In order to receive these funds, eligible grantees must submit a substantial amendment to the Consolidated Plan 2008 Action Plan (referred to in this Notice as the "substantial amendment").

EFFECTIVE DATE: March 19, 2009

OVERVIEW INFORMATION

A. Federal Agency Name: Department of Housing and Urban Development, Office of Community Planning and Development.

B. Funding Opportunity Title: Funding Availability for the Homelessness Prevention Fund created under Title XII of Division A of the American Recovery and Reinvestment Act of 2009 ("Recovery Act"), referred to in this Notice as the "Homelessness Prevention and Rapid Re-Housing Program (HPRP)."

C. Publication: This Notice is initially being published on HUD's web site. It will also be published in the Federal Register. All HUD materials will be posted on the HUD Homelessness Resource Exchange at: www.hudhre.info.

D. Catalog of Federal Domestic Assistance (CFDA) Number: 14.257: Homelessness Prevention and Rapid Re-Housing Program (HPRP).

E. Dates: Substantial amendments submitted pursuant to this Notice must be postmarked to HUD no later than 60 days from the date of publication of this Notice. HUD will complete its review of all correctly completed substantial amendments within 45 days of receipt. HUD intends to execute all grant agreements no later than September 1, 2009. Grantees must obligate funds to their subgrantees by September 30, 2009. The Recovery Act requires grantees to

amendment to its Consolidated Plan 2008 Action Plan ("substantial amendment") in accordance with section IV.E. below. The substantial amendment and other required documents must be received by HUD within 60 days of the publication of this Notice.

b. In preparing the substantial amendment, each eligible grantee must follow its citizen participation plan in accordance with 24 CFR part 91, except that the minimum time period for citizens to comment on the substantial amendment shall be reduced to 12 days. HUD does not require that grantees establish a second period of public comment regarding the process for determining subgrantees, but if a grantee has this requirement in place locally, this public comment period may be reduced to 3 days.

c. Each substantial amendment submitted to HUD will be subject to the approval process set forth in 24 CFR 91.500, except that: HUD will approve or disapprove the substantial amendment within 45 days of receipt; jurisdictions with disapproved substantial amendments may revise and resubmit a substantial amendment within 15 days after HUD sends the first notification of its disapproval; and HUD will approve or disapprove the revised substantial amendment within 15 days of receiving the resubmission.

d. Grantees are not required to report on uses of HPRP funds in their Consolidated Annual Performance and Evaluation Report (CAPER). Instead, the use of HPRP funds will be subject to the reporting requirements established by the Recovery Act, as specified by HUD and the Office of Management and Budget (OMB).

3. Recovery.gov web site: To encourage transparency, HUD will require grantees receiving assistance under HPRP to provide reports that will be used for postings on the Recovery.gov web site. This portal is designed to provide one centralized location for the public to find and analyze information, and report potential fraud, waste, and abuse pertaining to the Recovery Act.

G. For Further Information: For questions about HPRP, please call 1-800-998-9999. For more information about the HPRP, or to view a copy of the Recovery Act, go to www.hudhrp.info. Written questions may be sent to: Ann Marie Oliva, Director, Office of

I. Monitoring
J. Summary of the Expedited Process for HPRP Grant Allocations

VI. Reporting Requirements
A. IDIS
B. HMIS
C. Performance Reports

VII. Other Federal Requirements
A. Conflicts of Interest
B. Environmental Requirements
C. Habitability Standards
D. Nondiscrimination and Equal Opportunity Requirements
E. Affirmatively Furthering Fair Housing
F. Lead-Based Paint Requirements
G. Uniform Administrative Requirements
H. Equal Participation of Religious Organizations
I. Lobbying and Disclosure Requirements
J. Drug-Free Workplace Requirements
K. Procurement of Recovered Materials

VIII. Appendices
A. Eligible Grantees
B. Comparison of ESG and HPRP
C. Habitability Standards for HPRP
D. Special Grant or Subgrant Conditions for "High-Risk" Grantees

I. Funding Opportunity Description

A. Program Description

1. Description. Congress enacted the Recovery Act to help persons affected by the current economic crisis. The purpose of the Homelessness Prevention and Rapid Re-Housing Program (HPRP) is to provide homelessness prevention assistance to households who would otherwise become homeless—many due to the economic crisis—and to provide assistance to rapidly re-house persons who are homeless as defined by section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302). While HUD will allow grantees the discretion to develop prevention and/or rapid re-housing programs that meet locally-defined needs, HUD also expects

that these resources will be targeted and prioritized to serve households that are most in need of this temporary assistance and are most likely to achieve stable housing, whether subsidized or unsubsidized, outside of HPRP after the program concludes. Grantees should take this opportunity to develop strategies to identify eligible program participants, review existing models for prevention and rapid re-housing programs, and create a plan that utilizes all resources available through the Recovery Act in order to provide a comprehensive menu of services to assist eligible program participants.

HPRP is focused on housing for homeless and at-risk households. It will provide

homeless—pay for utilities, moving costs, security deposits and rent in a new unit, storage fees, and other financial costs or services as described in this Notice. HPRP funds are not eligible to pay for any mortgage costs or legal or other fees associated with retaining homeowners' housing.

2. Match. Grantees are not required to match HPRP funds with any other funding source.

3. New Program. Although the funding allocation is based on that of the ESG program, HPRP is a separate program, with a different program purpose and requirements. The table in Appendix B highlights the differences between ESG and HPRP.

4. The requirements in this Notice may be waived in the same manner as regulatory requirements. Grantees must submit a written request to HUD. Upon a determination of good cause, the Assistant Secretary for Community Planning and Development may, subject to statutory limitations, waive any provision of this Notice. Each waiver must be in writing and must specify the grounds for approving the waiver.

B. Definitions

Applicant means a state, territory, metropolitan city, or urban county that submits a substantial amendment and other required documents pursuant to the provisions of this Notice.

Certification means a written assertion, based on supporting evidence, that must be kept available for inspection by HUD, by the Inspector General of HUD, and by the public. The assertion shall be deemed to be accurate unless HUD determines otherwise, after inspecting the evidence and providing due notice and opportunity for comment.

Consolidated Plan means the plan prepared in accordance with 24 CFR Part 91.

Grantee means the legal entity to which HUD awards an HPRP grant and which is accountable for the use of the funds provided.

Homeless means as the term is defined by section 103 of the McKinney-Vento Homeless

Assistance Act (42 U.S.C. 11302).

HUD means the U.S. Department of Housing and Urban Development.

Metropolitan city means a city that was classified as a metropolitan city under section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) for Fiscal Year 2008. This includes the District of Columbia.

Non-profit subgrantee means any private non-profit organization to which a grantee provides funds to carry out the eligible activities under the grant and which is accountable to the grantee for the use of funds provided.

Private non-profit organization means an organization described in 26 U.S.C. 501(c) that 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.

Program participant means an individual or family with or without children that is provided HPRP financial assistance or housing relocation and stabilization services through a rapid re-housing or prevention program. In this Notice, the term "household" refers to individuals or families.

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

State subgrantee means any unit of general local government or private non-profit organization to which a state distributes HPRP grant amounts.

Subgrantee means any private non-profit organization or unit of general local government to which a grantee provides funds to carry out the eligible activities under the grant and which is accountable to the grantee for the use of the funds provided.

Territory means each of the following: the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

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 section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) for Fiscal Year 2008.

II. ALLOCATIONS

A. Initial Allocation

1. Allocation Formula. The Recovery Act directs HUD to allocate funds to grantees that are eligible under the ESG program, as defined and designated in sections 411 and 412 of subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, pursuant to the formula authorized by section 413 of that Act. States, urban counties, metropolitan cities, and U.S. territories are eligible grantees under HPRP. Of the $1.5 billion total appropriated by the Recovery Act for HPRP, Congress set aside 0.5 percent ($7.5 million) for a portion of HUD's administration of this assistance, including staffing, training, technical assistance, technology, monitoring, research, and evaluation activities. Therefore, $1,492,500,000 is available for allocation to eligible grantees. Pursuant to law, U.S. territories received 0.2 percent of the total amount of the funding allocation, or $3,000,000, to be distributed among the several territories based on the ESG formula. After subtracting the grant amount designated for territories, HUD used the ESG formula to allocate the remaining amount, or $1,489,500,000, to metropolitan cities, urban counties, and states.

2. Minimum Grant Size. Under the ESG program, if, after allocation, any metropolitan city or

grant minimum at $500,000, rather than 0.05 percent (or approximately $750,000), in order to increase the number of metropolitan cities and urban counties eligible to directly receive formula funds under HPRP. Funds for urban counties and metropolitan cities that fell under this threshold were reallocated to the state in which the jurisdiction was located. The $500,000 grant minimum resulted in 485 metropolitan cities and urban counties eligible to receive funding, compared to 305 metropolitan cities and urban counties funded under the ESG program. This represents an increase of 180 eligible metropolitan cities and urban counties. Including states and territories, a total of 540 grantees are eligible to receive HPRP funds.

3. Eligible Grantees. Attachment A of this Notice lists all HPRP eligible grantees and the amounts they are eligible to receive.

B. Reallocation

1. Reallocation of Initial Grant. HUD encourages each local jurisdiction receiving an allocation to carefully consider its administrative capacity to use the funds within the statutory deadlines, compared to the capacity of the state administrator. HUD expects that, after such consideration, some jurisdictions may choose to apply for less than the full amount, which will allow the balance of their grants to be reallocated to the state.

a. Declining the grant. If an eligible grantee receiving an allocation of funds under this Notice (as designated in Attachment A) wishes to decline its allocation, the legally authorized official must notify its local HUD field office in writing of its intent to do so. A list of field office contacts is available at: http://www.hud.gov/offices/cpd/about/staff/fodirectors/.

b. Requesting less than the allocation. If an eligible grantee wishes to request less than the total allocation amount for which it is eligible, the legally authorized official must notify its local HUD field office in writing of the amount it will request on or before May 18, 2009.

c. Failure to submit a complete application. If an eligible grantee fails to submit a substantially complete substantial amendment for its grant allocation within the timeframes established in sections IV.E. and IV.F. of this Notice, HUD will notify the jurisdiction of the cancellation of its allocation amount and proceed to reallocate the funds.

d. Distribution of reallocated funds. In the case where an urban county or metropolitan city refuses or requests less than its allocation, HUD will reallocate the funds to the state in which the jurisdiction is located. For a state or territory that refuses or requests less than its allocation, HUD will reallocate the funds nationally according to the original formula.

2. Reallocation at 2-Year Statutory Expenditure Deadline. The Recovery Act requires HUD to obligate all funds to grantees by September 30, 2011. In order to meet this requirement and allow for reallocation if grantees have not spent 60 percent of their funds within 2 years, HUD

III. WHO MAY CARRY OUT ELIGIBLE ACTIVITIES

A. States

A state grantee must make available all of its formula allocation, except for an appropriate share of funds for administrative costs, to the subgrantees listed below to carry out all eligible activities. Any organization receiving HPRP funds shall be subject to all of the requirements that apply to the grantee under this Notice.

1. Units of general local government in the state, which may include metropolitan cities and urban counties that receive grant amounts directly from HUD.

2. Private non-profit organizations, if the local government for the locality in which the program is located certifies that it approves of the program.

B. Metropolitan Cities, Urban Counties, and Territories

Metropolitan cities (including the District of Columbia), urban counties, and territories, or an agency of those governments, may directly carry out eligible activities, or may distribute all or part of their grant amounts to private non-profit organizations to carry out HPRP activities. Any organization receiving HPRP funds shall be subject to all of the requirements that apply to the grantee under this Notice.

C. Alternate Grant Arrangements

Any local government grantee may enter into a subgrant with another local government to carry out the program. A local government grantee may choose this arrangement because another local government has greater capacity or because the grantee wants its program to be cooperatively carried out with another local government. Any organization receiving HPRP funds shall be subject to all of the requirements that apply to the grantee under this Notice.

IV. REQUIREMENTS FOR FUNDING

A. Eligible Activities

Grant funds must be used for eligible activities as described in this Notice. There are four categories of eligible activities for the HPRP program: financial assistance, housing relocation and stabilization services, data collection and evaluation, and administrative costs. These eligible activities are intentionally focused on housing—either financial assistance to help pay

lieu of taxes which are commensurate with the local government services received are allowable, except for taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the Federal Government and in the latter case when the awarding agency makes available the necessary exemption certificates, special assessments on land which represent capital improvements, and Federal income taxes.

b. Any refund of taxes, and any payment to the organization of interest thereon, which were allowed as award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the Federal Government.

48. Termination costs applicable to sponsored agreements. Termination of awards generally gives rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the Federal award not been terminated. Cost principles covering these items are set forth

agency, and

(3) The loss of useful value for any one terminated Federal award is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the Federal award bears to the entire terminated Federal award and other Federal awards for which the special tooling, special machinery, or equipment was acquired.

d. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated Federal award less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the Federal award and such further period as may be reasonable, and

(2) The non-profit organization makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such

(1) Short- and medium-term rental assistance are tenant-based rental assistance that can be used to allow individuals and families to remain in their existing rental units or to help them obtain and remain in rental units they select. Short-term rental assistance may not exceed rental costs accrued over a period of 3 months. Medium-term rental assistance may not exceed actual rental costs accrued over a period of 4 to 18 months. No program participant may receive more than 18 months of assistance under HPRP. After 3 months, if program participants receiving short-term rental assistance need additional financial assistance to remain housed, they must be evaluated for eligibility to receive up to 15 additional months of medium-term rental assistance, for a total of 18 months. HUD is requiring grantees and subgrantees to certify eligibility at least once every 3 months for all program participants receiving medium-term rental assistance. HUD additionally encourages grantees and subgrantees to provide ongoing case management, as needed, to all program participants receiving rental assistance in order to transition them to independence, including permanent housing arrangements (subsidized or unsubsidized).

(2) The grantee determines the amount of short-term and medium-term rental assistance provided, such as "shallow subsidies" (payment of a portion of the rent), payment of 100 percent of the rent charged, or graduated/declining subsidies. A grantee may also set a maximum amount of assistance that a single individual or family may receive from HPRP funds, or may set a maximum number of times that an individual or family may receive assistance, as long as the total amount of assistance that any individual or family receives does not exceed an amount equal to 18 months of rental assistance. Grantees may require program participants to share in the costs of rent, utilities, security and utility deposits, moving, hotel or motel, and other

should be "needs-based," meaning that grantees and/or subgrantees should determine the amount of assistance based on the minimum amount needed to prevent the program participant from becoming homeless or returning to homelessness in the near term. This will also help communities to utilize program resources efficiently to serve as many households as possible.

(3) Rental assistance may also be used to pay up to 6 months of rental arrears for eligible program participants. Rental arrears may be paid if the payment enables the program participant to remain in the housing unit for which the arrears are being paid or move to another unit. If HPRP funds are used to pay rental arrears, arrears must be included in determining the total period of the program participant's rental assistance, which may not exceed 18 months.

(4) The rental assistance paid cannot exceed the actual rental cost, which must be in compliance with HUD's standard of "rent reasonableness." "Rent reasonableness" means that the total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private unassisted market and must not be in excess of rents being charged by the owner during the same time period for comparable non-luxury unassisted units. To make this determination, the grantee or subgrantee should consider (a) the location, quality, size, type, and age of the unit; and (b) any amenities, housing services, maintenance and utilities to be provided by the owner. Comparable rents can be checked by using a market study, by reviewing comparable units advertised for rent, or with a note from the property owner verifying the comparability of charged rents to other units owned (for example, the landlord would document the rents paid in other units). For more information, see HUD's worksheet on rent reasonableness at:

www.hud.gov/offices/cpd/affordablehousing/library/forms/rentreasonablechecklist.doc.

(5) Rental assistance payments cannot be made on behalf of eligible individuals or families for the same period of time and for the same cost types that are being provided through another federal, state or local housing subsidy program. Cost types are the categories of eligible HPRP financial assistance: rent, either the client portion or the subsidy; security deposits, utility deposits, utility payments, moving cost assistance, and hotel/motel vouchers.

b. Security and utility deposits. HPRP funds may be used to pay for security deposits, including utility deposits, for eligible program participants. In contrast to the requirements regarding rental assistance payments, security and utility deposits covering the same period of time in which assistance is being provided through another housing subsidy program are eligible, as long as they cover separate cost types. One example of this would be providing a security deposit for a participant in the HUD-VA Supportive Housing (HUD-VASH) program, which provides rental assistance and services. A program description of HUD-VASH can be found at:

rental housing has been identified but is not immediately available for move-in by the program participants.

