

# ESG Homeless Prevention & Rapid Re-Housing Program

New Mexico Mortgage Finance Authority





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## PROGRAM OVERVIEW

The Emergency Solutions Grant (ESG) Program is funded by the Department of Housing and Urban Development “HUD”. Program regulations are established in the HUD ESG Interim Rule 24 CFR 576. MFA is awarded ESG funds annually from HUD as part of the Annual Action Plan Process. These funds are designed to identify sheltered and unsheltered homeless persons, as well as those at risk of homelessness, and provide the services necessary to help those persons quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness.

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) significantly amended the McKinney-Vento Homeless Assistance Act, including major revisions to the Emergency Shelter Grants program, which was renamed the Emergency Solutions Grants program. The HEARTH Act, and implementation of the applicable federal regulations by HUD, incorporated many of the lessons learned from the implementation of the Homelessness Prevention and Rapid Re-Housing Recovery Act Program (HPRP) into the new ESG program, including placing a stronger emphasis on rapid re-housing assistance.

ESG 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 service needs of the households that affect housing stability. 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. In addition, ESG assistance is not eviction prevention program.

This manual is intended to be a general reference tool for administering the ESG Rental Assistance Program for Rapid Re-Housing and Homeless Prevention. A complete list of ESG regulations for 24 CFR 576 regulations can be found on the HUD Exchange website. For additional program requirements, sub-recipients should refer to their annual Performance Agreement/Contract and MFA’s ESG Written Standards which were developed in coordination with New Mexico Coalition to End Homelessness and at a minimum, comply with ESG requirements. Standards may be adjusted periodically as more information is gained from the data collected through HMIS and Osnium.

## MFA & SUB-RECIPIENT RESPONSIBILITIES

MFA’s role is to oversee compliance with the ESG regulations and develop MFA ESG Written Standards that align with HUD’s mission for Homeless Prevention and Rapid Re-Housing. Any technical questions should be directed to the MFA RAP program manager. Valuable information can also be found on the HUD Exchange website.

Sub-recipients are responsible for reviewing and understanding the following:

- ESG regulations for Homeless Prevention & Rapid Re-Housing (24 CFR 576)
- 2 CFR 200
- MFA ESG Written Standards developed by MFA & NMCEH
- Performance Agreement (annual contract)

## ESG COMPONENTS

The Rapid Re-Housing and Homeless Prevention components of ESG have different eligibility requirements.

Rapid Re-Housing is intended for individuals and households who meet HUD's definition of homelessness. There are no income limitations upon intake however participants must be at or below 30% of Area Median Income at the annual re-evaluation.

Homeless Prevention assistance is for individuals and households who meet HUD's definition of at-risk or imminent risk or homelessness AND have an annual income below 30% of AMI.

The program uses HUD's 30% income limits which are updated annually on April 1. Please note that the program does NOT use the 30% Extremely Low-Income limits.

## TYPES OF ASSISTANCE

Outlined are the various types of assistance available to eligible participants

### RENTAL ASSISTANCE

Rental assistance can be provided in the form of monthly rental assistance, rental arrears or a combination of both.

1. Short-Term Rental Assistance - Up to 3 months
2. Medium Term Rental Assistance - 4 to 24 months
3. Rental Arrears - One-time payment of up to 6 months including any late fees

Assistance for arrears must be included in determining the total period of the household's assistance which cannot exceed 24 months. It is permissible to pay arrears for a household in cases where eviction cannot be prevented and help them obtain a different unit.

It is important to note that each household should be evaluated on an individual basis and be given just enough assistance to regain stability.

Payments made on behalf of program participants must be paid directly to the property manager/owner. Late fees incurred by the service provider or the client after entry into the program are not eligible for reimbursement.

### FINANCIAL ASSISTANCE

Eligible participants can receive the other types of assistance in order to retain or obtain housing.

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## UTILITY ASSISTANCE & DEPOSITS

Utility assistance in the form of arrears (up to 6 months) and monthly payments can be made on behalf of the participant only if documentation shows that they must have utilities in order to remain or obtain housing AND that they meet HUD's definition of homelessness or at-risk (see required documentation for homeless, at-risk or imminent risk). Allowable utility charges can be for electric, gas, water, sewage and propane.

Documentation in the participant files must show the following:

1. All other resources for utility assistance have been exhausted (i.e., LIHEAP, donations, etc.)
2. Disconnect notice (utility arrears only)
3. Utility bills in the name of the participant
4. Receipts showing the name of the participant for utility deposits
5. Lease showing that the unit in which assistance is provided matches the name and address on the utility bill.

