

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.157 SUPPORTIVE HOUSING FOR THE ELDERLY (SECTION 202)

I. PROGRAM OBJECTIVES

The objective of Supportive Housing for the Elderly is to provide Federal capital advances and project rental assistance under Section 202 of the National Housing Act of 1959 for development of housing projects serving very low-income elderly persons.

II. PROGRAM PROCEDURES

Section 202 funds are awarded to private nonprofit groups (sponsors) and, in some cases, for-profit limited partnerships, provided that the sole general partner is either an otherwise qualifying nonprofit or a corporation wholly owned and controlled by the nonprofit. Only a sponsor may obtain a Section 202 capital advance fund reservation, which will be transferred to an owner entity to be organized by the sponsor after award. Capital advances (direct payments) are provided to finance the construction, rehabilitation, or acquisition (with or without rehabilitation) of structures that will serve as supportive housing for very low-income elderly persons, including the frail elderly. Operating subsidies are provided for the projects to help make them affordable.

The capital advance is not required to be repaid as long as the project is available to very low income elderly for 40 years. Capital advance funds will be advanced on a monthly basis during construction for work in progress; however, projects that utilize tax credits may release the capital advance upon completion of the project. Projects are expected to start construction within 18 months of the date of the fund reservation, with limited provision for extensions.

Project-based rental assistance is provided under a Project Rental Assistance Contract (PRAC) and is calculated based on operating cost standards established by HUD. The initial PRAC term is 3 years. However, subsequent contracts are renewable annually for up to a 1-year term subject to the availability of funds.

This program is exempt from OMB Circular A-110 (2 CFR part 215) (24 CFR section 84.2, definition of "Award.")

Financial Reporting

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, an owner is required to submit a financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due 2 months after the owner's fiscal year end and the audited financial statement is due 9 months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

Cost Certifications

Owners are required to submit one or two detailed cost certifications at the end of each project. These reports provide information on actual development cost breakdown and operating costs. The reports are HUD-92330, Mortgagor's Certificate of Actual Costs (OMB No. 2502-0112) and HUD-92330-A, Contractor's Certificate of Actual Costs (OMB No. 2502-0044). The HUD-92330-A is only required when there is an identity of interest between the mortgagor and the general contractor and when a cost-plus contract is required in nonprofit contracts.

Source of Governing Requirements

This program is authorized under Section 202 of the Housing Act of 1959, as amended, (12 USC 1701q). Program regulations are in 24 CFR part 891.

Availability of Other Program Information

Additional information about the Section 202 program, can be found in: Supportive Housing for the Elderly (HUD Handbook 4571.3), Supportive Housing for the Elderly--Conditional Commitment--Final (HUD Handbook 4571.5), HUD Notice H96-102, and HUD Notice 2011-18, Updated Processing Guidance for the Section 202 Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs. These are available on the Internet at HUDclips (<http://www.hud.gov/offices/adm/hudclips/index.cfm>) or from the HUD Multifamily Clearinghouse at 1-800-685-8470.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. The project shall provide the necessary services for the occupants, which may include, but not limited to, health, education, welfare, informational, recreational, homemaking, meals, counseling, and referral services (12 USC 1701q; 24 CFR sections 891.225 and 891.500).
2. PRAC project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner.
3. Project facilities may not include infirmaries, nursing stations, or spaces for overnight care (24 CFR section 891.220).

4. Project must be modest in design. In supportive housing for the elderly, amenities not eligible for HUD funding in individual units include balconies and decks, atriums, bowling alleys, swimming pools, saunas, jacuzzis, trash compactors, washers and dryers. Sponsors may include certain excess amenities but must pay for them from sources other than Section 202 capital advance funds. They must also pay for the continuing operating costs associated with any excess amenities from sources other than the Section 202 project rental assistance contract (24 CFR section 891.120).

D. Davis-Bacon Act

All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this program shall be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. A group home for persons with disabilities is not covered by these labor standards (24 CFR section 891.155(d)).

E. Eligibility

1. Eligibility for Individuals

Section 202 (CFDA 14.157) of the Housing Act of 1959 provides housing for the elderly. To qualify as elderly, one or more members of the household must be 62 years of age or more at the time of initial occupancy. Residents must also qualify as very low-income households to be eligible (24 CFR section 891.205).

The owner is responsible for annually reexamining incomes of households occupying assisted units and making appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

2. Eligibility of Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients – Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
 - b. 8. Program Code
 - c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
 - d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
 - e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
3. **Special Reporting** – Not Applicable
 4. **Section 1512 ARRA Reporting** – Not Applicable
 5. **Subaward Reporting under the Transparency Act** – Not Applicable

N. Special Tests and Provisions

1. Use of Project Funds

Compliance Requirement – Owners are required to establish and maintain a separate project account in federally insured depository. All rents, charges, income, and revenues arising from the project operation shall be deposited into this account. Project funds must be used for the operation of the project (including required insurance coverage), to make required principal and interest payments on the Section 202 loan, and to make required deposits to replacement reserve and the residual receipts accounts (24 CFR sections 891.400(e) and 891.600(e)).

Audit Objectives – Determine whether the project fund was properly established, required deposits were made into this fund, and disbursements were only for allowed purposes.

Suggested Audit Procedures

- a. Ascertain if the project funds receipts account has been established in a federally insured depository.
- b. Perform tests to ascertain if all rents, charges, income, and revenues arising from the project operation were deposited into the fund.
- c. Test a sample of disbursements from the fund ascertain if they were used only for the operation of the project or to make required deposits to the replacement reserve or the residual receipts account.

2. Replacement Reserve

Compliance Requirement – Owners shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in a federally insured depository in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. An amount as required by HUD will be deposited monthly in the reserve fund (Regulatory Agreement, item 5 A). All disbursements from the reserve must be approved by HUD (24 CFR sections 891.405 and 891.605).

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

Suggested Audit Procedures

- a. Ascertain if a replacement reserve account has been established in a federally insured depository in an interest bearing account.

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

3. Residual Receipts Account

Compliance Requirement – Any funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited in a federally insured account within 60 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD (24 CFR sections 891.400(e) and 891.600(e)).

Audit Objectives – Determine whether the residual receipts account was properly established, the required deposit was made within 60 days following year-end, and disbursements were only for project purposes and the approval of HUD.

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in a federally insured depository.
- b. Ascertain if the required annual deposit was made within 60 days following year-end.
- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.

IV. OTHER INFORMATION

To protect its interest in a capital advance, HUD requires a note and mortgage for a 40-year term. The owner is not required to repay the principal or pay interest and the note is forgiven at maturity, as long as the owner provides housing for the designated class of people in accordance with applicable HUD requirements. However, the full outstanding balance on the note should be considered Federal awards expended, included in determining Type A programs, and reported as loans on the Schedule of Expenditures of Federal Awards or accompanying notes in accordance with OMB Circular A-133.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.169 HOUSING COUNSELING ASSISTANCE PROGRAM

I. PROGRAM OBJECTIVES

The Housing Counseling Assistance Program supports the delivery of a wide variety of housing counseling services to homebuyers, homeowners, low- to moderate-income renters, and the homeless. The primary objectives of the program are to expand homeownership opportunities and improve access to affordable housing. Counselors provide guidance and advice to help families and individuals improve their housing conditions and meet the responsibilities of tenancy and home ownership. Counselors also help borrowers avoid inflated appraisals, unreasonably high interest rates, unaffordable repayment terms, and other conditions that can result in a loss of equity, increased debt, default, and eventually foreclosure. Applicants funded through this program may also provide Home Equity Conversion Mortgage (HECM) counseling to elderly homeowners who want to convert equity in their homes into income that can be used to pay for home improvements, medical costs, living expenses, or other expenses.

II. PROGRAM PROCEDURES

This program has two distinct components: (1) HUD-approval and (2) housing counseling grants. To participate in the program, organizations must first be approved by HUD as housing counseling agencies. Approval entails meeting various requirements relating to experience and capacity. Currently there are 2,684 active agencies participating in the program. Approximately 1004 approved local housing counseling agencies (LHCAs), which have 467 branch offices. Additionally, there are 28 HUD-approved national and regional intermediaries with approximately 643 subgrantees and affiliates and 462 branches. There are 19 State housing finance agencies (SHFAs), and 7 Multi-State Organizations (MSOs) which have 54 branches. Approved agencies use HUD's approval to receive referrals and market their services. Approved agencies are provided training (depending on available resources), and are eligible to apply for a housing counseling grant. The application and approval process to become a HUD-approved agency is provided on HUD's website at <http://www.hud.gov/offices/hsg/sfh/hcc/hccprof13.cfm>.

Additionally, when funds are available, HUD issues a yearly Notice of Funding Availability (NOFA) in the *Federal Register*, under which there is a competition for housing counseling grants. The Housing Counseling Assistance Program provides funds to HUD-approved LHCAs; HUD-approved national and regional intermediaries; and State Housing Finance Agencies (SHFAs). LHCAs are funded directly by HUD to provide services within their communities. Intermediaries and SHFAs manage the use of HUD housing counseling funds by subgrantees, including local affiliates and branches.

Source of Governing Requirements

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

Availability of Other Program Information

Pertinent information regarding the Housing Counseling Program is available on HUD's website, at http://www.hud.gov/offices/hsg/sfh/hcc/hcc_home.cfm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

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

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

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

J. Program Income

The auditor should be alert to the fact that, in the performance of the award, the recipient may be being reimbursed directly or indirectly from other sources for services provided. This reimbursement generally should be treated as program income using the deduction method. Recipients may include in their vouchers only that portion of its services for which it does not receive reimbursement from any other funding source.

L. Reporting**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* –Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**4. Section 1512 ARRA Reporting** – Not Applicable**5. Subaward Reporting under the Transparency Act** – Applicable

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.181 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES
(SECTION 811)****I. PROGRAM OBJECTIVES**

The objective of Supportive Housing for Persons with Disabilities is to expand the supply of supportive housing for very low-income persons with disabilities through: (1) providing Federal capital advances under Section 811 of the Cranston-Gonzalez National Affordable Housing Act (Act) for development of housing projects serving persons with disabilities; and (2) providing rental assistance to very low-income (within 50 percent of the median income for the area) persons with disabilities residing in projects financed by the Act.

II. PROGRAM PROCEDURES

Capital advances (direct payments) may be used to construct, rehabilitate, or acquire structures to be used as supportive housing for persons with disabilities. HUD holds a non-amortizing mortgage on the property under the terms of the capital advance. No repayment is required, as long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low-income persons with disabilities for at least 40 years (24 CFR section 891.170). Failure to comply with the terms of the capital advance and HUD's statutory and regulatory requirements may result in foreclosure under the mortgage.

Project rental assistance is used to cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent (24 CFR section 891.410). Project rental assistance is provided under a Project Rental Assistance Contract (PRAC) and is calculated based on operating cost standards established by HUD (24 CFR section 891.150). The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)). Tenants generally are required to pay rent in accordance with a Housing Assistance Payment Contract. The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of Operating Expense for a unit under PRAC (PRAC paragraph 2.4b) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

This program is exempt from OMB Circular A-110 (24 CFR 84.2, definition of "Award").

Financial Reporting

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, an owner is required to submit a financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due 2 months after the owner's fiscal year end and an audited financial statement is due 9 months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

Cost Certifications

Owners are required to submit one or two detailed cost certifications at the end of each project. These reports provide information on actual development cost breakdown and operating costs. The reports are HUD-92330, Mortgagor's Certificate of Actual Costs (*OMB No. 2502-0112*) and HUD-92330-A, Contractor's Certificate of Actual Costs (*OMB No. 2502-0044*). The HUD-92330-A is only required when there is an identity of interest between the mortgagor and the general contractor and when a cost-plus-contract is required in nonprofit contracts.

Source of Governing Requirements

This program is authorized under Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 USC 8013). Implementing regulations for this program are 24 CFR part 5, subpart H, and part 891, subparts A, C, and D.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. PRAC project funds must be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner (24 CFR section 891.400(e)).
2. Project facilities may not include infirmaries, nursing stations, spaces dedicated to the delivery of medical treatment or physical therapy, padded rooms, or space for respite care or sheltered workshops, even if paid for from sources other than the HUD capital advance. Except for office space used by the owner exclusively for the administration of the project, project facilities may not include office space (24 CFR section 891.315).
3. Project must be modest in design. In independent living facilities for persons with disabilities, amenities not eligible for HUD funding in individual units include balconies and decks, atriums, bowling alleys, swimming pools, saunas, jacuzzis, trash compactors, washers and dryers. However, HUD funding is eligible to pay for washers and dryers in group homes for persons with disabilities. Sponsors may include excess amenities, but must pay for them from sources other than Section 811 capital advance funds. They must also pay for the continuing operating costs associated with any excess amenities from sources other than the Section 811 PRAC (24 CFR section 891.120).

D. Davis-Bacon Act

All laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) employed by contractors and subcontractors in the construction (including rehabilitation) of housing with 12 or more units assisted under this program shall be paid wages at rates not less than those prevailing in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. A group home for persons with disabilities is not covered by these labor standards (24 CFR section 891.155(d)).

E. Eligibility**1. Eligibility for Individuals**

Section 811 of the National Affordable Housing Act provides funding for housing for persons with disabilities. To qualify as disabled, the household must consist of at least one person who is an adult (18 years or older) with a disability, two or more persons with disabilities living together, or a surviving household member under certain circumstances (42 USC 1437a(b)(3); 24 CFR section 891.505). Residents must also qualify as very low-income households to be eligible (42 USC 8013).

The owner is responsible for annually reexamining incomes of households occupying assisted units and make appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**3. Eligibility for Subrecipients – Not Applicable****L. Reporting****1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
 - b. 8. Program Code
 - c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
 - d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
 - e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
3. **Special Reporting** – Not Applicable
 4. **Section 1512 ARRA Reporting** – Not Applicable
 5. **Subaward Reporting under the Transparency Act** – Not Applicable

N. Special Tests and Provisions

1. Use of Project Funds

Compliance Requirement – Owners are required to establish and maintain a separate project account in federally insured depository. All rents, charges, income, and revenues arising from the project operation shall be deposited into this account. Project funds must be used for the operation of the project (including required insurance coverage), and to make required deposits to replacement reserve and the residual receipts accounts (24 CFR section 891.400(e)).

Audit Objectives – Determine whether the project fund was properly established, required deposits were made into this fund, and disbursements were only for allowed purposes.

Suggested Audit Procedures

- a. Ascertain if the project funds receipts account has been established in a federally insured depository.
- b. Perform tests to ascertain if rents, charges, income, and revenues arising from the project operation were deposited into the fund.
- c. Test a sample of disbursements from the fund to ascertain if they were used only for the operation of the project or to make required deposits to the replacement reserve or the residual receipts account.

2. Replacement Reserve

Compliance Requirement – Owners shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in a federally insured depository in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. An amount as required by HUD will be deposited monthly in the reserve fund (Regulatory Agreement, item 5 (a)). All disbursements from the reserve must be approved by HUD (24 CFR section 891.405).

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

Suggested Audit Procedures

- a. Ascertain if a replacement reserve account has been established in a federally insured depository in an interest bearing account.
- b. Ascertain if the required monthly deposits have been made to the replacement reserve account.

- c. Ascertain if interest earnings from the reserve were retained in the replacement reserve account.
- d. Test a sample of disbursements from the replacement reserve account and ascertain if they were approved by HUD and were made for the approved purpose.

3. Residual Receipts Account

Compliance Requirement – Any funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited in a federally insured account within 90 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD (24 CFR section 891.400(e)).

Audit Objectives – Determine whether the residual receipts account was properly established, the required deposit was made within 90 days following year-end, and disbursements were only for project purposes and the approval of HUD.

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in a federally insured depository.
- b. Ascertain if the required annual deposit was made within 90 days following year-end.
- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.

IV. OTHER INFORMATION

To protect its interest in a capital advance, HUD requires a note and mortgage, for a 40-year term. The owner is not required to repay the principal or pay interest and the note is forgiven at maturity, as long as the owner provides housing for the designated class of people in accordance with applicable HUD requirements. However, the full outstanding balance on the note should be considered Federal awards expended, included in determining Type A programs and reported as loans on the Schedule of Expenditures of Federal Awards or accompanying notes in accordance with OMB Circular A-133.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- CFDA 14.182 SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION**
- CFDA 14.195 SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM**
- CFDA 14.249 SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY**
- CFDA 14.856 LOWER INCOME HOUSING ASSISTANCE PROGRAM--SECTION 8 MODERATE REHABILITATION**

I. PROGRAM OBJECTIVES

The objective of the Section 8 project-based rental assistance programs is to aid low- and very low-income families in obtaining decent, safe, and sanitary rental housing through the provision of housing assistance payments to participating owners on behalf of eligible tenants.

II. PROGRAM PROCEDURES

Housing assistance payments are used to make up the difference between the approved rent due to the owner for the dwelling unit and the occupant family's required contribution toward rent. Assisted families must pay the highest of: (a) 30 percent of their monthly adjusted family income, (b) 10 percent of gross family income, or (c) the portion of welfare assistance designated for housing toward rent. This program is no longer funding new applications and awards.

Under these project-based programs, the rental subsidy is tied to a specific unit; when a family moves from the unit, it has no right to continued assistance (unless the owner opts out of the Section 8 contract, in which case the individual is entitled to enhanced vouchers). The project-based Section 8 Housing Assistance Payments (HAP) contracts are administered by the Department of Housing and Urban Development (HUD) or State, local, or other governmental entities or instrumentalities thereof qualifying as Public Housing Agencies (PHAs). Where a PHA is the contract administrator, HUD enters into annual contributions contracts with PHAs which enter into HAP contracts with private owners.

Contract Administrators are required to maintain a HAP contract register or similar record in which to record the PHA's obligation for monthly housing assistance payments. This record shall provide information as to: the name and address of the family; the name and address of the owner; dwelling unit size; the effective and expiration dates of the lease; the monthly contract rent payable to the owner; monthly rent payable by the family; and the monthly housing assistance payment. The record shall also provide data as to the date the family vacates and the number of days the unit is vacant, if any. This requirement is applicable to PHAs that are administering Housing Assistance Payments Program Projects pursuant to the provisions of Annual Contributions Contracts. It is not applicable to Section 8 projects on which HUD has executed a HAP contract directly with an owner or PHA.

The Moderate Rehabilitation (Mod Rehab) program (including the Single Room Occupancy (SRO) program for homeless individuals) assists low income families in affording decent, safe and sanitary housing by encouraging property owners to rehabilitate substandard housing and lease the units with rental subsidies to low income families. The PHA and the owner execute an Agreement to Enter into Housing Assistance Payments Contract under which the owner agrees to rehabilitate the unit to be subsidized and the PHA agrees to subsidize the units upon satisfactory completion of rehabilitation. Upon completion of the rehabilitation, the PHA and the owner execute a HAP contract. The PHA refers interested eligible families on its Section 8 waiting list to the owner to fill vacancies in moderate rehabilitation units.

Mod Rehab program assistance is considered a project-based subsidy because the assistance is tied to specific units under an assistance contract with the owner for a specified term. A family that moves from a unit with project-based assistance does not have any right to continued assistance, except in the case of certain “housing conversion actions,” such as when the owner chooses to opt out of the Section 8 program. In such cases, tenants are entitled to enhanced vouchers.

Under the Mod Rehab SRO program, eligible applicants are PHAs or non-profit organizations, which must contract with a PHA to administer the rental assistance. Eligible individuals must be homeless according to HUD’s definition and may be located through owner outreach as well as from the PHA waiting list (24 CFR section 882.808). No single project may contain more than 100 assisted units. The SRO program is administered under an initial 10-year HAP term, with the possibility of subsequent one-year renewals. The program is administered at HUD Headquarters by the Office of Community Planning and Development (CPD).

In accordance with HUD’s Uniform Financial Reporting Standards rule, annually, a PHA is required to submit its financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due 2 months after the PHA’s fiscal year end and the audited financial statement is due 9 months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of the programs in this cluster.

The US Housing Act of 1937 requires that assistance contracts signed by owners participating in the Section 8 housing assistance payments programs provide for annual adjustment in the monthly rentals for units covered by the original Section 8 HAP contract. Each year there are revised Annual Adjustment Factors (AAF) for adjustment of contract rents on assistance contract anniversaries, which are applied for those calendar months commencing after the effective date of the annual notice of the change in monthly rental. The AAF are based on a formula using data on residential rent and utilities cost changes from the most current annual Bureau of Labor Statistics Consumer Price Index survey. For projects for which the original Section 8 HAP contract has been renewed under the Multifamily Assisted Housing Reform and Affordability Act of 1997, Pub. L. No. 105-65, 111 Stat. 1384 (MAHRA), rent adjustments are governed by MAHRA rather than by the AAF.

Technical details and requirements related to AAF are described in HUD notices H 2002-10 (Section 8 Project-Based Rent Adjustments Using the Annual Adjustment Factor (AAF)), PIH 97-57 (Operating Cost Adjustment Factors (OCAF)), and the Section 8 Renewal Guide.

Source of Governing Requirements

These programs (other than the Mod Rehab SRO program) are authorized by the US Housing Act of 1937, as amended (42 USC 1437a, c, and f; 42 USC 3535(d); 42 USC 12701; and 42 USC 13611 through 13619). Implementing regulations for post-1980 Section 8 contracts are 24 CFR parts 880 through 883, for Section 515 Rural Rental Housing Section 8 contracts are 24 CFR part 884, and for Loan Management Set-Aside contracts are 24 CFR part 886. The Moderate Rehabilitation SRO program is authorized under section 441 of the McKinney-Vento Homeless Assistance Act, 42 USC 11401, and is subject to program regulations at 24 CFR part 882, subpart H.

Availability of Other Program Information

HUD maintains a page on its website at <http://www.hud.gov/offices/hsg/mfh/mfhsec8.cfm> that provides general information about these programs. HUD notices are available at <http://www.hud.gov/offices/adm/hudclips/index.cfm>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

E. Eligibility

1. Eligibility for Individuals

- a. The PHA or owner, as applicable, must:
 - (1) Verify the eligibility of applicants by: (a) obtaining signed applications that contain the information needed to determine eligibility (including designation as elderly, disabled, or homeless, if applicable), income, rent, and order of selection; (b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties; (c) documenting inspections and tenant certifications, as appropriate; and, (d) determining that tenant income did not exceed the maximum limit set by HUD for the PHA's jurisdiction, as shown in HUD's published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937. For the Mod Rehab SRO program, eligible individuals must be homeless upon entry into the program. (24 CFR sections 880.603, 881.601, 882.514, 882.808, 833.701, 884.214, 886.119, and 886.318)
 - (2) Determine the total tenant rent payment in accordance with 24 CFR section 5.613.

- (3) Select participants from the waiting list in accordance with the admission policies in its administrative plan and maintain documentation which shows that, at the time of admission, the family actually met the preference criteria that determined the family's place on the waiting list. For the Mod Rehab SRO program, eligible individuals may be referred to the PHA for eligibility determination as a result of the owner's/sponsor's outreach or through the PHA waiting list. (24 CFR sections 880.603, 881.601, 882.514, 882.808(b)(2), 883.701, 884.214, and 886 subparts A and C).
 - (4) Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR sections 5.617, 880.603, 881.601, 882.515, 884.218, 886.124, and 886.324).
 2. **Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**
 3. **Eligibility for Subrecipients – Not Applicable**

L. Reporting

1. **Financial Reporting**
 - a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
 - b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
 - c. SF-425, *Federal Financial Report* – Not Applicable
 - d. In lieu of the standard reports, the following reports are required on Section 8 project-based programs involving PHA/private-owners and HUD/PHA owners.
 - (1) HUD-52663, *Requisition for Partial Payment of Annual Contributions (OMB No. 2577-0169)* – submitted quarterly.
 - (2) HUD-52681, *Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169)* – submitted annually.
2. **Performance Reporting – Not Applicable**

3. Special Reporting

- a. HUD-50058, *Family Report (OMB No.2577-0083)* – The PHA is required to submit this form electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA’s jurisdiction under portability.

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

- (1) Line 2a – *Type of Action*
 - (2) Line 2b – *Effective Date of Action*
 - (3) Line 3b, 3c – *Names*
 - (4) Line 3e – *Date of Birth*
 - (5) Line 3n – *Social Security Numbers*
 - (6) Line 5a – *Unit Address*
 - (7) Line 5h, 5i – *Unit Inspection Dates*
 - (8) Line 7i – *Total Annual Income*
 - (9) Line 13h – *Contract Rent to Owner*
 - (10) Line 13k or 13x – *Tenant rent*
- b. HUD-50059, *Owner’s Certification of Compliance With HUD’s Tenant Eligibility and Rent Procedures (OMB No. 2502-0204)* – This report is submitted electronically to HUD.
- c. For Moderate Rehabilitation SRO only: *HUD-40118, Annual Progress Report (OMB No. 2506-0145)* – This report is due from each non-Federal recipient of assistance within 90 days after the end of its operating year (24 CFR section 882.808(p)).

Key Line Items:

- (1) Line 4 – *Non-homeless persons*
- (2) Line 6b – *Chronically homeless persons*
- (3) Line 10 – *Prior Living Situation*

- (4) Line 11 – *Amount and Source of Monthly Income at Entry and at Exit*
- (5) Line 12a,b – *Length of Stay in Program*
- (6) Line 14 – *Destination*

4. Section 1512 ARRA Reporting – Not Applicable

5. Subaward Reporting under the Transparency Act – Not Applicable

N. Special Tests and Provisions

1. Contract Rent Adjustments

Compliance Requirement – The PHA or owner applies or ensures annual adjustments to contract rents are applied. The HAP contract specifies the method to be used to determine rent adjustments. Adjustments must not result in material differences between rents charged for assisted units and comparable unassisted units except as those differences existed at contract execution. Special adjustments to contract rents, within the original contract term, may also be made to the extent deemed necessary by the PHA or HUD (24 CFR sections 880.609, 881.601, 882.410, 882.808(e), 883.701, 884.109, 886.112, and 886.312).

Audit Objective – Determine whether contract rents are being adjusted properly.

Suggested Audit Procedures

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

2. Tenant Utility Allowances

Compliance Requirement – The PHA or owner must (a) establish or ensure tenant utility allowances based on utility consumption and rate data for various sized units, structure types, and fuel types, (b) make an annual review of tenant utility allowances to determine their reasonableness, and (c) adjust the allowances, when appropriate (24 CFR sections 5.603, 880.610, 881.601, 882.510, 882.808(k), 883.701, 884.220, 886.126, and 886.326).

Audit Objective – Determine whether tenant utility allowances are properly established.

Suggested Audit Procedures

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

3. Housing Quality Standards

Compliance Requirement – The PHA or owner must provide housing that is decent, safe, and sanitary. To achieve this end, the PHA must perform housing quality inspections at the time of initial occupancy and at least annually thereafter to assure that the units are decent, safe, and sanitary (24 CFR sections 880.612, 881.601, 882.516, 882.808(n), 883.701, 884.217, 886.123, and 886.323).

Audit Objective – Determine whether the PHA or owner performs the required inspections to assure that units meet housing quality standards.

Suggested Audit Procedures

- a. Examine the procedures used by the PHA or owner to identify those units on which housing quality inspections are due.
- b. Select a sample of units on which HAP contracts were executed and examine inspection reports.
- c. Examine records and ascertain that the PHA or owner assures that the inspections and any needed repairs are completed timely.
- d. Verify that the PHA reviewed the evidence of completion submitted by the owner on newly constructed or rehabilitated units accepted for occupancy.

4. Vacant Units

Compliance Requirement – The PHA or owner must reduce claims for assistance on vacant units under certain circumstances. However, there are instances where special claims are allowed for vacancy losses, unpaid rent, and tenant damages on eligible units (24 CFR sections 880.611, 881.601, 882.411, 882.808(f), 883.701, 884.106, 886.109, and 886.309).

Audit Objective – Determine whether payments to owners are reduced for vacant units and whether payments for special claims are proper.

Suggested Audit Procedures

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

5. Replacement Reserve

Compliance Requirement – The owner shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. All disbursements from the reserve must be as approved or directed by HUD or the State Agency for 24 CFR part 883 projects, as applicable. An amount as required by HUD or the State Agency for 24 CFR part 883 projects, as applicable, shall be deposited monthly in the reserve fund in accordance with the Regulatory Agreement or HAP contract (24 CFR sections 880.601, 880.602, 881.601 and 883.701).

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

Suggested Audit Procedures

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

6. Residual Receipts Account

Compliance Requirement – Any project funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited with the mortgagee or other HUD-approved depository in an interest bearing account. For projects under 24 CFR part 883, the funds must be deposited with the State Agency or other Agency-approved depository in an interest bearing account. Withdrawals from this account may

be made only for project purposes and with the approval of HUD or the State Agency for 24 CFR part 883 projects, as applicable (24 CFR sections 880.601, 881.601, and 883.701).

Audit Objectives – Determine whether the residual receipts account was properly established, the required deposit was made within 60 days following year-end, and disbursements were only for approved project purposes.

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in an interest-bearing depository.
- b. Ascertain if the required annual deposit was made within 60 days following year-end.
- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for an approved project purpose.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- CFDA 14.218 COMMUNITY DEVELOPMENT BLOCK GRANTS/ENTITLEMENT GRANTS**
- CFDA 14.253 COMMUNITY DEVELOPMENT BLOCK GRANT ARRA ENTITLEMENT GRANTS (CDBG-R) (RECOVERY ACT FUNDED)**
- CFDA 14.254 COMMUNITY DEVELOPMENT BLOCK GRANTS/SPECIAL PURPOSE GRANTS/INSULAR AREAS - (RECOVERY ACT FUNDED)**

I. PROGRAM OBJECTIVES

The primary objective of the Community Development Block Grants (CDBG)/Entitlement Grants program (large cities and urban counties) (24 CFR part 570 subpart D) is to develop viable urban communities by providing decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low and moderate income. This objective is to be achieved in two ways. First, a grantee can only use funds to assist eligible activities that meet one of three national objectives of the program: benefit low- and moderate-income persons, aid in the prevention or elimination of slums and blight, or meet community development needs having a particular urgency. Second, the grantee must spend at least 70 percent of its funds, over a period of up to three years as specified by the grantee in its certification, for activities that address the national objective of benefiting low- and moderate-income persons (24 CFR section 570.200).

The Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008) provided funds for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA provides otherwise, the grants are to be considered CDBG funds. The grant program under Title III is referred to as the Neighborhood Stabilization Program (NSP). **The NSP funding covered in this cluster is the funding provided under HERA and is not the NSP funding provided under the American Recovery and Reinvestment Act of 2009 (ARRA). These HERA funds are also referred to as NSP1 in the Neighborhood Stabilization Program (see CFDA 14.256, Section II, “Program Procedures”).** Addition funding for NPS was authorized by Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203), and is referred to as NSP3.

Title XII of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5) provided additional funding under the CDBG program. The focus of this funding (referred to as CDBG-R) is on infrastructure improvements that stimulate the economy through measures that modernize the nation’s infrastructure and improve energy efficiency.

The CDBG Special Purpose Grants/Insular Areas (Insular CDBG-R) program is authorized under Section 106(a)(2) of the Housing and Community Development Act and funding is provided in Title XII of ARRA with the same objectives as the CDBG-R.

II. PROGRAM PROCEDURES

The CDBG Entitlement Grants Program provides grants to metropolitan cities and urban counties which must submit certain certifications and a one-year action plan as to how they propose to use the funds for community development activities. The grant amount is determined by the higher of two formulas that consider a community's population, poverty level, extent of overcrowded housing, age of housing, and growth lag (42 USC 5306(b)).

The NSP grant is a special CDBG allocation to address the problem of abandoned and foreclosed homes. HERA established the need, targets the geographic areas, and limits the eligible uses of NSP funds.

Except for the following differences, non-entitlement counties in Hawaii (see CFDA 14.228, II, "Program Procedures") must follow the requirements of CDBG Entitlement Grants (CFDA 14.218): (1) their funding comes from Section 106(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR section 570.429(c); reallocations due to grant reductions, or funds not applied for, go to the other non-entitlement counties in Hawaii on a *pro rata* basis (24 CFR section 570.429(d)); (3) non-entitlement counties are not eligible to use the exception criteria in 24 CFR section 570.208(a)(1)(ii); and (4) 24 CFR section 570.307 (Urban Counties) and 24 CFR section 570.308 (Joint Requests) would not apply to non-entitlement counties in Hawaii.

The CDBG-R program provides grants to metropolitan cities and urban counties which must submit specified certifications and a substantial amendment to their 2008 1-year action plans as to how they propose to use the CDBG-R funds to meet the purposes of the ARRA. Eligible recipients of the CDBG-R funds are grantees that received CDBG funding in 2008. The grant amount is determined by the higher of two formulas that consider a community's population, poverty level, extent of overcrowded housing, age of housing, and growth lag (42 USC 5306(b)). The Notice of Program Requirements for Community Development Block Grant Program Funding Under the American Recovery and Reinvestment Act of 2009 (FR-5309-N-01) (CDBG-R Notice) describes the common application process, and advises the public of waivers granted to recipients, alternative requirements applied, and statutory program requirements. The CDBG-R Notice provides that, except as described therein, statutory and regulatory provisions governing the CDBG program, including those under Title I of the Housing and Community Development Act of 1974, as amended (HCDA), at 24 CFR part 570, subparts A, C, D, J, K and O, for CDBG entitlement communities shall apply to the use of the CDBG-R funds. The CDBG-R Notice is available on the HUD website at: http://www.hud.gov/offices/cpd/pdf/5309_N_01.pdf.

The procedures and requirements that apply to the CDBG-R program apply to the Insular CDBG-R as well.

NSP3 requirements are in the NSP Notice published on October 19, 2010, which lists allocations, requirements, and waivers. The NSP3 Notice incorporates the NSP1 Bridge Notice, changes made by ARRA, and additional changes and clarification. The Notices are available at <http://www.hud.gov/nspta> in the Resource Library.

Source of Governing Requirements

These programs are authorized by Title I of the Housing and Community Development Act of 1974, as amended (Pub. L. No. 93-383) (42 USC 5301) **and ARRA**. Implementing regulations are located at 24 CFR part 570.

The NSP is authorized by Title III of Division B of HERA. HUD published a “Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008,” (NSP Notice) that advises the public of the allocation formula, allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations provided to grantees (October 6, 2008, *Federal Register*, 73 FR 58330-58349).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. All activities undertaken must meet one of three national objectives of the CDBG Entitlement Grants program, i.e., benefit low- and moderate-income persons, prevent or eliminate slums or blight, or meet community development needs having a particular urgency (24 CFR sections 570.200 and 570.208).

The CDBG-R Notice provides an alternative requirement for the CDBG program urgent need national objective criteria. In the regular CDBG program, in order to meet the urgent need national objective pursuant to 24 CFR section 570.208(c), the recipient must certify that: (1) the activity is designed to alleviate existing conditions which (a) pose a serious and immediate threat to the health and welfare of the community, and (b) are of recent origin or recently became urgent; (2) the recipient is unable to finance the activity on its own; and (3) other sources of funds are not available. For CDBG-R, HUD is eliminating the recordkeeping requirement that grantees document the nature, degree, and timing of the seriousness of the condition to be addressed by the activity if the urgent need is based on current economic conditions. HUD has determined that current economic conditions are of recent origin and pose a serious and immediate threat to the economic welfare of communities; therefore, HUD will accept a grantee’s certification that current economic conditions are of recent origin and constitute a serious and immediate threat to the welfare of the community. However, the grantee must demonstrate that it is unable to finance the activity on its own, and that other sources of funding are not available. The CDBG-R Notice waives 24 CFR sections 570.506(b)(12)(i) and (iii) and 570.208(c) to the extent

necessary to allow grantees to certify that an activity is designed to address current economic conditions which pose a threat to the economic welfare of communities (CDBG-R Notice, Section II.E).

2. Grants funds are to be used for the following activities: (a) the acquisition of real property; (b) the acquisition, construction, reconstruction, rehabilitation or installation of public works, facilities and sites, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons; (c) clearance, demolition, and removal of buildings and improvements; (d) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (e) disposition of real property acquired under this program; (f) provision of public services (subject to limitations contained in the CDBG regulations); (g) payment of the non-Federal share for another grant program for activities that are otherwise eligible; (h) interim assistance where immediate action is needed prior to permanent improvements or to alleviate emergency conditions threatening public health and safety; (i) payment to complete a Title 1 Federal Urban Renewal project; (j) relocation assistance; (k) planning activities; (l) administrative costs; (m) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (n) assistance to community-based development organizations; (o) activities related to privately-owned utilities; (p) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (q) construction of housing assisted under Section 17 of the United States Housing Act of 1937; (r) reconstruction of properties; (s) direct homeownership assistance to low and moderate income households to facilitate and expand homeownership; (t) technical assistance to public or private entities for capacity building (exempt from the planning/administration cap); (u) housing services related to HOME-funded activities; (v) assistance to institutions of higher education to carry out eligible activities; (w) assistance to public and private entities (including for-profits) to assist micro-enterprises; (x) payment for repairs and operating expenses for acquired “in Rem” properties; (y) residential rehabilitation, including code enforcement in deteriorated or deteriorating areas, lead-based paint hazard evaluation, and removal; and (z) construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to non-profit and for-profit entities for such construction or improvement (42 USC 5305(a); 24 CFR sections 570.200 through 570.207).
3. **The CDBG program provides for float-funded activities and guarantees, a short-term financing mechanism which allows a grantee to use undisbursed funds in its line of credit and CDBG program account that are budgeted in action plans for one or more other activities that do not need the funds immediately. Each activity carried out using the float must meet all CDBG requirements and must be expected to produce program income in an amount at least equal to the amount of float so used. Because program income generated from CDBG-R activities will not be treated as program income to the CDBG-R program, grantees may not use CDBG-R funds to**

assist any float-funded activity or guarantee. To implement this, HUD has waived the provision at 24 CFR section 570.301(b), thereby making float-funded activities not allowable with CDBG-R funds (CDBG-R Notice, Section II.D; 24 CFR section 570.301).

4. Entitlement grantees (14.218) may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, (42 USC 5308). The guaranteed loan funds are to be used only for the following activities:
 - (a) acquisition of real property;
 - (b) housing rehabilitation;
 - (c) rehabilitation of publicly owned real property;
 - (d) eligible CDBG economic development activities;
 - (e) relocation payments,
 - (f) clearance, demolition, and removal;
 - (g) payment of interest on Section 108 guaranteed obligations;
 - (h) payment of issuance and other costs associated with private sector financing under this subpart;
 - (i) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes;
 - (j) construction of housing by non-profit organizations for home ownership under Section 17(d) of the U.S. Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987;
 - (k) debt service reserve;
 - (l) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements which serve “colonias” (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992); and
 - (m) acquisition, construction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements, and public utilities (24 CFR sections 570.700 through 570.710).
5. **The CDBG-R Notice provides an alternative requirement concerning the Section 108 Loan Guarantee program. The Section 108 program is intended to provide longer-term project financing and requires a pledge of future CDBG funds over the life of the loan guarantee, whereas the CDBG-R program is a one-time appropriation of limited duration. CDBG-R funds may not be used: (a) as a pledge of security for repayment of Section 108 loans; (b) to securitize borrowing under the Section 108 program; or (c) as repayment for funds borrowed under the Section 108 program, and they may not be counted toward a grantee’s maximum Section 108 borrowing authority. Therefore, HUD has waived the applicability of 42 USC 5308 and Subpart M of 24 CFR part 570 for the use of CDBG-R funds (CDBG-R Notice, Section II.E.; 24 CFR sections 570.700 through 570.710).**
6. All the activities that a grantee undertakes during its CDBG program year must be identified in an action plan or an amended action plan (24 CFR sections 91.220 and 570.301). Plan amendment is only required to reflect significant changes in activities or funding decisions for these years (24 CFR section 91.235).

All of the activities that a grantee undertakes using CDBG-R funds must be identified in a substantial amendment to its action plan. The required elements in the CDBG-R substantial amendment to the action plan for entitlement communities include a description of the activities the jurisdiction will undertake with CDBG-R funds to address priority needs and objectives. The regulation at 24 CFR section 91.220(l)(ii) has been waived; instead the grantee is required to identify any other ARRA funding to be used in conjunction with each CDBG-R-assisted activity it intends to fund with the CDBG-R allocation (CDBG-R Notice, Section II.A.; 24 CFR sections 91.220 and 570.301).

7. CDBG funding can only be used for special economic development projects that meet the criteria in 24 CFR section 570.203. Grantees must have data to support that assistance provided to carry out special economic development projects is appropriate by meeting the public benefit standards for job creation and provision of goods and services described in 24 CFR section 570.209.

The CDBG-R Notice provides an alternative requirement for public benefit standards to expedite the timely use of CDBG-R funds by grantees. In the regular CDBG program, the public benefit standards at 24 CFR sections 570.209(b), (c), and (d) for entitlement grantees apply to economic development projects under the authority of 24 CFR section 570.203 and 42 USC 5305(a)(2), (14), (15), or (17). The CDBG-R Notice waives 42 USC 5305(e)(3), and 24 CFR sections 570.209 and 570.506(c) to the extent necessary to permit grantees to carry out economic development projects without meeting the public benefit standards, except that the regulations pertaining to prohibited activities listed at 24 CFR sections 270.209(b)(3)(ii)(A) though (E) are not waived (CDBG-R Notice, Section II.E.).

8. When CDBG funds are used to finance rehabilitation, the rehabilitation is to be limited to privately owned buildings and improvements for residential purposes, low income public housing and other publicly owned residential buildings and improvements, publicly or privately owned commercial or industrial buildings, structures, or other real property, equipment, and improvements under certain circumstances, as well as manufactured housing when it constitutes part of the community's permanent housing stock (24 CFR sections 570.202 and 570.203).
9. For NSP funds, HERA requirements supersede some CDBG requirements to allow for the eligible uses in section 2301(c)(3) of HERA. The NSP categories and CDBG entitlement grant regulations are listed in Section II.H.3.a of NSP Notice, 73 FR 58338. The NSP eligible uses are to:
 - Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties.

- Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent or redevelopment.
 - Establish land banks for homes that have been foreclosed upon.
 - Demolish blighted structures
 - Redevelop demolished or vacant properties.
10. For NSP funds, NSP requirements supersede existing CDBG requirements (see III.A.1, above) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. A NSP activity may not qualify using the “prevent or eliminate slums and blight” or “address urgent community development needs” national objectives. The HERA redefines and supersedes the definition of “low- and moderate-income,” effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section III.E. of NSP Notice, 73 FR 58335-58336). HUD will refer to this new income group as “middle income” and maintain the regular CDBG definitions of “low-income” and “moderate-income” currently in use (Section 2301(f)(3)(A) of HERA).
11. For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity: (a) Provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (b) Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (c) Serves a limited clientele whose incomes are at or below 120 percent of area median income (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP Notice, 73 FR 58335-58336).
12. Eligible uses of NSP funds authorized by HERA are: (a) establishing financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties; (b) purchasing and rehabilitating homes and residential properties abandoned or foreclosed; (c) establishing land banks for foreclosed homes; (d) demolishing blighted structures; and (5) redeveloping demolished or vacant properties. The NSP Notice lists the CDBG-eligible activities HUD has determined best correlate to these specific NSP-eligible uses. Grantees must receive written HUD approval to undertake activities other than those listed in Section II.H., Eligibility and Allowable Costs, of NSP Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP Notice, 73 FR 58337-58338).

D. Davis-Bacon Act

The requirements of the Davis-Bacon Act apply to the rehabilitation of residential property only if such property contains 8 or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1606 of ARRA; Section 1205 of Pub. L. No. 111-32; 24 CFR section 570.603).

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2. Level of Effort – Not Applicable

3. Earmarking

- a. Not less than 70 percent of the funds must be used over a period of up to three years, as specified by the grantee in its certification, for activities that benefit low- and moderate-income persons. In determining low- and moderate-income benefits, the criteria set forth in 24 CFR sections 570.200(a)(3) and 570.208(a) are used.

This requirement does not apply to NSP funds as HERA provides for supersession of the overall 70 percent requirement and establishes an alternative requirement for NSP funds where 100 percent of NSP funds must be used to benefit individuals and households whose income does not exceed 120 percent of the area median income. For NSP such households are referred to as low-income, moderate-income and middle-income (Section 2301(c)(2) of HERA; Section II.E. of NSP Notice, 73 FR 58336).

The CDBG-R Notice provides an alternative requirement for overall low- and moderate-income CDBG program benefit. The requirement that 70 percent of funds must be used for activities that benefit low- and moderate-income persons (42 USC 5301(c), 42 USC 5304(b)(3)(A), and 24 CFR section 570.200(a)(3)) applies to the use of CDBG-R funds. A grantee must ensure that 70 percent of its CDBG-R grant will be expended for activities that benefit low- and moderate-income persons. Compliance with the overall benefit requirement must be demonstrated separately for the CDBG-R grant and not in combination with regular CDBG funding or commitments under the Section 108 Loan Guarantee program; thus, no option exists for selecting the timeframe for compliance. Consequently, 42 USC 5304(b)(3)(A), and 24 CFR section 570.200(a)(3) are waived to the extent necessary to require that CDBG-R funds are required to principally benefit persons of low- and moderate-income in a manner that ensures that not less than 70 percent of such funds are used for

activities that benefit such persons, exclusive of any other funds received by the grantee under 42 USC 5306 or as a result of a guarantee or a grant under 42 USC 5308. A grantee must meet this requirement over the life of its CDBG-R grant (CDBG-R Notice, Section II.E.).

- b. Not more than 20 percent of the total CDBG grant, plus 20 percent of program income received during a program year, may be obligated during that year for activities that qualify as planning and administration pursuant to 24 CFR sections 570.205 and 570.206 (24 CFR section 570.200(g)).

HERA provides for supersession of the 20 percent of any grant amount plus program income limitation to be used for general administration and planning costs. The alternative requirements are that up to 10 percent of the amount of a NSP grant and up to 10 percent of program income earned may be used for general administration and planning activities, as those are defined in 24 CFR sections 570.205 and 570.206 (Section 2301(f)(1) of HERA; Section II.H. of NSP Notice, 73 FR 58337).

The CDBG-R Notice provides an alternative requirement to limitations on planning and general administrative activities because there will be no program income attributed to CDBG-R and CDBG-R is to be treated as a separate appropriation of funds. Compliance with the planning and administration costs cap must be demonstrated separately based on each grantee's total CDBG-R grant allocation and not in combination with its regular CDBG funding or program income. The CDBG-R Notice waives 42 USC 5306(d)(3), (5) and (6) and 24 CFR section 570.200(g) to the extent necessary to establish the following requirement: no more than 10 percent of CDBG-R funds shall be expended for eligible planning and general administrative activities as defined in 42 USC 5305(a)(12) and (a)(13), 5306(d)(3), and in 24 CFR sections 570.205 and 570.206, exclusive of any other funds received by the grantee under 42 USC 5306 (CDBG-R Notice, Section II.E.).

- c. The amount of CDBG funds obligated during the program year for public services must not exceed 15 percent of the grant amount received for that year plus 15 percent of the program income it received during the preceding program year, except that a non-Federal entity that obligated more CDBG funds for public services than 15 percent of its grant funded from Federal Fiscal Years 1982 or 1983 appropriations (excluding program income and any assistance received pursuant to Pub. L. No. 98-8) may obligate more CDBG funds than 15 percent as long as the amount obligated in any program year does not exceed 15 percent of the program income it received during the preceding program year plus the percentage or amount obligated in Federal Fiscal Year 1982 or 1983, whichever

method of calculation yields the higher amount (24 CFR section 570.201(e)).

The CDBG-R Notice provides an alternative requirement to limitations on public service activities. HUD is providing an alternative requirement because there will be no program income attributed to CDBG-R and CDBG-R is to be treated as a separate appropriation of funds. Thus, 42 USC 5305(a)(8) and 24 CFR sections 570.201(e)(1) and (e)(2) are waived to the extent necessary to require that no more than 15 percent of CDBG-R funds shall be expended for eligible public service activities, exclusive of any other funds received by the grantee under 42 USC 5306. Compliance with the public service cap must be demonstrated separately based on each grantee's total CDBG-R grant allocation and not in combination with its regular CDBG funding or program income. HUD is waiving 42 USC 5305(a)(8) to exclude program income from the amount of funds on which the cap is based. Other provisions of that section remain in place. Compliance will be demonstrated based on expenditures of CDBG-R funds, not on obligations as in the regular CDBG program. A grantee must meet this requirement over the life of the CDBG-R grant (CDBG-R Notice, Section II.E.; 24 CFR section 570.201(e)).

- d. At least 25 percent of NSP funds shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income (Section 2301(f)(3)(A)(ii) of HERA).

H. Period of Availability of Federal Funds

For entitlements for CDBG-R funds, HUD has waived the CDBG program's timely expenditure regulatory requirements of 24 CFR section 570.902 to the extent that CDBG-R funds must be expended by September 30, 2012. These funds will not be included in determining compliance with the timely expenditure compliance requirements of 24 CFR section 570.902. However, income generated from CDBG-R activities will be treated as program income to grantees' regular CDBG programs, and thus will be included in timely expenditure compliance determinations (see III.J.4 below) (CDBG-R Notice, Section II.F.).

I. Procurement and Suspension and Debarment

For the CDBG-R program, recipients are required to comply with the Buy-American provisions in Section 1605 of ARRA, unless they are exempt as outlined in Federal Register Notice, Buy American Exceptions Under the American Recovery and Reinvestment Act of 2009: Notice of National Exceptions of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 Applicable to Community Planning and Development Recovery Act Funds (Docket

No. 5357-N-01), issued in the October 21, 2009, *Federal Register* (74 FR 54377 to 54381) and in HUD Notice CPD-09-05, CPD Implementation Guidance for the Buy-American Requirement of the American Recovery and Reinvestment Act of 2009 including the Exception Process, issued on October, 7, 2009. The CPD notice is available at:

<http://portal.hud.gov/hudportal/HUD?src=/recovery/programs/community> and the Federal Register notice is available at: <http://edocket.access.gpo.gov/2009/pdf/E9-25217.pdf>.

The exemptions outlined in the notices include:

1. **Subgrants to units of general local government of less than \$100,000;**
2. **Recipient and subrecipient contracts of less than \$100,000;**
3. **Assistance for publicly owned housing of less than 8 units; and**
4. **Projects that are substantially under contract or construction prior to the receipt of CDBG-R funds.**

J. Program Income

1. The grantee must accurately account for any program income generated from the use of CDBG funds **or ARRA funds**, and must treat such income as additional CDBG funds which are subject to all program rules. Program income does not include income received in a single program year by the grantee and all of its subrecipients if the total amount of such income does not exceed \$25,000 (24 CFR sections 570.500, 570.504, and 570.506).
2. Making loans and collecting the payments on those loans can be a significant source of program income for grantees. The use of income derived from loan payments is subject to program requirements. This carries with it the responsibility for grantees to have a loan origination and servicing system in effect which assures that loans are properly authorized, receivables are properly established, earned income is properly recorded and used, and write-offs of uncollectible amounts are properly authorized (24 CFR sections 570.500, 570.501, 570.504, 570.506, and 570.513).
3. NSP revenue received by a unit of general local government or subrecipient that is directly generated from the use of CDBG funds (which includes NSP grant funds) constitutes CDBG program income. The CDBG definition of program income shall be applied to amounts received by units of local government and subrecipients (24 CFR section 570.500; Section II.N. of NSP Notice, 73 FR 58340-58341). However, HERA imposes limitations and requirements that necessitate an alternative requirement to govern the use of program income generated by NSP activities. The limitations and requirements are based on the NSP activity that generated the program income and on the date the income is received (Section 2301(d)(4) of HERA).

- a. Any revenue from the sale, rental, redevelopment, rehabilitation or any other eligible use of NSP funds is to be provided to and used by the unit of local general government. This provision includes revenue received by a private individual or other entity that is not a subrecipient (Section 2301(d)(4) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).
 - b. Program income which is generated by NSP activities carried out pursuant to Sections 2301(c)(3) of HERA may be retained by the unit of local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301 (Sections 2301(c)(3) of HERA; Section II.N. of NSP Notice 73 FR 58340-58341).
4. **The CDBG-R Notice provides an alternative requirement pertaining to program income earned from CDBG-R assisted activities. All program income generated from the use of CDBG-R funds will be treated as program income to the regular CDBG program, not as program income to the CDBG-R program. The regulations at 24 CFR sections 85.21 and 570.504 require grantees and subrecipients to disburse program income before requesting additional cash withdrawals of regular CDBG funds from the U.S. Treasury; these requirements will not apply to the drawdown of CDBG-R funds (CDBG-R Notice, Section II.D.).**

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable (cash status only)
- d. *Integrated Disbursement and Information System (IDIS) (OMB No. 2506-0077)* – Grantees may include reports generated by IDIS as part of their annual performance and evaluation report that must be submitted for the CDBG Entitlement Program 90 days after the end of a grantee’s program year. Auditors are only expected to test information extracted from IDIS in the following system-generated reports:
 - (1) C04PR03 – Activity Summary Report
 - (2) C04PR26 – CDBG Financial Summary

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons*, (OMB No. 2529-0043) – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002. (24 CFR sections 135.3(a), 135.90, and 570.607).

Key Line Items –

- a. 3. Dollar Amount of Award
 - b. 8. Program Code
 - c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
 - d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
 - e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
3. **Special Reporting** – Not Applicable
 4. **Section 1512 ARRA Reporting** – Applicable
 5. **Subaward Reporting under the Transparency Act** – Applicable to non-ARRA funds only

M. Subrecipient Monitoring

Before disbursing any CDBG or CDBG-R funds to a subrecipient, the recipient shall sign a written agreement with the subrecipient. The agreement shall include provisions concerning: the statement of work, records and reports, program income and uniform administrative requirements (24 CFR section 570.503).

N. Special Tests and Provisions

1. Citizen Participation

Compliance Requirement – Prior to the submission to HUD for its annual grant, the grantee must certify to HUD that it has met the citizen participation requirements in 24 CFR sections 91.105 and 570.302, as applicable.

HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The provisions of 24 CFR sections 570.302 and 91.105 with respect to following the citizen participation plan are waived to allow the jurisdiction to provide no fewer than 15 calendar days for citizen comment, rather than 30 days, for its initial NSP submission (Section II.B.4 of NSP Notice, 73 FR 58334).

CDBG-R – The CDBG-R Notice provides an alternative requirement to provide for expedited citizen participation for the CDBG-R substantial amendment. The following citizen participation plan requirements are waived: (1) 24 CFR section 91.105 is being waived to specify that the grantee will provide no fewer than 7 calendar days for citizen comment (rather than 30 days) for its CDBG-R substantial amendment and (2) the requirement at 24 CFR section 91.505(c)(1) that states a grantee may submit a copy of an amendment to its action plan to HUD as it occurs or at the end of the program year has been waived to require each grantee to submit the substantial amendment to its action plan for CDBG-R funds no later than June 5, 2009 (CDBG-R Notice, Section II.A.).

Audit Objective (CDBG) – Determine whether the grantee has developed and implemented a citizen participation plan.

Suggested Audit Procedure – (CDBG)

- a. Verify that the grantee has a citizen participation plan.
- b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.
- c. Examine the grantee's records for evidence that the elements of the citizen's participation plan were followed as the grantee certified.

Audit Objective (CDBG-R) – Determine whether the grantee adhered to the applicable provisions of the CDBG-R Notice as it pertains to the citizen participation plan.

Suggested Audit Procedures (CDBG-R)

- a. **Verify that the grantee has a citizen participation plan.**
- b. **Review the plan to determine how the grantee effected modifications to its citizen participation plan process to comply with the CDBG-R Notice provisions.**
- c. **Examine the grantee’s records for evidence that the elements of the citizen’s participation plan, as modified by the CDBG-R Notice, were followed as the grantee certified.**

2. Required Certifications and HUD Approvals

Compliance Requirement – CDBG funds (and local funds to be repaid with CDBG funds **or CDGB-R funds**) cannot be obligated or expended before receipt of HUD’s approval of a Request for Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR section 58.34 and categorically excluded activities under section 58.35(b) (24 CFR section 58.22).

Audit Objective – Determine whether the grantee is obligating and expending program funds only after HUD’s approval of the RROF.

Suggested Audit Procedures

- a. Examine HUD’s approval of the RROF and environmental certification and note dates.
- b. Review the expenditure and related records to ascertain when CDBG funds **or CDGB-R funds**, and local funds which were repaid with CDBG funds **or CDGB-R funds**, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD’s approval of the RROF.

3. Environmental Reviews

Compliance Requirement – Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR sections 58.1, 58.22, 58.34, 58.35, and 570.604).

Audit Objective – Determine whether environmental reviews are being conducted, when required.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications that the environmental reviews were made.
- b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required.
- c. Test whether documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35(b).

4. Rehabilitation

Compliance Requirement – When CDBG funds or CDGB-R funds are used for rehabilitation, the grantee must ensure that the work is properly completed (24 CFR section 570.506).

Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, or habitability, in order to sell, rent or redevelop such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation (Section 2301(d)(2) of HERA; Section II.I. of NSP Notice, 73 FR 58338).

Audit Objective – Determine whether the grantee assures rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Verify that pre-rehabilitation inspections are conducted describing the deficiencies to be corrected.
- b. Ascertain that the deficiencies to be corrected are incorporated into the rehabilitation contract.
- c. For NSP projects, review rehabilitation standards.
- d. Verify through a review of documentation that the grantee inspects the rehabilitation work upon completion to assure that it is carried out in accordance with contract specifications, and that NSP projects were carried out in accordance with rehabilitations standards.

IV. OTHER INFORMATION

See Appendix VI for program waivers related to Hurricanes Katrina and Rita.

ARRA gave HUD the authority to waive or specify alternative requirements for some of the IHBG statutory and regulatory provisions to facilitate the use of CDBG-R funds. Most of the waivers are contained in the CDBG-R Notice.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- CFDA 14.228 COMMUNITY DEVELOPMENT BLOCK GRANTS/STATE'S PROGRAM AND NON-ENTITLEMENT GRANTS IN HAWAII**
- CFDA 14.255 COMMUNITY DEVELOPMENT BLOCK GRANTS/STATE'S PROGRAM AND NON-ENTITLEMENT GRANTS IN HAWAII – (RECOVERY ACT FUNDED)**

I. PROGRAM OBJECTIVES

The primary objective of the Community Development Block Grants (CDBG)/State's Program and Non-Entitlement Grants in Hawaii (State CDBG Program) is the development of viable communities by providing decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. This objective can be achieved in two ways. First, funds can only be used to assist eligible activities that fulfill one or more of three national objectives. Second, the grantee must spend at least 70 percent of its funds over a period of up to three years, as specified by the grantee in its certification, for activities that address the national objective of benefiting low- and moderate-income persons (42 USC 5301(c) and 5304(b)(3)).

The Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008) provided funds for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA provides otherwise, the grants are to be considered CDBG funds. The grant program under Title III is referred to as the Neighborhood Stabilization Program (NSP). **The NSP funding referred to above is the funding provided under HERA and is not NSP funding provided under ARRA. These HERA funds are also referred to as NSP1 in the Neighborhood Stabilization Program (see CFDA 14.256, Section II, "Program Procedures"). Additional funding for the NSP was authorized by Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203) and is referred to as NSP3.**

The primary objective of the Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii (State CDBG Program) – (Recovery Act Funded) (CDBG-R) is to stimulate the economy through measures that modernize the Nation's infrastructure that provide basic services to residents, principally for persons of low- and moderate- income, or activities that promote energy efficiency and conservation through rehabilitation or retrofitting of existing buildings.

II. PROGRAM PROCEDURES

CDBG funds are provided, according to a statutory formula, to those States that elect to administer their CDBG non-entitlement funds. The States, in turn, distribute the funds to units of general local government that do not qualify for grants under the CDBG Entitlement Program. The non-entitlement counties in Hawaii are handled differently than Entitlement grantees in the following ways: (1) their funding comes from Section 106(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR section 570.429(c); reallocations due to grant reductions, or funds

not applied for, go to the other non-entitlement counties in Hawaii on a pro rata basis (24 CFR section 570.429(d)); (3) non-entitlement counties are not eligible to use the exception criteria in 24 CFR section 570.208(a)(1)(ii); and (4) 24 CFR section 570.307 (Urban Counties) and 24 CFR section 570.308 (Joint Requests) would not apply to non-entitlement counties in Hawaii. Except for these differences, non-entitlement counties in Hawaii should follow the requirements of CDBG Entitlement Grants (CFDA 14.218).