2. Housing Relocation and Stabilization Services. HPRP funds may be used for services that assist program participants with housing stability and placement. Each program participant may receive housing relocation and stabilization services for up to 18 months. These services are limited to the following eligible activities:

a. Case management. HPRP case management funds may be used for activities for the arrangement, coordination, monitoring, and delivery of services related to meeting the housing needs of program participants and helping them obtain housing stability. Component services and activities may include: counseling; developing, securing, and coordinating services; monitoring and evaluating program participant progress; assuring that program participants' rights are protected; and developing an individualized housing and service plan, including a path to permanent housing stability subsequent to HPRP financial assistance.

b. Outreach and engagement. HPRP funds may be used for services or assistance designed to publicize the availability of programs to make persons who are homeless or almost homeless aware of these and other available services and programs.

c. Housing search and placement. HPRP housing search and placement funds may be used for services or activities designed to assist individuals or families in locating, obtaining, and retaining suitable housing. Component services or activities may include: tenant counseling; assisting individuals and families to understand leases; securing utilities; making moving arrangements; representative payee services concerning rent and utilities; and mediation and outreach to property owners related to locating or retaining housing.

d. Legal services. HPRP funds may be used for legal services to help people stay in their homes,

such as services or activities provided by a lawyer or other person(s) under the supervision of a lawyer to assist program participants with legal advice and representation in administrative or court proceedings related to tenant/landlord matters or housing issues. Legal services related to mortgages are not eligible.

4. Administrative Costs.

a. Administrative costs may be used for: pre-award administrative costs, as defined in section b. below; accounting for the use of grant funds; preparing reports for submission to HUD; obtaining program audits; similar costs related to administering the grant after the award; and grantee or subgrantee staff salaries associated with these administrative costs. Administrative costs also include training for staff who will administer the program or case managers who will serve program participants, as long as this training is directly related to learning about HPRP. Administrative costs *do not* include the costs of issuing financial assistance, providing housing relocation and stabilization services, or carrying out eligible data collection and evaluation activities, as specified above, such as grantee or subgrantee staff salaries, costs of conducting housing inspections, and other operating costs. These costs should be included under one of the three other eligible activity categories.

b. Pre-award administrative costs. Given the urgent need in many communities for this funding and the short timeframe set forth in section V.A.1. for obligation to grantees, grantees will need to act quickly to prepare the HPRP substantial amendment and to undertake other administrative actions. Therefore, HUD is granting permission to grantees receiving a direct allocation of HPRP funds (see Attachment A) to incur pre-award costs in accordance with OMB Circular A-87, Attachment B, paragraph 31 (24 CFR part 225, Appendix B, paragraph 31). All costs and activities funded with pre-award HPRP funds must comply with the Recovery Act statutory language relevant to HPRP, and they must comply with the requirements of HPRP as described in this Notice. Eligible pre-award costs that grantees may incur are costs that are directly related

agreement. This includes, but is not limited to, staff costs for preparing the substantial amendment and publication, other costs related to the public comment process, or reasonable travel and accommodation costs related to participation in HUD-sponsored HPRP training.

c. Limitations on administrative costs. No more than 5 percent of the total HPRP grant to the grantee may be spent on administrative costs, whether by the grantee or subgrantee(s). In addition, all administrative costs must be incurred prior to the 3-year expenditure deadline (described in section V.A.2).

d. Sharing of administrative funds. Grantees shall share a reasonable and appropriate amount of their administrative funds with subgrantees.

B. Ineligible and Prohibited Activities

1. Coordination with Recovery Act Resources. Grantees are strongly encouraged, as part of local planning, to maximize all resources that may be available with Recovery Act funds other than HPRP (see chart on Recovery Act resources located at www.hudhre.info). A grantee's local plan for spending HPRP funds should coordinate closely with other Recovery Act funding streams, so that eligible activities under other Recovery Act programs are aligned with HPRP funds to create a comprehensive package of housing and service options available to eligible program participants. The intent of HPRP is to provide funding for housing expenses to persons who are homeless or who would be homeless if not for this assistance. Therefore, financial assistance or services to pay for expenses that are available through other Recovery Act programs, including child care and employment training, are not eligible. Case managers should work to link program participants to these other resources.

2. Mortgage Costs are Ineligible. Financial assistance may not be used to pay for any mortgage costs or costs needed by homeowners to assist with any fees, taxes, or other costs of refinancing

a mortgage to make it affordable.

3. Other Ineligible and Prohibited Activities. HPRP funds may not be used to pay for any of the following items: construction or rehabilitation; credit card bills or other consumer debt; car repair or other transportation costs; travel costs; food; medical or dental care and medicines; clothing and grooming; home furnishings; pet care; entertainment activities; work or education related materials; and cash assistance to program participants. HPRP funds may not be used to develop discharge planning programs in mainstream institutions such as hospitals, jails, or prisons. Finally, while training for case managers and program administrators is an eligible administrative cost as long as it is directly related to HPRP program operations, HPRP funds may not be used to pay for certifications, licenses, and general training classes. Programs may not charge fees to HPRP program participants. Any HPRP funds used to support program

Audit finding means deficiencies which the auditor is required by §___.510(a) to report in the schedule of findings and questioned costs.

CFDA number means the number assigned to a Federal program in the Catalog of Federal Domestic Assistance (CFDA).

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are

assistance or services through HPRP as long as they meet the minimum requirements as discussed in section D.2. below.

D. Eligible Program Participants

1. General. HUD allows grantees significant discretion in program design and operation while targeting those who are most in need of temporary homelessness prevention and rapid re-housing assistance. When establishing local programs, grantees should consider how their programs will identify eligible program participants and meet their needs as intended by the Recovery Act. Grantees should consider serving two eligible populations with HPRP funds: persons who are still housed but at risk of becoming homeless and persons who are already homeless. Although persons in both target populations are eligible to receive financial assistance and services under HPRP, creating this distinction can help communities serve households most in need of temporary assistance, as well as track the funds used for rapid re-housing and prevention. Since not all program participants in either of the target populations will have the same level of need, it is not expected that all persons in each target population will receive identical levels of assistance. For example, the scope and intensity of assistance provided to a homeless family may be greater than that provided to a homeless individual. Likewise, a family on the verge of becoming homeless within a few days may require more services or a higher level of assistance than a family whose risk of homelessness is not as imminent or one who may only need a shorter period of financial assistance. Grantees are responsible for verifying and documenting the individuals' risk of homelessness that qualifies them for receiving rental assistance. HUD requires grantees and/or subgrantees to evaluate and certify the eligibility of program participants at least once every 3 months for all persons receiving medium-term rental assistance. Similarly, grantees and subgrantees should carefully assess a household's need and appropriateness for

HPRP. If the household needs more intensive supportive services or long-term assistance, or if a household is not at risk of homelessness, grantees and subgrantees should work to link them to

number in the CFDA.

(2) When no CFDA number is assigned, all Federal awards from the same agency made for the same purpose should be combined and considered one program.

(3) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. The types of clusters of programs are:

(i) Research and development (R&D);

(ii) Student financial aid (SFA); and

(iii) "Other clusters," as described in the definition of cluster of programs in this section.

GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Generally accepted accounting principles has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA).

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Internal control means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(1) Effectiveness and efficiency of operations;

(2) Reliability of financial reporting; and

(3) Compliance with applicable laws and regulations.

Internal control pertaining to the compliance requirements for Federal programs (Internal control over Federal programs) means a process--effected by

homeless. It is helpful to remember that the defining question to ask is: "Would this individual or family be homeless *but* for this assistance?"

The requirements set forth in paragraph 2 of this section establish HUD's minimum conditions that an individual or family must meet in order to receive assistance through HPRP. However, HUD strongly encourages communities to consider more factors when designing their local programs and determining a household's level of need for receiving assistance through HPRP. To aid grantees and subgrantees in targeting HPRP funds toward persons most at risk of becoming homeless, a number of potential "risk factors" are listed below that could indicate that a person or family is at a higher risk of becoming homeless. This list represents examples of some commonly identified risk factors for homelessness from scholarly research and practical experience drawn from existing homelessness prevention programs. One way a grantee or subgrantee could use these factors would be to consider the first four criteria on this list as indicative of the most urgent need, and could require that a program participant meet one of these criteria in order to receive the most expensive benefit, "medium-term" rental assistance. Likewise, a grantee might require that a program participant have at least two or more of the risk factors to qualify for any assistance. Grantees and subgrantees should note, however, that this list is optional and not exhaustive; grantees and subgrantees may consider other risk factors or other ways to target persons at risk of homelessness when developing local programs and

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Management decision means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

Non-Federal entity means a State, local government, or non-profit organization.

Non-profit organization means:

(1) any corporation, trust, association, cooperative, or other organization that:

(i) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(ii) Is not organized primarily for profit; and

(iii) Uses its net proceeds to maintain, improve, or expand its operations; and

(2) The term non-profit organization includes non-profit institutions of higher education and hospitals.

- Eviction within 2 weeks from a private dwelling (including housing provided by family or friends);
- Discharge within 2 weeks from an institution in which the person has been a resident for more than 180 days (including prisons, mental health institutions, hospitals);
- Residency in housing that has been condemned by housing officials and is no longer meant for human habitation;
- Sudden and significant loss of income;
- Sudden and significant increase in utility costs;
- Mental health and substance abuse issues;
- Physical disabilities and other chronic health issues, including HIV/AIDS;
- Severe housing cost burden (greater than 50 percent of income for housing costs);
- Homeless in last 12 months;
- Young head of household (under 25 with children or pregnant);
- Current or past involvement with child welfare, including foster care;
- Pending foreclosure of rental housing;
- Extremely low income (less than 30 percent of Area Median Income);
- High overcrowding (the number of persons exceeds health and/or safety standards for the housing unit size);
- Past institutional care (prison, treatment facility, hospital);
- Recent traumatic life event, such as death of a spouse or primary care provider, or recent health crisis that prevented the household from meeting its financial responsibilities;
- Credit problems that preclude obtaining of housing; or
- Significant amount of medical debt.

4. Rapid Re-Housing Assistance. Rapid re-housing assistance is available for persons who are homeless according to HUD's definition. Individuals and families who meet one of the following criteria, along with the minimum requirements established in paragraph 2 of this section, are eligible under the rapid re-housing portion of HPRP:

a. Sleeping in an emergency shelter;

b. Sleeping in a place not meant for human habitation, such as cars, parks, abandoned buildings, streets/sidewalks;

c. Staying in a hospital or other institution for up to 180 days but was sleeping in an emergency shelter or other place not meant for human habitation (cars, parks, streets, etc.) immediately prior to entry into the hospital or institution;

d. Graduating from, or timing out of a transitional housing program; and

e. Victims of domestic violence.

Generally, rapid re-housing program models include short- or medium-term rental assistance and services for households who have barriers to housing, but who are likely to sustain housing after the subsidy ends. The purpose of HPRP rapid re-housing funds is to assist eligible program participants to quickly obtain and sustain stable housing. Therefore, organizations providing assistance should utilize a process to assess, for all potential program participants, their level of service need, other resources available to them, and the appropriateness of their [illegible] rapid re-housing assistance portion of HPRP. Program participants who

requirements as under that demonstration program. HPRP provides flexibility to grantees to use these funds in a way that meets the needs of the community, as long as grantees, subgrantees, and program participants meet the requirements established in this Notice.

E. Application Requirements

1. Required Submission Documents. HUD will consider a completed application to contain the following three documents:

a. A completed and signed Standard Form 424 (SF-424);

b. A completed and signed substantial amendment using form HUD-40119; and

c. A signed copy of the required certifications.

2. Substantial Amendment. To receive its grant allocation, each grantee must prepare and submit to HUD for approval a substantial amendment to its Consolidated Plan 2008 Action Plan using the form HUD-40119. Each grantee must prepare its substantial amendment in accordance with the Consolidated Plan procedures as modified by this Notice, or HUD will reallocate the funds allocated for that grantee. Eligible grantees must download a copy of HUD-40119 to use in completing and submitting their HPRP substantial amendment from HUD's web site at: www.hud.gov/recovery. To request a paper copy of this form, call 1-800-998-9999. HUD will not approve and will return to the grantee amendments not submitted in the required format. The substantial amendment form requires the grantee to address six major components of its plan to use HPRP funds:

a. Grantee contact information;

b. The citizen participation plan and public comments received;

c. The grantee's plan for distribution, administration, and oversight of funds;

d. The grantee's plan for collaboration with local organizations receiving Recovery Act funds

and Continuums of Care, and ensuring consistency with the Consolidated Plan;

e. An estimated budget for HPRP funds; and

f. The signature of the official authorized to sign the substantial amendment.

3. Deadline. To receive funding, each eligible HPRP grantee listed in Attachment A must ensure that its complete application is postmarked no later than May 18, 2009. Some grantees' local Consolidated Plan processes require that the grantee make available for public comment a list of the proposed awards to subgrantees prior to finalizing agreements with those subgrantees. A grantee with such local requirements or other timing considerations may need to submit its application in advance of the May 18 deadline in order to obligate funds to subgrantees by September 30, 2009.

4. Process for Submission. Each eligible grantee must provide HUD with two hard copies of the completed substantial amendment, along with the required SF-424 form and certifications. Each eligible grantee must send one hard copy to HUD Headquarters in Washington, DC, and the other to the appropriate HUD Field Office.

awards under only one Federal program (excluding R&D) and the Federal program's laws, regulations, or grant agreements do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §___.235. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) Exemption when Federal awards expended are less than $300,000 *($500,000 for fiscal years ending after December 31, 2003)*. Non-Federal

addresses: http://www.hud.gov/localoffices.cfm.

b. Security procedures. HUD recommends grantees use the United States Postal Service (USPS) to submit their substantial amendment packages. However, grantees may also use United Parcel Service (UPS), FedEx, or DHL. Due to HUD security regulations, no other delivery service is permitted into HUD Headquarters without escort. Grantees must, therefore, use one of the four carriers listed above.

5. Posting Substantial Amendments Online. To improve transparency, HUD strongly recommends that each grantee post its substantial amendment materials on the grantee's official website as the materials are developed, published, and submitted to HUD.

6. Coordination with CDBG-R. Many grantees will be simultaneously developing a substantial amendment for funding under the Community Development Block Grant-Recovery (CDBG-R) program, pursuant to the requirements in the CDBG-R Notice. In order to ease administrative burden for grantees, any HPRP grantee that is receiving a direct allocation of CDBG-R funding may consolidate the two amendment processes and may submit their CDBG-R substantial amendment simultaneously with their HPRP substantial amendment by the HPRP submission deadline. Grantees interested in this option must also follow the requirements and guidelines described in the CDBG-R Notice.

7. Coordination with Other Community Planning Efforts. Each grantee must coordinate with the local Continuum(s) of Care (CoC) to ensure that HPRP activities are aligned with the CoC's strategies for preventing and ending homelessness (state grantees may designate subgrantees to assume this responsibility). Because persons who are homeless are eligible to receive assistance through HPRP, the impact of these funds will ultimately be reported by CoCs through required point-in-time counts and through other data collected by HUD. In addition, HUD strongly

encourages grantees to coordinate with other local organizations that are planning and carrying out activities related to prevention and rapid re-housing. Such organizations include other Continuums of Care, FEMA Boards, local agencies responsible for administering and implementing ten-year plans (and other plans) to end homelessness, and agencies that administer mainstream resources such as Temporary Assistance to Needy Families (TANF).

[illegible] grantees to ensure that program participants are enrolled

awards expended because the lender accounts for the prior balances.

(d) Prior loan and loan guarantees (loans). Loans, the proceeds of which were received and expended in prior-years, are not considered Federal awards expended under this part when the laws, regulations, and the provisions of contracts or grant agreements pertaining to such loans impose no continuing compliance requirements other than to repay the loans.

(e) Endowment funds. The cumulative balance of Federal awards for endowment funds which are federally restricted are considered awards expended in each year in which the funds are still restricted.

(f) Free rent. Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part

Community Development Act of 1974, and the charge, lawsuit, or letter of findings referenced in subparagraphs (a), (b), or (c) above has not been resolved to HUD's satisfaction before the application deadline, then the grantee is ineligible. HUD will determine if actions to resolve the charge, lawsuit, or letter of findings are sufficient to resolve the matter. Examples of actions that would normally be considered sufficient to resolve the matter include, but are not limited to: (i) A voluntary compliance agreement signed by all parties in response to a letter of findings; (ii) A HUD-approved conciliation agreement signed by all parties; (iii) A consent order or consent decree; or (iv) An issuance of a final judicial ruling or a HUD Administrative Law Judge's decision.