Assistance is limited to 24 utility payments per program participant per service. Partial utility payments count as 1 month of assistance.

It is important to note that **HUD expects the use of ESG funds for utilities only to be rare** and only in cases where it is absolutely necessary for participant to remain in or obtain housing **AND** when all other sources of utility assistance have been exhausted. File documentation must show that efforts were made by the sub-recipient to utilize other sources of utility assistance prior to using ESG funds.

All program documentation requirements apply whether the assistance is for rent or utilities alone. For example, the unit must still meet FMR, Rent Reasonableness, Lead-Based Paint requirements and Habitability Standards Inspection requirements.

All payments should be made directly to the utility company for an amount no greater than the amount due.

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## SECURITY DEPOSITS/APPLICATION FEES

Assistance with security deposits is allowable as long as the amount does not exceed the equivalent of 2 months total rent. Last months' rent is considered a security deposit and should be counted when determining the length of assistance and cannot exceed the rent charged for any other month.

ESG rules do not require security or utility deposits to be returned to the program either when the program participant leaves the program or when the lease or utility contract terminates. If a program participant leaves the program but remains in the unit for which the deposits were paid, the landlord

will continue to hold the security deposit as provided in the lease and the utility company will continue to hold any utility deposit as provided in the utility contract.

It is acceptable for a program participant to keep the security deposit even if they move to different program after assistance ends.

ESG funds can also be used to pay application fees.

## SERVICES

Activities that are eligible under the Services category are as follows:

### **1. Housing Search & Placement**

Services or activities necessary to assist program participants in locating, obtaining, and retaining suitable permanent housing, include the following:

- a. Assessment of housing barriers, needs and preferences;
- b. Development of action plan for locating housing;
- c. Housing search;
- d. Outreach to and negotiation with owners;
- e. Assistance with submitting rental applications and understanding leases;
- f. Assessment of housing for compliance with ESG requirements for habitability, lead-based paint and rent reasonableness;
- g. Assistance with obtaining utilities and making moving arrangements;
- h. Tenant counseling;

### **2. Housing Stability Case Management 24 CFR 576.401**

ESG funds may be used to pay cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a program participant who resides in permanent housing or to assist a program participant in overcoming immediate barriers to obtaining housing. This assistance cannot exceed 30 days during the period the program participant is seeking permanent housing and cannot exceed 24 months during the period the program participant is living in permanent housing. Component services and activities consist of:

- a. Using the centralized or coordinated assessment system as required under § 576.400(d), to evaluate individuals and families applying for or receiving homelessness prevention or rapid re-housing assistance;
- b. Conducting the initial evaluation required under § 576.401(a), including verifying and documenting eligibility, for individuals and families applying for homelessness prevention or rapid re-housing assistance;



- c. Counseling;
- d. Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;
- e. Monitoring and evaluating program participant progress;
- f. Providing information and referrals to other providers;
- g. Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
- h. Conducting re-evaluations required under § 576.401(b).

### **3. Mediation**

ESG funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

Program participants must meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability.

All ESG-funded programs must coordinate and integrate, to the maximum extent practicable, eligible activities with other programs targeted to homeless individuals in their geographic region.

File documentation must show what types of services and referrals were provided to program participants.

Sub-recipients must document that the hours billed under these activities were preformed specifically for ESG Homeless Prevention and Rapid Re-Housing participants in accordance with the billable activities.

## **ELIGIBILITY**

All program participants must meet the requirements set by HUD.

Homeless is defined as the following:

### **1. Literally homeless (Category 1)**

Individual or family who lacks a fixed, regular and adequate nighttime residence, meaning:

- a. Primary nighttime residence this is a public or private place not meant for human habitation
- b. Living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing and hotels and motels paid for by charitable organizations or by federal, state and local government programs); or

- c. Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution
- 2. Imminent Risk of Homelessness (Category 2)  
Individual or family who will immediately lose their primary nighttime residence, provided that:
  - a. Residence will be lost within 14 days of the date of the application for homelessness assistance;
  - b. No subsequent residence has been identified; and
  - c. The individual or family lacks the resources or support networks needed to obtain permanent housing
- 3. Homeless under other Federal statutes  
Unaccompanied youth under 25 years of age or families with children and youth who do not otherwise qualify as homeless under this definition, but who:
  - a. Are defined as homeless under the other listed federal statutes;
  - b. Have not had a lease, ownership interest or occupancy agreement in permanent housing during the 60 days prior to the homelessness assistance application
  - c. Have experienced persistent instability as measured by two moves or more during the preceding 60 days; AND
  - d. Can be expected to continue in such status for an extended period of time due to special needs or barriers
- 4. Fleeing/Attempting to flee DV  
Any individual or family who:
  - a. Is fleeing, or is attempting to flee domestic violence
  - b. Has no other residence; AND
  - c. Lacks resources or support networks to obtain other permanent housing