The CDBG-R program provides formula grants to States and non-entitlement counties in Hawaii, which must submit certain certifications and a substantial amendment to their 2008 1-year action plans as to how they propose to use the CDBG-R funds to meet the purposes of the Recovery Act. Eligible recipients of the CDBG-R funds are grantees that received CDBG funding in 2008. The grant amount is determined by the higher of two formulas that consider a community's population, poverty level, extent of overcrowded housing, age of housing, and growth lag (42 USC 5306(b)). States (other than Hawaii) must distribute CDBG-R funds to units of general local government (counties, towns, etc.) in nonentitlement areas. Units of general local government then carry out community development activities funded by the State. Program procedures and waivers are contained in HUD's Notice of Program Requirements for Community Development Block Grant Program Funding Under the American Recovery and Reinvestment Act of 2009 (FR-5309-N-01) (CDBG-R Notice).

Units of general local government receiving CDBG-R funds from a State may select subgrantees to carry out approved projects. For the CDBG and CDBG-R programs, in addition to Federal statutory requirements, each State has the authority to issue rules consistent with Federal statutes and regulations. The State rules should be reviewed before beginning the audit (24 CFR sections 570.480 and 570.481).

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

NSP3 requirements are in the NSP Notice published on October 19, 2010, which lists allocations, requirements, and waivers. The NSP3 Notice incorporates the NSP1 Bridge Notice, changes made by ARRA, and additional changes and clarification. The Notices are available at <http://www.hud.gov/nspta> in the Resource Library.

Source of Governing Requirements

The CDBG program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301) **and CDBG-R is authorized under Title XII of the American Recovery and Reinvestment Act of 2009 (ARRA), (Pub. L. No. 111-5).** Implementing regulations may be found at 24 CFR part 570, subpart I.

The NSP is authorized by Title III of Division B of HERA. HUD published a “Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008,” (NSP Notice) that advises the public of the allocation formula, allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations provided to grantees (see October 6, 2008, *Federal Register*, 73 FR 58330-58349). The requirements of HERA have been updated by: (1) a notice in the *Federal Register*, Docket No. FR-5255-N-02 (NSP1 Bridge Notice) on June 19, 2009 (74 FR 29223-29229), which provided revisions and technical corrections to the NSP Notice and changes to NSP made by ARRA; (2) a notice in the *Federal Register*, Docket No. 5321-N-03 (NSP Notice) on April 9, 2010 (75 FR 18228-18231) to note a change in definitions and modification to the NSP; (3) the Dodd-Frank Wall Street Reform and Consumer Protection Act of July 21, 2010 (Pub. L. No. 111-203); and (4) a notice in the *Federal Register*, Docket No. FR-5447-N-01 (NSP3) on October 19, 2010 (75 FR 64322-64348) to incorporate the bridge notice, the changes made by ARRA, and additional changes and clarification.

Availability of Other Program Information

Additional information about the NSP is available at the HUD NSP website at <http://hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>. Other documents available at HUD websites are:

CDBG-R Notice Program Requirements for CDBG Funding under ARRA at <http://portal.hud.gov/portal/page/portal/HUD/recovery/programs/community>.

NSP Notice (Docket No. FR-5255-N-01) at <http://hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspnotice.pdf>.

NSP1 Bridge Notice (Docket No. FR-5255-N-02) at http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/ns_p1_bridgenotice.pdf.

NSP “Definition and Modification” Notice (Docket No. 5321-N-03) at <http://federalregister.gov/a/2010-8131>.

NSP3 Notice (Docket No. FR-5447-N-01) at <http://federalregister.gov/a/2010-26292>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Section 105(a) of the Housing and Community Development Act of 1974 lists the activities eligible under the CDBG State's Program **and the CDBG-R program**, which include: (a) the acquisition of real property; (b) the acquisition, construction, reconstruction, or installation of public works, facilities and site, or other improvements, including those that promote energy efficiency; (c) code enforcement in deteriorated or deteriorating areas; (d) clearance, demolition, reconstruction, rehabilitation, and removal of buildings and improvements; (e) removal of architectural barriers that restrict accessibility of elderly or severely disabled persons; (f) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (g) disposition of real property acquired under this program; (h) provision of public services (subject to limitations contained in the CDBG regulations); (i) payment of the non-Federal share for another grant program that is part of the assisted activities; (j) payment to complete a Title 1 Federal Urban Renewal project; (k) relocation assistance; (l) planning activities; (m) administrative costs; (n) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (o) assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of communities in non-entitlement areas to carry out a neighborhood revitalization or community economic development or energy conservation project; (p) activities related to development of energy use strategies; (q) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (r) rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937; (s) technical assistance to public or private entities for capacity building (exempt from the planning/administration cap); (t) housing services related to HOME-funded activities; (u) assistance to institutions of higher education to carry out eligible activities; (v) assistance to public and private entities (including for-profits) to assist micro-enterprises; (w) payment for repairs and operating expenses for acquired "in Rem" properties; (x) direct home ownership assistance to facilitate and expand home ownership among persons of low-and moderate-income; (y) lead-based paint hazard evaluation, and removal; and (z) construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to nonprofit and for-profit entities for such construction or improvement (42 USC 5305; 24 CFR section 570.482(a)).
2. Under the national objective criteria, each activity that the State funds must either benefit low- and moderate-income families; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available. The State must retain documentation justifying its certifications (24 CFR sections 570.483 and 570.490).

The CDBG-R Notice provides an alternative requirement for the CDBG program urgent need national objective criteria. In the regular CDBG program, in order to meet the urgent need national objective pursuant to 24 CFR section 570.483(d), the recipient must certify that: (1) the activity is designed to alleviate existing conditions which (a) pose a serious and immediate threat to the health and welfare of the community and (b) are of recent origin or recently became urgent; (2) the recipient is unable to finance the activity on its own; and (3) other sources of funds are not available. For CDBG-R, HUD is eliminating the recordkeeping requirement that grantees document the nature, degree, and timing of the seriousness of the condition to be addressed by the activity if the urgent need is based on current economic conditions. HUD has determined that current economic conditions are of recent origin and pose a serious and immediate threat to the economic welfare of communities; therefore, HUD will accept a State's certification on behalf of the unit of general local government that current economic conditions are of recent origin and constitute a serious and immediate threat to the welfare of the community. However, the State must still demonstrate that it is unable to finance the activity on its own, and that other sources of funding are not available. The CDBG-R Notice waives 24 CFR sections 570.483(d) and 570.490(a) and (b) to the extent necessary to allow grantees to certify that an activity is designed to address current economic conditions which pose a threat to the economic welfare of communities (CDBG-R Notice, Section II.E).

3. States and non-entitlement local government grant recipients may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974. Guaranteed loan funds may be used only for the following activities: (a) acquisition of real property; (b) housing rehabilitation; (c) rehabilitation of publicly owned real property; (d) eligible CDBG economic development activity; (e) relocation payments, (f) clearance, demolition, and removal; (g) payment of interest on Section 108 guaranteed obligations; (h) payment of issuance and other costs associated with private-sector financing under this subpart; (i) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes; (j) construction of housing by nonprofit organizations for homeownership under Section 17(d) of the U.S. Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987; (k) debt service reserve; (l) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements that serve "colonias" (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992); and (m) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements and public utilities (24 CFR sections 570.700 through 570.710).

4. For NSP funds, HERA requirements have superseded some CDBG requirements to allow for eligible uses in Section 2301(c)(3) of HERA. The NSP categories and CDBG entitlement regulations are listed in Section II.H.3.a of NSP Notice, 73 FR 58338. Section II.A. of Docket No. 5321-N-03 (NSP Notice) provided definitional changes to “Abandoned” and “Foreclosed” properties, which expanded the inventory of available properties under NSP. In addition, the date for a “Notice of Foreclosure” was specified in Section 1497(b)(2) of Pub. L. No. 111-203. The NSP eligible uses are to:
 - Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties.
 - Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent or redevelopment.
 - Establish and operate land banks for homes that have been foreclosed upon (Section A of NSP Bridge Notice clarified that NSP funds can be used to establish and operate land banks.
 - Demolish blighted structures.
 - Redevelop demolished or vacant properties.

The NSP Notice lists the CDBG-eligible activities that HUD has determined best correlate to these specific NSP-eligible uses. Grantees must receive written HUD approval to undertake activities other than those listed in Section II.H, Eligibility and Allowable Costs, of the NSP Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP Notice, Section II.A. of Docket No. 5321-N-03 (NSP Notice), and Section II.H. of NSP3 Notice).

5. For NSP funds, NSP requirements supersede existing CDBG requirements (See III.A.1, above) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. A NSP activity may not qualify using the “prevent or eliminate slums and blight” or “address urgent community development needs” national objectives. The HERA redefines and supersedes the definition of “low- and moderate-income,” effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section III.E. of NSP Notice, 73 FR 58335-58336). HUD will refer to this new income group as “middle income” and maintain the regular CDBG definitions of “low-income” and “moderate-income” currently in use (Section 2301(f)(3)(A) of HERA).
6. For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity: (1) provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (2) serves an area in which at least 51 percent of the residents have incomes at or below 120

percent of area median income; or (3) serves a limited clientele whose incomes are at or below 120 percent of area median income (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP Notice, 73 FR 58335-58336).

7. The CDBG public benefit standards prohibit funding the following activities: (a) general promotion of the community as a whole; (b) assistance to professional sports teams; (c) assistance to privately-owned recreational facilities that serve a predominately higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons; (d) acquisition of land for which the specific proposed use has not yet been identified; and (e) assistance to a for-profit business while that business or any other business owned by the same person(s)/entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient (24 CFR section 570.482(f)(4)(ii)).
8. CDBG-R funds cannot be used as a pledge of security for the repayment of Section 108 loans, to securitize borrowing under the Section 108 program, or be counted toward a grantee's maximum Section 108 borrowing authority (Section II.E. of CDBG-R Notice).

D. Davis-Bacon Act

The requirements of the Davis-Bacon Act apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; **Section 1606 of ARRA; Section 1205 of Pub. L. No. 111-32**).

G. Matching, Level of Effort, Earmarking

1. Matching

- a. States are required to match the funds used for State administrative costs beyond the first \$100,000 on a one-to-one basis, as further described under III.G.3.b, "Matching Level of Effort, Earmarking – Earmarking" (24 CFR section 570.489(a)(1)). This requirement does not apply to NSP funds (**Section 2301(e)(2) of HERA; see Section II.N. of NSP Notice, 73 FR 58337**).
- b. For CDBG-R funds, HUD has waived the requirement for matching State administrative funds (**Section II.E. of CDBG-R Notice, FR-5309-N-01**).

2. Level of Effort – Not Applicable

3. Earmarking

- a. The Housing and Community Development Act of 1974 requires the State to certify that the aggregate use of the CDBG funds it receives, over a period specified by the State not to exceed three years, shall principally benefit low- and moderate-income persons. This requirement means that not less than 70 percent of the funds must be used in this manner (24 CFR section 570.484 and 42 USC 5304(b)(3)). **This requirement applies to the CDBG-R program as well, and must be demonstrated separately for the CDBG-R grant and not in combination with the CDBG grant (CDBG-R Notice FR-5309-N-01, Section II.E)**

This requirement does not apply to NSP funds as HERA provides for supersession of the overall 70 percent requirement and establishes an alternative requirement for NSP funds where 100 percent of NSP funds must be used to benefit individuals and households whose income does not exceed 120 percent of the area median income. For NSP, such households are referred to as low-income, moderate-income and middle-income (Section 2301(c)(2) of HERA; Section II.E. of NSP Notice, 73 FR 58336).

- b. The State may use up to \$100,000 of its grant funds for administrative purposes. In addition to this amount, up to three percent of the grant may be expended at the State level for administrative costs and technical assistance. However, administrative costs must be matched from State resources on a one-to-one basis. Further, States may use up to three percent of program income collected and up to three percent of funds reallocated by HUD to the State, regardless of whether at the State or local government level, for administrative costs. All administrative funds, including the State matching funds, which may be in-kind contributions, must be used to carry out the State's responsibilities. The State may use up to three percent of its grant funds to provide technical assistance to local governments and nonprofit program recipients. The State may use no more than the aggregate of three percent of its grant funds for administrative purposes or technical assistance (42 USC 5306(d)).
- c. For planning and administrative costs *under the CDBG program*, the combined expenditures of the State and units of general local governments may not exceed 20 percent of the State's total allocation plus 20 percent of any program income, plus 20 percent of funds reallocated from HUD to the State for any given year. Within this Statewide limit, a State may fund grants to local governments consisting entirely of planning activities (24 CFR sections 570.483(b)(5), 570.483(c)(3), and 570.489(a)(3)).

HERA provides for supersession of the 20 percent of any grant amount plus program income limitation to be used for general administration and planning costs. The alternative requirements are that up to 10 percent of the amount of a NSP grant provided to a grantee and up to 10 percent of program income earned may be used for general administration and planning activities, as those are defined in 24 CFR sections 570.205 and 570.206. For States, the 10 percent includes expenditures by the State, as well as any unit of general local government that the State funds (Section 2301(f)(1) of HERA; Section II.H. of NSP Notice, 73 FR 58337).

For CDBG-R, the combined expenditures of the State and units of general local governments for planning and administrative expenses may not exceed 10 percent of the State CDBG-R's total. States should note that the 10 percent limitation includes any funds the State expends for technical assistance to units of general local government and nonprofit organizations pursuant to 42 USC 5306(d)(5) (CDBG-R Notice FR-5309-N-01, Section II.E).

- d. *For the CDBG program, the amount of CDBG funds used for public services must not exceed 15 percent of the grant amount received for that year plus 15 percent of the program income attributed to the year. The 15 percent public-services cap applies to each year's allocation of nonentitlement funds for the State. Individual grants to units of general local government are not subject to the public-services cap. Within this Statewide cap, a State may fund grants to local governments consisting entirely of public service activities (42 USC 5305(a)(8)).*

For the CDBG-R program, no more than 15 percent of CDBG-R funds can be expended for eligible public service activities. Compliance with the public service cap must be demonstrated separately based on each grantee's total allocation and not in combination with its regular CDBG funding or program income (CDBG-R Notice, Section II.E).

- e. Under Section 916 of the National Affordable Housing Act of 1990 (NAHA) (Pub L. No. 101-625; 42 USC 5306 note), the States of Arizona, California, New Mexico, and Texas are required to set aside a portion of their State CDBG funds for use in colonias. The Secretary of HUD annually determines the percentage of each state's allocation (up to 10 percent) required to be set aside for this purpose. Entitlement communities in metropolitan areas of less than one million in population are eligible to receive CDBG funding from the colonias set aside in these States (42 USC 5306 note).

- f. At least 25 percent of NSP funds shall be used to house individuals or families whose incomes do not exceed 50 percent of the area median income (Section 2301(f)(3)(A)(ii) of HERA, as amended by Section 1497(b)(1)(A) of Pub. L. No. 111-203 (42 USC 5301(f)(3)(A)(ii)).

H. Period of Availability of Federal Funds

1. **CDBG-R grantees are required to expend their entire CDBG-R allocation by September 30, 2012 (CDBG-R Notice, Section II.F.). Therefore, the timely distribution requirement under the CDBG program that all funds be distributed within 15 months of allocation was waived (42 USC 5304 (e); 24 CFR section 570.494).**
2. **NSP1 grantees are required to expend an amount equal to or greater than the initial allocation of NSP1 funds within 4 years of receipt of those funds (Section II.M. of NSP3 Notice).**

I. Procurement and Suspension and Debarment

For the CDBG-R program recipients are required to comply with the Buy-American provisions in Section 1605 of ARRA unless they are exempt as outlined in Federal Register Notice, Buy American Exceptions Under the American Recovery and Reinvestment Act of 2009: Notice of National Exceptions of Section 1605 (Buy-American Requirement) of the American Recovery and Reinvestment Act of 2009 Applicable to Community Planning and Development Recovery Act Funds (Docket No. 5357-N-01), issued in the October 21, 2009, *Federal Register* (74 FR 54377 to 54381), and HUD Notice, CPD-09-05, CPD Implementation Guidance for the Buy American Requirement of the American Recovery and Reinvestment Act of 2009 including the Exception Process, issued on October 7, 2009.

The CPD notice is available at:

<http://portal.hud.gov/hudportal/HUD?src=/recovery/programs/community>; and the Federal Register notice is available at: <http://edocket.access.gpo.gov/2009/pdf/E9-25217.pdf>.

The exemptions outlined in the notices include:

1. **Subgrants to units of general local government of less than \$100,000;**
2. **Recipient and subrecipient contracts of less than \$100,000;**
3. **Assistance for publicly owned housing of less than 8 units; and**
4. **Projects that are substantially under contract or construction prior to the receipt of CDBG-R funds.**

J. Program Income

1. For the CDBG program, program income does not include income received in a single program year by a unit of general local government and its subrecipients if the total amount of such income does not exceed \$25,000 (24 CFR section 570.489(e)(2)(i)).
2. NSP revenue received by a State, unit of general local government or subrecipient that is directly generated from the use of CDBG funds (which includes NSP grant funds) constitutes CDBG program income. The CDBG definition of program income shall be applied to amounts received by States, units of general local government and subrecipients (24 CFR section 570.500; Section II.N. of NSP3 Notice, 75 FR 64322-64348).
 - a. Any revenue from the sale, rental, redevelopment, rehabilitation or any other eligible use of NSP funds is to be provided to and used by the State or unit of general local government. Revenue received by a private individual or other entity that is not a subrecipient is not required to be returned to the State or unit of general local government (Section B of NSP Bridge Notice).
 - b. Program income generated by NSP activities carried out pursuant to Sections 2301(c)(3) of HERA may be retained by the State or unit of general local government (Section 2301(c)(3) of HERA; Section B of NSP Bridge Notice).
3. **For the CDBG-R program, any program income generated from the use of CDBG-R funds will be treated as program income to the regular CDBG program, not as program income to the CDBG-R program. HUD has waived the regulatory provisions at 31 CFR part 205 (for States) and 24 CFR section 570.489(e)(3) to implement this requirement, and to ensure that the use of CDBG-R funds is expedited. The waived regulations require grantees and subrecipients to disburse program income before requesting additional cash withdrawals of regular CDBG funds from the U.S. Treasury. Those requirements will not apply to the drawdown of CDBG-R funds since the CDBG-R program will not have any program income (CDBG-R Notice, Section II.F.).**

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

- d *Performance and Evaluation Report (OMB No. 2506-0085)* – This report is due from each State CDBG grantee within 90 days after the close of its program year in a format suggested by HUD. HUD encourages the submission of the report in both paper and computerized formats. Among other factors, the report is to include a description of the use of funds during the program year and an assessment of the grantee’s use for the priorities and objectives identified in its plan. The auditor is only expected to test the financial data in this report (24 CFR sections 91.520 (a) and (c)).

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons, (OMB No. 2529-0043)* – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a), 135.90, and 570.487(d)).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
- e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts

3. **Special Reporting** – Not Applicable
4. **Section 1512 ARRA Reporting** – Applicable
5. **Subaward Reporting under the Transparency Act** – Applicable to non-ARRA funds only

N. **Special Tests and Provisions**

1. **Environmental Oversight**

Compliance Requirement – The State must assume the environmental oversight responsibilities and functions of HUD under Section 104(g), Housing and Community Development (HCD) Act, (42 USC 5304(g)). The State must: (a) require each of its general local governments (subrecipients) to perform as a responsible Federal official in carrying out all HUD environmental review requirements under 24 CFR part 58, National Environmental Policy Act (NEPA), and other applicable authorities; (b) review and approve each subrecipient’s Request for Release of Funds (RROF) in accordance with the procedures provided under 24 CFR part 58 subpart H; (c) ensure that each subrecipient observes the statutory requirement that funds cannot be expended or obligated before the State approves its RROF and environmental certification, except as otherwise provided specifically in regulation or authorized by law; and (d) monitor and provide technical assistance to its subrecipients to ensure compliance with the environmental authorities (24 CFR part 58) and the adequacy of environmental reviews.

Audit Objective – Determine whether the State carries out its environmental oversight responsibilities and functions.

Suggested Audit Procedures

- a. Examine the State’s program for monitoring and enforcing compliance with the environmental authorities.
- b. Examine the State’s approval of the RROF and environmental certification, and note dates.
- c. Verify that the State obtained certifications and that the State’s records provide evidence that the funds were obligated and expended after the State’s approval of the RROF and environmental certification.

2. **Environmental Reviews**

Compliance Requirement – Projects must have an environmental review unless they meet criteria specified in the regulations that would exclude them from RROF and environmental certification requirements. States that directly implement NSP activities are considered recipients and must assume environmental review responsibilities for the State’s activities and those of any non-governmental entity that participates in the project. States that directly implement activities must submit the Request for Release of

Funds (RROF) and the certifications to HUD for approval (24 CFR sections 58.4(b)(1), 58.34 and 58.35).

Audit Objective – Determine whether the required environmental reviews were conducted and required HUD approvals were obtained.

Suggested Audit Procedures

- a. Verify that the State obtained environmental review certifications from the subrecipient and that the State records provide evidence that the environmental reviews were made.
- b. For any project where an environmental review was not performed, ascertain that a written determination was made that the review was not required.
- c. Ascertain that documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35.
- d. Verify that States obtained HUD approvals of RROFs and environmental certifications for State activities.
- e. Verify that, for State activities, funds were obligated and expended after HUD approval of State RROFs and environmental certifications.

3. Citizen Participation

Compliance Requirement

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

HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The provisions of 24 CFR sections 570.485 and 570.486 with respect to following the citizen participation plan are waived to allow the jurisdiction to provide no fewer than 15 calendar days for citizen comment, rather than 30 days, for its initial NSP submission (Section II.B.4 of NSP Notice, 73 FR 58334).

CDBG-R – **The CDBG-R Notice provides an alternative requirement to provide for expedited citizen participation for the CDBG-R substantial amendment. The following the citizen participation plan requirements are waived: (1) 24 CFR sections 91.105 and 91.115 have been waived to specify that the grantee will provide no fewer than 7 calendar days for citizen comment (rather than 30 days) for its CDBG-R substantial amendment; and (2) 24 CFR section 91.505(c)(1) that states a grantee may submit a copy of an amendment to its action plan with a description of eligible activities to HUD as it occurs or at the end of the program year was waived**

to require each grantee to submit the substantial amendment to its action plan for CDBG-R funds no later than the June 29, 2009. In addition, 24 CFR section 91.110 was waived to the extent necessary to eliminate the requirement that a State must consult with units of local government in determining the expected use of CDBG-R funds. HUD also waived 24 CFR sections 91.320(d) and 91.320(k)(1)(i) to the extent necessary to require States to provide a list of activities they intend to fund with the CDBG-R allocation (CDBG-R Notice, Section II.A.).

Audit Objective – CDBG - Determine whether the CDBG grantee has developed and implemented a citizen participation plan.

Suggested Audit Procedures – CDBG

- a. Verify that the grantee has a citizen participation plan.
- b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.
- c. Examine the grantee's records for evidence that the elements of the citizen's participation plan were followed as the grantee certified.

Audit Objective – CDBG-R – Determine whether the grantee adhered to the applicable provisions of the CDBG-R Notice as it pertains to the citizen participation plan.

Suggested Audit Procedures – CDBG-R

- a. Verify that the grantee has a citizen participation plan.
- b. Review the plan to determine how the grantee effected modifications to its citizen participation plan process to comply with the CDBG-R Notice provisions.
- c. Examine the grantee's records for evidence that the elements of the citizen's participation plan, as modified by the CDBG-R Notice, were followed as the grantee certified.

4. Rehabilitation Using NSP Funds

Compliance Requirement – Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes and other requirements relating to housing safety, quality, or habitability, in order to sell, rent or redevelopment such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation (Section 2301(d)(2) of HERA; Section II.I. of NSP Notice, 73 FR 58338).

Audit Objective – To determine whether the grantee assures NSP rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Review rehabilitation standards established for NSP work.
- b. Verify through a review of documentation that the rehabilitation work is inspected upon completion to ensure that it is carried out in accordance with applicable rehabilitation standards.

IV. OTHER INFORMATION

See Appendix VI for program waivers and special provisions related to Hurricanes Katrina and Rita.

ARRA gave HUD the authority to waive or specify alternative requirements for some of the CDBG statutory and regulatory provisions to facilitate the use of CDBG-R funds. The waivers are contained in the CDBG-R Notice.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.231 EMERGENCY SHELTER GRANTS PROGRAM

I. PROGRAM OBJECTIVES

The Emergency Shelter Grants (ESG) Program is designed to help improve the quality of existing emergency shelters for homeless individuals and families, make available additional emergency shelters, and meet the costs of operating emergency shelters and of providing essential social services to homeless individuals and families. The goal is for homeless persons to have access not only to safe and sanitary shelters for the homeless but also to the supportive services and other kinds of assistance they need to increase their self-sufficiency. The program is also intended to restrict the increase of homelessness through the funding of preventive programs and activities (24 CFR section 576.1).

II. PROGRAM PROCEDURES

The ESG Program provides grants to States, metropolitan cities, urban counties, and the territories according to a formula used in the Community Development Block Grant Program. Metropolitan cities, urban counties and territorial grantees may directly carry out activities or fund non-profit agencies to carry out activities. Except for administrative funds, which must be shared, all of a State's formula allocation must be made available to "State recipients." These are: (1) local governments in the State, which includes formula cities and counties, whether or not such cities and counties receive grant amounts directly from HUD; or (2) private non-profit organizations, if the local government in which the proposed activities are to be located certifies that it approves each project. States and units of general local government, including cities and counties, may distribute all or a part of their grant amounts to non-profit recipients (subrecipients) to be used for ESG activities (24 CFR section 576.25).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

ESG amounts may be used for one or more of the activities provided for in 24 CFR section 576.21, including: (1) renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for homeless persons; (2) provision of essential services to homeless persons; (3) payment of costs associated with shelter maintenance and operation; (4) development and implementation of homeless prevention activities; and (5) administrative costs. This section also provides certain limitations on the use of those funds. 24 CFR section 576.23 provides certain limitations on the use of ESG funds by primarily religious organizations (24 CFR sections 576.21 and 576.23).

G. Matching, Level of Effort, Earmarking

1. Matching

Each grantee must match the funding provided by HUD under its ESG Program with an equal amount from sources other than those provided under the ESG Program. These funds must be provided after the date of the grant award. A grantee may comply with this requirement by providing the supplemental funds itself, or through supplemental funds or voluntary efforts provided by any State recipient or non-profit recipient (subrecipient), as appropriate. The exception is that a State grantee is not required to match the first \$100,000 of assistance provided to it, but the benefit of the unmatched amount must be shared with local governments and other subrecipients (24 CFR section 576.51).

2.1 Level of Effort – *Maintenance of Effort* - Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

Grant amounts may be used to provide essential services to homeless persons only if the service is a new service, or is a quantifiable increase in the level of service above that which the unit of general local government provided with local funds during the 12 calendar months immediately before it received initial grant amounts (24 CFR section 576.21(b)).

3. Earmarking

- a. Not more than 30 percent of the total of each grant amount provided to a unit of local government or a State can be used for essential services for homeless persons if the service is a new service, unless a waiver is granted (42 USC 11374; 24 CFR section 576.21(b)).
- b. Not more than 30 percent of the total of each grant amount provided to a unit of local government or State can be used for homeless prevention activities (42 USC 11374; 24 CFR section 576.21(c)).
- c. All of a State's formula allocation, except for administrative costs, must be made available to local governments in a State or to private non-profit organization (24 CFR section 576.25(b)).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

- c. SF-425, *Federal Financial Report* – Applicable (cash status only)
- d. *Integrated Disbursement and Information System (IDIS)* (OMB No. 2506-0077) – The following reports generated by IDIS are used by grantees and HUD for financial reporting on the ESG Program:
 - (1) C04PR02 – List of Activities by Program Year and Project (ESG Projects Only).
 - (2) C04PR19 – ESG Statistics for Projects as of Grant Year

Key Line Item: Dollars funded from ESG Grants

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons* (OMB No. 2529-0043) – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
- e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses

- (3) D. Total number of Section 3 businesses receiving non-construction contracts

3. **Special Reporting** – Not Applicable
4. **Section 1512 ARRA Reporting** – Not Applicable
5. **Subaward Reporting under the Transparency Act** – Applicable

N. Special Tests and Provisions

1. Maintenance as Homeless Shelters

Compliance Requirement – Any building for which ESG amounts are used for renovation, or rehabilitation for use as emergency shelters for homeless persons as described in 24 CFR section 576.21(a)(1), must be maintained as a shelter for homeless persons for not less than a 3-year period or, if the grant amounts are used for major rehabilitation or conversion of the building, for not less than a 10-year period (24 CFR section 576.53).

Audit Objective – Determine whether buildings improved (i.e., renovated, rehabilitated, or converted for use as an emergency shelter) with ESG funds during the audit period are currently being used as emergency shelters.

Suggested Audit Procedures

- a. Ascertain if any buildings were improved with ESG funds during the audit period.
- b. Verify the existence of the buildings improved with ESG funds and their current use as a homeless shelter.
- c. Inquire of management whether any buildings improved with ESG funds in prior years are no longer being used as shelters, and if so, whether the prescribed 3- or 10-year period had expired.

2. Funding

Compliance Requirement – Within 65 days of the date of the grant award by HUD, each State must make available to its State recipients all ESG amounts that were allocated under 24 CFR section 576.5. State recipients, as well as cities, counties, and territories that receive formula money, must have their grant amounts obligated and expended within specified periods, as provided for in 24 CFR section 576.35.

Audit Objective – Determine whether funding was allocated, obligated, and expended within HUD-prescribed limits.

Suggested Audit Procedures

- a. Determine the time periods for which funds must be allocated, obligated and expended for the selected entities.
- b. Review records to determine the dates that funds were allocated, obligated, and expended, as applicable.

IV. OTHER INFORMATION

See Appendix VI for program waivers related to Hurricanes Katrina and Rita.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.235 SUPPORTIVE HOUSING PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

Source of Governing Requirements

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

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Grants may be used for acquiring structures, rehabilitating structures, acquiring and rehabilitating structures, new construction, leasing, operating costs for supportive housing, and supportive services as described in 24 CFR sections 583.105 through 583.125. Projects may have more than one type of assistance (24 CFR section 583.100).