F. Review and Approval of Applications

1. Review of Applications. HUD will review each application for completeness and consistency with the requirements of this Notice, and will disapprove incomplete and inconsistent substantial amendments in accordance with 24 CFR 91.500. HUD will notify the grantee within 45 days of receipt that either the application was accepted or it did not meet the requirements of this Notice. If HUD fails to review and/or notify the grantee of approval or required resubmission within 45 days of receipt of the application, the grantee may consider it automatically approved.

2. Resubmission. If the application is not approved, the grantee may submit a revised application to HUD, and will have 15 days after HUD sends the first notification of its disapproval to do so, per the same submission requirements above. HUD will then approve or disapprove the revised application within 15 days of receiving the resubmission.

3. Conditional Grant. For HPRP grantees that HUD determines are high risk in accordance with 24 CFR 85.12(a), HUD will [illegible] additional grant conditions in accordance with 24 CFR [illegible]

substantial evidence that there has been, or there will be, a failure to meet the requirements of this Notice. 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 or in any other action authorized under applicable federal law.

4. Grant Agreement. The grant will be made by means of a grant agreement executed by HUD and the grantee. The statutory 2- and 3-year deadlines for expenditure of funds begin when the grant agreement is signed by HUD. The grantee must sign and return the grant agreement to HUD within 15 days of the date that HUD signs the grant agreement, or risk losing part or all of the grant amount. Grantees should ensure that sufficient planning is in place to begin to expend funds shortly after the grant agreement is executed.

5. Line of Credit. After HUD processes and approves the substantial amendment and there is a fully executed grant agreement, HUD will establish the grantee's line of credit in the amount of funds included in the substantial amendment, up to the allocation amount.

V. Post-Award Process Requirements

A. Deadlines for Using Grant Amounts

1. Grantee Obligation. Grantees must award or enter into legally binding grant agreements with all subgrantees by September 30, 2009.

2. Expenditure. Each grantee must draw down 60 percent of its HPRP grant funds within 2 years of the date that HUD signed the grant agreement, and must expend 100 percent of its funds within 3 years of this date. If a grantee cannot spend 60 percent of its grant funds within 2 years of the date that HUD signed the grant agreement, HUD may reallocate the grantee's funds. See Section II.B.2 of this Notice for the process of reallocation. Grantees may continue to draw

down funds for up to 90 days after the grant period ends, provided that these funds are used to pay for eligible costs that were incurred before the 3-year expenditure deadline. Any costs incurred after the 3-year deadline, including administrative costs, are not eligible HPRP costs.

B. Method of Payment

Payments are made to the grantee upon its request after the grant agreement has been fully executed. Grantees will use the Integrated Disbursement and Information System (IDIS) to draw down funds. A draw-down is a request for payment against a grantee's line of credit for allowable costs (defined in OMB Circulars A-87 and A-122 (2 CFR parts 225 and 230)) for eligible HPRP activities. Unlike ESG, grantees and subgrantees may be paid in advance, pursuant to procedures outlined in 24 CFR 84.22 for non-profit organizations and 24 CFR 85.21 for units of government.

C. Timeliness Standards

HUD requires that the grantee, or subgrantee if applicable, draw down funds at least quarterly

provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process, at a minimum, must consist of:

(1) Written notice to the program participant containing a clear statement of the reasons for termination;

(2) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

(3) Prompt written notice of the final decision to the program participant.

F. Responsibility for Grant Administration

Grantees are responsible for ensuring that HPRP amounts are administered in accordance with the requirements of this Notice and other applicable laws. Each grantee is responsible for ensuring that its subgrantees carry out the HPRP eligible activities in compliance with all applicable requirements.

G. Recordkeeping

Each grantee and subgrantee must keep any records and make any reports (including those pertaining to race, ethnicity, gender, and disability status data) that HUD may require within the timeframe required.

H. Sanctions

1. HUD Sanctions. If HUD determines that, after following appropriate procedures, a grantee is not complying with the requirements of this Notice or of other applicable federal laws, HUD may (in addition to any remedies that may otherwise be available) take any of the following sanctions, as appropriate:

a. Issue a warning letter that further failure to comply with such requirements will result in a

more serious sanction;

b. Direct the grantee to cease incurring costs with grant funds; or

c. Require that some or all of the grant amounts be remitted to HUD.

2. Grantee Sanctions. If a grantee determines that a subgrantee is not complying with the requirements of this Notice or other applicable federal laws, the grantee must take appropriate actions, which may include the actions described in part 1 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 private non-profit organizations or units of general local government located in the state for use within the time periods specified in this Notice, or to HUD for reallocation.

I. Monitoring

Grantees are responsible for monitoring all HPRP activities, including activities that are carried

- Final application submitted to HUD on or before May 18, 2009 (grant application includes the substantial amendment, SF-424, and certifications);
- HUD expedites review, completing all reviews not requiring additional information from the grantee within 45 days of receipt of the substantial amendment;
- HUD either accepts the substantial amendment and prepares a cover letter, grant agreement, and grant conditions, or disapproves it after allowing the grantee a resubmission;
- Grant agreement is signed by HUD and immediately transmitted to the grantee, "starting the clock" for statutory expenditure deadlines;
- Grantee signs and returns the grant agreements;
- After all requirements are complete and approved by HUD, the grantee may draw down funds from the line of credit and reimburse any eligible pre-award costs incurred.
- Grantee signs agreements with subgrantees by September 30, 2009;
- Initial Performance Report is due to HUD October 10, 2009;
- Quarterly Performance Reports are due to HUD 10 days after the end of each quarter, and Annual Performance Reports are due 60 days after the end of each federal fiscal year;
- Grantee expends 60 percent of grant funds within 2 years of the date that HUD signed the grant agreement. Funds may be recaptured and reallocated if not spent;
- Grantee expends 100 percent of grant funds within 3 years of the date HUD signed the grant agreement. Funds will be recaptured if not spent.
- Grantees will have up to 90 days after the 3-year expenditure deadline to draw down funds for eligible HPRP costs incurred during the 3-year grant period.

VI. Reporting Requirements

A. IDIS

Grantees, and as applicable, subgrantees, will use the Integrated Disbursement and Information System (IDIS) to draw down HPRP funding and report on grant expenditures.

B. HMIS

The Recovery Act requires HPRP grantees to report client-level data, such as the number of persons served and their demographic information, in a Homeless Management Information

http://www.hudhre.info/documents/AmericanRecoveryReinvestmentAct.pdf (see pages 173-174).

2. Each grantee must submit the following performance reports to HUD:

a. An Initial Performance Report, which must cover the period between the grant agreement execution date and September 30, 2009 and which will serve as the first Quarterly Performance Report. Grantees will provide information required by Congress and HUD in a format to be prescribed by OMB and HUD, including but not limited to the following items: the total amount of Recovery Act funds received from HUD; the subgrantees and total amounts awarded to each; the amounts of HPRP funds allocated for the four eligible HPRP activity categories (Financial Assistance, Services, Data Collection and Evaluation, and Administrative Costs); the amount expended for each of the above categories; the estimated number of unduplicated individuals and families served; and the estimated numbers of new jobs created and jobs retained. The Initial Performance Report will be due on October 10, 2009.

b. A Quarterly Performance Report, submitted in a format to be prescribed by HUD. Grantees will report on many of the same items as in the Initial Performance Report, including HPRP funds expended by activity type, the number of unduplicated individuals and families served, the number of new jobs created, the number of jobs retained, challenges to effective program operation, and other data items. Quarterly Performance Reports are due within 10 days of the end of each quarter for the period of program operation, and will include current quarter and cumulative data.

c. An Annual Performance Report will be submitted to HUD in a format to be prescribed by HUD within 60 days of the end of each federal fiscal year. The first Annual Performance Report is due November 30, 2010 for the period ending September 30, 2010. In the Annual

Performance Report, grantees will report on outputs, such as the number of persons served and the demographic characteristics of persons served, HPRP funds expended by activity type, and the number of jobs created and retained, as well as outcomes related to housing stability, to be specified by HUD.

Report Type	Reporting Period
Initial Performance Report – Serves as the first Quarterly Performance report. Due October 10, 2009.	Date of HUD obligation of funds to grantee through September 30, 2009
Quarterly Performance Reports – Due 10 days after the end of each fiscal quarter in which HPRP funds are expended.	October 1 - December 31 January 1 – March 31 April 1 – June 30 July 1 – September 30
Annual Performance Report – Due 60 days after the end of the federal fiscal year for each fiscal year in which HPRP funds are expended.	October 1 – September 30

VII. Other Federal Requirements

A. Conflicts of Interest

1. General. With respect to the use of HPRP funds to procure services, equipment, supplies or other property, states, territories and units of general local government that receive HPRP funds shall comply with 24 CFR 85.36(b)(3), and non-profit subgrantees shall comply with 24 CFR 84.42. With respect to all other decisions involving the use of HPRP funds, the following restriction shall apply: No person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision-making 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 himself 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.

2. Exceptions. Upon the written request of the grantee, HUD may grant an exception to the restrictions in paragraph 1 above on a case-by-case basis when it determines that the exception will serve to further the purposes of the HPRP program and promote the efficient use of HPRP funds. In requesting an exception, the grantee must provide the following:

a. For states and other governmental entities, a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

b. For all grantees, an opinion of the grantee's attorney that the interest for which the exception is sought would not violate state or local law.

B. Environmental Requirements

This Notice does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing (other than tenant-based rental assistance), rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). Moreover, consistent with the provisions for administrative and management expenses, tenant-based rental assistance, and supportive services in 24 CFR 50.19(b)(3), (11), and (12), the eligible activities to be assisted under this Notice are categorically excluded from the

requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and are not subject to environmental review under the related laws and authorities.

C. Habitability Standards

Organizations providing rental assistance with HPRP funds will be required to conduct initial and any appropriate follow-up inspections of housing units into which a program participant will be moving. Units should be inspected on an annual basis and upon a change of tenancy. The minimum habitability standards are listed in Appendix C. Grantees may require more stringent standards.

D. Nondiscrimination and Equal Opportunity Requirements

As stated in section IV.E.8., grantees and subgrantees must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a). In addition, grantees must make known that HPRP rental assistance and services are available to all on a nondiscriminatory basis and ensure that all citizens have equal access to information about HPRP and equal access to the financial assistance and services provided under this program. Among other things, this means that each grantee must take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency (LEP), pursuant to Title VI of the Civil Rights Act of 1964. This may mean providing language assistance or ensuring that program information is available

Federal Register 2732; January 22, 2007). In addition, all notices and communications shall be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR 8.6.

If the procedures that the grantee intends to use to make known the availability of the rental assistance 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 rental assistance and services, the grantee must establish additional procedures that will ensure that such persons are made aware of the rental assistance and services.

E. Affirmatively Furthering Fair Housing

Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funding recipients. Grantees and subgrantees will have a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act. Protected classes include race, color, national origin, religion, sex, disability, and familial status. Examples of affirmatively furthering fair housing include: (1) marketing the program to all eligible persons, including persons with disabilities and persons with limited English proficiency; (2) making buildings and communications that facilitate applications and service delivery accessible to persons with disabilities (see, for example, HUD's rule on effective communications at 24 CFR 8.6); (3) providing fair housing counseling services or referrals to fair housing agencies; (4) informing participants of how to file a housing discrimination complaint, including providing the toll-free number for the Housing Discrimination Hotline: 1-800-669-9777; and (5) recruiting landlords and service providers in areas that expand housing choice to program participants.

F. Lead-Based Paint Requirements

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.) and implementing regulations at 24 CFR part 35, subparts A, B, M, and R shall apply to housing occupied by families receiving assistance through HPRP.

G. Uniform Administrative Requirements

All States, Territories, Urban Counties, and Metropolitan cities receiving funds under HPRP shall be subject to the requirements of 24 CFR part 85. Non-profit subgrantees shall be subject

valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

(i) Two years have passed since the audit report in which

proselytization. Among other things, faith-based organizations may use space in their facilities to provide HPRP-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HPRP-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 HPRP program shall not, in providing program assistance, discriminate against a program participant or prospective program participant 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, the requirements listed above apply to all of the commingled funds.

I. Lobbying and Disclosure Requirements

The disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the Byrd Amendment), and implementing regulations at 24 CFR part 87, apply to HPRP. Applicants must disclose, using Standard Form LLL (SF-LLL), "Disclosure of Lobbying Activities," any funds, other than federally appropriated funds, that will be or have been used to influence federal employees, members of Congress, or congressional staff regarding specific grants or contracts.

J. Drug-Free Workplace Requirements

The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD's implementing regulations at 24 CFR part 21 apply to HPRP.

K. Procurement of Recovered Materials

State agencies and agencies of a political subdivision of a state that are using assistance under a

is material to the financial statements of the auditee.

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses.

(v) The type of report the auditor issued on compliance for major

VIII. Appendices

Appendix A: Eligible Grantees

The following list indicates all grantees eligible to receive assistance under HPRP. This list is also available at: http://www.hud.gov/recovery/homelesspreventrecov.xls.

State	Grantee Name	Allocation Amounts
AK	AK State Program	$1,143,986
AK	Anchorage	$776,469
AL	AL State Program	$13,328,942
AL	Birmingham	$2,735,730
AL	Huntsville	$529,697
AL	Jefferson County	$845,709
AL	Mobile	$1,186,394
AL	Mobile County	$586,571
AL	Montgomery	$860,653
AR	AR State Program	$10,530,746
AR	Little Rock	$682,197
AS	American Samoa	$412,935
AZ	AZ State Program	$7,033,520
AZ	Chandler	$575,271
AZ	Glendale	$914,122
AZ	Maricopa County	$900,303
AZ	Mesa	$1,405,094
AZ	Phoenix	$6,996,243
AZ	Pima County	$1,063,430
AZ	Tempe	$661,474
AZ	Tucson	$2,534,340
CA	CA State Program	$44,466,877
CA	Alameda	$552,208
CA	Alameda County	$802,915

State	Grantee Name	Allocation Amounts
CA	Fremont	$682,331
CA	Fresno	$3,130,746
CA	Fresno County	$1,634,630
CA	Fullerton	$622,710
CA	Garden Grove	$1,068,707
CA	Glendale	$1,346,899
CA	Hawthorne	$703,261
CA	Hayward	$703,342
CA	Huntington Beach	$566,611
CA	Huntington Park	$656,002
CA	Inglewood	$918,344
CA	Irvine	$540,656
CA	Kern County	$2,076,503
CA	Lancaster	$564,646
CA	Long Beach	$3,566,451
CA	Los Angeles	$29,446,304
CA	Los Angeles County	$12,197,108
CA	Lynwood	$646,575
CA	Marin County	$659,106
CA	Merced	$515,203
CA	Modesto	$966,016
CA	Moreno Valley	$732,872
CA	Norwalk	$633,782
CA	Oakland	$3,458,120

(3) Auditor's report(s) discussed in §___.505; and

(4) Corrective action plan discussed in §___.315(c).