At-Risk of Homelessness is defined as:

Category 1 - An Individual or family who:

- a. Has an annual income below 30% of median family income for the area; AND
- b. Does not have sufficient resources or support networks immediately available to prevent them from moving to an emergency shelter or another place defined in Category 1 of the "homeless definition; AND
- c. Meets one of the following conditions:
  - i. Has moved because of economic reasons 2 or more times during the 60 days preceding the application for assistance; OR
  - ii. Is living in the home of another because of economic hardship; or
  - iii. Has been notified that their right to occupy their current housing or living situation will be terminated within 21 days after the date of the application for assistance; OR

- iv. Lives in a hotel or motel and the cost is not paid for by charitable organizations or by federal, state or local government programs for low-income individuals; OR
  - v. Lives in an SRO or efficiency apartment unit in which there reside more than 2 persons or lives in a larger housing unit in which there reside more than one and a half persons per room; OR
  - vi. Is exiting a publicly funded institution or system of care; OR
  - vii. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved Con Plan
2. Unaccompanied Children & Youth (Category 2)  
A child or youth who does not qualify under homeless under the homeless definition but qualifies as homeless under another Federal statute.
3. Families with Children and Youth (Category 3)  
An unaccompanied youth who does not qualify as homeless under the homeless definition but qualifies as homeless under section 725(2) of the McKinney-Vento Homeless Assistance Act, and the parent(s) or guardian(s) or that child or youth is living with him or her.

## **PARTICIPANT FILE DOCUMENTATION**

All program participants must meet HUD's definition of homelessness, imminent risk or at-risk of homelessness.

This includes literally homeless individuals/families fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or other dangerous or life-threatening conditions related to violence.

Participant files must contain the proper documentation in order to justify eligibility. MFA recommends creating a participant file checklist. Sub-recipients must be able to show that all documentation has been obtained in accordance with 24 CFR 576.

In order to receive Homeless Prevention or Rapid Re-Housing assistance, households must have the following clearly noted and documented in the participants file:

### **1. Initial Consultation & Eligibility Determination**

The household must receive an initial consultation and eligibility assessment to determine income and housing status eligibility and the appropriate type of assistance needed to regain stability in permanent housing. The following is the order of priority in obtaining documentation:

- a) Evidence of third-party documentation
- b) Intake worker observation
- c) Self-certification

2. Assistance in obtaining mainstream and other resources:

The household must receive appropriate supportive services and referrals essential to achieving independent living through other federal, state, local and private assistance.

3. Housing Stability Plan must include:

- a) Needs assessment to include specific housing and self-sufficiency goals; and
- b) Action steps to retain permanent housing after ESG assistance ends

Eligibility documentation showing at-risk or imminent risk of homelessness must be the following:

- a) A court-ordered eviction notification (imminent risk), or
- b) A notice (Notice to Quit or Terminate) that their right to occupy the unit will be terminated within 14 days (imminent risk), or
- c) A notice (Notice to Quit or Terminate) that their right to occupy the unit will be terminated with 21 days (at-risk), or
- d) A 3-day notice of non-payment prepared by the landlord is acceptable if it effectively terminates the household's right to occupy housing in the unit within 21 days (at-risk) or 14 days (imminent risk)

Eligibility documentation for rapid re-housing:

- a) Third-party documentation including written source documentation
- b) Intake worker observation
- c) Self-certification (only if a and b are not attainable)

#### RE-EVALUATION FOR HOMELESS PREVENTION AND RAPID RE-HOUSING

Household eligibility and the types and amounts of assistance the household needs must be re-evaluated and documented not less than once every three months\* for prevention assistance and not less than once annually for households receiving Rapid Re-Housing assistance. At a minimum, each re-evaluation of eligibility must establish that:

- 1. The household has an annual income that is below 30% AMI for HP and at or below 30% AMI for RR for the area as determined by HUD; AND
- 2. The household lacks sufficient resources and support networks necessary to retain housing without ESG assistance.