E. Eligibility**1. Eligibility for Individuals**

- a. To be eligible to receive assistance under this program an individual must be homeless, as defined in 24 CFR section 583.5. The eligibility of those tenants who were admitted to the program should be determined by obtaining: (1) signed applications that contained all of the information needed to determine eligibility, income, rent and order of selection; and, (2) when appropriate, third party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information.
- b. Each resident in supportive housing may be required to pay as rent an amount which may not exceed the highest of: (1) 30 percent of the family's monthly adjusted income; (2) 10 percent of the family's monthly income; or (3) if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of payments that is designated. In addition to resident rent, non-Federal entities may charge residents reasonable fees for services not paid with grant funds (24 CFR sections 583.315(a) and (c)).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**3. Eligibility for Subrecipients – Not Applicable****G. Matching, Level of Effort, Earmarking****1. Matching**

- a. The non-Federal entity must match the grant funds provided by HUD for acquisition, rehabilitation, and new construction with an equal amount of funds from other sources. The matching funds must be cash resources provided to the project by one or more of the following: the non-Federal entity, the Federal Government, State and local governments, and private sources (24 CFR section 583.145).
- b. HUD may provide grants to pay for a portion of the actual operating costs of supportive housing. Assistance for operating costs is available for up to 75 percent of the total cost in each year of the grant. The non-Federal entity must pay with its own funds the percentage of the actual operating costs not funded by HUD. At the end of each operating year, the non-Federal entity must demonstrate that it has met its share of the costs for that year (24 CFR section 583.125).

- c. Beginning with 1999 grants, all funding for supportive services must be matched by 25 percent funding from non-Federal entity (Pub. L. No. 105-276).

2.1 Level of Effort – *Maintenance of Effort* – Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

- a. No assistance provided under this program, or any State or local government funds used to supplement this assistance, may be used to replace State or local funds previously used, or designated for use, to assist homeless persons (24 CFR section 583.150(a)).
- b. State or local government funds used in the matching contribution may be used to replace State or local funds previously used, or designated for use, to assist homeless persons (24 CFR section 583.145(c)).

3. Earmarking

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

J. Program Income

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

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. HUD-40118, *Annual Progress Report (OMB No. 2506-0145)* – This report is due from each grantee 90 days after the end of each operating year. Separate reports are required for each grant received (24 CFR section 583.300 (g)).

The auditor is expected to test the financial data in:

- (1) Part II – 18. Supportive Services
- (2) Part II – 19. Supportive Housing Program: Leasing, Supportive Services, Operating Costs, HMIS Activities and Administration
- (3) Part II – 20. Supportive Housing Program: Acquisition, Rehabilitation, and New Construction

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
- e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts

3. Special Reporting – Not Applicable

4. **Section 1512 ARRA Reporting** – Not Applicable
5. **Subaward Reporting under the Transparency Act** – Applicable

N. **Special Tests and Provisions**

1. **Reasonable Rental Rates**

Compliance Requirement – Where grants are used to pay for rent for all or a part of a structure, the rent paid must be reasonable in relation to rents being charged in the area for comparable space. In addition, the rent may not exceed rents currently being charged by the same owner for comparable space (24 CFR section 583.115(b)(1)).

Where grants are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units taking into account relevant features. In addition, the rents may not exceed rents currently being charged by the same owner for comparable unassisted units, and the portion of rents paid with grant funds may not exceed HUD-determined fair market rents. Non-Federal entities may use grant funds in an amount up to one month's rent to pay the non-recipient landlord for any damages to leased units by homeless participants (24 CFR section 583.115(b)(2)).

Audit Objective – Determine reasonableness of the rents being paid by the non-Federal entities.

Suggested Audit Procedures

- a. Determine the acceptability of the manner in which the non-Federal entity establishes rent reasonableness and the rents charged by the owner for comparable unassisted units. Ascertain through an examination of documentation that telephone surveys, site visits after telephoning, more extensive market surveys of available rental units, or similar tools, were used to assess the reasonableness of rents being charged.
- b. Verify by a review of the rental records that the contract rents being paid are comparable with those paid for unassisted units, no more than one month's rent is paid for tenant damages, and that the portion of rents paid with grant funds do not exceed fair market rents.

2. **Use of Property**

Compliance Requirement – All non-Federal entities receiving assistance for acquisition, rehabilitation, or new construction must agree to operate the supportive housing or provide supportive services for a term of at least 20 years from the date of initial occupancy or the date of initial service provision. If HUD determines that a project is no longer needed for use as supportive housing or to provide supportive services and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the non-Federal entity operating the project, HUD may authorize the non-Federal entity to convert the project to such use (24 CFR section 583.305).

Audit Objective – Determine whether there are valid agreements for the provision of supportive housing or supportive services when assistance is provided for acquisition, rehabilitation, or new construction.

Suggested Audit Procedures

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.238 SHELTER PLUS CARE

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

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

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

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Shelter Plus Care grants may be used to provide rental assistance for housing occupied by eligible persons and to pay for the costs of administering the housing assistance, except that the housing may not be receiving Federal funds for rental assistance or operating costs under any other HUD program. Non-Federal entities may design a housing program that includes a range of housing types and

different levels of supportive services. Rental assistance may include security deposits on units amounting to one month's rent (24 CFR section 582.105(a)).

2. The eight percent administrative allowance for housing assistance (see III.G.3, "Matching, Level of Effort, Earmarking - Earmarking") does not include the cost of administering the supportive services or the grant (e.g., costs of preparing the application, reports or audits required by HUD), which are not eligible activities under a Shelter Plus Care grant. Non-Federal entities may contract with another entity approved by HUD to administer the housing assistance. Eligible administrative activities include processing rental payments to landlords, examining participant income and family composition, providing housing information, inspecting housing units for compliance with housing quality standards, and receiving new participants into the program (24 CFR section 582.105(e)).

D. Davis-Bacon Act

Except for the use of volunteers under the conditions of 24 CFR part 70, agreements under the SRO component covering nine or more assisted units are required to comply with the requirements of the Davis-Bacon Act (24 CFR section 882.804(b)).

E. Eligibility

1. Eligibility for Individuals

- a. To be eligible for assistance under this program, a person must be homeless, of very low-income, and have disabilities, as defined in 24 CFR section 582.5. The eligibility of tenants admitted to the program should be determined by: (1) obtaining signed applications that contained the information needed to determine eligibility, income, and rent; and, when appropriate, (2) obtaining third party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information. Tenant income should not exceed the maximum limit set by HUD for the PHA's jurisdiction, as provided in the notice transmitting Income Limits for Low and Very Low-Income Families Under the Housing Act of 1937.
- b. Each person must pay rent which is the highest of: (1) 30 percent of the family's monthly adjusted income; (2) 10 percent of the family's monthly income; or (3) if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of payments that is so designated (24 CFR section 582.310(a)).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. **Eligibility for Subrecipients** – Sponsor-based rental assistance (SRA) provides grants for rental assistance through contracts between the grant recipient and sponsor organizations. A sponsor must be a private, non-profit organization or a community mental health agency established as a public non-profit organization (24 CFR section 582.100(c)).

G. Matching, Level of Effort, Earmarking

1. Matching

A grantee must provide or ensure the provision of supportive services that are at least equal in value to the aggregate amount of rental assistance funded by HUD. This includes funding the services itself if the planned resources do not become available for any reason, appropriate to the needs of the population being served. The supportive services may be newly created for the program or existing, and may be provided or funded by other Federal, State, local, or private programs. Only services that are provided after the execution of the grant agreement may count toward the match. The manner in which the value of supportive services is calculated is contained in 24 CFR section 582.110(c).

2.1 Level of Effort – *Maintenance of Effort* – Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

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

3. Earmarking

Up to eight percent of the grant amount may be used to pay the costs of administering housing assistance, subject to the limits noted in III.A.2 above (24 CFR section 582.105(e)).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

- d. HUD-40118, *Annual Progress Report (OMB No. 2506-0145)* – This report is due from each grantee (and separately for each component funded) within 90 days after the end of its operating year (24 CFR section 582.300 (d)).

Key Line Items – Financial data in Part I -15. Supportive Services

2. **Performance Reporting** – Not Applicable
3. **Special Reporting** – Not Applicable
4. **Section 1512 ARRA Reporting** – Not Applicable
5. **Subaward Reporting under the Transparency Act** – Applicable

N. **Special Tests and Provisions**

1. **Rent Reasonableness**

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

Audit Objective – Determine reasonableness of the rents being paid by the grantee.

Suggested Audit Procedures

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

2. **Housing Quality Standards**

Compliance Requirement – Housing assisted under the Shelter Plus Care Program must meet applicable housing quality standards under 24 CFR section 582.305 (a) and, for the SRO component, under 24 CFR section 882.803(b). Before any assistance is provided on behalf of a participant, the non-Federal entity, or another entity acting on behalf of the non-Federal entity (other than the owner of the housing), must physically inspect each

unit to assure that the unit meets housing quality standards. Non-Federal entities must also inspect all units annually during the grant period to ensure that units continue to meet housing quality standards (24 CFR section 582.305(a)).

Audit Objective – Determine whether the grantee performs the required inspections to assure that units meet housing quality standards.

Suggested Audit Procedures

- a. Verify through a review of documentation that the non-Federal entity identifies those units on which housing quality inspections are due.
- b. Verify through a review of documentation that the non-Federal entity performed inspections of units and that any needed repairs were completed timely.

3. Project-Based Rental Assistance

Compliance Requirement – Project-based rental assistance provides grants for rental assistance to the owner of an existing structure, where the owner agrees to lease the subsidized units to participants. Participants do not retain rental assistance if they move. Rental subsidies are provided to the owner for a period of either five or ten years. To qualify for ten years of rental subsidies, the owner must complete at least \$3000 of eligible rehabilitation work for each unit (including the prorated share of work to be accomplished on common areas or systems), to make the structure decent, safe, and sanitary. The rehabilitation work must be completed within 12 months of the grant award (24 CFR section 582.100(b)).

Audit Objective – Determine whether project-based assistance is being paid in accordance with agreements.

Suggested Audit Procedures

- a. Examine the existing agreement between the owner and the non-Federal entity to determine whether the agreement is for either five or ten years.
- b. If the agreement is for ten years, verify through a review of documentation that the required rehabilitation of at least \$3000 was performed within 12 months of the grant award.
- c. Examine the billings from the owner, and verify that the assistance payments are for units occupied or ready for occupancy.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.239 HOME INVESTMENT PARTNERSHIPS PROGRAM

I. PROGRAM OBJECTIVES

The objectives of the HOME Investment Partnerships (HOME) Program include: (1) expanding the supply of decent and affordable housing, particularly housing for low- and very low-income Americans; (2) strengthening the abilities of State and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing; (3) providing financial and technical assistance to participating jurisdictions, including the development of model programs for affordable low-income housing; and (4) extending and strengthening partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of affordable housing (24 CFR section 92.1).

II. PROGRAM PROCEDURES

The program is conducted by jurisdictions (States, cities, urban counties, and consortia) that receive an allocation of funds. Participating jurisdictions must submit a description of how they propose to use the funds for housing activities, together with certifications (24 CFR part 91). The funding amount is based on a formula of six factors established to reflect a jurisdiction's need for an increased supply of affordable housing for low- and very low-income families (24 CFR section 92.50).

A State may carry out its own HOME program without active participation of units of general local government or may distribute HOME funds to units of general local government to carry out HOME programs in which both the State and all or some of the units of general local government perform specified functions. A unit of general local government designated by a State to receive HOME funds from a State is a "State recipient." Before disbursing funds to an entity, each participating jurisdiction is required to enter into written agreements with the entity. The contents of the agreement may vary depending on the role which the entity is asked to assume or the type of project undertaken. However, there must be certain minimum provisions depending on whether the entity is a State recipient, subrecipient, for-profit or non-profit housing owner, or contractor as well as a home buyer, homeowner, or tenant receiving tenant-based rental or security deposit assistance (24 CFR section 92.504).

Source of Governing Requirements

The HOME Investment Partnerships Program was established by the Title II of the Cranston-Gonzalez National Affordable Housing Act (42 USC 12701-12839 and 3535(d)). Implementing regulations are codified at 24 CFR part 92.

Availability of Other Program Information

Pertinent information that will assist the auditor in understanding the HOME program is available on the agency web site. Relevant web sites include the following:

Affordable Housing:

<http://www.hud.gov/offices/cpd/affordablehousing/index.cfm>

HOME Program:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm>

HOME Statute:

<http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/laws/home/index.cfm>

HOME Rule:

<http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/>

HOME Publications:

<http://www.hud.gov/offices/cpd/affordablehousing/library/index.cfm>

Community Connections:

Toll-free number 1-800-998-9999 or <http://www.comcon.org/>

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. HOME funds (including program income generated by activities carried out with HOME funds) may be used by participating jurisdictions to provide for:
 - (a) incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations;
 - (b) to provide tenant-based rental assistance, including security deposits;
 - (c) the payment of reasonable administrative and planning costs; and
 - (d) the payment of operating expenses of Community Housing Development Organizations (CHDOs). The housing must

be permanent or transitional. The acquisition of vacant land or demolition can only be undertaken with respect to a particular housing project intended to provide affordable housing. Conversion of an existing structure to affordable housing is rehabilitation unless certain circumstances exist. Manufactured housing may be purchased or rehabilitated and the land upon which it is built may be purchased with HOME funds. HOME funds may be used to pay for development construction costs, refinancing costs, acquisition costs, related soft costs, CHDO costs, relocation costs, and costs related to the repayment of loans (24 CFR sections 92.205(a) and 92.206).

2. A participating jurisdiction may use or “invest” HOME funds as equity investments, interest-bearing loans or advances, non-interest-bearing loans or advances, interest subsidies, deferred payment loans, grants, or other forms of assistance approved by HUD. A participating jurisdiction may invest HOME funds to guarantee loans made by lenders and, if required, the participating jurisdiction may establish a loan guarantee account with HOME funds. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans but under no circumstances, may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed, except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay the guaranteed loans are not (24 CFR section 92.205(b)).
3. Generally, HOME funds may not be used for: project reserve accounts, tenant-based rental assistance for the special purpose of the Section 8 program, non-Federal matching contributions under any other non-Federal program, annual contributions for the operation of public housing, public housing modernization, assistance to prepay low income housing mortgages, assistance to a project previously assisted with HOME funds during the period of affordability (i.e., the period for which the non-Federal entity must maintain subsidized housing), and the acquisition of property by the participating jurisdiction. Participating jurisdictions may not charge monitoring, servicing, and origination fees in HOME-assisted projects (24 CFR section 92.214).

D. Davis-Bacon Act

Contracts for the construction of affordable housing with 12 or more HOME-assisted units are required to comply with the requirements of the Davis-Bacon Act (42 USC 12836).

E. Eligibility**1. Eligibility for Individuals**

- a. The HOME Program has income targeting requirements. Only low-income or very low-income persons, as defined in 24 CFR section 92.2, can receive housing assistance (24 CFR section 92.1). Therefore, the participating jurisdiction must determine if each family is income eligible by determining the family's annual income, as provided for in 24 CFR section 92.203. Participating jurisdictions must maintain records for each family assisted (24 CFR section 92.508).
- b. HOME-assisted units in a rental housing project must, pursuant to 24 CFR 92.216(a), be occupied only by households that are eligible as low-income families and must meet certain limits on the rents that can be charged. The requirements also apply to the HOME-assisted non-owner-occupied single-family housing purchased with HOME funds. The maximum HOME rents are the lesser of: the fair market rent for comparable units in the area, as established by HUD under 24 CFR section 888.111, or a rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area as determined by HUD with adjustments for the number of bedroom units. In rental projects with five or more units there are additional rent limitations. Twenty percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements: (1) the rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for larger or smaller families; or (2) the rent does not exceed 30 percent of the families adjusted income (24 CFR section 92.252).
- c. A participating jurisdiction may use HOME funds for tenant-based rental assistance, as provided for in 24 CFR section 92.209(b). The participating jurisdiction must select families in accordance with policies and criteria consistent with those provided in 24 CFR section 92.209(c).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**3. Eligibility for Subrecipients – Not Applicable**

G. Matching, Level of Effort, Earmarking

1. Matching

Each participating jurisdiction must provide eligible matching contributions of 25 percent of HOME funds drawn down during the fiscal year. The match must be provided by the end of the fiscal year. Some participating jurisdictions are eligible for a reduction in the required match based upon meeting standards of distress. The jurisdictions which are eligible for the reduction are identified by a notice published in the *Federal Register*, or a notice issued by HUD. Jurisdictions may also receive reductions if they are in Presidentially declared disaster areas. Participating jurisdictions are required to maintain records, including individual project records and a running log, demonstrating compliance with the matching requirements, including the type and amount of contributions by project. Matching information is provided on the *HOME Match Report* (HUD-40107-A) (24 CFR sections 92.218 through 92.220, 92.222, and 92.508).

2. Level of Effort – Not Applicable

3. Earmarking

- a. Each participating jurisdiction must invest HOME funds made available during a fiscal year so that, with respect to tenant-based rental assistance and rental units not less than 90 percent of (1) the families receiving assistance are families whose annual income do not exceed 60 percent of the median family income for the area, as determined and made available by HUD, with adjustments for smaller and larger families at the time of occupancy or at the time funds are invested, whichever is later, or (2) the dwelling units assisted with such funds are occupied by families having such incomes (24 CFR section 92.216).
- b. Each participating jurisdiction must invest HOME funds made available during a fiscal year so that with respect to homeownership assistance, 100 percent of these funds are invested in dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later (24 CFR section 92.217).
- c. Each participating jurisdiction must invest at least 15 percent of each year's HOME allocation in projects which are owned, developed, or sponsored by special non-profit organizations called CHDOs. If, during the first 24 months of its participation in the HOME Program, a participating jurisdiction cannot identify a sufficient number of capable CHDOs, then up to 20 percent of the minimum set-aside (but not more than \$150,000 during the 24-month period) may be made available to develop the capacity of CHDOs in the jurisdiction (24 CFR section 92.300).

- d. A participating jurisdiction may expend for its HOME administrative and planning costs an amount of HOME funds that is not more than ten percent of the fiscal year HOME basic formula allocation plus any funds received in accordance with 24 CFR section 92.102(b) to meet or exceed threshold requirements that fiscal year. A participating jurisdiction may also use up to ten percent of any return of the HOME investment, as defined in 24 CFR section 92.503, calculated at the time of deposit in its HOME account, for administrative and planning costs (24 CFR section 92.207).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
- e. Part II, Contracts Awarded, 2. Non-Construction Contracts

- (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
3. **Special Reporting** – Not Applicable
 4. **Section 1512 ARRA Reporting** – Not Applicable
 5. **Subaward Reporting under the Transparency Act** – Applicable

M. Subrecipient Monitoring

Each participating State is responsible for distributing HOME funds throughout the State according to the State's assessment of the geographical distribution of housing need within the State. A State may carry out its HOME Program without active participation of units of general local government or may distribute HOME funds to units of general local government to carry out HOME Programs in which both the State and all or some of the units of general local government perform specified program functions. A State that uses State recipients to perform program functions shall ensure that the State recipients use HOME funds in accordance with applicable laws and requirements. A State shall include in its written agreements with its State recipients such additional provisions as may be appropriate to ensure compliance and to enable the State to carry out its responsibilities under the HOME Program. The State is to conduct such reviews and audits of its State recipients as may be necessary or appropriate to determine whether the State recipient has committed and expended the HOME funds, as required by 24 CFR section 92.500, and has met HOME Program requirements particularly as they relate to eligible activities, income targeting, affordability, and matching contribution requirement (24 CFR section 92.201(b)).

Before disbursing funds to a subrecipient, each participating jurisdiction is required to enter into written agreements with the entity which includes provisions dealing with the use of HOME funds, program income, uniform administrative requirements, other program requirements, affirmative marketing, requests for disbursement of funds, reversion of assets, records and reports, and enforcement of the agreement. Further, if the subrecipient provides HOME funds to for-profit owners or developers, non-profit organizations, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement that contains the provisions in 24 CFR section 92.504.

N. Special Tests and Provisions

1. Maximum Per Unit Subsidy

Compliance Requirement – The per unit investment of HOME funds may not exceed the Federal Housing Administration (FHA) mortgage limits in Subsection 221(d)(3) of the National Housing Act, including any area-wide high cost exceptions approved by HUD. This information should be available from the grantee or the local HUD field office. In mixed-income or mixed-use projects, the average per unit investment in HOME-assisted units may not exceed the applicable Subsection 221(d)(3) limit. Participating jurisdictions are required to evaluate each housing project in accordance with guidelines that it adopts to ensure that the combination of Federal assistance to the project is not any more than is necessary to provide affordable housing (24 CFR section 92.250).

Audit Objective – Determine whether the HOME subsidies being provided are not more than necessary to provide affordable housing and are properly supported.

Suggested Audit Procedures

- a. Review a sample of projects to verify that the HOME subsidy amounts are supported by the participating jurisdiction's records.
- b. Review participating jurisdiction records to verify that each housing project was evaluated in accordance with its guidelines to ensure that the combination of Federal assistance to the project is not any more than is the FHA mortgage limits in Subsection 221(d)(3) of the National Housing Act necessary to provide affordable housing.

2. Drawdowns of HOME Funds

Compliance Requirement – The Integrated Disbursement and Information System is used both to collect information on compliance with program requirements and to disburse HOME funds. Participating jurisdictions (or their authorized representatives) are required to have different staffs setting up projects and drawing down funds. Participating jurisdictions must maintain payment certifications each time a drawdown of funds is made (24 CFR section 92.502).

Audit Objective – Determine whether the required separation of duties is maintained over the drawdown of HOME funds.

Suggested Audit Procedures

- a. Verify that the persons setting up projects are not the same as the person drawing down funds.
- b. Verify that HOME payment certification amounts match the amount of disbursements.

3. Housing Quality Standards

Compliance Requirement – During the period of affordability (i.e., the period for which the non-Federal entity must maintain subsidized housing) for HOME assisted rental housing, the participating jurisdiction must perform on-site inspections to determine compliance with property standards and verify the information submitted by the owners no less than: (a) every three years for projects containing 1 to 4 units, (b) every two years for projects containing 5 to 25 units, and (c) every year for projects containing 26 or more units. The participating jurisdiction must perform on-site inspections of rental housing occupied by tenants receiving HOME-assisted tenant-based rental assistance to determine compliance with housing quality standards (24 CFR sections 92.251, 92.252, and 92.504(b)).

Audit Objective – Determine whether the grantee performs the required inspections to assure that property standards are met.

Suggested Audit Procedures

- a. Verify through a review of documentation that the non-Federal entity identifies those units on which housing quality inspections are due.
- b. Verify through a review of documentation that the non-Federal entity performs inspections of units and that any needed repairs are completed timely.

IV. OTHER INFORMATION

Improper Payments

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

Hurricanes Katrina and Rita

See Appendix VI for program waivers related to Hurricanes Katrina and Rita.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.241 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

I. PROGRAM OBJECTIVES

The Housing Opportunities for Persons with AIDS (HOPWA) program is designed to provide States and localities with resources and incentives to devise long-term strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome (AIDS) or related diseases and their families (24 CFR section 574.3).

II. PROGRAM PROCEDURES

The Department of Housing and Urban Development (HUD) awards funds appropriated for the program in any fiscal year through both a formula allocation and competitive grant process. Ninety percent of the funds are awarded through formula grants and ten percent through competitive grants. HUD allocates formula funds based on the number of cases of AIDS reported to and confirmed by the Centers for Disease Control and Prevention and on population data furnished by the U.S. Bureau of the Census (24 CFR section 574.130).

Competitively awarded funds are available for special projects of national significance and other projects submitted by States and localities that do not qualify for formula grants. All States, units of general local government, and non-profit organizations may apply for grants for projects of national significance. Only those States and units of general local government that do not qualify for formula awards may apply for grants for other projects. Except for grants involving projects of national significance, non-profit organizations are not eligible to apply directly to HUD for a grant, but may receive funding as a project sponsor (subrecipient) under a contract with a grantee (24 CFR section 574.210).

Source of Governing Requirements

The HOPWA program is authorized by the AIDS Housing Opportunity Act, as amended (42 USC 12901, *et seq.*). Implementing regulations are in 24 CFR parts 91 and 574.

Availability of Other Program Information

For additional information that may be helpful to auditors in understanding the HOPWA program, refer to the HOPWA program website on the Internet at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/aidshousing.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. HOPWA funds may be used to assist all forms of housing designed to prevent homelessness, including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services must be provided as part of any HOPWA-assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity. The following activities may be carried out with HOPWA funds: housing information services; resource identification to establish, coordinate, and develop housing assistance resources for eligible persons; acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services; new construction for SRO and community residences only; project- or tenant-based rental assistance, including assistance for shared housing arrangements; short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling; supportive services; operating costs for housing; technical assistance in establishing and operating a community residence; administrative expenses; and, for competitive grants only, any other activity proposed by the applicant and approved by HUD (24 CFR section 574.300).
2. Grantees must assure that grant funds will not be used to make payments for health services for any item or service to the extent that payment was made, or can reasonably be expected to be made, with respect to any item or service:
 - (a) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or
 - (b) by an entity that provides health services on a prepaid basis, as provided for in 24 CFR section 574.310(a)(2). Supportive services include such items as alcohol abuse treatment and counseling, day care, and nutritional services (24 CFR section 574.300(b)(7)).

E. Eligibility**1. Eligibility for Individuals**

- a. A person eligible for assistance under this program means a person with HIV or AIDS who is a low-income individual and the person's family, including persons important to their care or well being, as defined in 24 CFR section 574.3. The eligibility of those tenants who were admitted to the program should be determined by: (1) obtaining signed applications that contained all the information needed to determine eligibility, income, rent and order of selection; and (2) obtaining third-party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information.
- b. Except for persons in short-term supportive housing, each person receiving rental assistance under the HOPWA Program must pay as rent the higher of: (1) 30 percent of the family's monthly adjusted gross income; (2) 10 percent of the family's monthly gross income; or (3) the

portion of the payments that is designated if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs (24 CFR section 574.310).

- c. If grant funds are used to provide rental assistance, the amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between the lower of the rent standard or reasonable rent for the unit and the resident's rent payment calculated in accordance with 24 CFR section 574.310 (24 CFR section 574.320). Allowable assistance can be determined by telephone surveys, site visits after telephoning, or more extensive market surveys of available rental units to assess the reasonableness of rents being charged.
- d. A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six-month period. Rent, mortgage, and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling may not be provided to such an individual for costs accruing over a period of more than 21 weeks in any 52-week period. Further a short-term supported facility may not provide shelter or housing at any single time for more than 50 families or individuals (24 CFR section 574.330).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients – Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2.1 Level of Effort – *Maintenance of Effort* – Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

The amounts received from grants under this program may not be used to replace other amounts made available or designated by State or local governments through appropriations to be used to carry out the purposes of this program (24 CFR section 574.400).

3. Earmarking

Each grantee may use not more than three percent of the grant amount for its own administrative costs relating to administering grant amounts and allocating such amounts to project sponsors (subrecipients). Each project sponsor receiving amounts from grants made under this program may not use more than seven percent of the amounts for administrative costs (24 CFR section 574.300(b)(10)(i)-(ii)).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. HUD-40110-C, *Annual Progress Report*, and HUD-40110-D, *Consolidated Annual Performance and Evaluation Report (CAPER) (OMB No. 2506-0133)* - Both reports are due from each grantee within 90 days after the close of its program year and are used for competitive/renewal projects and for formula programs, respectively. The auditor is only expected to test the financial data which is found in Part 3, Summary Overview of Grant Activities, C. Performance and Expenditure Information, of the Annual Progress Report, and in Part 3, Accomplishment Data - Planned Goal and Actual Outputs, of CAPER (24 CFR section 574.520 and 24 CFR part 91).
- e. *Integrated Disbursement Information System (IDIS) (OMB 2506-0077)* - HOPWA formula grantees utilize *IDIS Online* to conduct financial transactions. Formula grantees must set up activities for the grantee and project sponsor in IDIS. An activity corresponds to the eligible HOPWA grant activities and is tied to the operating year. After an activity has been set up, funds are drawn down by creating a voucher that sends the payment request to LOCCS.
- f. *Line of Credit Control System/ Voice Response System (LOCCS) (OMB 2535-0102)*- HOPWA competitive grantees use the *Voice Response System* associated with the *Line of Credit Control System* to submit vouchers for grant payments against pre-approved budget line items in the system.

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
 - b. 8. Program Code
 - c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
 - d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
 - e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
3. **Special Reporting** – Not Applicable
 4. **Section 1512 ARRA Reporting** – Not Applicable
 5. **Subaward Reporting under the Transparency Act** – Applicable

N. Special Tests and Provisions

1. Maintenance of Structures

Compliance Requirement – Project-based rental assistance provides grants for rental assistance to the owners of existing structures, where the owner agrees to lease the subsidized units to participants. Participants do not retain rental assistance if they move. Unless waived by HUD, any building or structure assisted with funds under HOPWA must be maintained as a facility to provide housing or assistance for individuals with HIV or AIDS: (a) for a period of not less than ten years, in the case of assistance provided under an activity eligible under 24 CFR sections 574.300(b)(3) - (4) involving new construction, substantial rehabilitation, or acquisition of a building or structure; or (b) for a period of not less than three years in cases involving nonsubstantial rehabilitation or repair of a building or structure (24 CFR sections 574.310(c)(1) - (2)).

Audit Objective – Determine whether the project sponsor is receiving the proper amount of assistance and is maintaining the assisted buildings and structures for participants for the stipulated periods.

Suggested Audit Procedures

- a. Identify the buildings or structures assisted with HOPWA funds and verify their use.
- b. Examine related agreements to verify that the structures are to provide housing or assistance for the stipulated number of years when new construction, substantial rehabilitation, acquisition, or nonsubstantial rehabilitation was involved.
- c. Verify from documentation or by observation that the required rehabilitation was performed if the project was accepted for occupancy during the audit period.

2. Housing Quality Standards

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

Audit Objective – Determine whether the grantee performs the required inspections to assure that units meet housing quality standards.

Suggested Audit Procedures

- a. Verify by a review of documentation that the grantee's system identifies those units on which housing quality inspections are due.
- b. Verify by a review of documentation that the grantee performs inspections of these units and that any needed repairs were completed timely.