(d) Submission to clearinghouse. All auditees shall submit to the Federal clearinghouse designated by OMB the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section for:

(1) The Federal clearinghouse to retain as an archival copy; and

(2) Each Federal awarding agency when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the Federal awarding agency provided directly or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the Federal awarding agency provided directly

State	Grantee Name	Allocation Amounts
CA	San Bernardino	$1,455,066
CA	San Bernardino County	$3,040,382
CA	San Diego	$6,168,104
CA	San Diego County	$1,925,974
CA	San Francisco	$8,757,780
CA	San Joaquin County	$1,460,619
CA	San Jose	$4,128,763
CA	San Luis Obispo County	$855,184
CA	San Mateo County	$1,166,526
CA	Santa Ana	$2,831,989
CA	Santa Barbara County	$829,013
CA	Santa Clara County	$717,484
CA	Santa Maria	$521,839
CA	Santa Monica	$553,576
CA	Santa Rosa	$516,527
CA	Sonoma County	$817,572
CA	South Gate	$865,273
CA	Stanislaus County	$1,023,163
CA	Stockton	$1,725,572
CA	Sunnyvale	$508,191
CA	Ventura County	$826,094
CA	Westminster	$511,454
CO	CO State Program	$8,154,036
CO	Adams County	$836,047

State	Grantee Name	Allocation Amounts
FL	Hillsborough County	$2,458,811
FL	Hollywood	$625,671
FL	Jacksonville-Duval Count	$2,779,039
FL	Lee County	$881,538
FL	Manatee County	$635,485
FL	Marion County	$727,072
FL	Miami-Dade County	$7,468,222
FL	Miami	$3,392,918
FL	Miami Beach	$715,418
FL	Miami Gardens City	$567,612
FL	North Miami	$507,641
FL	Orange County	$2,523,982
FL	Orlando	$921,665
FL	Palm Beach County	$2,823,871
FL	Pasco County	$1,055,241
FL	Pinellas County	$1,237,464
FL	Polk County	$1,222,920
FL	Pompano Beach	$507,694
FL	Sarasota County	$581,819
FL	Seminole County	$991,180
FL	St Petersburg	$914,999
FL	Tallahassee	$784,267
FL	Tampa	$1,538,393
FL	Volusia County	$805,614

State	Grantee Name	Allocation Amounts
ID	ID State Program	$4,438,807
ID	Boise	$533,411
IL	IL State Program	$20,286,504
IL	Aurora	$506,883
IL	Berwyn	$559,545
IL	Chicago	$34,356,259
IL	Cicero	$581,065
IL	Cook County	$4,121,046
IL	Decatur	$623,309
IL	Du Page County	$1,443,723
IL	East St Louis	$750,339
IL	Evanston	$801,460
IL	Kane County	$517,394
IL	Lake County	$1,057,106
IL	Madison County	$566,987
IL	McHenry County	$540,732
IL	Oak Park	$796,581

State	Grantee Name	Allocation Amounts
LA	New Orleans	$7,578,168
LA	Shreveport	$1,072,168
MA	MA State Program	$18,443,744
MA	Arlington	$533,800
MA	Boston	$8,209,151
MA	Brockton	$610,110
MA	Brookline	$667,436
MA	Cambridge	$1,302,128
MA	Chicopee	$531,528
MA	Fall River	$1,232,852
MA	Holyoke	$551,671
MA	Lawrence	$710,503
MA	Lowell	$979,048
MA	Lynn	$1,033,392
MA	Malden	$636,677
MA	Medford	$716,681
MA	New Bedford	$1,228,020

may grant extensions for good cause.

(3) Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor of irregularities or illegal acts, as required by GAGAS or laws and regulations.

(5) Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, the auditee shall work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit shall notify the auditor, the auditee, and applicable Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors shall be referred to appropriate State licensing agencies and professional bodies for disciplinary action.

(6) Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this part, so that the additional audits or reviews build upon

State	Grantee Name	Allocation Amounts
MI	Pontiac	$633,479
MI	Royal Oak	$558,226
MI	Saginaw	$1,022,177
MI	Wayne County	$2,308,510
MN	MN State Program	$10,865,236
MN	Dakota County	$704,252
MN	Duluth	$1,162,800
MN	Hennepin County	$993,011
MN	Minneapolis	$5,520,902

State	Grantee Name	Allocation Amounts
NJ	Elizabeth	$839,604
NJ	Essex County	$2,520,882
NJ	Gloucester County	$581,762
NJ	Hudson County	$1,535,992
NJ	Jersey City	$2,676,991
NJ	Middlesex County	$800,475
NJ	Monmouth County	$1,240,040
NJ	Morris County	$931,156
NJ	Newark	$3,533,348

of the compliance supplement to OMB.

(d) Pass-through entity responsibilities. A pass-through entity shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is R&D, and name of Federal agency. When some of this information is not available, the pass-through entity shall provide the best information available to describe the Federal award.

(2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

(4) Ensure that subrecipients expending $300,000 *($500,000 for fiscal years ending after December 31, 2003)* or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

(6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.

(7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

§___.405 Management decision.

(a) General. The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating

State	Grantee Name	Allocation Amounts
NY	Union Town	$578,661

State	Grantee Name	Allocation Amounts
PA	Cumberland County	$558,742

report. Corrective action should be initiated within six months after receipt of the audit report and proceed as rapidly as possible.

(e) Reference numbers. Management decisions shall include the reference numbers the auditor assigned to each audit finding in accordance with §___.510(c).

Subpart E--Auditors
§___.500 Scope of audit.

(a) General. The audit shall be conducted in accordance with GAGAS. The audit shall cover the entire operations of the auditee; or, at the option of the auditee, such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year, provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which shall be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards shall be for the same fiscal year.

(b) Financial statements. The auditor shall determine whether the financial statements of the auditee are presented fairly in all material respects in conformity with generally accepted accounting principles. The auditor shall also determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the auditee's financial statements taken as a whole.

(c) Internal control. (1) In addition to the requirements of GAGAS, the auditor shall perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs.

(2) Except as provided in paragraph (c)(3) of this section, the auditor shall:

(i) Plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

(ii) Perform testing of internal control as planned in paragraph (c)(2)(i) of this section.

(3) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(2) of this section are not required for those compliance requirements. However, the auditor shall report a reportable condition (including whether any such condition is a material weakness) in accordance

State	Grantee Name	Allocation Amounts
PR	Trujillo Alto Municipio	$643,815
PR	Vega Baja Municipio	$706,348
PR	Yauco Municipio	$601,387
RI	RI State Program	$3,282,670
RI	Pawtucket	$845,934
RI	Providence	$2,303,402
RI	Woonsocket	$545,802
SC	SC State Program	$11,136,176
SC	Charleston County	$831,125
SC	Columbia	$524,731
SC	Greenville County	$984,729
SC	Horry County	$622,075
SC	Lexington County	$588,970
SC	Richland County	$568,201
SC	Spartanburg County	$532,752
SD	SD State Program	$3,254,060
TN	TN State Program	$13,467,433
TN	Chattanooga	$712,946
TN	Knoxville	$771,803
TN	Memphis	$3,329,685
TN	Nashville-Davidson	$2,012,994
TX	TX State Program	$41,472,772
TX	Amarillo	$739,071
TX	Arlington	$1,304,792
TX	Austin	$3,062,820
TX	Beaumont	$741,325
TX	Bexar County	$701,160
TX	Brazoria County	$707,747
TX	Brownsville	$1,347,839
TX	Corpus Christi	$1,393,181
TX	Dallas	$7,187,357
TX	Dallas County	$866,753
TX	El Paso	$3,492,976
TX	Fort Bend County	$777,971

State	Grantee Name	Allocation Amounts
TX	Pasadena	$790,214
TX	Plano	$509,050
TX	Port Arthur	$564,089
TX	San Antonio	$5,974,286
TX	Tarrant County	$1,156,125
TX	Waco	$685,599
TX	Wichita Falls	$583,425
UT	UT State Program	$5,021,811
UT	Provo	$700,321
UT	Salt Lake City	$1,680,347
UT	Salt Lake County	$1,005,916
VA	VA State Program	$11,389,160
VA	Alexandria	$512,214
VA	Arlington County	$728,367
VA	Chesapeake	$507,406
VA	Chesterfield County	$515,089
VA	Fairfax County	$2,462,398
VA	Henrico County	$603,481
VA	Newport News	$659,087
VA	Norfolk	$2,097,079
VA	Portsmouth	$724,490
VA	Prince William County	$789,775
VA	Richmond	$2,044,088
VA	Roanoke	$766,017
VA	Virginia Beach	$1,010,599
VI	Virgin Islands	$775,978
VT	VT State Program	$3,398,824
WA	WA State Program	$11,126,387
WA	Clark County	$559,180
WA	King County	$1,863,675
WA	Pierce County	$1,224,641
WA	Seattle	$4,993,052
WA	Snohomish County	$1,262,714
WA	Spokane	$1,564,373

WV	Wheeling	$606,447

WY	WY STATE PROGRAM	$1,718,313

Appendix B: Comparison of ESG and HPRP

	Emergency Shelter Grants (ESG) Program	Homelessness Prevention and Rapid Re-Housing Program (HPRP)
Amount Available	• $160 million in FY 2009	• $1.5 billion one-time appropriation
Eligible Grantees	• States (51, including Puerto Rico) • Metropolitan cities (203 in FY 2009) and urban counties (102 in FY 2009) • Total number of grantees (including 4 territories): 360	• States (51, including Puerto Rico) • Metropolitan cities (337) and urban counties (148) • Total number of grantees (including 4 territories): 540
Eligible Sub-Recipients	• Territories and local government grantees may provide ESG funds for projects operated by their own agencies and private non-profit organizations. • State grantees must provide all funds to local governments or private non-profit organizations acting as sub-recipients.	• Territories and local government grantees may provide HPRP funds for projects operated by their own agencies, other local governments, and private non-profit organizations. • State grantees must provide all funds to local governments or private non-profit organizations, except for a reasonable portion of funds for administrative costs.
Eligible Activities	• Renovation, major rehabilitation, or conversion of a building to a shelter. • Essential Services (limited to 30 percent of grant, can be waived). • Operations of homeless shelters (staff salaries for operations management limited to 10 percent of grant). • Homelessness Prevention, including	• Financial assistance, including short-term rental assistance (up to 3 months) and medium-term rental assistance (up to 18 months), security deposits, utility deposits, utility payments, moving costs, and hotel/motel vouchers. • Housing relocation and stabilization services, including case management, outreach, housing

Eligible Program Participants	• Homeless persons • Persons at risk of becoming homeless who must meet four specific criteria to receive homelessness prevention assistance: - The inability of the family to make the required payments is due to a sudden reduction in income; - The assistance is necessary to avoid the eviction or termination of services; - There is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and - The assistance will not supplant funding for pre-existing homelessness prevention activities from other sources.	• Homeless persons and persons at risk of becoming homeless, who meet the following three criteria: - Any individual or family receiving rental assistance must have at least an initial consultation with a case manager to determine need. - Household must be at or below 50 percent of Area Median Income (AMI) - Household must meet both of the following circumstances: (1) no appropriate subsequent housing options have been identified; AND (2) the household lacks the financial resources and support networks needed to obtain immediate housing or remain in its existing housing.
Allocation Formula	• Based on the previous year's Community Development Block Grants (CDBG) formula, with minimum grant allocation at 0.05 percent of the total. Territories receive 0.2 percent of the total ESG allocation.	• Based on FY2008 CDBG formula; minimum grant allocation set by HUD Secretary at $500,000.
Match	• Match grant funds with an equal amount of funds from cash or in-kind sources, with states exempt from matching the first $100,000 of their awards.	• No match is required for HPRP.
Expenditure Deadlines	• Local government: spend all ESG grant funds within 24 months of grant award. • State grantees: make grant funds available to subrecipients within 65 days of the grant award by HUD with obligation by 180 days of availability from the state, and spent within 2 years of grant award.	• All grantees must spend at least 60 percent of funds within 2 years of the date that HUD signs the grant agreement, and 100 percent of funds within 3 years of this date. • HUD may recapture unexpended funds in violation of the 2-year expenditure requirement and reallocate such funds to grantees in

	State prevention funds should be available within 180 days, and	compliance with that requirement.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) Identification of questioned costs and how they were computed.

(5) Information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and be quantified in terms of dollar value.

(6) The possible asserted effect to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action.

(7) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.

(8) Views of responsible officials of the auditee when there is disagreement with the audit findings, to the extent practical.

(c) Reference numbers. Each audit finding in the schedule of findings and questioned costs shall include a reference number to allow for easy referencing of the audit findings during follow-up.

§___.515 Audit working papers.

(a) Retention of working papers. The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.

(b) Access to working papers. Audit working papers shall be made available upon request to the cognizant or oversight agency for audit or its

Appendix C: Habitability Standards for HPRP

Organizations providing rental assistance with HPRP funds will be required to conduct initial and any appropriate follow-up inspections of housing units into which a program participant will be moving. Following are the habitability standards that grantees must follow:

(a) State and local requirements. Each grantee or subgrantee under this Notice must ensure that housing occupied by a family or individual receiving HPRP assistance is in compliance with all applicable state and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the housing or services.

(b) Habitability standards. Except for less stringent variations as are proposed by the grantee or subgrantee and approved by HUD, housing occupied by a family or individual receiving HPRP assistance must meet the following minimum requirements:

(1) Structure and materials. The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from the elements.

(2) Access. The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.

(3) Space and security. Each resident must be afforded adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.

(4) Interior air quality. Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.

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

(6) Sanitary facilities. Residents must have access to sufficient sanitary facilities that are in proper operating condition, may be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(7) Thermal environment. The housing must have adequate heating and/or cooling facilities in proper operating condition.

(8) Illumination and electricity. The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliances while assuring safety from fire.

(ii) $3 million or three-tenths of one percent (.003) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed $100 million but are less than or equal to $10 billion.

(iii) $30 million or 15 hundredths of one percent (.0015) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed $10 billion.

(2) Federal programs not labeled Type A under paragraph (b)(1) of this section shall be labeled Type B programs.

(3) The inclusion of large loan and loan guarantees (loans) should not result in the exclusion of other programs as Type A programs. When a Federal program providing loans significantly affects the number or size of Type A programs, the auditor shall consider this Federal program as a Type A program and exclude its values in determining other Type A programs.

(4) For biennial audits permitted under §___.220, the

Appendix D: Special Grant or Subgrant Conditions for "High-Risk" Grantees

(a) A grantee or subgrantee may be considered high risk if HUD determines that a grantee or subgrantee:

(1) Has a history of unsatisfactory performance, or

(2) Is not financially stable, or

(3) Has a management system which does not meet the management standards set forth in this part, or

(4) Has not conformed to terms and conditions of previous awards, or

(5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.

(b) Special conditions or restrictions may include:

(1) Payment on a reimbursement basis;

(2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given funding period;

(3) Requiring additional, more detailed financial reports;

(4) Additional monitoring;

(5) Requiring the grantee or subgrantee to obtain technical or management assistance; or

(6) Establishing additional prior approvals.

(c) If an awarding agency decides to impose such conditions, the awarding official will notify the grantee or subgrantee as early as possible, in writing, of:

(1) The nature of the special conditions/restrictions;

(2) The reason(s) for imposing them;

(3) The corrective actions which must be taken before they will be removed and the time allowed for completing the corrective actions; and

(4) The method of requesting reconsideration of the conditions/restrictions imposed.

Attachment "D"

perform risk assessments on Type B programs that exceed the larger of:

(i) $100,000 or three-tenths of one percent (.003) of total Federal awards expended when the auditee has less than or equal to $100 million in total Federal awards expended.

(ii) $300,000 or three-hundredths of one percent (.0003) of total Federal awards expended when the auditee has more than $100 million in total Federal awards expended.

(e) Step 4. At a minimum, the auditor shall audit all of the following as major programs:

(1) All Type A programs, except the auditor may exclude any Type A programs identified as low-risk under Step 2 (paragraph (c)(1) of this section).

described in paragraph (a) of this section, or by the authority set forth in paragraphs (b), (c) or (d) of this section, that any of the following circumstances has occurred with respect to data, information or report(s) required by sections 309(m) or (n) of the Fannie Mae Charter Act, sections 307(e) or (f) of the Freddie Mac Act, or subpart E of this part, the Secretary may regard this as a GSE's failure to submit such data, information or report(s) and, accordingly, the Secretary may take the additional enforcement actions authorized by paragraph (e)(2) of this section:

(i) A GSE fails to submit the certification required by paragraphs (b)(1) and (b)(2) of this section in connection with such data, information or report(s); or

(ii) A GSE submits the certification required by paragraph (b) of this section, but the Secretary later determines that the data, information or report(s) are not true, correct and complete. For data, information or report(s) subject to paragraphs (c) or (d) of this section, the Secretary may pursue the additional enforcement remedies under paragraph (e)(2) only in connection with material errors, omissions or discrepancies, as those terms are defined in §81.102(c) or (d). In addition, the Secretary may only pursue such remedies in connection with material errors, omissions or discrepancies arising under paragraph (d) of this section if the GSE has failed to purchase a sufficient amount or type of mortgages, as provided in paragraphs (d)(3) and (d)(4) of this section.

(2) *Remedies.* (i) *Submissions required under the GSE's charter acts.* After the Secretary makes a determination under paragraph (e)(1) of this section that any of the circumstances described in paragraphs (e)(1)(i) or (ii) has occurred with respect to data, information, or report(s) required by sections 309(m) or (n) of the Fannie Mae Charter Act, or by sections 307(e) or (f) of the Freddie Mac Act, the Secretary may pursue any or all of the following remedies in accordance with paragraph (e)(3), or applicable law, as appropriate:

(A) A cease-and-desist order against the GSE for failing to submit the required data, information or report(s) in accordance with this section;

(B) Civil money penalties against the GSE for failing to submit the required data, information or report(s) in accordance with this section;

(C) Any other civil or administrative remedies or penalties against the GSE that may be available to the Secretary by virtue of the GSE's failing to submit or certify the required data, information or report(s) in accordance with this section.