**\*Due to COVID-19, HUD issued a Mega Waiver stating that the homeless prevention re-evaluation may be conducted at 6 months instead of 3 months for a period of two years beginning 3/31/2020.**

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## ORDER OF PRIORITY IN OBTAINING DOCUMENTATION

ESG Homeless Prevention and Rapid Re-Housing assistance follows HUD guidelines for what should be counted as income, assets and deductions. Income documentation must follow the Order of Priority as follows:

1. Third Party – Source (wage statement, unemployment compensation statement, etc.)
2. Third Party Verification—written statement by sub-recipient intake staff or the oral verification by the relevant third party of the income the program participant received over the most recent period for which the data is available
3. Self-Certification – only to be used if 1 & 2 are unavailable

Program participants with zero income must sign a “Zero Income Certification”. Documentation in the participant file must show that efforts were made by the sub-recipient to obtain third-party documentation or to verify that no income exists.

In cases where there are no assets, program participants must sign a “Zero Assets Certification”. See form for examples of assets.

Sub-recipients must assist program participants with the steps necessary to increase income either through public support programs or employment.

## INCOME & ASSETS

Income is defined as money that is paid to, or on behalf of, the head of household or spouse (even if temporarily absent) or to any other household member 18 years or older). When determining the annual household income for an individual or family, sub-recipients must use the standard for calculating income under 24 CFR 5.609.

Documentation used to verify income should be recent and dated within 30 days with the exception of public benefits statements which should be within the last 12 months prior to the date of the application.

To be eligible for ESG assistance, those who are at-risk or imminent risk of homelessness must meet the 30% AMI limits set by HUD as follows:

1. Homeless Prevention: **below** 30% of the average median income (AMI) for the area
2. Rapid Re-Housing: **at or below** 30% of the average median income (AMI) for the area – annual re-evaluation only.

Current limits can be found at [https://www.huduser.gov/portal/datasets/il.html#2020\\_data](https://www.huduser.gov/portal/datasets/il.html#2020_data) and are generally updated in April of each year. Scroll down to the bottom of the page to the part that says, “HUD 30% Income Limit for All Areas”.

Asset documentation must also follow the Order of Priority. If a participant has any asset, third-party documentation must be in the file and used in accordance with the HUD regulations for calculating income and assets.

Sub-recipients must perform due diligence when obtaining income and asset documentation. Every effort should be made to verify income through third-party verification. Zero Income & Zero Assets Certifications must only be used when no income has been identified.

## RENT ASSISTANCE AMOUNT

Program participants that have income are expected to contribute 30% of their monthly adjusted income (adjustment factors include the number of people in the family and age of family members) toward the rent.

If a household has a monthly income that covers more than the entire rental amount, they should be graduated from the program.

Sub-recipients must establish clear policies and procedures for determining the participant’s contribution toward rent. Policies and procedures must be applied consistently to all program participants.

Sub-recipients may pay up to 100% of the cost of rent on behalf of program participants who have zero income.

## APPLICATION

Participant files must contain the Rental Assistance Program Application provided by MFA. If the sub-recipient uses their own application, it must at least include the same information as the one provided by MFA.

## LEASES 24 CFR 576.106(G)

Each program participant receiving rental assistance including rental arrears must have a legally binding, written lease for the rental unit. The program participant must be the tenant on a lease and must be renewable and terminable only for cause. The lease must be renewable for terms that are a minimum of one month.

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## LEASE REQUIREMENTS

Leases must be between the property/owner and program participant and include all of the following:

- |                   |   |
|-------------------|---|
| 1. Property/Owner | 6. Pro-rated amount for partial month (if applicable) |
| 2. Tenant Name    | 7. Rent Amount  |
| 3. Unit Address   | 8. Security Deposit Amount                            |
| 4. Start Date     | 9. Property/owner Signature & Date                    |
| 5. End Date       | 10. Tenant Signature Date                             |

The lease CANNOT include any of the following terms:

- |   |   |
|---|---|
| • Admitting guilt                               | Agreement by the tenant to be sued or to admit guilt, or a judgment in favor of the owner in a lawsuit brought in connection with the lease.  |
| • Unlimited payment of attorney fees            | Agreement by the tenant not to hold the owner or its agents legally responsible for any action or failure to act, whether intentional or negligent.   |
| • Seizure of personal property, liens           | Agreement by the tenant that the owner may take, hold or sell the personal property of household members without notice to the tenant and a court decision on the rights of the parties (this does not apply to personal property left by the tenant after move-out). |
| • Not holding the property/landlord responsible | Agreement by the tenant to pay attorney fees or other legal costs, even if the tenant wins in court.  |
| • Lawsuit without notice                        | Agreement by the tenant that the owner may institute a lawsuit without notice to the tenant.  |
| • Non-court eviction                            | Agreement that the owner may evict the tenant (or other household members) without a civil court proceeding where the tenant has the right to present a defense, or before a court decision on the rights of the tenant and the owner.                                |
| • Waive jury trial                              | Agreement by the tenant to waive a trial by jury.   |
| • Waive right to appeal                         | Agreement by the tenant to waive the tenant's right to appeal or otherwise challenge a court decision   |