3. Community Residences

Compliance Requirement – A community residence is a multi-unit residence designed for eligible persons to provide a lower cost residential alternative to institutional care, to prevent or delay the need for such care, to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently, and to enable those persons to participate as fully as possible in community life. If grant funds are used to provide a community residence (except for planning and other preliminary expense), the grantee must, prior to the expenditure of such funds, obtain and keep on file certifications relating to the services to be provided, the adequacy of funding and the capabilities of the grantee, project sponsor, or service provider (24 CFR section 574.340).

Audit Objective – Determine whether the required certifications are being maintained and supported.

Suggested Audit Procedures

- a. Review the grantees files to verify that the required certifications are maintained.
- b. Verify that there is evidence on file to support the certifications that were made.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.256 NEIGHBORHOOD STABILIZATION PROGRAM (RECOVERY ACT FUNDED)

I. PROGRAM OBJECTIVES

The objectives of the Neighborhood Stabilization Program (NSP) are to: (1) stabilize property values; (2) arrest neighborhood decline; (3) assist in preventing neighborhood blight; and (4) stabilize communities across America hardest hit by residential foreclosures and abandonment. These objectives will be achieved through the purchase and redevelopment of foreclosed and abandoned homes and residential properties that will allow those properties to turn into useful, safe and sanitary housing.

II. PROGRAM PROCEDURES

NSP is separated into three categories.

NSP1 is authorized under Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008 (Pub. L. No. 110-289). *NSP1* is not part of CFDA 14.256 and this program supplement does not cover *NSP1*. Those *NSP1* awards are made under CFDA 14.218 and CFDA 14.228 and are covered under those respective clusters.

NSP2 is authorized under the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5). *NSP2* provides grants based on competitive factors of need, organizational capacity, soundness of approach, leveraging of other funds, energy efficiency and sustainable development, neighborhood transformation, and economic opportunity to States, local governments, nonprofits, and consortia of nonprofit entities.

NSP-TA (technical assistance) also is authorized by ARRA. *NSP-TA* provides grants for technical assistance based on competitive factors of recent experience, organizational capacity, soundness of approach, leveraging resources, and achieving results and program evaluation, to national and local technical assistance providers to support *NSP1* and *NSP2* grantees to increase their capacity to carry out neighborhood stabilization programs.

On May 7, 2009, HUD issued Notices of Funding Availability (NOFAs) for *NSP2* (FR-5321-N-02) and *NSP-TA* (FR-5313-N-01) in the *Federal Register* (74 FR 21377). These NOFAs provide information on funds availability, alternative requirements, and waivers issued by HUD.

Source of Governing Requirements

NSP2 and *NSP-TA* are authorized by ARRA. Like *NSP1*, *NSP2* is a component of the Community Development Block Grant program (CDBG) (CFDA 14.218 and CFDA 14.228). Unless different requirements are provided in the *NSP2* NOFA or the *NSP-TA* NOFA, the statutory and regulatory provisions governing the CDBG program, including those at 24 CFR part 570 subparts A, C,D, J, K, and O, as appropriate, apply to the use of *NSP2* and *NSP-TA* funding. In addition, *NSP1* activities authorized under HERA apply to *NSP2* as well.

Availability of Other Program Information

Additional information about the NSP, including the NSP2 and NSP-TA NOFAs, is available on the Internet at the HUD ARRA website on the Internet at <http://www.hud.gov/recovery>, the NSP website at <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>, or the NSP Resources Exchange at <http://www.hud.gov/nspta>. HUD has published detailed additional guidance on program income on the Internet at http://www.hudnsphelp.info/media/resources/NSP%20Policy%20Alert_ProgramIncome.pdf.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. For NSP2 funds, HERA requirements supersede some CDBG requirements to allow for the eligible uses in Section 2301(c)(3) of HERA. The NSP2-eligible uses and CDBG entitlement grant regulations are listed in Appendix I.H of the NSP2 NOFA. The NSP2 eligible uses are to:
 - a. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties.
 - b. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent, or redevelopment.
 - c. Establish land banks for homes that have been foreclosed upon.
 - d. Demolish blighted structures.
 - e. Redevelop demolished or vacant properties (Appendix I, H, Eligibility and Allowable Costs, of NSP2 NOFA).
2. Grantees must receive written HUD approval to undertake activities other than those listed in III.A.1 above (Appendix I.H, Eligibility and Allowable Costs, of NSP2 NOFA).
3. NSP-TA funds can be used for:
 - a. National TA activities are limited to activities that address, at a national level, one or more of NSP-TA program activities or priorities. National TA activities may include the (1) development of written products, (2) development of web-based materials, (3) development of training courses, (4) delivery of training courses previously approved by HUD,

- (5) organization and delivery of workshops and conferences, and
- (6) delivery of direct TA.

- b. Local TA activities are limited to the (1) development of needs assessments, (2) direct TA to HUD Community development program recipients, (3) organization and delivery of workshops and conferences, and (4) customization and delivery of previously HUD-approved training courses or materials (Section III.C.2, Eligible National TA and Local TA Activities, of NSP-TA NOFA).

D. Davis-Bacon Act

The requirements of the Davis-Bacon Act apply to the rehabilitation of residential property only if such property contains 8 or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; Section 1606 of ARRA; Section 1205 of Pub. L. No.111-32; 24 CFR section 570.603).

G. Matching, Level of Effort, Earmarking

1. Matching

- a. For NSP2, the regulatory and statutory requirements for State match for program administration at 24 CFR section 570.489(a)(i) are superseded by the statutory direction at Section 2301(e)(2) of HERA so that no matching funds can be required in order for a State or unit of general local government to receive an NSP2 grant (Section 2301(e)(2) of HERA; Appendix I, H, Eligibility and Allowable Costs, of NSP2 NOFA).
- b. There is no matching requirement for NSP-TA (Section III.B, Cost Sharing or Matching, of NSP-TA NOFA).

2. Level of Effort – Not Applicable

3. Earmarking

- a. At least 25 percent of NSP2 grant funds must be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income (Appendix I.E, Income Eligibility Requirements Changes, of NSP2 NOFA).
- b. No more than 10 percent of an NSP2 grant, and no more than 10 percent of program income earned, may be used for general administration and planning activities as those are defined at 24 CFR sections 570.205 and 507.206. The 10 percent limitation applies to the grant as a whole and

does not apply to individual payment requests (Appendix I.H, Eligibility and Allowable Costs of NSP2 NOFA).

H. Period of Availability of Federal Funds

NSP2 grantees are required to expend 50 percent of NSP2 funds in two years after HUD signs the grant agreement and expend 100 percent of NSP2 funds within three years after HUD signs the grant agreement (ARRA, 123 Stat. 217).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. *Disaster Recovery Grant Reporting System (DRGR)*, (OMB No. 2506-0165)

Key Line Items –

- a. Obligation Amount
- b. Drawdown Amount

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons*, (OMB No. 2529-0043) – For each grant over \$200,000 that involves housing rehabilitation, housing construction, or other public construction, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a), 135.90, and 570.487(d)).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project

- (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
 - e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
- 3. **Special Reporting – Not Applicable**
- 4. **Section 1512 ARRA Reporting – Applicable**
- 5. **Subaward Reporting under the Transparency Act –Applicable**

N. **Special Tests and Provisions**

1. **Citizen Participation**

To expedite the distribution of NSP2 funds and ensure citizen participation on the specific use of funds, HUD has established a minimum time for citizen comments of 10 days on the proposed use of funds and the targeted geographic area. The grantee must publicize its NSP2 application material on its website and in the general media (Appendix I.B, Pre-Grant Process of NSP2 NOFA).

Audit Objective – Determine whether the grantee adhered to the citizen participation requirements.

Suggested Audit Procedures

- a. Verify that the proposed use of funds and targeted geographic area were posted on the grantee’s official website and published in a local newspaper.
- b. Verify that the citizen comment period was no less than 10 days.

2. **Required Certifications and HUD Approvals**

Compliance Requirement – NSP2 funds (and local funds to be repaid with NSP2 funds) cannot be obligated or expended before receipt of HUD’s approval of a Request for Release of Funds (RROF) and environmental certification, except for exempt activities

under 24 CFR section 58.34 and categorically excluded activities under 24 CFR section 58.35(b) (24 CFR section 58.22).

Audit Objective – Determine whether the grantee is obligating and expending program funds only after HUD’s approval of the RROF.

Suggested Audit Procedures

- a. Examine HUD’s approval of the RROF and environmental certification and note dates.
- b. Review the expenditure and related records to ascertain when NSP2 funds, and local funds which were repaid with NSP2 funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD’s approval of the RROF.

3. Environmental Reviews

Compliance Requirement – NSP2 assistance is subject to the National Environmental Policy Act of 1969 and related HUD environmental regulations at 24 CFR part 58. Nonprofits recipients and other recipients that are not designated responsible entities under 24 CFR part 58 may not assume environmental review responsibilities and must receive HUD-approved environmental review under 24 CFR part 50 unless they apply in consortia with States, local governments, or Indian tribes with jurisdiction over proposed projects. In the case of NSP2 consortium applicants, States, local governments, or Indian tribes may perform the environmental reviews on behalf of consortium for projects with their jurisdiction as described under 24 CFR part 58. NSP2 grantees cannot obligate or expend Federal, or non-Federal, funds if the project or activity would limit reasonable choices or could produce an adverse environmental impact until: (1) all required environmental reviews and notifications have been completed by HUD or by a State, local government, or Indian tribe; (2) HUD notifies the grantee that the review under 24 CFR part 50 is completed; or (3) HUD or the State, local government, or Indian tribe approves a grantee’s request for release of funds under the provisions contained in 24 CFR part 58.

Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR sections 58.1, 58.22, 58.34, 58.35, and 570.604).

Recipients undergoing an environmental review under 24 CFR part 50 are required to: (1) supply HUD with all available, relevant information necessary for HUD to perform, for each property, any environmental review required by 24 CFR part 50 and (2) carry out mitigating measures required by HUD or select alternate eligible property. Recipient may not: (1) acquire, rehabilitate, demolish, convert, lease, repair, or construct property or (2) commit or expend HUD or other non-Federal funds for the program activities with respect to any eligible property until HUD completes the review and notifies the grantee of approval to proceed.

States, local governments, and Indian tribes that directly implement NSP2 activities are considered recipients and must assume environmental review responsibilities for the environmental activities and those of any non-governmental entity that participates in the project. These entities that directly implement activities must submit the Request for Release of Funds (RROF) and the certifications to HUD for approval (24 CFR sections 58.4(b)(1), 58.34, and 58.35).

Additional information regarding NSP environmental review requirements may be on the Internet at:

http://www.hudnsphelp.info/media/resources/NSPPolicyAlert_ConditionalPurchaseAgreement_2-1-10.pdf;

http://www.hudnsphelp.info/media/resources/NSPPolicyAlert_106LandBanking_1-1-10.pdf; and

http://www.hudnsphelp.info/media/resources/NSPPolicyAlert_EnvironmentalReview_091611.pdf

Audit Objective – Determine whether the environmental oversight responsibilities and functions had been carried out and required approvals were obtained prior to any obligations of funds.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications that the required environmental reviews were made.
- b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required.
- c. Test whether documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35(b)).
- d. Verify that the State, local government, or Indian tribe obtained environmental review certifications from the subrecipient and that the records provide evidence that the environmental reviews were made.
- e. Verify that funds were obligated and expended after HUD approval of RROFs and environmental certifications.
- f. Verify that, for nonprofits and consortia grantees without State, local government, or Indian tribe members with jurisdiction over assisted projects, the environmental review under 24 CFR part 50 was completed.

4. Rehabilitation

Compliance Requirement – When NSP2 funds are used for rehabilitation, the grantee must ensure that the work is properly completed (24 CFR section 570.506).

Any NSP2-assisted rehabilitation of a foreclosed-upon home or residential property shall be completed to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, or habitability, in order to sell, rent or redevelop such homes and properties. To comply with this provision, a grantee must describe or reference in its NSP2 application what rehabilitation standards it will apply for NSP2-assisted rehabilitation (Section 2301(d)(2) of HERA; Appendix I.I, Rehabilitation Standards of NSP2 NOFA).

Audit Objective – Determine whether the grantee assures NSP2 rehabilitation work is properly completed

Suggested Audit Procedures

- a. Review rehabilitation standards established for NSP2 work.
- b. Verify through a review of documentation that the grantee inspects the rehabilitation work upon completion to assure that it is carried out in accordance with contract specifications, and that projects were carried out in accordance with rehabilitations standards.

IV. OTHER INFORMATION

ARRA gave HUD the authority to waive or specify alternative requirements for some of the CDBG statutory and regulatory provisions to facilitate the use of NSP2 funds. Most of the waivers are contained in the NSP2 NOFA.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.257 HOMELESSNESS PREVENTION AND RAPID RE-HOUSING PROGRAM (HPRP) (RECOVERY ACT FUNDED)

I. PROGRAM OBJECTIVES

The objectives of the Homelessness Prevention and Rapid Re-Housing Program (HPRP), as authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5), are 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 USC 11302).

II. PROGRAM PROCEDURES

HPRP provides grants to States, metropolitan cities, urban counties, and four territories according to a formula used in the Emergency Shelter Grants Program (CFDA 14.231), with a minimum grant allocation set by the Department of Housing and Urban Development (HUD) at \$500,000. A State grantee must make available all of its formula allocation, except for an appropriate share of funds for administrative costs, to the following subgrantees to carry out all eligible activities: (1) local governments in the State, which includes formula cities and counties, whether or not such cities and counties receive grant amounts directly from HUD; or (2) private non-profit organizations, if the local government in which the proposed activities are to be located certifies that it approves of each project. Metropolitan cities, 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. In addition, any local government grantee may enter into a subgrant with another local government to carry out the program.

HPRP is focused on housing for homeless and at-risk households. It will provide temporary financial assistance and housing relocation and stabilization services to individuals and families who are homeless or would be homeless but for this assistance. The funds under this program are intended to target two populations of persons facing housing instability: (1) individuals and families who are currently in housing but are at risk of becoming homeless and need temporary assistance to prevent them from becoming homeless or assistance to move to another unit (homelessness prevention), and (2) individuals and families who are experiencing homelessness (residing in emergency or transitional shelters or on the street) and need temporary assistance in order to obtain housing and retain it (rapid re-housing). HPRP grantees must coordinate with the local Continuum of Care and with other ARRA funding streams, so that eligible activities under other ARRA programs are aligned with HPRP funds to create a comprehensive package of housing and service options available to eligible program participants.

Source of Governing Requirements

HPRP was authorized by Title XII of ARRA.

Availability of Other Program Information

Additional information about the HPRP is available on the Internet at the HUD Recovery Act website on the Internet at <http://www.hud.gov/recovery>, or at the HUD Homelessness Resource Exchange website at <http://www.hudhre.info/hprp>, which includes the 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).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Allowed Activities* – 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.
 - a. Financial assistance is limited to the following activities: short-term and medium-term tenant-based rental assistance up to 18 months, security deposits, utility deposits, utility payments, moving cost assistance, and motel and hotel vouchers for up to 30 days if housing has been identified. Grantees and subgrantees must not make payments directly to program participants, but only to third parties, such as landlords or utility companies. In addition, an assisted property may not be owned by the grantee, subgrantee, or the parent, subsidiary or affiliated organization of the subgrantee.
 - b. 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. All rents paid must be in compliance with HUD’s standards of “rent reasonableness.” (Section IV, A. Eligible Activities, in HPRP Notice)
2. *Unallowed Activities* – HPRP is not a mortgage assistance program; therefore, HPRP funds are not eligible to pay for any mortgage costs or legal or other fees associated with retaining homeowners’ housing. Specifically, HPRP funds may not be used to pay for any of the following items:
 - a. Construction or rehabilitation;
 - b. Credit card bills or other consumer debt;
 - c. Car repair or other transportation costs;

- d. Travel costs;
- e. Food;
- f. Medical or dental care and medicines;
- g. Clothing and grooming;
- h. Home furnishings;
- i. Pet care;
- j. Entertainment activities;
- k. Work or education related materials;
- l. Cash assistance to program participants;
- m. Development of discharge planning programs in mainstream institutions such as hospitals, jails, or prisons;
- n. Certifications, licenses, and general training classes (Note, training for case managers and program administrators is an eligible administrative cost as long as it is directly related to HPRP program operations); and
- o. State operating costs, except for administrative costs (Section IV, B. Ineligible and Prohibited Activities, in HPRP Notice).

C. Cash Management

Any HPRP funds used to support program participants must be issued directly to the appropriate third party, such as the landlord or utility company, and in no case are funds eligible to be issued directly to program participants (Section IV, B. Ineligible and Prohibited Activities, in HPRP Notice).

G. Matching, Level of Effort, Earmarking

1. **Matching** – There is no match required in this program.
- 2.1 **Level of Effort** – *Maintenance of Effort* – Not Applicable
- 2.2 **Level of Effort** – *Supplement Not Supplant* – Not Applicable
3. **Earmarking** – Not more than 5 percent of the total grant may be used for administrative costs (ARRA, 123 Stat.221).

H. Period of Availability of Federal Funds

Recipients must expend at least 60 percent of such funds within 2 years of the date on which funds became available for obligation; and expend 100 percent of such funds within 3 years of such date (ARRA, 123 Stat. 221).

J. Program Income

Recipients may not charge fees to HPRP program participants (Section IV, B. Ineligible and Prohibited Activities, in HPRP Notice).

L. Reporting**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. *Integrated Disbursement and Information System (IDIS) (OMB No. 2506-0077)* – Grantees and, as applicable, subgrantees will use the Integrated Disbursement and Information System (IDIS) to draw down HPRP funding and report grant expenditures.

Key Line Items:

- (1) C04PR02 – List of Activities by Program Year and Project (HPRP Projects Only).
- (2) C04PR19 – HPRP Statistics for Projects as of Grant Year
- (3) PR60 – HPRP Financial Summary Report
- (4) PR61 – HPRP Draw Report

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**4. Section 1512 ARRA Reporting** – Applicable**5. Subaward Reporting under the Transparency Act** – Not Applicable**IV. OTHER INFORMATION**

ARRA gave HUD the authority to waive statutory and regulatory requirements to facilitate the use of HPRP funds.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.258 TAX CREDIT ASSISTANCE PROGRAM (TCAP) (RECOVERY ACT FUNDED)****I. PROGRAM OBJECTIVES**

Title XII of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5) appropriated \$2.250 billion under the HOME Investment Partnerships (HOME) Program for the authorized Tax Credit Assistance Program (TCAP)(Recovery Act Funded). TCAP provides grant funds to State housing credit agencies for capital investments in rental projects that received or will receive an award of Low-Income Housing Tax Credits (LIHTC) during the period from October 1, 2006 to September 30, 2009, and require additional funding to be completed and placed into service in accordance with the LIHTC requirements of Section 42 of the Internal Revenue Code (IRC).

II. PROGRAM PROCEDURES

The housing credit agency of each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico are the only eligible grantees for the TCAP program. These agencies are referred to collectively as either “State housing credit agencies” or “grantees.”

The TCAP program is administered by those State housing credit agencies that receive an allocation of TCAP funds. A State may subgrant or loan all or some of its TCAP funds to a local housing credit agency.

Grantees must distribute their TCAP funds competitively in accordance with: (1) the grantee’s LIHTC “qualified allocation plan” as defined in Section 42(m) of the IRC and (2) the grantee’s written TCAP selection criteria. Grantees are required to give priority to eligible projects that are expected to be completed within 3 years from the date of enactment ARRA. Grantees can decide whether to provide TCAP funds to eligible projects through subgrants or loans.

Grantees must provide TCAP assistance to a project in the same manner and subject to the same limitations (including rent, income, use restrictions and compliance monitoring) as required by the State housing credit agency with respect to an “award of LIHTC” to the project (i.e., as required under Section 42 of the IRC and its implementing regulations).

Grantees can only provide TCAP funds to rental projects that received or will receive an “award of LIHTCs” during the period from October 1, 2006, to September 30, 2009. The State housing credit agency must define an “award of LIHTCs,” which can be as early as the date of public notice of the funding decision for a particular LIHTC project but no earlier than October 1, 2006. The same definition of “award of LIHTCs” must be uniformly applied to all LIHTC projects in that State for the purpose of determining project eligibility for TCAP funding.

Source of Governing Requirements

TCAP was established by Title XII of ARRA. Although TCAP funds were appropriated under the HOME Investment Partnerships Program heading of ARRA, the HOME program requirements found in 24 CFR part 92 and the Consolidated Planning requirements found in 24 CFR part 91 do not apply to TCAP funds. HUD has not issued TCAP regulations. TCAP is governed by the applicable provisions of ARRA, the implementing guidance provided by HUD, and the grant agreement executed by HUD and the grantee.

The Internal Revenue Service (IRS) is responsible for issuing regulations and guidance that apply to the LIHTC program (Section 42 of the IRC). HUD is not issuing separate guidance concerning TCAP compliance with LIHTC requirements.

Availability of Other Program Information

On May 4, 2009, HUD issued Notice CPD-09-03 that sets forth the TCAP submission requirements, eligible uses of funds, and program requirements. HUD has also issued "TCAP Questions and Answers." HUD will issue supplemental or interpretive guidance on program requirements, including the process for disbursing funds, recordkeeping, reporting, and applicable Federal grant requirements, as this guidance becomes available. Information on the TCAP program and TCAP requirements and guidance, including HUD Notice CPD-09-03 and "TCAP Questions and Answers," is posted on the Internet under Programs at: <http://www.hud.gov/recovery/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. TCAP funds must be used funds for capital investment in eligible LIHTC projects. "Capital investment" means costs that are included in the "eligible basis" of a project under Section 42 of the IRC (ARRA 123 Stat. 220).
2. TCAP funds cannot be used for administrative costs, including costs incurred for operating the program or compliance monitoring (ARRA 123 Stat. 220).
3. Projects eligible to receive TCAP assistance are rental housing projects that:
 - a. Received or will receive an "award of LIHTCs" under Section 42(h) of the IRC during the period from October 1, 2006 to September 30, 2009; and
 - b. Require additional funding to be completed and placed into service in accordance with the requirements of Section 42 of the IRC (ARRA 123 Stat. 220).

4. Projects awarded LIHTCs that will also receive bond financing are eligible to receive TCAP funds. However, if the project's only source of credits is the Gulf Opportunity Zone or Midwestern Disaster Area Housing Credits, the project is not an eligible TCAP project since its credits were not awarded under Section 42(h) of the IRC. (See TCAP "General Questions and Answers" for more guidance.)

D. Davis-Bacon Act

Contractors and subcontractors are required to pay prevailing wages to laborers and mechanics in compliance with the Davis-Bacon Act (Section 1606 of ARRA).

H. Period of Availability of Federal Funds

A grantee must commit not less than 75 percent of its TCAP grant within 1 year of the enactment of ARRA and demonstrate that all project owners have expended 75 percent of the TCAP funds within 2 years of the enactment of ARRA (i.e., by February 16, 2011). Grantees must expend 100 percent of their funds within 3 years of the enactment of ARRA (i.e., by February 16, 2012). A TCAP Funding Commitment is recorded on the date of execution of the Written Agreement between the grantee and project owner that provides TCAP assistance to a project (ARRA, 123 Stat. 220).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

4. Section 1512 ARRA Reporting – Applicable

5. Subaward Reporting under the Transparency Act – Not Applicable

N. Special Tests and Provisions

1. Drawdowns of TCAP Funds

Compliance Requirement – The Integrated Disbursement and Information System (*OMB No. 2506-0181*) is used both to collect information on compliance with program requirements and to disburse TCAP funds. Grantees are required to have different staffs setting up projects and drawing down funds. Grantees must

maintain payment certifications each time a drawdown of funds is made (HUD Notice CPD-09-03).

Audit Objective – Determine whether the required separation of duties is maintained over the drawdown of TCAP funds.

Suggested Audit Procedures

- a. Verify that the persons setting up projects are not the same as the person drawing down funds.
- b. Verify that TCAP payment certification amounts match the amount of disbursements.

2. Asset Management

Compliance Requirement – Grantees must perform asset management functions, or contract for performance of these services at the owner’s expense, to ensure compliance with Section 42 of the IRC and with the long term viability of projects funded by TCAP (ARRA, 123 Stat. 221).

Audit Objective – Determine whether the grantee is performing asset management reviews and taking actions to ensure the long term viability of TCAP projects.

Suggested Audit Procedures

- a. Review the grantee’s asset management system that ensures the long term viability of TCAP projects.
- b. For a sample of projects, review records to verify that the grantee is complying with the asset review requirements.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.318 ASSISTED HOUSING STABILITY AND ENERGY AND GREEN
RETROFIT INVESTMENTS PROGRAM (RECOVERY ACT
FUNDED)****I. PROGRAM OBJECTIVES**

The objective of the Assisted Housing Stability and Energy and Green Retrofit Investments Program is to make loans, make grants, and take a variety of other actions to facilitate utility-saving and other green building retrofits, in certain existing HUD-assisted multifamily housing, subject to agreement between HUD and the Owner. The program is also called the Green Retrofit Program for Multifamily Housing (GRP).

II. PROGRAM PROCEDURES

HUD will implement the GRP through the Office of Affordable Housing Preservation (OAHP) using, where appropriate, policy and program approaches developed for the Mark-to-Market Green Initiative, including using existing infrastructure for program management, due diligence, underwriting, closing, and rehabilitation escrow administration. Certain Mark-to-Market participating administrative entities (PAEs) will carry out due diligence, underwriting and negotiation activities, and closing for the GRP pursuant to each PAE's existing portfolio restructuring agreement, as amended.

Upon assignment of an eligible project to a PAE, the PAE will first verify eligibility and confirm that HUD's requirements for GRP participation are met or exceeded. The PAE will then commission, among other appropriate due diligence, a GRP Physical Condition Assessment (GRPCA) that will evaluate the opportunities for green retrofits and green operation. The PAE will also conduct a tenant meeting at the project to gain input from the tenants on energy and water conservation measures, indoor air quality, and other items that benefit the environment generally (all items that may be eligible for funding as Green Retrofits).

Upon completion of due diligence and underwriting, the PAE will discuss its recommended green retrofit plan with the owner. If the Owner accepts the plan, the PAE will present it to HUD for approval. If the plan is approved, the PAE will prepare a Green Retrofit Plan Commitment that it offers to the owner. Green Retrofit Plan Commitments will be executed by HUD subject to availability of funding. Closing must occur within 30 days after HUD executes the Green Retrofit Plan Commitment. Funding will be obligated at the closing of the grant or loan. Funding will go into an escrow account, overseen by HUD, to pay for the agreed upon retrofits.

Source of Governing Requirements

This program is authorized by Section XII of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5) and implemented by HUD Notice H-09-02, published on May 13, 2009, with public notice in the *Federal Register* on May 18, 2009 (74 FR 23200).

Availability of Other Program Information

General information about HUD programs is available on the Internet at <http://www.hud.gov/funds/index.cfm>. Information on this program, including the HUD Notice H-09-02, is available on HUD's ARRA website on the Internet at (<http://www.hud.gov/recovery>).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

D. Davis-Bacon Act

All construction activities, including those conducted by an owner's employees performing construction work, are subject to the Davis-Bacon Act (Section 1606 of ARRA) (See paragraph IV.I.4 of HUD Notice H-09-02).

H. Period of Availability of Federal Funds

Owners must expend 100 percent of GRP funds within 2 years of the date on which funds became available to them (ARRA, 123 Stat. 223).

II. Procurement and Suspension and Debarment

The ARRA requirement for recipients must use only iron, steel, and manufactured goods produced in the United States in their projects does not apply to this program because it does not fund public works projects (Section 1605 of ARRA).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

4. Section 1512 ARRA Reporting – Applicable

5. Subaward Reporting under the Transparency Act – Not Applicable

IV. OTHER INFORMATION

ARRA gave HUD the authority to waive or specify alternative requirements for some of the statutory and regulatory provisions to facilitate the use of ARRA funds.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.850 PUBLIC AND INDIAN HOUSING

I. PROGRAM OBJECTIVES

The overall objective of the Public and Indian Housing program is to provide and operate cost-effective, decent, safe and affordable dwellings for lower income families through an authorized local Public Housing Agency (PHA).

II. PROGRAM PROCEDURES

Public Housing

Annual contributions are made to PHAs for debt service payments for commitments approved on or prior to September 30, 1986, or direct funding of capital costs (grants) is provided to PHAs for commitments approved after September 30, 1986. In addition, operating subsidy funds are available to achieve and maintain adequate operating and maintenance service and reserve funds. Funds may also be used for the major reconstruction of obsolete existing public housing projects.

PHAs established in accordance with State law are eligible to administer the public housing program. The proposed program must be approved by the local governing body. There are three core occupancy procedures which are described in program regulations and other guidance: (1) determination of eligibility; (2) determination of income and rent; and (3) leasing and continuing occupancy. Eligibility beneficiaries are lower income families, which include citizens or eligible immigrants. "Families" include but are not limited to: (1) a family with or without children; (2) an elderly family (head, spouse, or sole member 62 years or older); (3) near-elderly family (head, spouse, or sole member 50 years old but less than 62 years old); (4) a disabled family; (5) a displaced family; (6) the remaining member of a tenant family; or (7) a single person who is not elderly, near-elderly, displaced, or a person with disabilities.

Operating Fund

Operating Fund requirements are contained in 24 CFR part 990, The Public Housing Operating Fund Program, as revised on September 19, 2005 and October 24, 2005. Guidance on financial management and reporting requirements for public housing authorities under 24 CFR part 990 was published in Notice PIH 2007-9 (April 10, 2007), which included guidance in a Supplement to the Financial Management Handbook, Department of Housing and Urban Development (HUD) Handbook 7475.1, Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule. For fiscal years beginning July 1, 2007 and later, PHAs with greater than 250 rental dwelling units are required to manage properties according to an Asset Management Model, consistent with the management norms in the broader multi-family management industry. PHAs must be in compliance with the project-based budgeting and accounting requirements by its fiscal year (FY) that starts after June 30, 2007. PHAs must be in compliance with the remainder of the components of asset management by its FY that starts after June 30, 2011.

There are five interrelated core elements of asset management which are: project-based funding; budgeting; accounting; management; and oversight/performance assessment. PHAs must implement these project-based practices, which includes project-specific financial reporting through the Financial Data Schedule (FDS). PHAs that own and operate 250 or more dwelling rental units, and not intending to fund central office operating costs with capital fund monies, must establish a central office cost center (COCC) to account for non-project specific costs because, if using capital fund monies, these costs get charged to the project as opposed to a COCC.