(ii) *Submissions required under subpart E of this part.* After the Secretary makes a determination under paragraph (e)(1) of this section that any of the circumstances described in paragraphs (e)(1)(i) or (ii) has occurred with respect to data, information or report(s) required under subpart E of this part (but that are not required by sections 309(m) or (n) of the Fannie Mae Charter Act or by sections 307(e) or (f) of the Freddie Mac Act), the Secretary may pursue any civil or administrative remedies or penalties against the GSE that may be available to the Secretary. The Secretary shall pursue such remedies under applicable law.

(3) *Procedures.* The Secretary shall comply with the procedures set forth in subpart G of this part in connection with any enforcement action that he or she may initiate against a GSE under paragraph (e) of this section.

[69 FR 63642, Nov. 2, 2004]

PART 84—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Subpart A—General

Sec.
84.1 Purpose.
84.2 Definitions.
84.3 Effect on other issuances.
84.4 Deviations.
84.5 Subawards.

Subpart B—Pre-Award Requirements

84.10 Purpose.
84.11 Pre-award policies.
84.12 Forms for applying for Federal assistance.

84.13 Debarment and suspension; Drug-Free Workplace.
84.14 Special award conditions.
84.15 Metric system of measurement.
84.16 Resource Conservation and Recovery

Subpart E—Use of Lump Sum Grants

84.80 Conditions for use of Lump Sum (fixed price or fixed amount) grants.
84.81 Definition.

or performance is required by the recipient.

Acquisition cost of equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

Advance means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through

ment thereto, on which HUD sponsorship ends.

Disallowed costs means those charges to an award that HUD determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Excess property means property under the control of HUD that, as determined by the Secretary, is no longer required for its needs or the discharge of its re-

complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have a high-risk for time and effort reporting, but otherwise be at low-risk.

(2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in Federal programs, laws, regulations, or the provisions of contracts or grant agreements may increase risk.

(3) The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

(4) Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

§___.530 Criteria for a low-risk auditee.

An auditee which meets all of the following conditions for each of the preceding two years (or, in the case of biennial audits, preceding two audit periods) shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with §___.520:

as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

Obligations means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

Outlays or expenditures means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments [illegible] subrecipients. For reports pre-[illegible]

earned on advances of Federal funds is not program income. Except as otherwise provided in HUD regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

Project period means the period established in the award document during which HUD sponsorship begins and ends.

Property means, unless otherwise stated, real property, equipment, in-[illegible]

Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not in-

Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term includes commercial organizations and international organizations operating domestically (such as agencies of the United Nations).

Supplies means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement ("subject inventions"), as defined in 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

the cumulative obligations from the cumulative funds authorized.

Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

Working capital advance means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

[59 FR 47011, Sept. 13, 1994, as amended at 72 FR 73492, Dec. 27, 2007]

§ 84.3 Effect on other issuances.

For awards subject to this part, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this part shall be superseded, except to the extent they are required by statute, or authorized in accordance with the devi-

ernment subrecipients are subject to the provisions of regulations implementing the grants management common rule, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," (24 CFR part 85).

Subpart B—Pre-Award Requirements

§ 84.10 Purpose.

Sections 84.11 through 84.17 prescribe forms and instructions and other pre-award matters to be used in applying for HUD awards.

§ 84.11 Pre-award policies.

(a) *Use of Grants and Cooperative Agreements, and Contracts.* In each instance, HUD shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative

of or as a supplement to the Standard Form 424 (SF-424) series.

(b) Applicants shall use the SF-424 series or those forms and instructions prescribed by HUD.

(c) For Federal programs covered by E.O. 12372, "Intergovernmental Review of Federal Programs," the applicant shall complete the appropriate sections of the SF-424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from the *Catalog of Federal Domestic Assistance*. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

§ 84.13 Debarment and suspension; Drug-Free Workplace.

(a) Recipients and subrecipients shall comply with the governmentwide nonprocurement debarment and suspension requirements in 2 CFR part 2424. These governmentwide requirements restrict

corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 84.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. HUD shall follow the provisions of E.O.

and shall not be construed to limit Business Associate's capacity to use or disclose protected health information for the proper management and administration of the Business Associate or to provide data aggregation services to Covered Entity as provided for and expressly permitted under Section 3 (a), (b), and (c) of this Agreement.

6. TERM AND TERMINATION.

a. *Term.* The term of this Agreement shall be effective upon execution, and shall terminate when all of the protected health

§ 84.17 Certifications and representations.

Unless prohibited by statute or codified regulation, HUD is authorized and encouraged to allow recipients to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

Subpart C—Post-Award Requirements

FINANCIAL AND PROGRAM MANAGEMENT

§ 84.20 Purpose of financial and program management.

Sections 84.21 through 84.28 prescribe standards for financial management systems, methods for making payments and rules for: satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of cost, and establishing fund availability.

§ 84.21 Standards for financial man-

ances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable

§ 84.22 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.

(b) Recipients are to be paid in advance, provided they maintain or demonstrate the willingness to maintain:

(1) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and

(2) Financial management systems that meet the standards for fund control and accountability as established in § 84.21. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipi-

cluded by special HUD instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. HUD may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, HUD shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients shall be authorized to submit request for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and HUD has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, HUD may provide cash on a working capital advance basis. Under this procedure, HUD shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, HUD shall reimburse the recipient for its actual cash disbursements. The working capital advance

States as defined in OMB Circular A-129, "Managing Federal Credit Programs." Under such conditions, HUD may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.

(1) Except for situations described in paragraph (i)(2) of this section, HUD shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women- owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

Transfer rules (31 CFR part 206), interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIRE Deposit system. Recipients which do not have this capability should use a check. Interest amounts up to $250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the Federal awarding agency, it waives its right to recover the interest under CMIA.

(m) Except as noted elsewhere in this rule, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. Federal agencies shall not require more than an original and two copies of these forms.

(1) *SF-270, Request for Advance or Reimbursement.* HUD has adopted the SF-270 as a standard form for all non-construction programs when electronic funds transfer or predetermined advance methods are not used. HUD has the option of using this form for construction programs in lieu of the SF-271, "Outlay Report and Request for

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget when required by HUD.

(7) Conform to other provisions of this part, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of HUD.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If HUD authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of paragraphs (c)(1) or (c)(2) of this section.

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation.

(2) *The current fair market value.* However, when there is sufficient justification, HUD may approve the use of the current fair market value of the donated property, even if it exceeds the [illegible] time of donation

employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if paragraphs (g)(1) or (g)(2) of this section apply.

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equip-

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(5) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

§ 84.24 Program income.

(a) HUD shall apply the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with HUD regulations or the terms and conditions of the award, shall be used in one or more of the ways listed in the following.

(1) Added to funds committed to the project by HUD and recipient and used

except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless HUD indicates in the terms and conditions another alternative on the award or the recipient is subject to special award conditions, as indicated in § 84.14.

(e) Unless HUD regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by HUD regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See §§ 84.30 through 84.37).

(h) Unless HUD regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, develop-

from HUD for one or more of the following program or budget related reasons.

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by HUD.

(6) The inclusion, unless waived by HUD, of costs that require prior approval in accordance with OMB Circular A–21, "Cost Principles for Institutions of Higher Education," OMB Circular A–122, "Cost Principles for Non-Profit Organizations," or 45 CFR part 74 Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable.

(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an

calendar days with the prior approval of HUD. All pre-award costs are incurred at the recipient's risk (i.e., HUD is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(2) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions apply. For one-time extensions, the recipient must notify HUD in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(i) The terms and conditions of award prohibit the extension.

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) Carry forward unobligated balances to subsequent funding periods.

(4) For awards that support research, unless HUD provides otherwise in HUD's regulations, the prior approval requirements described in paragraph (e) of this section are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in paragraph (e)(2) of this section applies.

(f) HUD may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Fed-

45. Selling and marketing
46. Specialized service facilities
47. Taxes
48. Termination costs applicable to sponsored agreements
49. Training costs
50. Transportation costs
51. Travel costs
52. Trustees

APPENDIX B TO PART 230—SELECTED ITEMS OF COST

are limited to communication and liaison necessary keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc.

e. Costs identified in subparagraphs c and d if incurred for more than one Federal award or for both sponsored work and other work of the non-profit organization, are allowable to the extent that the principles in Appendix A to this part, paragraphs B. ("Direct Costs") and C. ("Indirect Costs") are observed.

6. Bonding costs. a. Bonding costs arise when the Federal Government requires assurance against financial loss to itself or others by reason of the act or default of the non-profit organization. They arise also in instances where the non-profit organization requires similar assurance. Included are such

d. Special considerations in determining allowability. Certain conditions require special consideration and possible limitations in determining costs under Federal awards where amounts or types of compensation appear unreasonable. Among such conditions are the following:

awards and other activities in a manner con-

each quarter of the year to which such costs are assignable are unallowable.

paid to the employee contingent upon a change in management control over, or ownership of, the organization's assets are unallowable.

(d) Severance payments to foreign nationals employed by the organization outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the organization in the United States are unallowable, unless they are necessary for the performance of Federal programs and approved by awarding agencies.

(e) Severance payments to foreign nationals employed by the organization outside the United States due to the termination of the foreign national as a result of the closing of, or curtailment of activities by, the organization in that country, are unallowable, unless they are necessary for the performance of Federal programs and approved by awarding agencies.

l. Training costs. See paragraph 49 of this appendix.

m. Support of salaries and wages.

(1) Charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. The distribution of salaries and wages to awards must be supported by personnel activity reports, as prescribed in subparagraph 8.m.(2) of this appendix, except when a substitute system has been approved in writing by the cognizant agency. (See subparagraph E.2 of Appendix A to this part.)

(2) Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s) (*e.g.*, an employee engaged part-time in indirect cost activities and part-time in a direct function). Reports maintained by non-profit organizations to satisfy these requirements must meet the following standards:

(a) The reports must reflect an after-the-fact determination of the actual activity of each employee. Budget estimates (*i.e.*, estimates determined before the services are performed) do not qualify as support for of the activities performed by the employee, that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports.

(d) The reports must be prepared at least monthly and must coincide with one or more pay periods.

(3) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described in subparagraphs (1) and (2), must also be supported by records indicating the total number of hours worked each day maintained in conformance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516). For this purpose, the term "nonprofessional employee" shall have the same meaning as "nonexempt employee," under FLSA.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on awards must be supported in the same manner as salaries and wages claimed for reimbursement from awarding agencies.

9. Contingency provisions. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see Appendix B to this part, paragraphs 8.g.(3) and 22.a(2)(d)); pension funds (see paragraph 8.i); and reserves for normal severance pay (see paragraph 8.k.)

10. Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement.

a. Definitions. (1) Conviction, as used herein, means a judgment or a conviction of a criminal offense by any court of competent jurisdiction, whether entered upon as a verdict or a plea, including a conviction due to a plea of nolo contendere.

(2) Costs include, but are not limited to, administrative and clerical expenses; the cost of legal services, whether performed by in-house or private counsel; and the costs of the services of accountants, consultants, or others retained by the organization to assist it; costs of employees, officers and trustees, and any similar costs incurred before, during, and after commencement of a judicial or administrative proceeding that bears a direct relationship to the proceedings.

(3) Fraud, as used herein, means acts of fraud corruption or attempts to defraud the Federal Government or to corrupt its agents,

(5) Proceeding includes an investigation.

b. (1) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Federal Government, or a State, local or foreign government, are not allowable if the proceeding: Relates to a violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation by the organization (including its agents and employees), and results in any of the following dispositions:

(a) In a criminal proceeding, a conviction.

(b) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of organizational liability.

(c) In the case of any civil or administrative proceeding, the imposition of a monetary penalty.

(d) A final decision by an appropriate Federal official to debar or suspend the organization, to rescind or void an award, or to terminate an award for default by reason of a violation or failure to comply with a law or regulation.

(e) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in subparagraphs 10.b.(1)(a), (b), (c) or (d) of this appendix.

(2) If more than one proceeding involves the same alleged misconduct, the costs of all such proceedings shall be unallowable if any one of them results in one of the dispositions shown in subparagraph 10.b.(1) of this appendix.

c. If a proceeding referred to in subparagraph 10.b of this appendix is commenced by the Federal Government and is resolved by consent or compromise pursuant to an agreement entered into by the organization and the Federal Government, then the costs incurred by the organization in connection with such proceedings that are otherwise not allowable under subparagraph 10.b of this appendix may be allowed to the extent specifically provided in such agreement.

d. If a proceeding referred to in subparagraph 10.b of this appendix is commenced by a State, local or foreign government, the au-

(1) The costs are reasonable in relation to the activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the costs incurred, as allowable and allocable costs, is not prohibited by any other provision(s) of the sponsored award;

(3) The costs are not otherwise recovered from the Federal Government or a third party, either directly as a result of the proceeding or otherwise; and,

(4) The percentage of costs allowed does not exceed the percentage determined by an authorized Federal official to be appropriate, considering the complexity of the litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate. Such percentage shall not exceed 80 percent. However, if an agreement reached under subparagraph 10.c of this appendix has explicitly considered this 80 percent limitation and permitted a higher percentage, then the full amount of costs resulting from that agreement shall be allowable.

f. Costs incurred by the organization in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (Pub. L. 100–700), including the cost of all relief necessary to make such employee whole, where the organization was found liable or settled, are unallowable.

g. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with defense against Federal Government claims or appeals, antitrust suits, or the prosecution of claims or appeals against the Federal Government, are unallowable.

h. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the sponsored awards.

i. Costs which may be unallowable under this paragraph, including directly associated costs, shall be segregated and accounted for by the organization separately. During the pendency of any proceeding covered by subparagraphs 10.b and f of this appendix, the Federal Government shall generally with-

paragraph 11.f of this appendix, a combination of the two methods may not be used in connection with a single class of fixed assets (*e.g.*, buildings, office equipment, computer equipment, etc.).

b. The computation of use allowances or depreciation shall be based on the acquisition cost of the assets involved. The acquisition cost of an asset donated to the non-profit organization by a third party shall be its fair market value at the time of the donation.

c. The computation of use allowances or depreciation will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the non-profit organization in satisfaction of a statutory matching requirement.

d. General criteria where depreciation method is followed:

(1) The period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular program area, and the renewal and replacement policies followed for the individual items or classes of assets involved. The method of depreciation used to assign the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life.

(2) In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater or lesser in the early portions of its useful life than in the later portions, the straight-line method shall be presumed to be the appropriate method.

(3) Depreciation methods once used shall not be changed unless approved in advance

under subparagraph 11.d of this appendix, would be viewed as fully depreciated. However, a reasonable use allowance may be negotiated for such assets if warranted after taking into consideration the amount of depreciation previously charged to the Federal Government, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

g. Criteria where the use allowance method is followed:

(1) The use allowance for buildings and improvement (including land improvements, such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost.

(2) The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (*e.g.*, plumbing system, heating and air conditioning, etc.) cannot be segregated from the building's shell.

(3) The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (*e.g.*, dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, modular furniture, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the need for costly or extensive alterations or repairs to the building or the equipment. Equipment that meets these criteria will be subject to the 6⅔ percent equipment use allowance limitation.

h. Charges for use allowances or depreciation must be supported by adequate property records and physical inventories must be

as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the Common Rule.

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the non-profit organization's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs when the following exist:

(a) The aggregate value of the services is material;

(b) The services are supported by a significant amount of the indirect costs incurred by the non-profit organization; and

(c) The direct cost activity is not pursued primarily for the benefit of the Federal Government.

(3) In those instances where there is no basis for determining the fair market value of the services rendered, the recipient and the cognizant agency shall negotiate an appropriate allocation of indirect cost to the services.

(4) Where donated services directly benefit a project supported by an award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be reimbursed under the award or used to meet cost sharing or matching requirements.

(5) The value of the donated services may be used to meet cost sharing or matching requirements under conditions described in Section 215.23 of 2 CFR part 215 (OMB Circular A–110). Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

b. Such costs will be equitably apportioned to all activities of the non-profit organization. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

14. Entertainment costs. Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

15. Equipment and other capital expenditures.

a. For purposes of this subparagraph, the following definitions apply:

(1) "Capital Expenditures" means expenditures for the acquisition cost of capital assets (equipment, buildings, land), or expenditures to make improvements to capital assets that materially increase their value or useful life. Acquisition cost means the cost of the asset including the cost to put it in place. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from the acquisition cost in accordance with the non-profit organization's regular accounting practices.

(2) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of $5000 or more have the prior approval of the awarding agency.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior approval of the awarding agency.

(4) When approved as a direct charge pursuant to paragraph 15.b.(1), (2), and (3) above, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate by and negotiated with the awarding agency.