#### RENTAL ASSISTANCE AGREEMENT 24 CFR 576.106(E)

When providing rental assistance under both the Homeless Prevention and Rapid-Rehousing components of the ESG program:

1. Assistance may only be provided in cases where a Rental Assistance Agreement is in place between the sub-recipient and property/owner and a lease is in place between the program participant and owner
2. The sub-recipient must make payments directly to the housing owner or property manager

The agreement must set forth terms under which the rental assistance is being provided and must include the following:

1. All terms in which the assistance will be provided
  - a) Amount of assistance
  - b) Term of assistance
  - c) Specifics regarding the amount of rent to be paid by the sub-recipient and the amount to be paid by the program participant
  - d) Termination of agreement if participant moves out of the housing unit, lease terminates and is not renewed, or the participant becomes ineligible to receive ESG rental assistance
2. Same payment date, grace period and late payment penalty requirements as the program participant's lease. ESG funds may not be used to pay any late fees incurred by program participant or sub-recipient
3. Property/Owner must provide the sub-recipient with any notice to the program participant to vacate the housing unit or any complaint used under state or local law to commence an eviction action against the program participant.
4. Agreement must be in place even if the assistance is solely for rental arrears

Rental Assistance Agreements are different than leases as they are intended to ensure that the property/owner and the sub-recipient agree regarding the length and type of assistance being provided to the program participant.

#### FAIR MARKET RENT – 24 CFR 888 & 24 CFR 982.503

Providing ESG rental assistance requires that the unit meet both Fair Market Rent “FMR” limits established by HUD AND rent reasonableness standards to determine whether a specific unit can be assisted with short or medium-term rental assistance. FMR's are updated annually in October and can be found at <https://www.huduser.gov/portal/datasets/fmr.html>.

If the gross rent for the unit exceeds FMR and rent reasonableness standards, ESG sub-recipients are prohibited from using ESG funds for any portion of the rent even if the household is willing to pay the difference.

Gross rent is the sum of the rent paid to the property owner/landlord plus, if the tenant pays separately for utilities, the monthly allowance for utilities established by the public housing authority for the area in which the housing is located.

FMR and rent reasonableness requirements do not apply when a program participant receives only financial assistance or services under HUD's Housing Stabilization and Relocation Services. This includes rental application fees, security deposits, an initial payment of “last month's rent,” utility



payments/deposits, and/or moving costs, housing search and placement and housing stability case management.

**\*Due to COVID-19, the FMR restriction is waived for HP & RR assistance beginning 3/31/2020. Please note that all units must still meet the rent reasonableness standard. This applies only to leases executed after the 3/1/2020 start date.**

#### RENT REASONABLENESS - 24 CFR 576 106(D)

HUD's rent reasonableness standard is designed to ensure that rents being paid are reasonable in relation to rents being charges for comparable unassisted units in the same market. For units within the FMR limit, if a rent reasonableness determination supports a lower rent than the advertised rent then ESG funds may not be used to rent the unit unless the owner is willing to lower the rent. As with FMR, ESG funds could be used to assist the program participant move into a different unit that meets both FMR and rent reasonableness.

Rent Reasonableness must be determined by using the following criteria:

- |             |  |
|-------------|--|
| 1. Location | 5. Number of Rooms                         |
| 2. Quality  | 6. Amenities                               |
| 3. Size     | 7. Maintenance                             |
| 4. Type     | 8. Utilities (are they provided by owner?) |

Units used for comparison must not be in the same apartment complex.

There may be organizations within the sub-recipient's jurisdiction that collect and aggregate data on rental housing stock such as a state or local public housing authority.

The basis for determination must be supported by the evidence documented in the participant file. Adequate documentation must be present for program monitoring. Sub-recipients may use the form provided by MFA. If another form is used, it must at least include the above listed information.

Rent Reasonableness information for areas served can be found at Go Section 8 website.

#### HOUSING STABILITY CASE MANAGEMENT - 24 CFR 576.401(E)

Every ESG program participant must receive housing stability case management including meeting with a case manager at least once per month and developing a plan to assist the program participant retain permanent housing.