The COCC must charge each project for indirect costs (expenses of the “management company,” namely the COCC) using a fee-for-service approach. Each project shall be charged for the actual services received and only to the extent that such amounts are reasonable. Fee reasonableness will be monitored as a compliance requirement after the first year of asset management. The asset management fee and transfers of funds between projects (project fungibility) will be limited to the restrictions made on excess cash. Excess cash will also be monitored as a compliance requirement after the first year of asset management.

The assistance is made available from the Operating Fund through the Annual Contributions Contract (ACC). The ACC is a contract prescribed by HUD for loans and contributions, which may be in the form of operating subsidy, whereby HUD agrees to provide financial assistance and the PHA agrees to comply with HUD requirements for the development and operation of its public housing projects (24 CFR section 990.115). Funding is determined by a formula used to calculate the amount of operating subsidy for each PHA. The operating subsidy is equal to the project’s Project Expense Level (PEL) plus the Utilities Expense Level (UEL), multiplied by Eligible Unit Months (EUM), plus other formula expenses (add-ons), minus formula income. The methodology and procedures for this calculation are found in 24 CFR part 990.

The operating subsidy calculation is prepared in conjunction with the project’s annual operating subsidy worksheet in HUD Form 52723, *Operating Fund Calculation of Operating Subsidy* (OMB No. 2577-0029.) The form is submitted before the beginning of the calendar year (CY) in accordance with the schedule established by HUD.

Essentially, the PEL, which is the non-utility costs for each project, is based on what it would cost a well-managed project of comparable location and characteristics to operate based on such variables as: size of project (number of units); age of property (date of full availability); bedroom mix; building type; occupancy type; location (an indicator of the type of community in which a property is located [location types include rural, city central metropolitan, and non-city central metropolitan (suburban) areas]; neighborhood poverty rate; percentage of households assisted; ownership type (profit, non-profit, or limited dividend); and geographic location.

The resulting PELs are arrived at by application of the formula utilizing these variables. These costs are updated annually based on inflation and changes in the PHA characteristics included in the equation. The UEL is a figure that reflects payment to the PHA for PHA-paid utility costs for each project. The UEL is formula-determined, reflective of actual consumption during the previous four years, recent utility rates, and a factor for inflation.

As owners, PHAs have asset management responsibilities that are above and beyond property management activities. These responsibilities include decision-making on topics such as long-term capital planning and allocation, the setting of ceiling or flat rents, review of financial information and physical stock, property management performance, long-term viability of properties, property repositioning and replacement strategies, risk management responsibilities pertaining to regulatory compliance, and those decisions otherwise consistent with the PHA's ACC responsibilities, as appropriate.

Performance Reporting

HUD assesses the performance of housing agencies to evaluate their actions in all major areas of management operations and to designate as "troubled" any agency that fails on a widespread basis to provide acceptable housing conditions.

Financial Reporting

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit its financial statement, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due 2 months after the PHA's fiscal year end and the audited financial statement is due 9 months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

Source of Governing Requirements

This program is authorized by the US Housing Act of 1937, as amended (42 USC 1437d(j), 42 USC 1437g, and 42 USC 3535(d)). Implementing regulations are 24 CFR parts 5, 902, 960, 966, and 990.

Availability of Other Program Information

HUD maintains web pages on the Internet (<http://www.hud.gov/offices/pih/programs/ph/> and <http://www.hud.gov/offices/reac/index.cfm>) that provide general information about this program.

HUD's Real Estate Assessment Center web site (http://www.hud.gov/offices/reac/library/lib_mo.cfm) includes an *Instruction Guidebook for Completing Public Housing Assessment System Management Operations Certifications Form HUD 50072*.

HUD's Office of Public and Indian Housing maintains a web site (<http://www.hud.gov/offices/pih/programs/ph/>) that provides general information and updates on asset management. This web site also has information on relevant HUD notices. The Supplement to Handbook 7475.1, which was published in Notice PIH 2007-9 (April 10, 2007) is available at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_9191.pdf.

Copies of HUD forms are available at HUDclips at:
<http://www.hud.gov/offices/adm/hudclips/index.cfm>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Project-Specific Operating Expenses*
 - a. Project-specific operating expenses include, but are not limited to, direct administrative costs, utilities costs, maintenance costs (maintenance must be either decentralized, or if centralized, recovered via fee-for service), tenant services, protective services, general expenses, non-routine or capital expenses, and other PHA- or HUD-identified costs which are project-specific for management purposes.
 - b. Project-specific operating expenses also include a property management fee charged to each project that is used to fund operations of the central office. If the PHA contracts with a private management company to manage a project, the PHA may use the difference between the property management fee paid to the private management company and the fee that is reasonable to fund operations of the central office and other eligible purposes (See III.N, “Special Tests and Provisions,” below) (24 CFR section 990.280(b)(4)).
2. *Chargeable Fees under the Fee-for-Service Approach*
 - a. The PHA may charge each project an asset management fee that may be used to fund operations of the central office (24 CFR section 990.280(b)(5)(ii)).
 - b. In addition to project-specific records, PHAs may establish COCCs to account for non-project specific costs (e.g., human resources, Executive Director’s office, etc). Those costs shall be funded from the property-management fees received from each property, and from the asset management fees to the extent these are available (24 CFR section 990.280(c)). PHAs opting to fund centralized costs with capital fund proceeds must allocate overhead to projects through FDS line item 91810, “Allocated Overhead” (Section 226 of Title II of Division K of the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161 (see notice PIH 2008-16(HA))).
 - c. If a PHA chooses to centralize functions under asset management, it must charge each project using a fee-for-service approach, unless proration is permitted. HUD has specified that the costs for rent collections, resident services, security/protective services, waiting lists, and work order

processing may be prorated. (See III.N.6, “Fees Charged for Centralized Services,” and III.N.7, “Prorating Front-Line Centralized Services,” below.) With the exception of a central waiting list, resident services, and security/protective services, a project may not pay for the cost of a supervisor overseeing a front-line task that is performed centrally (see Section 7.10 Assignment of Costs per Supplement, Prorating Front-Line Administrative Costs, in the Supplement to HUD Handbook 7475.1 for exceptions). Each project shall be charged for the actual services received and only to the extent that such amounts are reasonable (24 CFR section 990.280 (d)).

- d. PHAs that own and operate 250 or more dwelling rental units under Title I of the US Housing Act of 1937, including units managed by a third-party entity (for example, a resident management corporation) but excluding section 8 units, are required to operate using an asset management model consistent with subpart H of 24 CFR part 990 (24 CFR section 990.260(a)). For CYs 2008 through 2012, PHAs that own and operate 400 or fewer public housing units, may elect to be exempt from any asset management requirement imposed by HUD in connection with the operating fund rule, provided that an agency seeking a discontinuance of a reduction of subsidy (stop-loss) under the operating fund formula shall not be exempt from asset management requirements (Section 225 of Title II of the HUD portion of the Consolidated Appropriations Act, 2008 (Pub. L. No. 110-161 and carried forward in all subsequent Appropriations Acts).
- e. For PHAs that have established a COCC, HUD has established the following as the fees the COCC can charge projects or programs (See Section 7.1 to the Supplement to HUD Handbook 7475.1):
 - (1) Property (project) management fee;
 - (2) Bookkeeping fees;
 - (3) Fees for centrally provided direct services (front-line expenses);
 - (4) Asset management fees;
 - (5) Capital Fund Program management fees; and
 - (6) Management fees for other programs.

Property management fee rates established by HUD are available at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/am/accounting.

3. *Uses of Excess Cash*

With the operating subsidy calculated at a project level, the operating subsidy funds can be transferred as the PHA determines during the PHA's fiscal year to another ACC project(s) if a project's financial information meets the requirements described in 24 CFR section 990.280. The transfers cannot be more than the amount of excess cash the project generates (24 CFR section 990.205(a)). Excess cash is calculated at the end of the project's prior fiscal year for use, if applicable, in the current fiscal year. Excess cash represents the sum of certain current asset accounts less current liabilities and less one month worth of operating expenses for the project. HUD has provided guidance on the use of excess cash in Sections 6.1 through 6.6 in the Supplement to HUD Handbook 7475.1. This guidance has been developed using the norms in the broader multi-family management industry (24 CFR section 990.225).

- a. Excess cash may be used for the following purposes:
 - (1) Retention for future use;
 - (2) Transfer to other projects;
 - (3) Payment of an asset management fee to the COCC; and
 - (4) Other HUD-approved eligible purposes, including, but not limited to—
 - (a) Financing costs for the development of new units (to the extent allowed under program requirements),
 - (b) Costs of pursuing PHA-wide lawsuits and addressing legal issues incurred prior to asset management that cannot be charged to specific projects or other programs with any degree of accuracy or fairness, and
 - (c) Accrued pension liabilities, retirement benefits liabilities, and other "legacy costs" incurred prior to adoption of asset management (24 CFR section 990.280(b)(5)). (Also see Section 6.2 in the Supplement to HUD Handbook 7475.1.)
- b. Proceeds from asset disposals of a project – i.e., the sale of a project's maintenance vehicle – are considered to be assets of the projects and not of the COCC. With HUD approval, certain proceeds may be transferred to the COCC but may still be governed by other restrictions (24 CFR section 990.280(b)(5)). (Also see Section 6.3 in the Supplement to HUD Handbook 7475.1.)
- c. Excess cash cannot be used for loans or transfers to the COCC except through payment of asset management fees.

4. *Uses of Operating Funds*

The Operating Fund was established for the purpose of making assistance available to PHAs for the operation and management of public housing. Transfers out of the Operating Fund can only occur in very limited circumstances, such as when PHAs participate in the Moving to Work Demonstration Program authorized by 204(c)(1) of Title II of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321-282. This would preclude PHAs from using operating subsidy funds to provide temporary loans to other programs within the PHA. Timing differences in a pooled cash environment would not be considered as temporary loans. Inter-fund transactions indicate the existence of temporary loans. Inter-fund receivables are recorded on FDS line 144 (Inter program – due from). In particular, inter-fund receivables should be reviewed to determine whether they are satisfied on a timely basis. In addition, FDS lines 10020 (Operating Transfers Out) and 10094 (Transfers Between Programs and Projects – Out) could indicate whether transfers out of the Operating Fund have been made. If PHAs have transferred funding out of the operating fund, proper authorization from HUD should be documented (42 USC 1437g(e)).

B. Allowable Costs/Cost Principles

The amount of salary of PHA chief executive officers, other officers, and employees paid with Federal Fiscal Year 2012 Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a Federal position at Level IV of the Executive Schedule (currently \$155,500) during the PHA's fiscal year 2012 (Section 234 of Pub. L. No. 112-55, 125 Stat. 702, November 18, 2011). Implementing guidance has been issued in PIH Notice 2012-14, "Guidance on Public Housing salary restrictions in HUD's Federal Fiscal Year (FFY) 2012 Appropriations Act (P.L.112-55)," issued February 24, 2012 (http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices).

D. Davis-Bacon Act

The requirements of the Davis-Bacon Act apply to construction activities for public housing. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 1437j(a) and (b)). HUD's Factors of Applicability for these requirements can be found at http://www.hud.gov/offices/olr/olr_foa.cfm.

E. Eligibility

1. Eligibility for Individuals

Most PHAs devise their own application forms that are filled out by the PHA staff during an interview with the tenant. The head of household signs:

(a) a certification that the information provided to the PHA is correct; (b) one or more release forms to allow the PHA to get information from third parties; (c) a federally prescribed general release form for employment information; and (d) a privacy notice. Under some circumstances, other members of the family may be required to sign these forms (24 CFR sections 5.212, 5.230, and 5.601 through 5.615).

The PHA must do the following:

- a. As a condition of admission or continued occupancy, require the tenant and other family members to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 960.259).
 - b. For both family income examinations and reexaminations, obtain and document in the family file third-party verification of: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income-based rent (24 CFR section 960.259).
 - c. Determine income eligibility and calculate the tenant's rent payment using the documentation from third-party verification in accordance with 24 CFR part 5, subpart F (24 CFR sections 5.601 *et seq.*, and 24 CFR sections 960.253, 960.255, and 960.259).
 - d. Select tenants from the public housing waiting list (see III.N.1, "Special Tests and Provisions – Public Housing Waiting List") (24 CFR sections 960.206 and 960.208).
 - e. Reexamine family income and composition at least once every 12 months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third-party verification (24 CFR sections 960.253, 960.257, and 960.259).
- 2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**
 - 3. Eligibility for Subrecipients – Not Applicable.**

J. Program Income

For PHAs required to convert to asset management, any internal fees that the PHA charges to projects or programs (property management fees, asset management fees, etc.) are not considered program income for purposes of 24 CFR part 85 and OMB Circular A-87, provided that the fees charged are reasonable under the criteria established by HUD; however, other State and local restrictions still may apply. Consequently, any reasonable fees earned by the PHA/COCC will be treated as local revenue subject only to the controls and limitations imposed by the PHA's management, Board, or other

authorized governing body (24 CFR 85.25; Section 7.2 in the Supplement to HUD Handbook 7475.1).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each public and Indian housing grant that involves development, operating, or modernization assistance, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
- e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses

- (3) D. Total number of Section 3 businesses receiving non-construction contracts

3. Special Reporting

- a. HUD-50058, *Family Report (OMB No. 2577-0083)* – The PHA is required to submit this form electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA’s jurisdiction under portability.

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

- (1) Line 2a – *Type of Action*
 - (2) Line 2b – *Effective Date of Action*
 - (3) Line 3b, 3c – *Names*
 - (4) Line 3e – *Date of Birth*
 - (5) Line 3n – *Social Security Numbers*
 - (6) Line 5a – *Unit Address*
 - (7) Line 5h, 5i – *Unit Inspection Dates*
 - (8) Line 7i – *Total Annual Income*
 - (9) Line 13h – *Contract Rent to Owner*
 - (10) Line 13k or 13x – *Tenant Rent*
 - (11) Lines 2k and 17a – *Family’s Participation in the Family Self Sufficiency (FSS) Program*
 - (12) Line 17k(2) – *FSS Account Balance*
- b. HUD-52723, *Operating Fund Calculation of Operating Subsidy (OMB No. 2577-0029)* – PHAs must prepare a separate form HUD-52723 for each of their projects. This form is prepared and submitted on a calendar-year basis and is used by HUD to calculate funding for the upcoming calendar year. The form’s data is based on historical information. The auditor is not expected to audit the column headed “HUD Modifications.” A PHA may claim and receive operating subsidy only for “eligible” units as defined in 24 CFR section 990.125 in Column B, Eligible Unit Months.

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

- (1) Section 2, Line 15 – *Total Unit Months*
 - (2) Section 3, Part A, Line 4 – *PEL*
 - (3) Section 3, Part A, Line 5 - *PUM utilities expense level (UEL) (from Line 26 of form HUD-52722)*
 - (4) Section 3, Part A, Line 6 – *UEL*
 - (5) Section 3, Part A, Line 16 – *Total Add-Ons*
 - (6) Section 3, Part B, Line 4 – *Total Formula Income*
- c. HUD 52722, *Operating Fund Calculation of Utilities Expense Level (OMB No. 2577-0029)* – PHAs must prepare a separate form HUD-52722 for each of their projects. Operating expenses must be calculated on a project-specific basis, and the calculation must exclude any utility consumption for the COCC (24 CFR section 990.280(b)(4)).

PHA's requests for operating funds from HUD at a project level include a subsidy for utilities, based on utility consumption for the current reporting period and the 3 prior years (known as the rolling base), utility rates, and a utilities inflation factor. HUD-52722 is used to calculate the utilities expense level component of eligibility for operating subsidy (24 CFR sections 990.170 to 990.185). This form is used for PHA-owned rental housing projects and PHA units in mixed housing developments when operating subsidy is requested for such developments under the Operating Fund Program. HUD has noted many instances in which the unit of measurement has been incorrectly entered (Line 1a, below). The information in Line 2, *Rolling base year 1*, Line 3, *Rolling base year 2*, and Line 4, *Rolling base year 3*, should match data in prior year reports. The project Utilities Expense Level (UEL) determined through completion of this form is then reflected on Form HUD-52723 within Section 3, Formula Expense.

Key Line Items – The following line item contains critical information:

- (1) Line 1, *Actual consumption (12-month period 7/1/_ to 6/30/_)*
- (2) Line 1a, *Unit of consumption (e.g., gallons, kWh, therms)*
- (3) Line 2, *Rolling base year 1- actual consumption*
- (4) Line 3, *Rolling base year 2- actual consumption*
- (5) Line 4, *Rolling base year 3- actual consumption*

- (6) Line 15, *Payable consumption*
 - (7) Line 16, *Actual utility costs*
 - (8) Line 19, *Surcharges for excess consumption of PHA-supplied utilities*
 - (9) Line 26, *Utilities Expense Level – PUM*
- d. HUD 52725, *Schedules of Position and Compensation (OMB No. 2577-0272)* – PHAs must prepare a form HUD-52725 for each of their five highest compensated employees, which will then be posted on HUD’s website with job titles but without employee names. This form is intended to provide a point of comparison for local PHA boards in determining appropriate compensation levels.

Key Line Items – Section II (employee information)

4, Section 1512 ARRA Reporting – Not Applicable

5. Subaward Reporting under the Transparency Act – Not Applicable

N. Special Tests and Provisions

1. Public Housing Waiting List

Compliance Requirement – The PHA must establish and adopt written policies for admission of tenants. The PHA tenant selection policies must include requirements for applications and waiting lists, description of the policies for selection of applicants from the waiting lists, and policies for verification and documentation of information relevant to acceptance or rejections of an applicant (24 CFR sections 960.202 through 960.206).

Audit Objective – Determine whether the PHA is following its own tenant selection policies in placing applicants on the waiting list in selecting applicants from the waiting list to become tenants.

Suggested Audit Procedures

- a. Review the PHA’s tenant selection policies.
- b. Test a sample of applicants added to the waiting list and ascertain if the PHA’s tenant selection policies were followed in placing applicants on the waiting list.
- c. Test a sample of new tenants to ascertain if they were selected from the waiting list in accordance with the PHA’s tenant selection policies.

2. Tenant Participation Funds

Compliance Requirement – When tenant participation funds are provided to a PHA, the PHA must provide those funds to duly elected resident councils. Funding provided by a PHA to a duly elected resident council may be made only under a written agreement between the PHA and the resident council that includes a resident council budget. PHAs are permitted to fund \$25 per unit per year for units represented by duly elected resident councils for resident services. Of this \$25, \$15 per unit per year is provided to fund tenant participation activities. The agreement must require the local resident council to account to the PHA for the use of the funds and permit the PHA to inspect and audit the resident council's financial records related to the agreement (24 CFR section 964.150).

Audit Objective – Determine whether the PHA has properly allocated tenant participation funds to resident councils and has determined that resident councils' expenditures are adequately documented.

Suggested Audit Procedures

- a. Review PHA project agreements and records to determine if funding provided for tenant participation has been allocated to resident councils in accordance with a written agreement.
- b. Test a sample of the expenditures and supporting documentation reported to the PHA to determine if resident council expenditures are consistent with the resident council budget.
- c. Review PHA policies and procedures to determine if adequate controls are in place to account for tenant participation funds.

3. Project-Based Budgeting and Accounting

Compliance Requirement – PHAs implementing asset management shall develop and maintain a system of budgeting and accounting for each project in a manner that allows for analysis of actual revenues and expenses associated with each property (24 CFR section 990.280(a)). Prior to the beginning of its fiscal year, a PHA is required to prepare an operating budget. The PHA's Board of Commissioners is required to review and approve the budget by resolution. The PHA is not required to submit the budget to HUD unless specifically requested to do so under special circumstances. The approved Board resolution must be submitted to HUD (24 CFR section 990.315(a)).

Financial information to be budgeted and accounted for at a project level shall include all data needed to complete a project-based FDS in accordance with GAAP, including revenues, expenses, assets, liabilities, and equity data (24 CFR section 990.280(b)(1)).

Tracking financial performance at the project level under project-based accounting provides information necessary to make effective decisions at the project level. PHAs may only charge projects for services actually received. For example, in accounting for

project costs, PHAs will not be permitted simply to spread the cost of central maintenance across all projects (24 CFR section 990.280).

Audit Objective – Determine whether each asset management PHA has implemented project-based budgeting and accounting.

Suggested Audit Procedures

- a. Obtain the PHA's budget and determine if it is project based.
- b. Confirm the PHA maintains a Board-approved budget which was approved by a Board resolution prior to the beginning of the PHA's fiscal year.
- c. Review FDS and determine whether each project has its own column on the FDS.
- d. Verify that periodic analysis is performed of actual revenue and expenses associated with each project. Confirm the PHA addresses significant variances among budget to actual data.

4. Classification of Costs

Compliance Requirement – For PHAs implementing asset management under fee-for-service, costs are classified as either a front-line expense (an expense of the project) or a fee expense (an expense of the management company, i.e., the COCC) (See Table 7.2 and sections 5.2, 5.3, and 7.10 in the Supplement to HUD Handbook 7475.1 for classifying costs.) (24 CFR section 990.280(d)).

Certain front-line project administrative expenses may be performed centrally, and “charged back” (expense proration, or fee-for-service) to the affected project(s). Centralized maintenance services can only be charged as a fee-for-service. Centralized indirect costs, on the other hand, are recoverable only from designated fees charged by the COCC (management, bookkeeping, asset management) (24 CFR sections 990.275 and 990.280).

Audit Objective – Determine whether project support costs were properly classified as fee expense recoverable from management, bookkeeping and asset management fees, or front-line project expense, recoverable through expense proration, as a shared resource cost, or fee-for-service (required for centralized maintenance services).

Suggested Audit Procedures

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

5. Balance Sheet Allocations

Compliance Requirement – PHAs implementing asset management using the COCC model must apportion their assets, liabilities, and equities to their projects and COCC at the time of conversion to project-based accounting. Most PHAs have already completed this process; however, a number of PHAs may still be establishing their COCC for the first time. Assets, liabilities, and associated net assets should be assigned to the applicable project or COCC if a direct relationship exists, including personal and real property. HUD has provided guidance on this subject in Section 4.3 in the Supplement to HUD Handbook 7475.1 and PIH Notice 2008-17, Guidance on Disposition of Excess Equipment and Non-Dwelling Real Property under Asset Management (24 CFR section 990.280(b)(1)).

Audit Objective – Determine if PHAs have apportioned their assets, liabilities, and equity between the projects and COCC.

Suggested Audit Procedures

- a. Select a sample of assets, liabilities, and equities.
- b. Determine that they were appropriately allocated to projects and COCC.

6. Fees Charged for Centralized Services

Compliance Requirement – In the case where a COCC chooses to centralize functions that directly support a project (e.g., central maintenance), it must charge each project using a fee-for-service approach, with the exception of charges for rent collections, resident services, security/protective services, waiting lists, and work-order processing (see section 7.10 of the Supplement to Handbook 7475.1). Each project must be charged for the actual services received and only to the extent that such amounts are reasonable. Guidance on fee reasonableness for centralized service fees is provided in Section 7.10 in the Supplement to HUD Handbook 7475.1. HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance and HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD need to be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(d)).

Audit Objective – Determine whether the fees charged by the COCC to the project for centralized maintenance and inspections are reasonable.

Suggested Audit Procedures

- a. Select a sample of fees charged by the COCC to a project for centralized services for maintenance and inspections.
- b. Determine if the fees comply with fee reasonable guidelines set by HUD.

- c. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

7. Prorating Front-line Centralized Services

Compliance Requirement – In the case where a COCC chooses to centralize certain front-line project costs (i.e., rent collection, resident services, security, waiting lists, work order processing), it may (rather than using fee-for-service) pro-rate these costs based on a reasonable, documented methodology. The method of prorating these costs (e.g., cost allocation plan) shall reflect the PHA’s broader accounting policy.

Projects with on-site staff that can provide these services at a project may not also be charged these services using proration. A PHA could prorate these costs based on percentage of units, bedroom distribution, turnover, or other reasonable method. With the exception of a central waiting list, resident services, and security/protective services, a project may not pay for the cost of a supervisor overseeing a front-line task that is performed centrally (see section 7.10 of the Supplement to HUD Handbook 7475.1) (24 CFR section 990.280).

Audit Objective – Determine whether the centralized direct project costs charged to the project(s) by the COCC are reasonable, supervisory costs are properly charged, and costs are not charged to project using proration if on-site staff can provide the services.

Suggested Audit Procedures

- a. Ascertain if the project is pro-rating front-line centralized services and, if so—
- b. Select a sample of costs prorated by the COCC to a project for centralized front line project costs.
- c. Review the method used to prorate amounts, including the method used to determine the level of cost allocation to the respective project(s) to ensure the documented method mirrors the method associated with costs charged to a project.
- d. Verify that charges are based on the methodology established by the PHA.
- e. Confirm, by obtaining written representations from management, that the project(s) charged lack the on-site human resources to perform the function and whether such services were provided in the past. Verification can also be ascertained by reviewing the roles and responsibilities for the staff and determining if the services provided fall under these roles and responsibilities.
- f. Verify that no ineligible supervisory costs are charged to the project(s).

8. Asset Management Fee

Compliance Requirement – The COCC may charge a reasonable asset management fee to projects to fund the operations of the central office. HUD will generally consider an asset management fee charged to each project of \$10 per unit month (PUM) as reasonable. Guidance on reasonableness standards for asset management fees is provided in Sections 7.4 and 7.6 in the Supplement to HUD Handbook 7475.1. HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance and HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD need to be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(b)(5)(ii)).

Audit Objective – Determine whether the asset management fees charged by the COCC to the projects is reasonable.

Suggested Audit Procedures

- a. Select a sample of projects that were charged an asset management fee.
- b. Determine if the fees comply with fee reasonable guidelines set by HUD.
- c. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

9. Management Fees

Compliance Requirement – The COCC may charge reasonable management fees. Management fees may include property management fees, program management fees, and bookkeeping fees. Fee reasonableness standards for the property management fee and bookkeeping fee are provided in Sections 7.4 and 7.5 in the Supplement to HUD Handbook 7475.1. HUD considers any fees that are within HUD guidance to be reasonable. PHAs are requested to consult with HUD regarding any fees that depart from HUD guidance and HUD will provide its view on the reasonableness of the fees. Any fees above the HUD guidelines that have not been approved by HUD need to be reviewed in detail to determine if the additional costs are justified by local conditions or other factors (24 CFR section 990.280(b)(4)).

Audit Objective – Determine whether the fees charged by the COCC for management services are reasonable.

Suggested Audit Procedures

- a. Select a sample of property management fees and bookkeeping fees charged by the COCC and determine if the fees comply with fee reasonable guidelines set by HUD.

- b. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees were approved by HUD or are reasonable.

10. Allocated Overhead

Compliance Requirement – Under current appropriation language, all PHAs with over 400 public housing units must convert to asset management (Section 225 of Title II of the HUD portion of the Consolidated Appropriations Act, 2008 (Pub. L. No. 110-161) and carried forward in all subsequent Acts). All PHAs that were required to convert to asset management were initially required to be in compliance with cost reasonableness by 2009 as provided in Section 1.4 in the Supplement to HUD Handbook 7475.1. Through HUD guidance this was extended to 2011.

PHAs with over 400 public housing units are allowed two reporting models as part of the conversion to asset management – the establishment of a COCC or the allocated overhead method (FDS line 91810). For those PHAs that established a COCC, the reasonableness of the fees charged is tested in the previous Special Tests (6 through 8). For those PHAs that converted to asset management, but are reporting using the allocated overhead method, reasonableness is tested in this section by reviewing the allocated overhead expense account and comparing fees in that account to the fees standards set by HUD in Sections 7.4, 7.5, and 7.6 in the Supplement to HUD Handbook 7475.1 (24 CFR section 990.280(b)(4)).

Audit Objective – Determine whether the amount of allocated overhead charged to projects is reasonable.

Suggested Audit Procedures

- a. For PHAs using the allocated overhead method, select a sample of projects and review the amount of overhead costs charged through the allocated overhead expense line.
- b. Determine if the allocated overhead expense line is reasonable compared to the fee standards allowed by HUD.

11. Funding Central Office with Capital Fund Program Funds

Compliance Requirement – The Capital Fund was established for the purpose of making assistance available to PHAs to carry out capital and management activities (42 USC 1437g(d)). Project-based budgeting and accounting will be applied to all programs and revenue sources that support projects under an ACC (e.g., the Operating Fund, the Capital Fund) (24 CFR section 990.280(a)).

In addition to project-specific records, PHAs may establish COCCs to account for non-project specific costs (e.g., human resources, Executive Director's office). These costs shall be funded from the management fees received from each property and asset management fees to the extent these are available (24 CFR section 990.280(c)).

If a PHA uses Capital Fund Program (CFP) funds to directly support its central office other than through management fee, the PHA may not record fee revenue, such as management fee, asset management fee, bookkeeping fee and front line service fee, under its COCC. In this case, the PHA should report indirect costs as Allocated Overhead (FDS line 91810) under its projects and programs.

However, a PHA could report fee revenue under its COCC under either of the following circumstances. (These activities are considered by HUD as management or capital activities and, therefore, can be directly supported by use of capital fund in accordance with (42 USC 1437g (d)).)

- a. PHAs with assets financed under the Capital Fund Finance Program (CFFP) and allocated to the COCC will record the associated debt at the COCC. (Unlike CFP, the CFFP is not a Federal financial assistance program. The CFFP was created to leverage external financing of capital investments using CFP money as a guarantee. For instance, a PHA needs to repair its building at an estimated cost of \$500,000. CFP can provide an annual funding of \$100,000 to the PHA. Without outside financing, the PHA would not have enough cash to do the work until 5 years later. The PHA can borrow money from a local bank to make the investment now and promise to repay the bank with future CFP funds. By doing so the PHA enters into the CFFP.) Grant revenues related to payments for principal and interest related to these COCC assets may be recorded directly by the COCC from the program. CFP grants are allowed to service the debt service payments for this COCC debt based on a percentage of the annual CFP appropriation. Payments from the CFP to pay off COCC debt service payments are not considered part of the CFP management fee (Guidance on this is provided in Section 5.9 in the Supplement to HUD Handbook 7475.1).
- b. The costs of developing or modernizing an existing ACC non-dwelling structure under a 20-year Capital Fund Declaration of Trust (both COCC and Project Structure) are an eligible Capital Fund expenditure (Guidance on this is provided in Section 5.7 in the Supplement to HUD Handbook 7475.1).