(5) Equipment and other capital expenditures are unallowable as indirect costs. However, see paragraph 11., Depreciation and use allowance, of this appendix for rules on the allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see paragraph 43., Rental costs of buildings and equipment, of this appendix for rules on the allowability of rental costs for land, buildings, and equipment.

(6) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

16. Fines and penalties. Costs of fines and penalties resulting from violations of, or

shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(a) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under paragraph 11 of this appendix.

(b) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in paragraph 22 of this appendix.

(d) Compensation for the use of the property was provided through use allowances in lieu of depreciation in accordance with paragraph 9 of this appendix.

(e) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions shall be considered on a case-by-case basis.

b. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subparagraph a shall be excluded in computing award costs.

19. Goods or services for personal use. Costs of goods or services for personal use of the organization's employees are unallowable regardless of whether the cost is re-

time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays; and the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) "Cost of idle facilities or idle capacity" means costs such as maintenance, repair, housing, rent, and other related costs, *e.g.*, insurance, interest, property taxes and depreciation or use allowances.

b. The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subparagraph, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the ini-

the rates and premiums shall be reasonable under the circumstances.

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of management fees.

(c) Costs of insurance or of any provisions for a reserve covering the risk of loss or damage to Federal property are allowable only to the extent that the organization is liable for such loss or damage.

(d) Provisions for a reserve under a self-insurance program are allowable to the extent that types of coverage, extent of coverage, rates, and premiums would have been allowed had insurance been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the present value of the liability.

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see subparagraph 8.g(4) of this appendix). The cost of such insurance when the organization is identified as the beneficiary is unallowable.

(f) Insurance against defects. Costs of insurance with respect to any costs incurred to

organization's own funds, however represented, are unallowable. However, interest on debt incurred after September 29, 1995 to acquire or replace capital assets (including renovations, alterations, equipment, land, and capital assets acquired through capital leases), acquired after September 29, 1995 and used in support of Federal awards is allowable, provided that:

(1) For facilities acquisitions (excluding renovations and alterations) costing over $10 million where the Federal Government's reimbursement is expected to equal or exceed 40 percent of an asset's cost, the non-profit organization prepares, prior to the acquisition or replacement of the capital asset(s), a justification that demonstrates the need for the facility in the conduct of federally-sponsored activities. Upon request, the needs justification must be provided to the Federal agency with cost cognizance authority as a prerequisite to the continued allowability of

bargain purchase option, operating and maintenance costs, and taxes not included in the capital leasing arrangement, less any estimated credits due under the lease at the end of the period defined above. Projected operating lease costs shall be based on the anticipated cost of leasing comparable facilities at fair market rates under rental agreements that would be renewed or reestablished over the period defined above, and any expected maintenance costs and allowable property taxes to be borne by the non-profit organization directly or as part of the lease arrangement.

(3) The actual interest cost claimed is predicated upon interest rates that are no higher than the fair market rate available to the non-profit organization from an unrelated (''arm's length'') third party.

(4) Investment earnings, including interest income, on bond or loan principal, pending payment of the construction or acquisition

attributable to the unallowable costs of land) and interest payments. Where cumulative inflows exceed cumulative outflows, interest shall be calculated on the excess inflows for that period and be treated as a reduction to allowable interest expense. The rate of interest to be used to compute earnings on excess cash flows shall be the three month Treasury Bill closing rate as of the last business day of that month.

(d) Substantial relocation of federally-sponsored activities from a facility financed by indebtedness, the cost of which was funded in whole or part through Federal reimbursements, to another facility prior to the

(1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;

(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

(3) Any attempt to influence: The introduction of Federal or State legislation; or the enactment or modification of any pending Federal or State legislation through commu-

(2) Any lobbying made unallowable by subparagraph 25.a.(3) of this appendix to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.

of the Executive Branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a

expend 60 percent of HPRP grant funds within two years of the date that funds become available to the grantees for obligation (the date that HUD signs the grant agreement), and 100 percent of funds within three years of this date.

F. Additional Overview Content Information:

1. Funding Allocations. As required by the Recovery Act, funds will be allocated according to the formula used for the Emergency Shelter Grants (ESG) Program. Pursuant to HUD's discretion under the Recovery Act, HUD has set a minimum grant amount of $500,000. Funds for communities that would receive less than this amount will be reallocated to the state in which the community is located. A list of eligible grantees is provided in Appendix A.

2. Modified Requirements for the Consolidated Plan. The requirements at 24 CFR part 91, as modified by this Notice, shall apply to the application and approval process for HPRP funds. Specifically, the following requirements shall apply:

profit organization's membership in business, technical, and professional organiza-

or any United States patent application, where the Federal award does not require conveying title or a royalty-free license to

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Federal awards.

(8) Adequacy of the contractual agreement for the service (*e.g.*, description of the service, estimate of time required, rate of compensation, and termination provisions).

c. In addition to the factors in subparagraph 37.b of this appendix, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered

38. Publication and printing costs. a. Publication costs include the costs of printing (including the processes of composition, platemaking, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling. Publication costs also include page charges in professional publications.

b. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the non-profit organization.

c. Page charges for professional journal publications are allowable as a necessary part of research costs where:

(1) The research papers report work supported by the Federal Government: and

(2) The charges are levied impartially on all research papers published by the journal, whether or not by federally-sponsored authors.

39. Rearrangement and alteration costs. Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable with the prior approval of the awarding agency.

40. Reconversion costs. Costs incurred in the restoration or rehabilitation of the nonprofit organization's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

41. Recruiting costs. a. Subject to subparagraphs 41.b, c, and d of this appendix, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal organizational practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other organizations that do not meet the test of reasonableness or do not conform with the established practices of the organization, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within twelve months after being hired, the organization will be required to refund or credit such relocation costs to the Federal Government.

42. Relocation costs. a. Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitation described in subparagraphs 42.b, c, and d of this appendix, provided that:

(1) The move is for the benefit of the employer.

(2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.

(3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

b. Allowable relocation costs for current employees are limited to the following:

(1) The costs of transportation of the employee, members of his immediate family and his household, and personal effects to the new location.

(2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to maximum period of 30 days, including advance trip time.

(3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs, together with those described in subparagraph 42.b.(4) of this appendix, are limited to 8 percent of the sales price of the employee's former home.

as the costs of canceling an unexpired lease, disconnecting and reinstalling household appliances, and purchasing insurance against loss of or damages to personal property. The cost of canceling an unexpired lease is limited to three times the monthly rental.

c. Allowable relocation costs for new employees are limited to those described in subparagraph 42.b(1) and (2) of this appendix. When relocation costs incurred incident to the recruitment of new employees have been allowed either as a direct or indirect cost and the employee resigns for reasons within his control within 12 months after hire, the organization shall refund or credit the Federal Government for its share of the cost. However, the costs of travel to an overseas location shall be considered travel costs in accordance with paragraph 50 and not relocation costs for the purpose of this paragraph if dependents are not permitted at the location for any reason and the costs do not include costs of transporting household goods.

d. The following costs related to relocation are unallowable:

(1) Fees and other costs associated with acquiring a new home.

(2) A loss on the sale of a former home.

(3) Continuing mortgage principal and interest payments on a home being sold.

(4) Income taxes paid by an employee related to reimbursed relocation costs.

43. Rental costs of buildings and equipment. a. Subject to the limitations described in subparagraphs 43.b. through d. of this appendix, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: Rental costs of comparable property, if any; market conditions in the area; alternatives available; and, the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

b. Rental costs under "sale and lease back" arrangements are allowable only up to the amount that would be allowed had the non-profit organization continued to own the property. This amount would include expenses such as depreciation or use allowance, or key employee of the non-profit organization or his immediate family, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, a non-profit organization may establish a separate corporation for the sole purpose of owning property and leasing it back to the non-profit organization.

d. Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in subparagraph b) that would be allowed had the non-profit organization purchased the property on the date the lease agreement was executed. The provisions of Financial Accounting Standards Board Statement 13, Accounting for Leases, shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in paragraph 23 of this appendix. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-profit organization purchased the facility.

44. Royalties and other costs for use of patents and copyrights. a. Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the award are allowable unless:

(1) The Federal Government has a license or the right to free use of the patent or copyright.

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.

(3) The patent or copyright is considered to be unenforceable.

(4) The patent or copyright is expired.

b. Special care should be exercised in determining reasonableness where the royalties may have arrived at as a result of less-than-arm's-length bargaining, *e.g.*:

(1) Royalties paid to persons, including corporations, affiliated with the non-profit organization.

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Federal

However, these costs are allowable as direct costs, with prior approval by awarding agencies, when they are necessary for the performance of Federal programs.

46. Specialized service facilities. a. The costs of services provided by highly complex or specialized facilities operated by the non-profit organization, such as computers, wind tunnels, and reactors are allowable, provided the charges for the services meet the conditions of either paragraph 46 b. or c. of this appendix and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under subparagraph A.5. of Appendix A to this part.

b. The costs of such services, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology that does not discriminate against federally-supported activities of the non-profit organization, including usage by the non-profit organization for internal purposes, and is designed to recover only the aggregate costs of the services. The costs of each service shall consist normally of both its direct costs and its allocable share of all indirect costs. Rates shall be adjusted at least biennially, and shall take into consideration over/under applied costs of the previous period(s).

c. Where the costs incurred for a service are not material, they may be allocated as indirect costs.

d. Under some extraordinary circumstances, where it is in the best interest of the Federal Government and the institution to establish alternative costing arrangements, such arrangements may be worked out with the cognizant Federal agency.

47. Taxes. a. In general, taxes which the organization is required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for:

(1) Taxes from which exemptions are available to the organization directly or based on its status or the status of its principal activities or activities assisted by awards to the extent that such exemptions are not taken or are not applicable to the activities of the organization or to its property, or

(2) Taxes on income or on the value of income or on the value of property (but see paragraph 47 h. below) in excess of those attributable to the activities assisted by awards.

b. Taxes from which exemptions are available to the organization directly or based on its status or the status of its principal activities or activities assisted by awards to the extent that such exemptions are not taken or are not applicable to the activities of the organization or to its property are allowable only when the organization is in jurisdictions in which it is the practice of the taxing authorities not to assess such taxes against organizations such as the organization or when such taxes are assessed but the organization is exempt thereof based on its status or the status of its principal activities or activities assisted by awards.

c. Taxes on income or on the value of income or on the value of property (but see paragraph 47 h. below) in excess of those attributable to the activities assisted by awards are unallowable.

d. Taxes that are refundable are not allowable.

e. Taxes levied on the organization's unrelated business activities are allowable to the extent that such taxes are allocable to the organization's activities assisted by awards.

f. Taxes on real or personal property owned or held by the organization are allowable to the extent that such taxes are allocable to the organization's activities assisted by awards.

g. Taxes on sales or purchases are allowable to the extent that such taxes are allocable to the organization's activities assisted by awards.

h. Taxes on income or on the value of income or on the value of property (but see paragraph 47 c. above) in excess of those attributable to the activities assisted by awards are allowable when the organization is in jurisdictions in which it is the practice of the taxing authorities not to assess such taxes against organizations such as the organization or when such taxes are assessed but the organization is exempt thereof based on its status or the status of its principal activities or activities assisted by awards.

48. Termination costs. a. The cost of items reasonably usable on the non-profit organization's other work shall not be allowable unless the non-profit organization submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the non-profit organization, the awarding agency should consider the non-profit organization's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the non-profit organization shall be regarded as evidence that such items are reasonably usable on the non-profit organization's other work. Any acceptance of common items as allocable to the terminated portion of the Federal award shall be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

b. If in a particular case, despite all reasonable efforts by the non-profit organization, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this appendix, except that any such costs continuing after termination due to the negligent or willful failure of the non-profit organization to discontinue such costs shall be unallowable.

c. Loss of useful value of special tooling, machinery, and is generally allowable if:

(1) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the non-profit organization,

(2) The interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the awarding

lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the Federal award, and of reasonable restoration required by the provisions of the lease.

e. Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for:

(a) The preparation and presentation to the awarding agency of settlement claims and supporting data with respect to the terminated portion of the Federal award, unless the termination is for default (see §215.61 of 2 CFR part 215 (OMB Circular A–110)); and

(b) The termination and settlement of subawards.

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Federal Government or acquired or produced for the Federal award, except when grantees or contractors are reimbursed for disposals at a predetermined amount in accordance with §215.32 through 215.37 of 2 CFR part 215 (OMB Circular A–110).

(3) Indirect costs related to salaries and wages incurred as settlement expenses in subparagraphs 48.e.(1) and (2) of this appendix. Normally, such indirect costs shall be limited to fringe benefits, occupancy cost, and immediate supervision.

f. Claims under sub awards, including the allocable portion of claims which are common to the Federal award, and to other work of the non-profit organization are generally

field in which the employee is now working or may reasonably be expected to work, and are limited to:

(1) Training materials.

(2) Textbooks.

(3) Fees charges by the educational institution.

(4) Tuition charged by the educational institution or, in lieu of tuition, instructors' salaries and the related share of indirect costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution.

(5) Salaries and related costs of instructors who are employees of the organization.

(6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year and only to the extent that circumstances do not permit the operation of classes or attendance at classes after regular working hours; otherwise, such compensation is unallowable.

c. Costs of tuition, fees, training materials, and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time education, including that provided at the organization's own facilities, at a post-graduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which the employee is now working or may reasonably be expected to work, and only where the costs receive the prior approval of the awarding agency. Such costs are limited to the costs attributable to a total period not to exceed one school year for

for housing, or services designed to keep people in housing or to find housing. Generally, the intent of HPRP assistance is to rapidly transition program participants to stability, either through their own means or through public assistance, as appropriate. HPRP assistance is not intended to provide long-term support for program participants, nor will it be able to address all of the financial and supportive services needs of households that affect housing stability. Rather, assistance should be focused on housing stabilization, linking program participants to community resources and mainstream benefits, and helping them develop a plan for preventing future housing instability. Grantee programs should therefore ensure that there is a clear process for

agency. To be considered for approval, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work.

50. Transportation costs. Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly charged as transportation costs or added to the cost of such items (*see* paragraph 28 of this appendix). Where identification with the materials received cannot readily be made, transportation costs may be charged to the appropriate indirect cost accounts if the organization follows a consistent, equitable procedure in this respect.

51. Travel costs.

a. General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-profit organization. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs

transportation savings; or offer accommodations not reasonably adequate for the traveler's medical needs. The non-profit organization must justify and document these conditions on a case-by-case basis in order for the use of first-class airfare to be allowable in such cases.

(2) Unless a pattern of avoidance is detected, the Federal Government will generally not question a non-profit organization's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the non-profit organization can demonstrate either of the following: that such airfare was not available in the specific case; or that it is the non-profit organization's overall practice to make routine use of such airfare.

d. Air travel by other than commercial carrier. Costs of travel by non-profit organization-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of allowable commercial air travel, as provided for in subparagraph] c., is unallowable.

e. Foreign travel. Direct charges for for-

9. CNA Corporation (CNAC), Alexandria, Virginia
10. Environmental Institute of Michigan, Ann Arbor, Michigan
11. Georgia Institute of Technology/Georgia Tech Applied Research Corporation/Georgia Tech Research Institute, Atlanta, Georgia
12. Hanford Environmental Health Foundation, Richland, Washington
13. IIT Research Institute, Chicago, Illinois
14. Institute of Gas Technology, Chicago, Illinois
15. Institute for Defense Analysis, Alexandria, Virginia
16. LMI, McLean, Virginia
17. Mitre Corporation, Bedford, Massachusetts
18. Mitretek Systems, Inc., Falls Church, Virginia
19. National Radiological Astronomy Observatory, Green Bank, West Virginia
20. National Renewable Energy Laboratory, Golden, Colorado
21. Oak Ridge Associated Universities, Oak Ridge, Tennessee
22. Rand Corporation, Santa Monica, California
23. Research Triangle Institute, Research Triangle Park, North Carolina
24. Riverside Research Institute, New York, New York
25. South Carolina Research Authority (SCRA), Charleston, South Carolina
26. Southern Research Institute, Birmingham, Alabama
27. Southwest Research Institute, San Antonio, Texas
28. SRI International, Menlo Park, California
29. Syracuse Research Corporation, Syracuse, New York
30. Universities Research Association, Incorporated (National Acceleration Lab), Argonne, Illinois
31. Urban Institute, Washington DC
32. Non-profit insurance companies, such as Blue Cross and Blue Shield Organizations
33. Other non-profit organizations as negotiated with awarding agencies

PARTS 231–299 [RESERVED]

Circular No. A-133

Revised to show changes published in the *Federal Register* June 27, 2003
Audits of States, Local Governments, and Non-Profit Organizations

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Audits of States, Local Governments, and Non-Profit Organizations

1. Purpose. This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156. It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards.