The primary purpose of these interactions should be to ensure that the participant maintains housing once the assistance ends. File documentation must show case management detail. If program

participants fail to meet with a case manager, it is the responsibility of the case manager to attempt in engaging with the participant. Efforts should also be clearly documented in the participant file.

Housing Stability Plan must include:

- a) Needs assessment to include specific housing a self-sufficiency goals; and
- b) Action steps to retain permanent housing after ESG assistance ends

Every ESG program participant must also be connected to mainstream and other resources as stated in 24 CFR 401(D). The household must receive appropriate supportive services and referrals essential to achieving independent living through other federal, state, local or private assistance.

**\*Due to COVID-19, the case management regulation has been waived for the time period of 3/31/2020 to 8/31/2020. Documentation must show limited staff capacity, shelter-in-place or similar policies.**

#### HABITABILITY STANDARDS INSPECTION 24 CFR 576.403(C)

Anytime ESG funds are used to help a program participant remain in or move into housing, the unit must pass a Habitability Standards Inspection prior to any ESG assistance payment. ESG funds may not be used to help someone move in to or stay in a unit that does not meet the minimum standards. This includes all types of assistance.

It is acceptable for sub-recipients to adopt HUD's Housing Quality Standards "HQS" however inspectors must be certified AND the sub-recipient must also conduct a Habitability Standards Inspection since HQS is different than the minimum standards for permanent housing. While HQS is more stringent and detailed than the minimum standards, ESG habitability standards for fire and safety are more specific.

#### LEAD-BASED PAINT – 24 CFR 576.403(A)

All HUD-funded housing programs occupied by program participants are required to incorporate lead-based paint remediation and disclosure requirements. Generally, these provisions require the recipient to screen for, disclose the existence of, and take reasonable precautions for the presence of lead-based paint in leased or assisted units constructed prior to 1978. (24 CFR 576.403(a))

ESG-funded programs are required to incorporate the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4846), and 24 CFR part 35, subparts A, B, H, J, K, M, and R in the unit.

All participant files must contain an ESG Lead-Screening Worksheet to determine if a visual assessment must be completed. If the unit was built after 1978 AND there will not be a child under the age of six occupying the unit, it is not necessary to do a visual assessment.

A lead-based paint visual assessment must be completed for all units that meet the three conditions below:

1. A household living in the unit being assisted with ESG funds (rent, utility assistance, security deposits or arrears)
2. The unit was constructed prior to 1978
3. A child under the age of six is or will be living in the unit (including pregnant participants)

Refer to the HUD website for exceptions.

The age of the unit must be verified through tax records with documentation kept in the participant file.

The assessment must be completed prior to the signing of a lease and prior to any ESG assistance being provided on behalf of the participant and annually thereafter. Any assistance given prior to the unit passing inspection will result in ineligible expenses.

Staff conducting the assessment must successfully complete the “HUD Certified Visual Assessment Exam”. The exam can be found at:

<http://www.hud.gov/offices/lead/training/visualassessment/h00101.htm>

Refer to the “References” section of the program manual for detailed instruction on the requirements for identifying and removing Lead-Based Paint and for detailed instructions in the document “Understanding the Lead-Based Paint Requirements: Guidance for ESG Grantees”.

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## LEAD-BASED PAINT DISCLOSURE REQUIREMENTS

Disclosure requirements are triggered for ALL properties constructed prior to 1978. It is a requirement that property owners or managers provide tenants with:

1. HUD’s disclosure form for rental properties disclosing the presence of known and unknown lead-based paint, AND
2. A copy of the “Protect Your Family from Lead in the Home” pamphlet

Information and forms can be found at:

[https://www.hud.gov/program\\_offices/healthy\\_homes/enforcement/disclosure](https://www.hud.gov/program_offices/healthy_homes/enforcement/disclosure)

All program participants must be provided the pamphlet. Files of program participants must also contain the signed lead-based paint disclosure form.

HMIS/OSNIUM – 24 CFR 576.10

All ESG funded programs are required to enter participants in the NM Homeless Management Information System (NM-HMIS) at first contact, reassessment, and exit, per current HMIS Data Standards. HMIS is managed by the New Mexico Coalition to End Homelessness. Sub-recipients must obtain a HMIS certification in order to access the system.

Programs that are specifically forbidden by other statutes or regulations (e.g., domestic violence service providers) must use the approved comparable database to meet the reporting requirements – Osnium.