Audit Objective – When a PHA uses the Capital Fund to directly support its central office other than through management fees, determine whether the PHA (a) uses the funds to pay back CFFP debt or to develop or modernize an existing ACC structure, or (b) reports its indirect cost as Allocated Overhead (FDS line 91810).

Suggested Audit Procedures

- a. Ascertain if the Capital Fund is used to directly fund the central office other than through management fees. If not no further action is needed.
- b. If so, and if all the funds were used to pay CFFP debt or to develop or modernize an existing ACC structure, no further action is needed.

- c. If so, and the money is not used to for paying back CFFP debt or for developing or modernizing an existing ACC structure, verify that no fee revenue was reported under the COCC and all indirect costs were reported as Allocated Overhead in FDS line 91810.

12. PHA Utilities Operating Funding Requests

Compliance Requirement

Special Utilities Incentives. If a PHA undertakes energy conservation measures that are financed by an entity other than HUD, the PHA may qualify for the incentives available under 24 CFR sections 990.185(a)(3) and 990.190(b). If a PHA undertakes energy conservation measures that are financed by an entity other than HUD, the PHA may qualify for the incentives available under 24 CFR sections 990.185(a)(3) and 990.190(b) on a project by project basis. In some cases, the rolling base consumption level (HUD Form 52722, Section 3, Line 8) for the utilities involved may be frozen during the contract period. For a PHA to qualify for these incentives, the PHA must obtain HUD approval. Approval is based on a determination that payments under the contract can be funded from the reasonably anticipated energy cost savings and may not exceed 20 years (24 CFR section 990.185(a)).

Rate Reduction. If a PHA takes action beyond normal public participation in rate-making proceedings, such as well-head purchase of natural gas, administrative appeals, or legal action to reduce the rate it pays for utilities, then the PHA will be permitted to retain one-half the annual savings realized from these actions (24 CFR section 990.185(b)).

Audit Objective – Determine whether the cost saving from energy conservation incentives contracts generally comply with the terms of the energy contract, and have been approved by HUD, if required.

Suggested Audit Procedures

- a. Where entries are in HUD-52723 Section 3, Part A, Add-Ons, Line 8, Energy loan amortization, verify the project has a HUD approved energy loan amortization add-on pursuant to CFR sections 990.185(a)(3) and 990.190(b). Contract and add-on must be approved by the HUD field office. Verify that requested amount agrees with the energy loan amortization schedule in the approved contract.
- b. For projects with “frozen rolling base” checked in the form header box of HUD-52722, verify that the project has HUD field office approval.
- c. For projects with a “rate reduction incentive” checked in the form header box of HUD-52722, verify that the project meets the criteria in 24 CFR section 990.185(b).

13. Recording of Declarations of Trust Against Public Housing Property

Compliance Requirement – A current Declaration of Trust (DOT), in a form acceptable to HUD, must be recorded against all public housing property owned by PHAs (or private entities for public housing developed under 24 CFR part 941, subpart F) that has been acquired, developed, maintained, or assisted with funds from the US Housing Act of 1937. A DOT is a legal instrument that grants HUD an interest in public housing property. It provides public notice that the property must be operated in accordance with all Federal public housing requirements, including the requirement not to convey or otherwise encumber the property unless expressly authorized by federal law and/or HUD. In PIH Notice 2009-28 (HA), PHAs were asked to ensure that current (unexpired) DOTs were recorded against all of their public housing property within 12 months of the date of PHA's next fiscal year beginning with PHAs with fiscal years commencing on October 1, 2009.

The form of DOT that a PHA should execute depends on the funding from HUD. In most instances, the PHA will record the HUD-52190-A for Development Grant Projects or the HUD-52190-B for Public Housing Modernization Grant Projects (*OMB No. 2577-0270*). For mixed-finance development pursuant to 24 CFR part 941 subpart F, the form of DOT is known as the Declaration of Restrictive Covenants, and HUD has model forms drafted for this purpose. HUD has provided guidance on this requirement and document as part of the mixed-finance development application and approval process. See PIH Notice 2010-44 (HA).

A current DOT would include all improvement and modernization efforts on the project. A DOT naming HUD as an interested party must remain in place for: (1) 40 years for acquired and developed property, beginning on the date on which the project becomes available for occupancy as determined by HUD; (2) 20 years for property modernized or receiving assistance of Capital Funds beginning on the latest date on which modernization is complete or assistance is provided with Capital Funds; and (3) 10 years for property receiving Operating Funds, beginning upon the conclusion of the fiscal year of the PHA for which such amounts were provided. After the expiration of the original DOT for a public housing development, if subsequent assistance was received under the US Housing Act of 1937, PHAs are required to record another, current DOT for the duration of the applicable period (24 CFR sections 941.401, 941.403, 941.610, and 968.210).

PHAs should have a list of all property (including land and non-residential inventory, as well as dwelling units and modernization efforts) that a PHA owns and insures that is maintained or financed from the public housing Operating Fund or other US Housing Act of 1937 funds. Public housing project development numbers were reorganized in 2008 and new numbers were introduced; however, the current DOTs may continue to reference development numbers in existence prior to 2008, some of which have been put into "terminated" status. Selecting a sample of properties by development number will enable subsequent audits to cover samples of other projects, so that over time all property that should be under ACC contracts is covered. (No development needs to be sampled more frequently than every 5 years.) It is not necessary that all development numbers be

referenced in DOTs. Rather, the audit should determine whether all of the property that should have been placed under a DOT has been treated correctly.

Audit Objective – Determine whether DOTs are being recorded properly for public housing.

Suggested Audit Procedures

- a. From a list of all property (including land and non-residential inventory as well as dwelling units and modernization efforts) that a PHA owns and insures, select a sample of public housing projects. Selecting a sample of properties by development number will ensure that subsequent audits can select samples of other projects. (No development needs to be sampled more frequently than every 5 years.)
- b. Verify that current DOTs have been recorded for the public housing property in the projects.

14. Depository Agreements

Compliance Requirement – PHAs are required to enter into depository agreements with their financial institution using the HUD-51999 (*OMB No. 2577-0270*) or a form required by HUD in the ACC.. The agreements serve as safe guards for Federal funds and provide third-party rights to HUD (Section 9 of the ACC).

Audit Objective – Determine whether the PHA has entered into the required depository agreements.

Suggested Audit Procedures

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

IV. OTHER INFORMATION

The Moving to Work (MTW) demonstration program (CFDA 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD. An MTW agency may combine funds from the following three programs:

Section 8 Housing Choice Vouchers (CFDA 14.871);
Public Housing Capital Fund (CFDA 14.872); and
Public and Indian Housing (CFDA 14.850).

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine which funds are included in the MTW Agreement. If Public Housing funds are transferred out of Public Housing, pursuant to an MTW Agreement, they are subject to

the requirements of the MTW Agreement and should not be included in the audit universe and total expenditures for Public Housing when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as Public Housing expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the Public Housing account pursuant to an MTW Agreement, all of the Public Housing funds would then be considered MTW funds.

If the MTW agency does not transfer all the funds from Public Housing into the MTW account or another program, those funds would be considered, and audited, under Public Housing.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.862 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

CFDA 14.886 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (RECOVERY ACT FUNDED)

I. PROGRAM OBJECTIVES

The primary objective of the Indian Community Development Block Grant (CDBG) programs is the development of viable Indian and Alaskan Native communities, including decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. Indian CDBG assistance may not be used to reduce substantially the amount of local financial support for community development activities below the level of support prior to the availability of the assistance (24 CFR section 1003.2). **In addition, the objectives of the Indian CDBG (Recovery Act Funded) program are to reduce greenhouse gas emission, decrease consumer energy costs, increase the quality and longevity of Native American housing stock, unlock private lending, and create or preserve jobs.**

II. PROGRAM PROCEDURES

Two types of grants are eligible under the Indian CDBG program. Single-purpose grants provide funds for one or more single purpose projects which consist of an activity or set of activities designed to meet a specific community development need. This type of grant is awarded through competition with other single-purpose projects. Imminent threat grants alleviate an imminent threat to public health or safety that requires immediate resolution. This type of grant is awarded only after a HUD area office determines that such conditions exist and that funds are available for such grants (24 CFR section 1003.100).

For the Indian CDBG (Recovery Act Funded), only single-purpose grants are awarded through competition with other single-purpose projects. These grants will be awarded only to entities that received Indian CDBG funds in Fiscal Year 2008.

Source of Governing Requirements

The Indian CDBG (Recovery Act Funded) is authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5). Implementing regulations are published at 24 CFR part 1003.

Availability of Other Program Information

Additional information about the Indian CDBG program is available on the Internet at <http://www.hud.gov/offices/pih/ih/grants/icdbg.cfm>. **Additional information about the Indian CDBG (Recovery Act Funded) program is available on the Internet at <http://www.hud.gov/recovery>.**

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Indian CDBG* – Funds (including program income generated by activities carried out with grant funds) may only be used for the following activities: (1) the acquisition of real property; (2) the acquisition, construction, reconstruction, or installation of public works, facilities, and site, or other improvements; (3) code enforcement in deteriorated or deteriorating areas; (4) clearance, demolition, removal, and rehabilitation of buildings and improvements; (5) special projects for removal of material and architectural barriers that restrict accessibility by elderly and handicapped individuals; (6) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (7) disposition of real property acquired under this program; (8) provision of public services (subject to limitations contained in regulations and to certain HUD determinations); (9) payment of the non-Federal share for a grant program that is part of the assisted activities; (10) payment to complete a Title 1 Federal Urban Renewal project; (11) relocation assistance; (12) planning activities; (13) administrative costs; (14) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (15) assistance to community-based development organizations; (16) activities related to energy use; (17) assistance to private, for-profit business, when appropriate to carry out an economic development project; (18) substantial reconstruction of housing owned and occupied by low- and moderate-income persons (subject to certain HUD determinations); (19) direct assistance to facilitate and expand homeownership; (20) technical assistance to public or private entities for capacity building (exempt from planning/administration cap); (21) housing counseling and housing activity delivery costs under Indian CDBG and Indian HOME; (22) assistance to colleges and universities to carry out eligible activities; and (23) assistance to public and private entities (including for-profits) to assist micro-enterprises (24 CFR sections 1003.201 through 1003.206).
2. ***Indian CDBG (Recovery Act Funded)* – Funds (including program income generated by activities carried out with grant funds) may be used for the following activities: (1) construction of new housing; (2) rehabilitation of existing housing; (3) acquisition of land to support new housing and public facilities; (4) direct assistance to low- and moderate-income households to facilitate homeownership; (5) construction of tribal and other facilities for single or multiple use, construction of streets, and construction of other public facilities; and (6) economic development projects (see Notice of Funding Availability (NOFA), published in the Federal Register on June 1, 2009 (74 FR 26253)) (ARRA, 123 Stat. 217 through 220).**

F. Equipment and Real Property Management

1. For equipment purchased with Indian CDBG funds, including ARRA funds, the requirements of 24 CFR section 85.32 apply with the exception that when the equipment is sold, the proceeds are considered program income (24 CFR section 1003.501(a)(9)).
2. Generally, when real property that was acquired or improved using Indian CDBG program funds, including ARRA funds, in excess of \$25,000 is disposed of, the Indian CDBG program or Indian CDBG (Recovery Act Funded) must be reimbursed for its fair share of the current market value of the property. If disposition occurs after program closeout, the proceeds shall be used for allowable activities and meeting the primary objective of the program (24 CFR section 1003.504).

G. Matching, Level of Effort, Earmarking

1. **Matching** – Not Applicable
2. **Level of Effort** – Not Applicable
3. **Earmarking**
 - a. To be eligible under either Indian CDBG program, a single-purpose grant activity must benefit low- and moderate-income persons. To meet this requirement, not less than 70 percent of the funds of each single-purpose grant must be used for activities that benefit low- and moderate-income persons under the criteria set forth in 24 CFR sections 1003.208(a), (b), (c), or (d). In determining the percentage of funds used for such activities, the provisions of 24 CFR section 1003.208(e)(4) apply.
 - b. No more than 20 percent of the total grant plus program income received during a program year may be obligated during that year for activities that qualify as planning and administration pursuant to 24 CFR sections 1003.205 and 1003.206 (24 CFR section 1003.206). Technical assistance costs associated with developing the capacity to undertake a specific funded program activity are not considered administrative costs and are not included in the 20 percent limitation on planning and administration costs (24 CFR section 1003.206).
 - c. Public service activities may comprise no more than 15 percent of the total grant award 24 CFR section 1003.201(e).

H. Period of Availability of Federal Funds

For the Indian CDBG (Recovery Act Funded), grantees must obligate 100 percent of the funds by September 30, 2010, and Implementation Schedules (form HUD 4125

(OMB No. 2577-0191) cannot exceed September 30, 2012 (see Notice of Funding Availability, published in the Federal Register on June 1, 2009 (74 FR 26253)).

III. Procurement and Suspension and Debarment

Indian CDBG (Recovery Act Funded) recipients are exempt from the ARRA requirements to use only iron, steel, and manufactured goods produced in the United States in their projects (Section 1605 of ARRA).

J. Program Income

Program income received before grant closeout may be retained by the non-Federal entity if the income is treated as additional Indian CDBG (or **Indian CDBG (Recovery Act Funded)**) funds subject to all the applicable requirements governing the use of Indian CDBG or **Indian CDBG (Recovery Act Funded) funds**. However, as noted in 24 CFR section 1003.503(b)(4), program income does not include the first \$25,000 in program income received by the grantee and all of its subrecipients in any single year if the total amount of such income does not exceed \$25,000 (24 CFR section 1003.503).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each Indian CDBG that involves development, operating, or modernization assistance, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a), 135.5 and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project

- (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
- (3) D. Total number of Section 3 businesses receiving construction contracts
- e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
- 3. **Special Reporting** – Not Applicable
- 4. **Section 1512 ARRA Reporting** – Applicable
- 5. **Subaward Reporting under the Transparency Act** – Applicable to non-ARRA funds only

M. **Subrecipient Monitoring**

Before disbursing any Indian CDBG or **Indian CDBG (Recovery Act Funded)** funds to a subrecipient, the recipient shall sign a written agreement with the subrecipient. The agreement shall include provisions concerning: the statement of work, records and reports, program income, uniform administrative requirements, and reversion of assets (24 CFR section 1003.502).

N. **Special Tests and Provisions**

1. **Environmental Assessments**

Compliance Requirement – An environmental assessment must be prepared for a project unless the grantee determined that it met a criterion specified in the regulations that would exempt or exclude it from Request for Release of Funds (RROF) and environmental certification requirements (24 CFR sections 58.34 and 58.35). Exempt activities do not require an environmental review; activities which are potential exclusions require an environmental review to determine if an exclusion is applicable. If not applicable, an assessment must be done (24 CFR section 1003.605).

Audit Objective – Determine whether the required environmental reviews are being performed.

Suggested Audit Procedures

- a. Select a sample of projects for which expenditures were made and verify that environmental certifications exist.
- b. Ascertain that the certifications were supported by an environmental assessment.
- c. For any project where an environmental assessment was not performed, ascertain that a written determination was made that the assessment was not required.
- d. Ascertain whether documentation exists that any determination not to do an environmental assessment was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35.

2. Release of Funds

Compliance Requirement – Indian CDBG funds or **Indian CDBG (Recovery Act Funded)** (and local funds to be repaid with Indian CDBG funds) cannot be obligated or expended before receipt of HUD’s approval of a RROF and environmental certification, except for exempt activities under 24 CFR section 58.34 or activities found to be categorically excluded under 24 CFR section 58.35 (24 CFR sections 58.22, 58.33 through 35, and 1003.605).

Audit Objective – Determine whether funds were obligated or expended before HUD’s approval of the RROF and environmental certification.

Suggested Audit Procedures

- a. Examine HUD’s approval of the RROF and environmental certification and note receipt dates.
- b. Review the expenditure and related records and determine the dates the funds were obligated or expended.
- c. Determine that funds, including other than Indian CDBG funds that were subsequently reimbursed by Indian CDBG funds, or **Indian CDBG (Recovery Act Funded)**, were obligated or expended subsequent to RROF and environmental certification approval by HUD.

IV. OTHER INFORMATION

For Indian CDBG (Recovery Act Funded) funds, ARRA gave HUD the authority to waive or specify alternative requirements for some of the Indian CDBG statutory and regulatory provisions to facilitate the use of Indian CDBG (Recovery Act Funded) funds. Waivers of some or all of the following requirements have been approved for applications submitted pursuant to the Indian CDBG (Recovery Act Funded) NOFA: Housing Rehabilitation Standards; New Housing Construction Standards; Available Housing Stock; Economic Development Analysis; and Citizen Participation Requirements. Applicants are to include in their application which waivers, if any, they will use.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.866 DEMOLITION AND REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

I. PROGRAM OBJECTIVES

The objective of HOPE VI revitalization grants is to provide assistance to public housing agencies (PHAs) for the purposes of enabling PHAs to improve the living environment for public housing residents of severely distressed public housing projects through (1) demolition, (2) substantial rehabilitation, (3) reconfiguration, and/or (4) replacement of severely distressed units. An additional objective is to revitalize the sites on which severely distressed public housing projects are located and contribute to the improvement of the surrounding neighborhood.

The objective of HOPE VI demolition grants is to enable PHAs to fund the demolition of severely distressed public housing units and relocation of affected residents, and to provide supportive services to relocated residents.

II. PROGRAM PROCEDURES

Notice of Funding Availability

The Department of Housing and Urban Development (HUD) awards demolition and revitalization grants to eligible organizations through a competitive process. The procedure is set out in the Notices of Funding Availability (NOFAs) for the applicable fiscal year (FY). The NOFA establishes the eligibility requirements for PHAs to apply for a HOPE VI grant; the availability of funds; and the requirements and procedures to be followed in filing an application for the applicable FY.

Grant Agreement

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

Development and Mixed-Finance Development

The selection of a development partner and the general administrative requirements are governed by 24 CFR part 85. The detailed steps to be followed in the phase-by-phase development of an all-public housing development are governed by 24 CFR part 941 – Public Housing Development and 24 CFR part 968 – Public Housing Modernization. The detailed steps to be followed in the phase-by-phase development of a mixed-income/mixed-finance development are

governed by the provisions of 24 CFR part 941 subpart F – Public/Private Partnerships for the Mixed-Finance Development of Public Housing.

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

In general, the procedures to be followed for each phase of development, as set out in the Agreement and the Revitalization Plan are as follows. A mixed-finance proposal (Rental Term Sheet) is prepared that describes the development and development partners; number and types of units; sources and uses of funds (F1s) by specific phase (HOPE VI Budget); schedules; any waivers required; loans and operating subsidy payments to the development entity; estimated construction cost; and any other matters pertinent to the development. Upon approval of the Rental Term Sheet, the PHA has the evidentiary documents for the transaction and the Mixed-Finance Amendment to the ACC prepared for review and approval by HUD.

An approval letter is issued by HUD, authorizing the execution of the applicable HUD documents and the recording of the evidentiaries. A copy of the recorded evidentiaries and the HUD documents are forwarded to HUD Headquarters. Upon review and approval, the HOPE VI funds for the phase, as set out in the HOPE VI Budget, and the F1s are placed in Line of Credit Control System to fund the development costs for the phase. Upon completion of construction, and the meeting of the end of the initial operating period and the date of full availability, the agreed-upon Operating Subsidy is provided for the public housing units. Upon completion of all of the phases of development funded by HOPE VI, the grant is closed out in accordance with the provisions of the Agreement.

Moving to Work Demonstration Program

Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134, 110 Stat.1321-281 through 284) established the Moving to Work (MTW) Demonstration Program (CFDA 14.881). The MTW Demonstration Program offers PHAs the opportunity to design and test innovative, locally-designed housing and self-sufficiency strategies for low, very-low, and extremely low-income families by allowing exemptions from existing public housing and tenant-based Housing Choice Voucher (HCV) rules and permitting PHAs to combine operating, capital, and tenant-based assistance funds into a single agency-wide funding source, as approved by HUD. HOPE VI funds cannot be included as part of that funding source, however the MTW funds can be utilized as part of HOPE VI development activity. If a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine any differences from the requirements identified in this program supplement.

Source of Governing Requirements

The program authority for the HOPE VI program is 42 USC 1437v, as amended by section 402 of the HOPE VI Program Reauthorization and Small Community Mainstreet Rejuvenation and Housing Act of 2003 (Pub. L. No. 108-186, approved December 16, 2003). The regulations governing mixed-financing are contained in 24 CFR part 941, subpart F.

Availability of Other Program Information

No program-specific regulations have been published. Each grant is subject to the terms of its Agreement, which is signed by the grantee and HUD. HUD posts guidance on the HOPE VI program on its Home Page (<http://www.hud.gov/hopevi>), which provides information on timelines, budgets, financial instructions, and other program guidance. HUD also publishes a *Mixed-Finance Guidebook* that is available to the public by calling 1-800-955-2232. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) home pages (http://www.hud.gov/offices/reac/products/fass/pha_doc.cfm and http://www.hud.gov/offices/reac/library/lib_fapha.cfm).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. HOPE VI revitalization grant funds may be used to fund the revitalization of severely distressed public housing developments (42 USC 1437v(d)). Such activities include:
 - a. The demolition of severely distressed public housing developments or portions thereof (42 USC 1437v(d)(1)(C)),
 - b. Relocation costs for affected residents (42 USC 1437v(d)(1)(F) and (J)),
 - c. Disposition activities (42 USC 1437v(d)(1)(C))
 - d. Rehabilitation of existing public housing units and/or community facilities (42 USC 1437v(d)(1)(B)),
 - e. Development of new public housing units and community facilities (42 USC 1437v(d)(1)(I)),
 - f. Homeownership activities (42 USC 1437v(d)(1)(G)),

- g. Acquisition and disposition activities (42 USC 1437v(d)(1)(B),(C) and (J)),
 - h. Economic development activities (42 USC 1437v(d)(1)(G)),
 - i. Leveraging of resources (42 USC 1437v(d)(1)(I)),
 - j. Necessary management improvements (42 USC 1437v(d)(1)(H)),
 - k. Administrative and consulting costs (42 USC 1437v(d)(1)(D) and (E)), and
 - l. Community and supportive services (42 USC 1437v(d)(1)(G)) .
2. HOPE VI demolition grant funds may be used to fund the demolition of dwelling units and non-dwelling structures, relocation of affected residents, site restoration, as appropriate, and reasonable administrative costs (42 USC 1437v(d)).
 3. The components of mixed-finance development, other than public housing, may not be financed with public housing funds (42 USC 1437v(d)).

D. Davis-Bacon Act

HOPE VI projects developed in accordance with 24 CFR part 941 – Public Housing Development and 24 CFR part 968 – Public Housing Modernization that contain only public housing replacement units, and HOPE VI mixed-finance projects developed in accordance with 24 CFR part 941 subpart F – Public/Private Partnerships for the Mixed-Finance Development of Public Housing where the development entity has been procured by the PHA in accordance with 24 CFR part 85 are subject to the provisions of the Davis Bacon Act (42 USC 1437j(a) and (b), 24 CFR sections 941.208 and 941.610(a)(8)(vi)).

G. Matching, Level of Effort, Earmarking

1. Matching

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

2. Level of Effort – Not Applicable

3. Earmarking – Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable
- d. *Financial Reports (OMB No. 2535-0107)* – Financial Assessment Subsystem, FASS-PHA. 24 CFR part 902 – Public Housing Assessment System (PHAS) Subpart C-Phase Indicator #2 Financial Condition requires the PHA to provide reports on an annual basis. The report requires an assessment on a PHA entity-wide basis, which allows for the oversight of all individual grants and subsidy programs and provides HUD access to any factors it determines are appropriate (42 USC 1437d(j)(1)(K). Financial reporting requirements in 24 CFR section 902.33(a)(2) provide that the information be “submitted electronically in the format prescribed by HUD using the Financial Data Schedule (FDS).” 24 CFR section 902.35, “Financial condition scoring and threshold,” establishes the procedures to be observed by the PHA.

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

- (1) Headings for HUD Programs and Business Activities
 - (a) HOPE VI (Revitalization of Severely Distressed Public Housing)
 - (b) Component Units (Non-Profit Entities)
- (2) Line Items
 - (a) FDS Line 125 – (Accounts Receivable – Misc)
 - (b) FDS Line 144 – (Inter-Program – Due From)
 - (c) FDS Line 171 – (Notes, Loans, & Mortgages Receivable – Non-current)
 - (d) FDS Line 172 – (Notes, Loans, & Mortgages Receivable – Non-current – Past Due)
 - (e) FDS Line 174 – (Other Assets)
 - (f) FDS Line 176 – (Investment in Joint Ventures)

- (g) FDS Line 347 – (Inter-Program – Due To)
- (h) FDS Line 348 – (Loan Liability – Current)
- (i) FDS Line 355 – (Loan Liability – Non-Current)
- (j) FDS Line 10010 – (Operating Transfer In)
- (k) FDS Line 10020 – (Operating Transfer Out)
- (l) FDS Line 10030 – (Operating Transfers From/To Primary Government)
- (m) FDS Line 10093 – (Transfers Between Programs and Projects – In)
- (n) FDS Line 10094 – (Transfers Between Programs and Projects – Out)

2. Performance Reporting

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each public and Indian housing grant that involves development, operating, or modernization assistance, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
- e. Part II, Contracts Awarded, 1. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity

- (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
- 3. **Special Reporting** – Not Applicable
 - 4. **Section 1512 ARRA Reporting** – Not Applicable
 - 5. **Subaward Reporting under the Transparency Act** – Not Applicable

N. Special Tests and Provisions

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

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

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

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

Suggested Audit Procedures

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- CFDA 14.867 INDIAN HOUSING BLOCK GRANTS**
CFDA 14.882 NATIVE AMERICAN HOUSING BLOCK GRANTS (FORMULA)
RECOVERY ACT FUNDED
CFDA 14.887 NATIVE AMERICAN HOUSING BLOCK GRANTS (COMPETITIVE)
RECOVERY ACT FUNDED

I. PROGRAM OBJECTIVES

The primary objectives of the Indian Housing Block Grants (IHBG) program **and the Native American Housing Block Grants (NAHBG) programs under the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5)** are: (1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families; (2) to coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members; and (3) to plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes (24 CFR section 1000.4).

II. PROGRAM PROCEDURES

The IHBG program is formula driven, based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities. To access funds, Indian tribal governments (or tribally designated housing entities (TDHEs)) must submit an Indian Housing Plan (IHP) to the Department of Housing and Urban Development (HUD), and HUD must find that the IHP meets the requirements of Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). IHBG funds awarded to a recipient may only be used for affordable housing activities that are consistent with its IHP (24 CFR section 1000.6).

Funds under the NAHBG (Formula) program are distributed according to the same funding formula that was used to allocate IHBG funds in Fiscal Year (FY) 2008. To access funds, Indian tribal governments (or TDHEs) must submit an IHP amendment to their FY 2008 IHP to HUD, and HUD must find that the IHP meets the requirements of Section 102 of NAHASDA and ARRA. If a tribe/TDHE did not receive IHBG funds in FY 2008 and received a waiver to receive NAHBG funds, the entity must submit an IHP to receive ARRA funds. NAHBG funds awarded to a recipient may only be used for affordable housing activities that are consistent with its IHP (24 CFR section 1000.6 and ARRA).

Funds under the NAHBG (Competitive) program are awarded through competition with other Tribes or TDHEs across the country. Applications will be reviewed, rated, and awarded as received. The rating factors are: (1) capacity of the applicant, (2) soundness of approach, (3) project readiness, and (4) ARRA priorities.

For awards in Federal Fiscal Year (FFY) 2009 through FFY 2013, a qualified recipient can participate in the Self-Determined Housing Activities for Tribal Governments Demonstration Project authorized by Subtitle B under Title II of NAHASDA. Funds under this Demonstration Project shall be used only for housing activities, as wholly determined by the recipient and described in the IHP, for construction, acquisition, or rehabilitation of housing or infrastructure in accordance with Section 202 of NAHASDA.

Starting with grant recipients whose program year begins October 1, 2011, the IHBG program (not applicable to ARRA grants) changed from a grant-based program, where all funds and activities are tracked back to the grant from which they were funded, to a fiscal year-based program, where funds and activities are tied only to the fiscal year in which the activities occurred. FFY 2011 and older IHBG grants are to be closed out with submission of the annual performance report, form HUD-52735-AS, for the program year ended in FFY 2011. A single grant number beginning with the digits "55" (rather than "09", "10", etc.) replaced the traditional IHBG numbering system. Any grants with undisbursed amounts in the Line of Credit Control System (LOCCS) at the time of transition were to be rolled into the new grant number. Subsequently-awarded IHBG funds will be added under the same grant number in LOCCS. Under this system, LOCCS will automatically disburse the oldest funds first. LOCCS access was briefly interrupted at the beginning of each calendar quarter of Federal Fiscal Year 2012 for affected IHBG recipients. Therefore, affected grant recipients were encouraged to draw down enough funds to cover anticipated expenses for up to 3 weeks after the beginning of their program year and were not bound by 24 CFR section 85.21(c), which requires that the recipient minimize the cash on hand, during that time. Once a recipient's program has transitioned to the fiscal year-based system, IHBGs will no longer be closed out. For additional information on this program change and transition see Notice PIH 2011-23.

Source of Governing Requirements

These programs are authorized by NAHASDA, codified at 25 USC 4101 through 4212 and ARRA. Implementing regulations are in 24 CFR part 1000.

On October 14, 2008, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 (Pub. L. No. 110-411) was amended by NAHASDA. As a result, some of the provisions of the regulation for these programs (24 CFR part 1000) were inconsistent with the revised NAHASDA (see Notice PIH 2009-50). On November 18, 2011, a proposed rule was published in the *Federal Register* to update the program regulations at 24 CFR part 1000 to align the regulatory language with the statutory language and reflect the consensus decisions reached by HUD and the tribal representatives through negotiated rulemaking (see *Federal Register*, 76 FR 71474-71490).