2. Authority. Circular A-133 is issued under the authority of sections 503, 1111, and 7501 *et seq.* of title 31, United States Code, and Executive Orders 8248 and 11541.

3. Rescission and Supersession. This Circular rescinds Circular A-128, "Audits of State and Local Governments," issued April 12, 1985, and supersedes the prior Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," issued April 22, 1996. For effective dates, see paragraph 10.

4. Policy. Except as provided herein, the standards set forth in this Circular shall be applied by all Federal agencies. If any statute specifically prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the subsequent statute shall govern.

Federal agencies shall apply the provisions of the sections of this Circular to non-Federal entities, whether they are recipients expending Federal awards received directly from Federal awarding agencies, or are subrecipients expending Federal awards received from a pass-through entity (a recipient or another subrecipient).

This Circular does not apply to non-U.S. based entities expending Federal awards received either directly as a recipient or indirectly as a subrecipient.

5. Definitions. The definitions of key terms used in this Circular are contained in §___.105 in the Attachment to this Circular.

6. Required Action. The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in the Attachment to this Circular. Federal agencies making awards to non-Federal entities, either directly or indirectly, shall adopt the language in the Circular in codified regulations as provided in Section 10 (below), unless different provisions are required by Federal statute or are approved by the Office of Management and Budget (OMB).

7. OMB Responsibilities. OMB will review Federal agency regulations and implementation of this Circular, and will provide interpretations of policy requirements and assistance to ensure uniform, effective and efficient implementation.

8. Information Contact. Further information concerning Circular A-133 may be obtained by contacting the Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, Washington, DC 20503, telephone (202) 395-3993.

9. Review Date. This Circular will have a policy review three years from the date of issuance.

10. Effective Dates. The standards set forth in §___.400 of the Attachment to this Circular, which apply directly to Federal agencies, shall be effective July 1, 1996, and shall apply to audits of fiscal years beginning after June 30, 1996, except as otherwise specified in §___.400(a).

The standards set forth in this Circular that Federal agencies shall apply to non-Federal entities shall be adopted by Federal agencies in codified regulations not later than 60 days after publication of this final revision in the *Federal Register*, so that they will apply to audits of fiscal years beginning after June 30, 1996, with the exception that §___.305(b) of the Attachment applies to audits of fiscal years beginning after June 30, 1998. The requirements of Circular A-128, although the Circular is rescinded, and the 1990 version of Circular A-133 remain in effect for audits of fiscal years beginning on or before June 30, 1996.

The revisions published in the *Federal Register* June 27, 2003, are effective for fiscal years ending after December 31, 2003, and early implementation is not permitted with the exception of the definition of *oversight agency for audit* which is effective July 28, 2003.

Augustine T. Smythe
Acting Director

Attachment

PART__ --AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

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__.105 Definitions.

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__.215 Relation to other audit requirements.
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__.225 Sanctions.
__.230 Audit costs.
__.235 Program-specific audits.

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Appendix A to Part __ - Data Collection Form (Form SF-SAC).

Appendix B to Part __ - Circular A-133 Compliance Supplement.

ATTACHMENT F
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Subpart A--General

§___.100 Purpose.

This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.

§___.105 Definitions.

Auditee means any non-Federal entity that expends Federal awards which must be audited under this part.

Auditor means an auditor, that is a public accountant or a Federal, State or local government audit organization, which meets the general standards specified in generally accepted government auditing standards

to preparing the application for submission to HUD or participating in HUD-sponsored HPRP training, starting with the publication of this Notice and ending with the execution of the grant

not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Any audits of such vendors shall be covered by the terms and conditions of the contract. Contracts to operate Federal Government owned, contractor operated facilities (GOCOs) are excluded from the requirements of this part.

Federal awarding agency means the Federal agency that provides an award directly to the recipient.

Federal financial assistance means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance, but does not include amounts received as reimbursement for services rendered to individuals as described in §___.205(h) and §___.205(i).

Federal program means:

(1) All Federal awards to a non-Federal entity assigned a single

an entity's management and other personnel--designed to provide reasonable assurance regarding the achievement of the following objectives for Federal programs:

(1) Transactions are properly recorded and accounted for to:

(i) Permit the preparation of reliable financial statements and Federal reports;

(ii) Maintain accountability over assets; and

(iii) Demonstrate compliance with laws, regulations, and other compliance requirements;

(2) Transactions are executed in compliance with:

(i) Laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and

(ii) Any other laws and regulations that are identified in the compliance supplement; and

(3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity.

Local government means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

Major program means a Federal program determined by the auditor to be a major program in accordance with §___.520 or a program identified as a major program by a Federal agency or pass-through entity in accordance with § __.215(c)

2. Requirements for All Program Participants. In order to receive financial assistance or services funded by HPRP, individuals and families—whether homeless or housed—must at least

OMB means the Executive Office of the President, Office of Management and Budget.

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of direct funding to a recipient not assigned a cognizant agency for audit. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities. The duties of the oversight agency for audit are described in §___.400(b).

Effective July 28, 2003, the following is added to this definition: A Federal agency with oversight for an auditee may reassign oversight to another Federal agency which provides substantial funding and agrees to be the oversight agency for audit. Within 30 days after any reassignment, both the old and the new oversight agency for audit shall notify the auditee, and, if known, the auditor of the reassignment."

Pass-through entity means a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.

Program-specific audit means an audit of one Federal program as provided for in §___.200(c) and §___.235.

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

(1) Which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds;

(2) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Recipient means a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program.

Research and development (R&D) means all research activities, both basic and applied, and all development activities that are performed by a non-Federal entity. Research is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included

Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe as defined in this section.

Student Financial Aid (SFA) includes those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070 et seq.) which is administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include programs which provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

Subrecipient means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in §___.210.

Types of compliance requirements refers to the types of compliance requirements listed in the compliance supplement. Examples include: activities allowed or unallowed; allowable costs/cost principles; cash management; eligibility; matching, level of effort, earmarking; and, reporting.

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided in §___.210.

Subpart B--Audits

§___.200 Audit requirements.

(a) Audit required. Non-Federal entities that expend $300,000 *($500,000 for fiscal years ending after December 31, 2003)* or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in §___.205.

(b) Single audit. Non-Federal entities that expend $300,000 *($500,000 for fiscal years ending after December 31, 2003)* or more in a year in Federal awards shall have a single audit conducted in accordance with §___.500 except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an auditee expends Federal

entities that expend less than $300,000 *($500,000 for fiscal years ending after December 31, 2003)* a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in §___.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

(e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

§___.205 Basis for determining Federal awards expended.

(a) Determining Federal awards expended. The determination of when an award is expended should be based on when the activity related to the award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements, such as: expenditure/expense transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed through to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or consumption of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and, the period when insurance is in force.

(b) Loan and loan guarantees (loans). Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines shall be used to calculate the value of Federal awards expended under loan programs, except as noted in paragraphs **(c)** and **(d)** of this section:

(1) Value of new loans made or received during the fiscal year; plus

(2) Balance of loans from previous years for which the Federal Government imposes continuing compliance requirements; plus

(3) Any interest subsidy, cash, or administrative cost allowance received.

(c) Loan and loan guarantees (loans) at institutions of higher education. When loans are made to students of an institution of higher education but the institution does not make the loans, then only the value of loans made during the year shall be considered Federal awards expended in that year. The balance of loans for previous years is not included as Federal

of an award to carry out a Federal program shall be included in determining Federal awards expended and subject to audit under this part.

(g) Valuing non-cash assistance. Federal non-cash assistance, such as free rent, food stamps, food commodities, donated property, or donated surplus property, shall be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.

(h) Medicare. Medicare payments to a non-Federal entity for providing patient care services to Medicare eligible individuals are not considered Federal awards expended under this part.

(i) Medicaid. Medicaid payments to a subrecipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part unless a State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

(j) Certain loans provided by the National Credit Union Administration. For purposes of this part, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility that are funded by contributions from insured institutions are not considered Federal awards expended.

§___.210 Subrecipient and vendor determinations.

(a) General. An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs **(b)** and **(c)** of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

(b) Federal award. Characteristics indicative of a Federal award received by a subrecipient are when the organization:

(1) Determines who is eligible to receive what Federal financial assistance;

(2) Has its performance measured against whether the objectives of the Federal program are met;

(3) Has responsibility for programmatic decision making;

(4) Has responsibility for adherence to applicable Federal program compliance requirements; and

(5) Uses the Federal funds to carry out a program of the

(2) Provides similar goods or services to many different purchasers;

(3) Operates in a competitive environment;

(4) Provides goods or services that are ancillary to the operation of the Federal program; and

(5) Is not subject to compliance requirements of the Federal program.

(d) Use of judgment in making determination. There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

(e) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract, and post-award audits.

(f) Compliance responsibility for vendors. In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

§___.215 Relation to other audit requirements.

(a) Audit under this part in lieu of other audits. An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits, evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits shall be planned and performed in

(c) Request for a program to be audited as a major program. A Federal agency may request an auditee to have a particular Federal program audited as a major program in lieu of the Federal agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such request by informing the Federal agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in §___.520 and, if not, the estimated incremental cost. The Federal agency shall then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal agency request, and the Federal agency agrees to pay the full incremental costs, then the auditee shall have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

§___.220 Frequency of audits.

Except for the provisions for biennial audits provided in paragraphs **(a)** and **(b)** of this section, audits required by this part shall be performed annually. Any biennial audit shall cover both years within the biennial period.

(a) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this part biennially. This requirement must still be in effect for the biennial period under audit.

(b) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this part biennially.

§___.225 Sanctions.

No audit costs may be charged to Federal awards when audits required by this part have not been made or have been made but not in accordance with this part. In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

(a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;

(b) Withholding or disallowing overhead costs;

(c) Suspending Federal awards until the audit is conducted; or

(d) Terminating the Federal award.

§___.230 Audit costs.

(a) Allowable costs. Unless prohibited by law, the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the Federal Acquisition Regulation (FAR) (48 CFR parts 30 and 31), or other applicable cost principles or regulations.

(b) Unallowable costs. A non-Federal entity shall not charge the following to a Federal award:

(1) The cost of any audit under the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 et seq.) not conducted in accordance with this part.

(2) The cost of auditing a non-Federal entity which has Federal awards expended of less than $300,000 *($500,000 for fiscal years ending after December 31, 2003)* per year and is thereby exempted under §___.200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its subrecipients in accordance with §___.400(d)(3), provided the subrecipient does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by a pass-through entity and address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.

§___.235 **Program-specific audits.**

(a) Program-specific audit guide available. In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal control, compliance requirements, suggested audit procedures, and audit reporting requirements. The auditor should contact the Office of Inspector General of the Federal agency to determine whether such a guide is available. When a current program-specific audit guide is available, the auditor shall follow GAGAS and the guide when performing a program-specific audit.

(b) Program-specific audit guide not available. (1) When a program-specific audit guide is not available, the auditee and auditor shall have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit.

(2) The auditee shall prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of §___.315(b), and a corrective action plan consistent with the requirements of §___.315(c).

(3) The auditor shall:

(i) Perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS;

(ii) Obtain an understanding of internal control and perform tests of internal control over the Federal program consistent with the requirements of §___.500(c) for a major program;

(iii) Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements of § .500(d) for a major program; and

out by a subgrantee, to ensure that the program requirements established by this Notice and any subsequent guidance are met. The grantees must follow the monitoring procedures it established in its substantial amendment submitted for HPRP or as described in its approved Consolidated Plan. Monitoring may be conducted by the local HUD Office of Community Planning and Development, HUD's Office of Special Needs Assistance Programs, HUD's Office of Inspector

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding in accordance with the requirements of §___.500(e).

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the Federal program is presented fairly in all material respects in conformity with the stated accounting policies;

(ii) A report on internal control related to the Federal program, which shall describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on the Federal program; and

(iv) A schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results relative to the Federal program in a format consistent with §___.505(d)(1) and findings and questioned costs consistent with the requirements of §___.505(d)(3).

(c) Report submission for program-specific audits.
(1) The audit shall be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the required reporting shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period, unless a different period is specified in a program-specific audit guide.) Unless restricted by law or regulation, the auditee shall make report copies available for public inspection.

(2) When a program-specific audit guide is available, the auditee shall submit to the Federal clearinghouse designated by OMB the data collection form prepared in accordance with §___.320(b), as applicable to a program-specific audit, and the reporting required by the program-specific audit guide to be retained as an archival copy. Also, the auditee shall submit to the Federal awarding agency or pass-through entity the reporting required by the program-specific audit guide.

(3) When a program-specific audit guide is not available, the reporting package for a program-specific audit shall consist of the financial statement(s) of the Federal program, a summary schedule of prior audit

§___.320(b), as applicable to a program-specific audit, and one copy of this reporting package shall be submitted to the Federal clearinghouse designated by OMB to be retained as an archival copy. Also, when the schedule of findings and questioned costs disclosed audit findings or the summary schedule of prior audit findings reported the status of any audit findings, the auditee shall submit one copy of the reporting package to the Federal clearinghouse on behalf of the Federal awarding agency, or directly to the pass-through entity in the case of a subrecipient. Instead of submitting the reporting package to the pass-through entity, when a subrecipient is not required to submit a reporting package to the pass-through entity, the subrecipient shall provide written notification to the pass-through entity, consistent with the requirements of §___.320(e)(2). A subrecipient may submit a copy of the reporting package to the pass-through entity to comply with this notification requirement.

(d) Other sections of this part may apply. Program-specific audits are subject to §___.100 through §___.215(b), §___.220 through §___.230, §___.300 through §___.305, §___.315, §___.320(f) through §___.320(j), §___.400 through §___.405, §___.510 through §___.515, and other referenced provisions of this part unless contrary to the provisions of this section, a program-specific audit guide, or program laws and regulations.

Subpart C--Auditees

§___.300 Auditee responsibilities.

The auditee shall:

(a) Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

(b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.

(d) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with §___.310.

(e) Ensure that the audits required by this part are properly performed and submitted when due. When extensions to the report submission due date required by §___.320(a) are granted by the cognizant or oversight agency for audit, promptly notify the Federal clearinghouse designated by OMB and each pass-through entity providing Federal awards of the extension.

(f) Follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with §___.315(b) and §___.315(c), respectively.

§___.305 Auditor selection.

(a) Auditor procurement. In procuring audit services, auditees shall follow the procurement standards prescribed by the Grants Management Common Rule (hereinafter referred to as the "A-102 Common Rule") published March 11, 1988 and amended April 19, 1995 [insert appropriate CFR citation], Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," or the FAR (48 CFR part 42), as applicable (OMB Circulars are available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503). Whenever possible, auditees shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in the A-102 Common Rule, OMB Circular A-110, or the FAR (48 CFR part 42), as applicable. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

(b) Restriction on auditor preparing indirect cost proposals. An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this part when the indirect costs recovered by the auditee during the prior year exceeded $1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs. To minimize any disruption in existing contracts for audit services, this paragraph applies to audits of fiscal years beginning after June 30, 1998.

(c) Use of Federal auditors. Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.

§___.310 Financial statements.

(a) Financial statements. The auditee shall prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements shall be for the same organizational unit and fiscal year that is chosen to meet the requirements of this part. However, organization-wide financial statements may also include departments, agencies, and other organizational units that have separate audits in accordance with §___.500(a) and prepare separate financial statements.

(b) Schedule of expenditures of Federal awards. The auditee shall also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements. While not required, the auditee may choose to provide information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple award years, the auditee may list

(2) For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.

(3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available.

(4) Include notes that describe the significant accounting policies used in preparing the schedule.

(5) To the extent practical, pass-through entities should identify in the schedule the total amount provided to subrecipients from each Federal program.

(6) Include, in either the schedule or a note to the schedule, the value of the Federal awards expended in the form of non-cash assistance, the amount of insurance in effect during the year, and loans or loan guarantees outstanding at year end. While not required, it is preferable to present this information in the schedule.

§___.315 Audit findings follow-up.

(a) General. The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee shall prepare a summary schedule of prior audit findings. The auditee shall also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan shall include the reference numbers the auditor assigns to audit findings under §___.510(c). Since the summary schedule may include audit findings from multiple years, it shall include the fiscal year in which the finding initially occurred.

(b) Summary schedule of prior audit findings. The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with paragraph (b)(1) of this section, or no longer valid or not warranting further action in accordance with paragraph (b)(4) of this section.

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.

(3) When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule shall provide an explanation.