All sub-recipients must collect and maintain common data fields as determined by current HUD data standards. This requirement helps to ensure coordination between service providers through the Coordinated Entry System “NMCES”, while avoiding duplication of services and client data.

Sub-recipients must enter and maintain all data required to complete all reporting requirements established by HUD, MFA, and the NM CoCs. All NM-HMIS participating agencies must also adhere to the policies and procedures outlined in the NM-HMIS Standard Operating Procedures, including timely, accurate, and complete data quality management.

Participant file documentation must include the NM-HMIS Client Consent Form and intake forms for all household member including minors. Minors may be listed on the same consent form as the head of household.

For more information, refer to the MFA ESG Written Standards.

## COORDINATED ASSESSMENT/ENTRY

All sub-recipients are required to assist program participants in accessing resources through the New Mexico Coordinated Entry System “NMCES” and must keep documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system(s) developed by the Continuum of Care(s) in accordance with the requirements established by HUD.

For information and training regarding Coordinated Assessment/Entry, contact The New Mexico Coalition to End Homelessness.

Refer to the MFA ESG Written Standards for information regarding this requirement.

## GRIEVANCE

All ESG sub-recipients must create a formal standardized grievance process, which they must incorporate into their internal policies and procedures and at a minimum include:

- An established escalation process if no resolution is found through initial efforts; and
- A designated grievance liaison within the agency; and
- A standard grievance form that can be filled out and returned to a grievance liaison; and

- Participants are informed of their right to file a grievance at initial intake; and
- The signed grievance form will be kept in the participant's permanent file; and
- Participants are provided with notice of their right to contact the agency's director, MFA and/or HUD to include contact information; and
- Notice that services will not be denied based on complaints or grievances.

#### **TERMINATION OF ASSISTANCE – 24 CFR 576.402(A)(B)(C)**

Sub-recipients may terminate assistance to participants who violate program requirements as outlined below, in accordance with 24 CFR 576.402(a)(b)(c).

If a program participant violates written program requirements, the sub-recipient may terminate assistance in accordance with a formal process established by the sub-recipient that recognizes the rights of individuals affected. The sub-recipient must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases.

When terminating rental assistance or housing relocation and stabilization services, the required formal process shall minimally consist of:

- A written notice to the program participant containing a clear statement of the reasons for termination; and
- 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
- Prompt written notice of the final decision to the program participant.

Termination does not bar the sub-recipient from providing further assistance at a later date to the same family or individual.

#### **MFA ESG WRITTEN STANDARDS**

MFA is required to develop written standards for the ESG program. Standards have been developed by MFA in conjunction with New Mexico Coalition to End Homelessness. The ESG Written Standards should be used in conjunction with the MFA Rental Assistance Program Manual in order to completely understand the program requirements.

This document is intended to define the program goals and requirements for sub-recipients of this grant.

#### **REIMBURSEMENTS/INVOICING**

All ESG funds are distributed by MFA on a reimbursement basis. In accordance with the annual Performance Agreement/Contract, reimbursements are due on the 10<sup>th</sup> of each month.

Reimbursements are submitted via the On-Line Invoicing System at:

<https://local.housingnm.org/OnlineInvoice/Login.aspx>

Instructions for submitting reimbursements are located on the home page of the invoicing system.

Each program year, sub-recipients designate permissions on the Schedule H “Designation of Online Request for Reimbursement Authorization” of the Performance Agreement/Contract. Any time there are changes to the permissions, sub-recipients must notify MFA and complete a new form.

Each staff member with permissions must create an account. Password reset assistance must be requested through the On-Line Invoicing System.

Timely and accurate invoice submissions are considered when annual awards are determined.

The following activities can be billed in the invoicing system:

1. Homeless Prevention & Rapid Re-Housing Rental Assistance
  - a. Rent
  - b. Rental Arrears
2. Homeless Prevention & Rapid Re-Housing Financial Assistance
  - a. Security Deposits
  - b. Application Fees
  - c. Utilities/Utility Deposits
  - d. Last Months’ Rent
3. Homeless Prevention & Rapid Re-Housing Services
  - a. Housing Stability Case Management
  - b. Housing Search & Placement
  - c. Outreach

Compensation billed to ESG must be for the above activities and must follow the sub-recipient’s compensation policies consistent with cost principles established by the Office of Management & budget for federal grant awards.

- a. Salaries
- b. Benefits – health, life
- c. Taxes
- d. Paid time off
- e. Costs to attend trainings required by HUD-sponsored and HUD-approved training including the cost of travel

For salaries and costs of staff that are not fully dedicated to a particular component, costs should be billed in proportion to the actual hours worked on each ESG component. A staff position that is not fully dedicated to ESG cannot be paid solely through ESG funds.

Time must be tracked by component and be available for review upon request and at monitoring. Sub-recipients must keep accurate records regarding what types of activities were performed.

Any permission level has the ability to upload monitoring documents or access program forms.

## DOCUMENTATION REQUIREMENTS

When submitting a request for reimbursement the following items must be submitted with the invoice:

- a) A grant-based accounting general ledger that matches what is being billed to the program. Ledger must show detail such as property owner name, type of expense and category – Homeless Prevention or Rapid Re-housing.
- b) SF11 & SF12 reports – unduplicated numbers must match the number in the County Report
- c) Copies of checks used to pay all expenses
- d) Invoices or bills for expenses such as utilities, utility deposits, etc.
- e) Time sheets/Personnel Activity Report (PAR) showing that time allocated to homeless prevention and rapid re-housing was documented and billed correctly
- f) Pay rate for all staff hours billed to the grant

Allocations to the specific categories can be adjusted over the course of the program year by submitting a Budget Adjustment Request through the Invoicing System. Since Rapid Re-Housing is the funding priority, additional justification may be requested when moving funds out of that category. Sub-recipients must demonstrate that they have made every effort to reach out to homeless individuals and families and other partner agencies such as shelters

Requests for reimbursement are approved in order of submission. Invoices submitted and approved by Tuesday are paid out on Friday of the same week.

## MONITORING

Each year MFA completes a Risk Assessment that determines what type of monitoring will be performed during the program year. Sub-recipients may be monitored annually depending on the Risk Assessments.

1. Full Monitoring – High Risk
  - a) less than 3 years of experience with the RAP program
  - b) recent staff turnover
  - c) no on-site visit in the past 3 program years
  - d) unresolved monitoring findings
  - e) financial audit findings
  - f) any combination of the above
2. Partial Monitoring – Medium Risk
  - a) experiencing staff turnover
  - b) unresolved monitoring findings
  - c) financial audit findings
3. No Monitoring – Low Risk
  - a) no unresolved monitoring findings
  - b) monitored within the past 2 program years
  - c) experienced staff

Other factors may be taken into consideration by the program manager when determining the type of monitoring.

Notifications are sent 30 days prior to the monitoring and results are sent within 30 days of the visit. Responses to monitoring results must be in the form of a formal letter addressing all findings and concerns including requested documents in the same correspondence.

Monitoring is conducted in accordance with 24 CFR 576 and 2 CFR 200 regulations.

## RFP'S & RENEWALS

ESG funding is awarded annually based on the amount of funding received from HUD and state homeless funds. Currently an RFP is released every five years. Applicants who meet the threshold requirements are awarded funding on an annual basis for the entire time period.



## RFP'S

RFP's are released at least every five years (subject to change). This is a competitive process. Applicants must meet the minimum thresholds set in the RFP in order to be considered for funding.

The scoring categories are:

1. Performance (for current RAP sub-recipients)
2. Applicant Capacity & Experience
3. Community Need

The categories and scoring are subject to change with any new RFP.

## RENEWALS

Each year in between the RFP, documentation is collected to confirm that sub-recipients continue to meet the eligibility criteria set forth in the RFP. This is referred to as a renewal. While not competitive like an RFP, requested documentation must be provided in order to for sub-recipients to be awarded funding for an additional year.

Annual funding awards vary based on the following:

- Performance measures
- Funding expenditures
- Counties served/proposed to serve
- Experience
- Risk factors
- Findings/Compliance

Documentation required for renewal includes:

- Current financial audit or audited financial statements
- Staff Capacity/Experience
- Proof of Registration as a charitable organization
- Status of good standing - sam.gov
- Funders and recent monitoring results
- Offeror's Certification
- Organizational Chart

MFA may request additional documentation and/or change the renewal documentation requirements annually.

## INFORMATION

Detailed information regarding the HUD ESG regulations for this program can be located at <https://www.hudexchange.info/>. The RAP manual and the MFA ESG Written Standards should be used in conjunction with each other as a reference guide for administering this program. Sub-recipients are responsible for understanding ESG regulations and MFA Written Standards for administering the program.

As with any program, there are many scenarios for which a determination must be made based on individual circumstances. Please refer all questions to the Rental Assistance Program Manager at:

MFA  
Shannon Tilseth  
505.767.2266  
stilseth@housingnm.org

# REFERENCES DOCUMENTS