(4) When the auditee believes the audit findings are no longer

in the appropriate languages for the geographic area served by the jurisdiction and that limited English proficient persons have meaningful access to HPRP assistance. This will be a particular issue for state grantees that may not be aware of LEP speaking populations in jurisdictions that are not normally served with ESG funds. To assist grantees, the Department published the

the finding occurred was submitted to the Federal clearinghouse;

(ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

(iii) A management decision was not issued.

(c) Corrective action plan. At the completion of the audit, the auditee shall prepare a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.

§___.320 Report submission.

(a) General. The audit shall be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the data collection form and reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period.) Unless restricted by law or regulation, the auditee shall make copies available for public inspection.

(b) Data Collection. (1) The auditee shall submit a data collection form which states whether the audit was completed in accordance with this part and provides information about the auditee, its Federal programs, and the results of the audit. The form shall be approved by OMB, available from the Federal clearinghouse designated by OMB, and include data elements similar to those presented in this paragraph. A senior level representative of the auditee (e.g., State controller, director of finance, chief executive officer, or chief financial officer) shall sign a statement to be included as part of the form certifying that: the auditee complied with the requirements of this part, the form was prepared in accordance with this part (and the instructions accompanying the form), and the information included in the form, in its entirety, are accurate and complete.

(2) The data collection form shall include the following data elements:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses.

(iii) A statement as to whether the audit disclosed any noncompliance which

to the requirements of 24 CFR part 84.

H. Equal Participation of Religious Organizations

1. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in HPRP. Neither the federal government nor a grantee shall discriminate against an organization on the basis of the organization's religious character or

programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(vi) A list of the Federal awarding agencies which will receive a copy of the reporting package pursuant to §___.320(d)(2) of OMB Circular A-133.

(vii) A yes or no statement as to whether the auditee qualified as a low-risk auditee under §___.530 of OMB Circular A-133.

(viii) The dollar threshold used to distinguish between Type A and Type B programs as defined in §___.520(b) of OMB Circular A-133.

(ix) The Catalog of Federal Domestic Assistance (CFDA) number for each Federal program, as applicable.

(x) The name of each Federal program and identification of each major program. Individual programs within a cluster of programs should be listed in the same level of detail as they are listed in the schedule of expenditures of Federal awards.

(xi) The amount of expenditures in the schedule of expenditures of Federal awards associated with each Federal program.

(xii) For each Federal program, a yes or no statement as to whether there are audit findings in each of the following types of compliance requirements and the total amount of any questioned costs:

(A) Activities allowed or unallowed.
(B) Allowable costs/cost principles.
(C) Cash management.
(D) Davis-Bacon Act.
(E) Eligibility.
(F) Equipment and real property management.
(G) Matching, level of effort, earmarking.
(H) Period of availability of Federal funds.
(I) Procurement and suspension and debarment.
(J) Program income.
(K) Real property acquisition and relocation assistance.
(L) Reporting.
(M) Subrecipient monitoring.
(N) Special tests and provisions.

(xiii) Auditee Name, Employer Identification Number(s), Name and Title of Certifying Official, Telephone Number, Signature, and Date.

(xiv) Auditor Name, Name and Title of Contact Person, Auditor Address, Auditor Telephone Number, Signature, and Date.

(xv) Whether the auditee has either a cognizant or oversight agency for audit.

(xvi) The name of the cognizant or oversight agency for audit determined in accordance with §___.400(a) and §___.400(b), respectively.

(3) Using the information included in the reporting package described in paragraph (c) of this section, the auditor shall complete the applicable sections of the form. The auditor shall sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, that the form is not a substitute for the reporting package described in paragraph (c) of this section, and that the content of

the form is limited to the data elements prescribed by OMB.

(c) Reporting package. The reporting package shall include the:

(1) Financial statements and schedule of expenditures of Federal awards discussed in §___.310(a) and §___.310(b), respectively;

(2) Summary schedule of prior audit findings discussed in

designated by OMB. Pass-through entities shall keep subrecipients' submissions on file for three years from date of receipt.

(h) Clearinghouse responsibilities. The Federal clearinghouse

in a timely manner and in accordance with the requirements of this part.

(4) Provide technical advice and counsel to auditees and auditors as requested.

(5) Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action.

(6) [illegible] a person responsible for providing annual updates

As provided in §___.400(c)(5), a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients. Alternate arrangements may be made on a case-by-case basis by agreement among the Federal agencies concerned.

(c) Pass-through entity. As provided in §___.400(d)(5), the pass-through entity shall be responsible for making the management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) Time requirements. The entity responsible for making the

internal control.

(d) Compliance. (1) In addition to the requirements of GAGAS, the auditor shall determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.

(2) The principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs are included in the compliance supplement.

material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on each major program, and, where applicable, refer to the separate schedule of findings and questioned costs

(a) Audit findings reported. The auditor shall report the following as audit findings in a schedule of findings and questioned costs:

(1) Reportable conditions in internal control over major programs. The auditor's determination of whether a deficiency in internal control is a reportable condition for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement. The auditor shall identify reportable conditions which are individually or cumulatively material weaknesses.

(2) Material noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program. The auditor's determination of whether a noncompliance with the provisions of laws, regulations, contracts, or grant agreements is material for the purpose

included, as applicable, in audit findings:

(1) Federal program and specific Federal award identification including the CFDA title and number, Federal award number and year, name of Federal agency, and name of the applicable pass-through entity. When information, such as the CFDA title and number or Federal award number, is not available, the auditor shall provide the best information available to describe the Federal award.

(2) The criteria or specific requirement upon which the audit

§___.520 Major program determination.

(a) General. The auditor shall use a risk-based approach to determine which Federal programs are major programs. This risk-based approach shall include consideration of: Current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs (b) through (i) of this section shall be followed.

(b) Step 1. (1) The auditor shall identify the larger Federal programs, which shall be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended during the audit period exceeding the larger of:

(i) $300,000 or three percent (.03) of total Federal awards expended in the case of an auditee for which total Federal awards

end of the fiscal year to be audited of OMB's approval.

(d) Step 3. (1) The auditor shall identify Type B programs which are high-risk using professional judgment and the criteria in §___.525. However, should the auditor select Option 2 under Step 4 (paragraph (e)(2)(i)(B) of this section), the auditor is not required to identify more high-risk Type B programs than the number of low-risk Type A programs. Except for known reportable conditions in internal control or compliance problems as discussed in §___.525(b)(1), §___.525(b)(2), and §___.525(c)(1), a single criteria in §___.525 would seldom cause a Type B program to be considered high-risk.

(2) The auditor is not expected to perform risk assessments on

(9) Food preparation and refuse disposal. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.

(10) Sanitary condition. The housing and any equipment must be maintained in sanitary condition.

(11) Fire safety.

(i) Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

(ii) The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

papers the risk analysis process used in determining major programs.

(h) Auditor's judgment. When the major program determination was performed and documented in accordance with this part, the auditor's judgment in applying the risk-based approach to determine major programs shall be presumed correct. Challenges by Federal agencies and pass-through entities shall only be for clearly improper use of the guidance in this part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor shall consider this guidance in determining major programs in audits not yet completed.

(i) Deviation from use of risk criteria. For first-year audits, the auditor may elect to determine major programs as all Type A programs plus any Type B programs as necessary to meet the percentage of coverage rule discussed

may be of higher risk than Federal programs recently audited as major programs without audit findings.

(c) Oversight exercised by Federal agencies and pass-through entities. (1) Oversight exercised by Federal agencies or pass-through entities could indicate risk. For example, recent monitoring or other reviews performed by an oversight entity which disclosed no significant problems would indicate lower risk. However, monitoring which disclosed significant problems would indicate higher risk.

(2) Federal agencies, with the concurrence of OMB, may identify Federal programs which are higher risk. OMB plans to provide this identification in the compliance supplement.

(d) Inherent risk of the Federal program. (1) The nature of a Federal program may indicate risk. Consideration should be given to the

(d) None of the Federal programs had audit findings from any of the following in either of the preceding two years (or, in the case of biennial audits, preceding two audit periods) in which they were classified as Type A programs:

(1) Internal control deficiencies which were identified as material weaknesses;

(2) Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program; or

(3) Known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year.

Appendix A to Part __ - Data Collection Form (Form SF-SAC)
[insert SF-SAC after finalized]

Appendix B to Part __ - Circular A-133 Compliance Supplement
Note: Provisional OMB Circular A-133 Compliance Supplement is available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503

Attachment “G”

CITY OF LONG BEACH

DEPARTMENT OF HEALTH AND HUMAN SERVICES

2525 GRAND AVENUE • LONG BEACH, CALIFORNIA 90815 • (562) 570-4000 • FAX: (562) 570-4049

Health Information In Compliance With The Health Insurance Portability And Accountability Act of 1996 (HIPAA)

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is made and entered as of September 1, 2009 by and between BEYOND SHELTER, a nonprofit California [corporation, ~~xxxpartnershipxxxxxxdba~~], whose business address is 1200 Wilshire Boulevard, Suite 600, Los Angeles, California 90017 (hereinafter referred to as "Business Associate"), and the CITY OF LONG BEACH, a municipal corporation (hereinafter referred to as "City" or "Covered Entity").

WHEREAS, the City has a Department of Health that provides a multitude of health care and related services; and

WHEREAS, in the course of providing health care and related services the City obtains protected health information; and

WHEREAS, Business Associate performs particular duties and/or provides particular services to the City; and

WHEREAS, the City wishes to disclose some information to Business Associate, some of which may contain protected health information; and

WHEREAS, the City and Business Associate intend to protect the privacy and provide for the security of protected health information in compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services and other applicable laws, including, but not limited to Title 45, Section 164.504(e) of the Code of Federal Regulations.

NOW, THEREFORE, in consideration of the mutual terms covenants, and conditions in this Agreement, the parties agree as follows:

1. DEFINITIONS. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule codified in Title 45, Sections 160-164 of the Code of Federal Regulations.
2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

d. Reporting of disclosures. Business Associate agrees to report to Covered Entity any use or disclosure of the protected health information not provided for by this Agreement of which it becomes aware.

e. Business Associate's Agents. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

f. Availability of Information to City. Business Associate agrees to provide prompt access to protected health information in a designated record set to Covered Entity or, as directed by Covered Entity, to an individual upon Covered Entity's request in order to meet the requirements under 45 CFR § 164.524.

g. Amendment of Protected Health Information. Business Associate agrees to promptly make any amendment(s) to protected health information in a designated record set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an individual.

h. Internal Practices. Business Associate agrees to make internal practices, books, and records, including policies and procedures and protected health information, relating to the use and disclosure of protected health information received from, or created or received by Business Associate on behalf of, covered entity available to the Secretary of the U.S. Department of Health and Human Services for purposes of the Secretary determining the Business Associate's compliance with the privacy rule.

i. Reporting of Disclosures. Business Associate agrees to document such disclosures of protected health information and information related to such disclosures as would be required for the City to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR § 164.528.

j. Availability of Information to Covered Entity. Business Associate agrees to promptly provide to Covered Entity or an individual information collected in accordance with Section 2(i) of this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR § 164.528.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE. Except as otherwise limited in this Agreement, Business Associate may

Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity. The specific use and disclosure provisions are as follows:

a. Except as otherwise limited in this Agreement, Business Associate may use protected health information for the proper management and administration of the Business Associate.

b. Except as otherwise limited in this Agreement, Business Associate may disclose protected health information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the business associate of any instances of which it is aware in which the confidentiality of the information has been breached.

c. Except as otherwise limited in this Agreement, Business Associate may use protected health information to provide data aggregation services to covered entity as permitted by 42 CFR § 164.504(e)(2)(i)(B).

d. Business Associate may use protected health information to report violations of law to appropriate federal and state authorities, consistent with § 164.502(j)(1).

4. OBLIGATIONS OF COVERED ENTITY.

a. Notification of Limitations in Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of covered entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of protected health information.

b. Notification of Change or Revocation of Permission. Covered entity shall notify Business Associate of any changes in, or revocation of, permission by individual to use or disclose protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.

c. Notification of Restrictions. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of protected health information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may effect Business Associate's use or disclosure of protected health information.

5. PERMISSIBLE REQUESTS BY COVERED ENTITY. Covered Entity shall not request Business Associate to use or disclose protected health information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that this restriction is not intended

7. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS. Business Associate shall make itself and any subcontractors, employees, or agents assisting Business Associate in the performance of its obligations under this Agreement with the Covered Entity, available to Covered Entity, at no cost to Covered Entity to testify as witnesses or otherwise, in the event of litigation or administrative proceedings commenced against Covered Entity, its directors, officers, or employees

of action, loss, damage, or liability, or of enforcing this provision, for City to incur or to pay any expense or cost, including attorney's fees or court costs, Business Associate agrees to and shall reimburse City within a reasonable time. Business Associate shall give City notice of any claim, demand, cause of action, loss, damage or liability within ten (10) calendar days.

12. AMBIGUITY. In the event of any conflict or ambiguity in this Agreement, such ambiguity shall be resolved in favor of a meaning that complies and is consistent with HIPAA, HIPAA Regulations and California law.

13. COSTS. If there is any legal proceeding between the parties to enforce or

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all of the formalities required by law as of the date first stated herein.

BEYOND SHELTER,
(Name of Business Associate)

a nonprofit California corporation
(corporation, partnership, individual)

September 22, 20 09 — By Tanya Tull

Title: PRESIDENT / CEO

September 22, 20 09 — By C. Lucia Madrid

Title: EXECUTIVE DIRECTOR / COO

CITY OF LONG BEACH, a municipal corporation

9.28, 2009 — By [signature] Assistant City Manager

Attachment “H”

CITY OF LONG BEACH

DEPARTMENT OF HEALTH AND HUMAN SERVICES

2525 GRAND AVENUE • LONG BEACH, CALIFORNIA 90815 • (562) 570-4000 • FAX: (562) 570-4049

CERTIFICATION REGARDING DEBARMENT

By signing and submitting this document, the recipient of federal assistance funds is providing the certification as set out below:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the recipient of federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. The recipient of Federal assistance funds shall provide immediate written notice to the person to which this agreement is entered, if at any time the recipient of Federal Assistance funds learns that its certification was erroneous, when submitted or has become erroneous by reason of changed circumstance.

3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.

4. The recipient of Federal assistance funds agrees by submitting this document that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in

clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under Paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which the transaction originated may pursue available remedies, including suspension and/or debarment.

The regulations implementing Executive Order 12549, Debarment and Suspension, 24 CFR Part 24 Section 24.510, Participants' Responsibilities require this certification.

1. The recipient of Federal assistance funds certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such participants shall attach an explanation to this document.

Agreement Number: S09-MY-06-0522 Contract Agency: BEYOND SHELTER

Name and Title of Authorized Representative: CHRISTINE MIRASY-GLASCO, EXECUTIVE DIRECTOR/COO

C. Mirasy-Glasco 9/22/09

Signature Date

Attachment "I"

CITY OF LONG BEACH

DEPARTMENT OF HEALTH AND HUMAN SERVICES

2525 GRAND AVENUE • LONG BEACH, CALIFORNIA 90815 • (562) 570-4000 • FAX: (562) 570-4049

CERTIFICATION REGARDING LOBBYING

Contractor(s) and lobbyist firm(s), as defined in the Los Angeles County Code Chapter 2.160 (ordinance 93-0031), retained by the Contractor, shall fully comply with the requirements as set forth in said County Code. The Contractor must also certify in writing that it is familiar with the Los Angeles County Code Chapter 2.160 and that all persons acting on behalf of the Contractor will comply with the County Code.

Failure on the part of the Contractor and/or Lobbyist to fully comply with the County's Lobbyist requirement shall constitute a material breach of the contract upon which the City of Long Beach may immediately terminate this contract and the Contractor shall be liable for civil action.

The Contractor is prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and the Housing and Urban Development Code of Federal Regulations 24 part 87, from using federally appropriated funds for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, loan or cooperative agreement, and any extension, continuation, renewal, amendment or modification of said documents.

The Contractor must certify in writing that they are familiar with the Federal Lobbyist Requirements and that all persons and/or subcontractors acting on behalf of the Contractor will comply with the Lobbyist Requirements.

Failure on the part of the Contractor or persons/subcontractors acting on behalf of the Contractor to fully comply with Federal Lobbyist Requirements shall be subject to civil penalties. The undersigned certifies, to the best of his/her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352 Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Agreement Number: S09-MY-06-0522 Contract Agency: BEYOND SHELTER

Name and Title of Authorized Representative: CHRISTINE MIRASY-GLASCO, EXECUTIVE DIRECTOR/COO

Signature 9/22/09
Date