Availability of Other Program Information

Additional information about the IHBG program is available on the Internet at <http://www.hud.gov/offices/pih/ih/grants/ihbg.cfm>. **Additional information about the NAHBG programs is available on the Internet at <http://www.hud.gov/recovery>.**

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *IHBG* – The following activities to develop, operate, maintain, or support affordable housing for rental or home ownership, or to provide housing services with respect to affordable housing are allowable with IHBG funds:
 - a. *Indian Housing Assistance* – The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority, including such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing (25 USC 4132(1) and 4133(b)).
 - b. *Development* – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development and rehabilitation of utilities, necessary infrastructure, and utility services, conversion, demolition, financing, administration and planning, improvement to achieve greater energy efficiency, mold remediation, and other related activities (25 USC 4132(2)).
 - c. *Housing Services* – The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or home-ownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section (25 USC 4132(3)).
 - d. *Housing Management Services* – The provision of management services for affordable housing, including preparation of work specifications; loan processing, inspections; tenant selection; management of tenant-based rental assistance; the costs of operation and maintenance of units developed with funds provided under NAHASDA; and management of affordable housing projects (25 USC 4132(4)).
 - e. *Crime Prevention and Safety Activities* – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime (25 USC 4132(5)).

- f. *Model Activities* – Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by the Secretary as appropriate for such purpose (25 USC 4132(6)).
 - g. *Reserve Accounts* - The deposit of amounts, including grant amounts, in a reserve account only for the purpose of accumulating amounts for administration and planning relating to affordable housing activities (25 USC 4132(9)).
 2. **IHBG and NAHBG** – Unless the conditions specified in 25 USC 4111(d) (regarding tax exemption for real and personal property taxes and user fees) are met, **IHBG and NAHBG** grants funds may not be used for affordable housing activities for rental or lease-purchase dwelling units developed:
 - a. Under the United States Housing Act of 1937 (42 USC 1437 *et seq.*), or
 - b. With amounts provided under 25 USC Chapter 43 that are owned by the recipient for the tribe.
 3. **NAHBG funds (including program income generated by activities carried out with grant funds) may only be used for NAHASDA-eligible activities, including:**
 - a. **New construction, acquisition, and rehabilitation of affordable housing, including energy efficiency and conservation;**
 - b. **Infrastructure development;**
 - c. **Site improvement;**
 - d. **Development and rehabilitation of utilities and infrastructure;**
 - e. **Utility services;**
 - f. **Mold remediation;**
 - g. **Investments that leverage private sector funding or financing for renovations;**
 - h. **Conversion, demolition, and other financing; and**
 - i. **Planning and administration (ARRA, 123 Stat. 215 through 217).**
 4. Tribal Governments Demonstration Project funds may be used only for housing activities, as determined by the recipient and described in the IHP, for construction, acquisition, or rehabilitation of housing or infrastructure in accordance with Section 202 of NAHASDA (25 USC 4145).

D. Davis-Bacon Act

NAHASDA **and ARRA** impose the Davis-Bacon Act on contracts and agreements for assistance, sale, or lease for payments to laborers and mechanics employed in the development of affordable housing. **However, when using IHBG and NAHBG grant funds**, Indian tribes may determine and apply their own prevailing wage rates in their contracts or agreements for the development and operation of affordable housing in place of federally determined prevailing wage rates.

In general, NAHASDA provides that Davis-Bacon and HUD-determined rates shall not apply to a contract or agreement if the contract or agreement is otherwise covered by a law or regulation adopted by an Indian tribe that provides for the payment of not less than prevailing wages as determined by the tribe. This requires the Indian tribe to pass a tribal law or regulation and ensure that the law requires the payment of not less than those wage rates the tribe determines to be prevailing (Section 104(b) of NAHASDA; 25 USC 4114(b); **Section 1606 of ARRA; Section 1205 of Pub. L. No. 111-32, signed on June 24, 2009; 24 CFR section 1000.16**)).

E. Eligibility

1. Eligibility for Individuals

Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA **and ARRA** (25 USC 4133(d)). The following families are eligible for affordable housing activities (25 USC 4131(b)):

- a. Low income Indian families on a reservation or Indian area (Section 201(b)(1) of NAHASDA (25 USC 4131(b)(1))).
- b. A non-low income family may receive housing assistance if HUD approves that housing assistance due to a need that cannot reasonable be met without the assistance (Section 201(b)(2) of NAHASDA (25 USC 4131(b)(2))).
- c. A family may receive housing assistance on a reservation or Indian area if the family's housing needs cannot be reasonably met without such assistance, and the recipient determines that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families. Assistance for essential families does not require HUD approval, but only requires that the recipient determine that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families and the family's housing needs cannot be reasonably met without such assistance (Section 201(b)(3) of NAHASDA (25 USC 4131(b)(3))).

- d. A law enforcement officer on an Indian reservation or other Indian area may receive housing assistance, if:
 - (1) The officer is employed on a full-time basis by the Federal government or a State, county or other unit of local government, or lawfully recognized tribal government;
 - (2) In implementing such full-time employment, the officer is sworn to uphold, and make arrests for violations of Federal, State, county, or tribal law; and
 - (3) The recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime (Section 201(b)(4) of NAHASDA (25 USC 2531(b)(4))).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients – Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2. Level of Effort – Not Applicable

3. Earmarking

- a. Up to 10 percent of an annual grant may be used to provide housing assistance to families whose adjusted income (defined at 25 USC 4103(1)) falls within 80 to 100 percent of the median income (defined at 24 CFR section 1000.10 as the greater of the median income in the county in which the Indian area is located or the median income of the United States). HUD approval is required to exceed this 10 percent cap or to provide assistance to families with incomes in excess of 100 percent of the median income (24 CFR section 1000.110(d)).
- b. A recipient may use up to 20 percent of its annual grant for administration and planning. HUD approval must be obtained to exceed this percentage (24 CFR section 1000.238).
- c. A recipient may use no more than the lesser of: (1) an amount equal to 20 percent of the total IHBG amount for that fiscal year, or (2) \$2,000,000, for Self-Determined Housing Activities under the Tribal Governments Demonstration Project (25 USC 4145a; Notice PIH 2010-35).

H. Period of Availability of Federal Funds

For the NAHBG programs, recipients must obligate 100 percent of their funds within 1 year of the date funds are made available; expend at least 50 percent of such funds within 2 years of the date on which funds became available; and expend 100 percent of such funds within 3 years of such date (ARRA, 123 Stat. 216).

IV. Procurement and Suspension and Debarment

For the NAHBG programs, recipients are exempt from the ARRA requirements to use only iron, steel, and manufactured goods produced in the United States in their projects (Section 1605 of ARRA).

J. Program Income

Any program income may be retained by a recipient provided it is used for affordable housing activities, as specified for each program (see III.A above), in accordance with 25 USC 4132. If the amount of income received in a single year by a recipient and all of its subrecipients, which would otherwise be considered program income, does not exceed \$25,000, such funds may be retained but will not be considered to be or be treated as program income (24 CFR section 1000.62).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting

- a. HUD-52735-AS, *Annual Performance Report (OMB No. 2577-0218)* – This report is submitted by paper or electronically via the Internet to the Area Office of Native American Programs (ONAP) within 90 days of the end of the recipient's program year.

Key Line Items – The following items contain critical information:

- (1) Part I, Table I – Sources of Funds – column c.
- (2) Part I, Table II – Uses of Funds – columns e through i.
- (3) Part II, Table III – Inspection of Assisted Housing – columns c through g.

- b. HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each IHBG that involves development, operating, or modernization assistance, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a), 135.5, and 135.90).

Key Line Items –

- (1) 3. Dollar Amount of Award
 - (2) 8. Program Code
 - (3) Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
 - (4) Part II, Contracts Awarded, 1. Construction Contracts
 - (a) A. Total dollar amount of construction contracts awarded on the project
 - (b) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (c) D. Total number of Section 3 businesses receiving construction contracts
 - (5) Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (a) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (b) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (c) D. Total number of Section 3 businesses receiving non-construction contracts
3. **Special Reporting** – Not Applicable
 4. **Section 1512 ARRA Reporting** – Applicable
 5. **Subaward Reporting under the Transparency Act** – Applicable to non-ARRA funds only

N. Special Tests and Provisions

1. Environmental Review – IHBG and NAHBG

Compliance Requirement – Program regulations provide that a tribe may assume responsibilities for environmental review and decision making under the requirements of 24 CFR part 58 or it may allow HUD to retain these responsibilities. The tribe is the responsible entity whether or not a TDHE is authorized to receive IHBG grant amounts on behalf of the tribe (24 CFR section 58.2(a)(7)(ii)). If HUD retains the responsibilities, HUD will do reviews under the provisions of 24 CFR part 50 (24 CFR section 1000.20). A HUD environmental review must be completed for any activities not excluded before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds (24 CFR section 1000.20(a)).

If the tribe assumes these responsibilities, the following applies: an environmental assessment must be prepared for an activity unless the tribe determined that the activity met a criterion specified in the regulations that would exempt or exclude it from Request for Release of Funds (RROF) and environmental certification requirements (24 CFR sections 58.34 and 58.35). Exempt activities do not require an environmental review; activities that are potential exclusions require an environmental review to determine if an exclusion is applicable. If not applicable, an assessment must be done. No funds may be committed for a grant activity or project before the completion of the environmental review and approval of the request for release of funds and related certification required by 25 USC 4115(b), except as authorized by 24 CFR section 58, such as for the costs of environmental reviews and other planning and administrative expenses (24 CFR section 1000.20(b)(3)).

Audit Objective – Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of the environmental review process.

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and, if the tribe assumed environmental responsibilities, verify that:

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

2. Investment of IHBG and NAHBG Funds

Compliance Requirement – A recipient may invest IHBG and NAHBG funds for purposes of carrying out IHBG and NAHBG activities in investment securities if approved by HUD (24 CFR section 1000.58). Investments may be for a period of time not to exceed two years and only in those accounts or instruments identified in 24 CFR section 1000.58(c). The amount of IHBG and NAHBG funds and percentage of those funds which may be invested is restricted by the provisions of 24 CFR section 1000.58(f).

Audit Objective – Determine whether the investment of IHBG and NAHBG funds by the recipient meets the requirements of 24 CFR section 1000.58.

Suggested Audit Procedures

If IHBG or NAHBG funds have been invested during the audit period:

- a. Ascertain that prior written HUD approval had been obtained, and any conditions or restrictions on the approval.
- b. Verify that the amount invested is no greater than the allowable percentages of the formula grant amount net of any of this amount allocated for the operating subsidy element of the Formula Current Assisted Stock (FCAS) component of the formula.
- c. Verify that the funds were invested only in those allowable accounts or instruments and within any conditions or restriction on the approval.

IV. OTHER INFORMATION

For NAHBG funds, ARRA gave HUD the authority to waive or specify alternative requirements for some of the IHBG statutory and regulatory provisions to facilitate the use of NAHBG funds. Waivers of some or all of the following requirements have been approved in relation to IHPs: Local Cooperation Agreements, and Total Development Costs. Applicants are to submit a letter with the IHP or application (as applicable) identifying which waivers, if any, they will use.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.871 SECTION 8 HOUSING CHOICE VOUCHERS**
CFDA 14.879 MAINSTREAM VOUCHERS
CFDA 14.880 FAMILY UNIFICATION PROGRAM (FUP)**I. PROGRAM OBJECTIVES**

The Housing Choice Voucher Program (HCVP) provides rental assistance to help very low-income families afford decent, safe, and sanitary rental housing. The Family Unification Program (FUP) vouchers assist families where children are separated from the family, or under threat of imminent separation, to lease or purchase decent, safe and sanitary housing. The Mainstream Vouchers program enables families having a person with disabilities to lease affordable private housing of their choice.

II. PROGRAM PROCEDURES

The HCVP is administered by local public housing agencies (PHAs) authorized under State law to operate housing programs within an area or jurisdiction. The PHA accepts the application for rental assistance, selects the applicant for admission, and issues the selected family a voucher confirming the family's eligibility for assistance. The family must then find and lease a dwelling unit suitable to the family's needs and desires in the private rental market. The PHA pays the owner a portion of the rent (a housing assistance payment (HAP)) on behalf of the family.

The subsidy provided by the HCVP is considered a tenant-based subsidy because when an assisted family moves out of a unit leased under the program, the assistance contract with the owner terminates and the family may move to another unit with continued rental assistance (24 CFR section 982.1).

HUD enters into Annual Contributions Contracts (ACCs) with PHAs under which the Department of Housing and Urban Development (HUD) provides funds to the PHAs to administer the programs locally. The PHAs enter into HAP contracts with private owners who lease their units to assisted families (24 CFR section 982.151).

In the HCVP, the PHA verifies a family's eligibility (including income eligibility) and then issues the family a voucher. The family has a minimum of 60 days to locate a rental unit where the landlord agrees to participate in the program (The PHA establishes the maximum number of days). The PHA determines whether the unit meets housing quality standards (HQS). If the PHA approves a family's unit and determines that the rent is reasonable, the PHA contracts with the owner to make HAPs on behalf of the family (24 CFR section 982.1(a)(2)).

The voucher subsidy is set based on the difference between the lower of the PHA's applicable payment standard for the family, the payment standard for the unit size rented, or the gross rent and the total tenant payment (generally 30 percent of the family's monthly adjusted income). This is the maximum amount of subsidy a family may receive regardless of the rent the owner charges for the unit (24 CFR part 982, subpart K). Under the HCVP, apart from the requirement that the rent must be reasonable in relation to rents charged for comparable units in the private unassisted market, there generally is no limit on the amount of rent that an owner may charge for

a unit. However, at initial occupancy of any unit where the gross rent exceeds the payment standard, a family may not pay more than 40 percent of adjusted monthly income toward rent and utilities (24 CFR section 982.508).

If the cost of utilities is not included in the rent to the owner, the PHA uses a schedule of utility allowances to determine the amount an assisted family needs to cover the cost of utilities. The PHA's utility allowance schedule is developed based on utility consumption and rate data for various unit sizes, structure types, and fuel types. The PHA is required to review its utility allowance schedules annually and to adjust them if necessary (24 CFR section 982.517).

The PHA must inspect units leased under the HCVP at the time of initial leasing and at least annually thereafter to ensure the units meet HQS. The PHA must also conduct supervisory quality control HQS inspections (24 CFR sections 982.305 and 982.405).

PHAs must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements. PHAs are required to maintain a HAP contract register or similar record in which to record the PHA's obligation for monthly HAPs. This record must provide information as to: the name and address of the family, the name and address of the owner, dwelling unit size, the beginning date of the lease term, the monthly rent payable to the owner, monthly rent payable by the family to the owner, and the monthly HAP (24 CFR section 982.158).

The Section 8 Management Assessment Program (SEMAP) is HUD's assessment program to measure the performance of PHAs that administer the HCVP. Under SEMAP, PHAs submit an annual or biennial, depending on the size and previous SEMAP scores, certification, Form HUD-52648 (*OMB No. 2577-0215*), to HUD concerning their compliance with program requirements under 14 indicators of performance (24 CFR part 985).

In the HCVP, required program contracts and other forms must be word-for-word in the form prescribed by HUD Headquarters. Any additions to or modifications of required program contracts or other forms must be approved by HUD headquarters (24 CFR section 982.162).

In addition, housing agencies that are contract administrators for this program must comply with the HUD Uniform Financial Reporting Standards rule. Accordingly, PHAs that administer Section 8 tenant-based housing assistance payment programs are required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due 2 months after the PHA's fiscal year end and the audited financial statement is due 9 months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

Under the homeownership option of the HCVP, implemented in October 2000, a PHA may choose to provide assistance to a qualified first-time homebuyer to subsidize the family's monthly homeownership expenses. The homeownership option is operated by a PHA as a separate sub-program of the HCVP, which is subject to somewhat different rules (24 CFR sections 982.625 through 982.641).

The Office of Public and Indian Housing (PIH) issued Notice PIH 2006-03 on January 11, 2006 that eliminated the ACC Reserve Account. In addition, for PHAs with fiscal years ending after December 31, 2004, the requirements to submit Form HUD-52681 for the HCVP were rescinded. HUD will instead use HUD-52681-B and the Voucher Management System (VMS) to monitor the PHA's HCVP financial and operational performance. In 2008, HUD published Notice PIH 2008-09, which clarifies the financial reporting requirements and deadlines for those PHAs that administer the HCVP and HCVP-related programs.

In February 2006, the Disaster Voucher Program (DVP) began. DVP, a component of the HCVP, provides temporary voucher assistance to previously HUD-assisted families impacted by Hurricanes Katrina or Rita. The operating guidelines were issued in Notices PIH 2006-12 and 2006-37. The tenant contribution in Section 8(o) of the US Housing Act of 1937 was waived through December 31, 2007 (see PIH Notice 2007-17). Beginning January 1, 2008, families who obtained DVP tenant assistance will be subject to the tenant contributions requirements of HCVP. Funding was provided to PHAs based on information entered into the Public Housing Information Center (PIC) Disaster Information System. PHAs are required to submit HAP and leasing information using HUD-52681-B and the VMS.

Veterans Affairs Supportive Housing

The 2008 Consolidated Appropriations Act (the Act) (Pub. L. No. 110-161, 121 Stat. 2414-2415), enacted December 26, 2007, initiated funding for the HUD-Veterans Affairs Supportive Housing (HUD-VASH) voucher program as authorized under Section 8(o)(19) of the US Housing Act of 1937 (42 USC 1437f(o)(19)). The VASH program is included in CFDA 14.871. The HUD-VASH program combines HUD HCVP rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs at its medical centers and in the community. VASH HCVP program is administered in accordance with regular HCVP requirements (24 CFR part 982). However, Pub. L. No. 110-161 allows HUD to waive or specify alternative requirements for any provision of any statute or regulation that HUD administers in connection with this program in order to effectively deliver and administer HUD-VASH voucher assistance. The HUD-VASH operating requirements (including the waivers and alternative requirements from HCVP rules) were published in the Federal Register on May 6, 2008 (see Notice FR-5213-N-01, 73 FR 25026-25028, Implementation of the HUD-VA Supportive Housing Program). Notice PIH 2011-53 (HA) provides further guidance on the reporting and portability requirements of VASH and Notice PIH 2011-50 (HA) addresses how PHAs can use project-basing of HUD-VASH vouchers. The VASH program is included in calculation of total Federal awards expensed under CFDA 14.871; however for FASS-PH reporting, until recently, PHAs were to record rental assistance activities under CFDA 14.VSH. Starting in calendar year (CY) 2011, all original VASH increments and renewals will be funded under the "VO" program type (i.e., the Housing Choice Voucher (HCV) program housing assistance payment (HAP) funding code) and will be included in the PHA's monthly VO disbursements. Administrative fee-related revenues and expenses should be recorded under the HCVP as CFDA 14.871 on the FDS. PHAs are required to submit family data using HUD-50058 in PIC, and HAP and leasing information using HUD-52681-B and the VMS.

Family Unification Program

Family Unification Program (FUP) HCVP vouchers are made available to families for whom the lack of adequate housing is a primary factor in the separation, or threat of imminent separation, of children from their families or in the prevention of reunifying the children with their families. FUP vouchers may also be used to assist youth at least 18 years old and not more than 21 years old who left foster care at age 16 or older and who lack adequate housing. Family unification vouchers enable these families and youths to lease or purchase decent, safe, and sanitary housing that is affordable in the private-housing market. The FUP HCVP is administered in accordance with regular HCVP requirements (24 CFR parts 982 and 985). Revenues and expenses should be recorded under the HCVP, CFDA 14.871 on the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B and the VMS.

Non-Elderly Disabled

Various appropriations acts have provided separate funding for non-elderly disabled (NED) vouchers, which are administered in accordance with regular HCVP requirements (24 CFR part 982). For this reason, NED is included in calculation of total Federal awards expended under CFDA 14.871. Related revenues and expenses should be recorded under the HCVP, 14.871 on the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B and the VMS.

Disaster Housing Assistance Program

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. L. No. 110-329) provided \$85 million dollars for the issuance of vouchers to Katrina Disaster Housing Assistance Program (DHAP) participating families as authorized under Section 8(o)(19) of the US Housing Act of 1937. PHAs were invited to apply for these vouchers through letters from HUD. The vouchers are known as the DHAP to HCV Voucher and are subject to the provisions found in 24 CFR parts 982 and 985. PHAs are also required to submit family data using HUD-50058 in PIC, and HAP and leasing information using HUD-52681-B and the VMS.

Temporary Housing Unit to Housing Choice Voucher

The Supplemental Appropriations Act for Fiscal Year 2009 (Pub. L. No. 111-32, enacted June 24, 2009) provided \$80 million for HCVP for awards to PHAs in areas impacted by Hurricanes Katrina and Rita. These are known as the Temporary Housing Unit (THU) to Housing Choice Voucher (HCV) and are subject to the provisions found in 24 CFR parts 982 and 985. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B and the VMS.

Mainstream Vouchers

The Omnibus Appropriations Act of 2009, Pub. L. No. 111-8, authorized funding for the 5-Year Mainstream Vouchers Program under Section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 USC 8013(d)(2)). PHAs authorized under State law to develop or operate housing assistance programs may apply for the program. In some instances, nonprofit agencies may also apply for housing vouchers. Mainstream vouchers provide housing assistance

payments to participating owners on behalf of eligible tenants, i.e., families having a person with disabilities. The 5-Year Mainstream Vouchers Program is administered in accordance with regular HCVP requirements (24 CFR parts 982 and 985). However, for FASS-PH reporting, PHAs are to record rental assistance activities under CFDA 14.879. Administrative fee-related revenues and expenses should be recorded under the HCVP, under CFDA 14.879 in the FDS. PHAs are also required to submit family data (HUD-50058) in PIC, and HAP and leasing information using HUD-52681-B and the VMS.

Source of Governing Requirements

The HCVP regulations are found in 24 CFR parts 5, 982, 983, and 985.

Availability of Other Program Information

Copies of PIH notices can be found on the Internet at <http://www.hud.gov/offices/adm/hudclips/> or <http://www.hud.gov/offices/pih/regs/index.cfm>. The Supplement to the Financial Management Handbook, Department of Housing and Urban Development Handbook 7475.1, Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule (Handbook 7475.1), can be found on the Internet at <http://www.hud.gov/offices/pih/publications/notices/07/pih2007-9suppl.pdf>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. PHAs may use HCVP and Mainstream Voucher funds only for HAPs to participating owners, and for administrative fees (24 CFR sections 982.151 and 982.152).
 - a. Accumulated administrative fees from 2003 funding and prior may be used for any housing related purpose. Unspent administrative fees accumulated after January 1, 2005 (i.e., fee from 2004 and later funding, see III.L.1.g(4)(a), “Financial Reporting – Financial Reports”) may be used only to support the HCVP. These funds are still considered to be administrative fee reserves, and are subject to all of the requirements applicable to administrative fee reserves including, but not limited to, those in 24 CFR section 982.155. The fees accumulated from 2004 and later funding must be used for activities related to the provision of tenant-based rental assistance authorized under Section 8 of the United States Housing Act of 1937, including related development activities. PHAs must maintain and report balances for both funding sources (see notice PIH 2010-7(HA) dated March 12, 2010) (Division I, Title II, Section (5) of Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat.

3296 and subsequent appropriations acts; see Section 5 of Notice PIH 2005-01 and notice PIH 2010-7(HA); 24 CFR section 982.155).

- b. The 2005 Appropriations Act and subsequent appropriations acts require that CY HAP funding to be used for CY HAP and later HAP expenses. PHA's HAP equity balance also known as "net restricted assets" provides the balance of the unspent HAP at any given point in time. A negative HAP equity balance at the calendar year end indicates that the PHA has or will use the next year HAP funding for last year's HAP expense. PHAs are not allowed to use current year HAP to fund HAP liabilities associated with prior years (Division K, Title II of Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 2412; see Section 15 of Notice PIH 2008-15).
 - c. HAP funding can only be used to support the payment of HAP expenses. Transfers of HAP and administrative fees, even temporarily, to support another program or use are not allowed, and could be considered a breach of the ACC (see III.L.f(3), FDS Transfer Line Items). Such use may result in civil penalties or sanctions (24 CFR section 985.109).
2. PHAs are allowed to recover their indirect costs related to the HCVP through the use of a fee-for-service model in lieu of a cost allocation plan. In order for a PHA to use a fee-for-service model, the PHA must create a central office cost center (COCC) (24 CFR section 990.280(d)). (Also see Section 7.8 of Handbook 7475.1 and Section 2 of Notice PIH 2008-17). HUD has established the following as the fees the COCC can charge for the HCVP:
- a. HCVP management fee, and
 - b. Bookkeeping fee.

HUD is required to publish a notice in the *Federal Register* that reflects the amount that can be claimed by PHAs administering the program. As of September 6, 2006, HUD has determined that, for PHAs that elect to use a fee-for-service methodology for their HCVPs (as allowed under OMB Circular A-87), a management fee of up to 20 percent of the administrative fee or up to \$12 per unit month (PUM) per voucher leased, whichever is higher, is reasonable. PHAs also can charge the HCVP a bookkeeping fee of \$7.50 PUM per voucher leased (see 71 FR 52710, HUD Notice – Public Housing Operating Fund Program; Guidance on Implementation of Asset Management, September 6, 2006, Section VIII) (42 USC 1437f(q)(1)).

3. The 2005 Appropriations Act and subsequent Acts prohibit the use of appropriated funds by any PHA for "over-leasing." Over-leasing occurs when a PHA has more unit months under a HAP contract for the CY than are available under its ACC baseline, even if the PHA has sufficient Budget Authority to support the additional unit months. Over-leasing is measured on a CY basis. If a

PHA engages in over-leasing, it must identify other non-HAP sources to pay for the overleasing. In addition, the 2008 Appropriations Act and subsequent require that administrative fees be based on actual leasing as of the first of the month (Division I, Title II, Section (5) of Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 3295; Division K, Title II, Section (1) of Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 2413; See Section 7 of Notice PIH 2005-01 and Section 6 of Notice PIH 2008-15). PHAs submit lease information via VMS. (See also III.L.e(1)(a) VMS Units Month Leased Lines).

B. Allowable Costs/Cost Principles

The amount of salary of PHA chief executive officers, other officers, and employees paid with Federal Fiscal Year 2012 Section 8 HCV administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a Federal position at Level IV of the Executive Schedule (currently \$155,500) during the PHA's fiscal year 2012 (Section 234 of Pub. L. No. 112-55, 125 Stat. 702, November 18, 2011). Implementing guidance has been issued in PIH Notice 2012-14, "Guidance on Public Housing salary restrictions in HUD's Federal Fiscal Year (FFY) 2012 Appropriations Act (P.L.112-55)," issued February 24, 2012 (http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices).

E. Eligibility

1. Eligibility for Individuals

Most PHAs devise their own application forms that are filled out by the PHA staff during an interview with the tenant.

The head of the household signs: (a) one or more release forms to allow the PHA to obtain information from third parties; (b) a federally prescribed general release form for employment information; and (c) a privacy notice. Under some circumstances, other members of the family are required to sign these forms (24 CFR sections 5.212 and 5.230).

The PHA must do the following:

- a. As a condition of admission or continued occupancy, require the tenant and other family members to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 982.516).
- b. For both family income examinations and reexaminations, obtain and document in the family file third-party verification of: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income-based rent (24 CFR section 982.516).

- c. Determine income eligibility and calculate the tenant's rent payment using the documentation from third-party verification in accordance with 24 CFR part 5 subpart F (24 CFR section 5.601 *et seq.*) (24 CFR sections 982.201, 982.515, and 982.516).
 - d. Select tenants from the HCVP waiting list (see III.N.1, "Special Tests and Provisions – Selection from the Waiting List") (24 CFR sections 982.202 through 982.207).
 - e. Reexamine family income and composition at least once every 12 months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third-party verification (24 CFR section 982.516).
2. **Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**
 3. **Eligibility for Subrecipients – Not Applicable**

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. HUD-52681-B, *Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169)*. The PHA submits this form electronically to HUD via the VMS monthly on the same basis of accounting (full or modified) as the PHA prepares its annual financial submission to HUD through the FASS-PH system. Congress has instructed HUD to use VMS data to determine renewal funding levels. HUD also uses VMS data for other funding, monitoring, and SEMAP-related decisions. HUD relies on the audit of the key line items below to determine the reasonableness of the data submitted for the purposes of calculating funding under the program.

Key Line Items – All of the line items under the categories below contain critical information:

- (1) Unit Months Leased
- (2) HAP Expenses

(3) All Specific Disaster Voucher Programs

- e. *Financial Reports (OMB No. 2535-0107)* – Financial Assessment Sub-system, FASS-PH. The Uniform Financial Reporting Standards (24 CFR section 5.801) require PHAs to submit timely GAAP-based unaudited and audited financial information electronically to HUD. The FASS-PH system is one of HUD’s main monitoring and oversight systems for the HCVP.

Key FDS Line Information – The line items under the following headings contain critical information:

- (1) FDS Revenue Line Items: The accuracy of these revenue items should be reviewed in conjunction with the participant’s annual budget authority, payment schedules, and other reports.
 - (a) FDS Line 70600-010 – (Housing Assistance Payments)
 - (b) FDS Line 70600-020 – (Ongoing Administrative Fees Earned)
 - (c) FDS Line 71100 – (Investment Income – Unrestricted)
 - (d) FDS Line 72000 – (Investment Income – Restricted)
- (2) FDS Expenditure Line Items: The accuracy of these expenditure items should be reviewed in conjunction with Chapter 7 of the Supplement to HUD Handbook 7475.1, revised April 2007, which provides HUD guidance on maximum fees allowed and associated fee expenses.
 - (a) FDS Line 91300 – (Management Fee)
 - (b) FDS Line 91310 – (Book-Keeping Fee)
 - (c) FDS Line 96900 – (Total Operating Expenses)
 - (d) FDS Line 97300 – (Housing Assistance Payments)
- (3) FDS Transfer Line Items: The accuracy of these transfer items should be reviewed in conjunction with supporting documentation and/or HUD approvals. For FDS reporting, cash and investments in a cash pool or working capital account should be reported as such and not reflected as due to/ due from. Amounts reported on these FDS Lines could represent unallowable costs (see III.A.1.).
 - (a) FDS Line 144 – (Inter Program – Due From)

- (b) FDS Line 10020 – (Operating Transfer Out)
- (c) FDS Line 10030 – (Operating Transfers From/To Primary Government)
- (d) FDS Line 10040 – (Operating Transfer From/To Component Unit)
- (e) FDS Line 11040 – (Prior Period Adjustments, Equity Transfers, and Correction of Errors)

(4) FDS Equity Line Items:

- (a) FDS Line 11170 – (Administrative Fee Equity)

This line represents the administrative fee equity for the Section 8 HCVP only. Amounts reported in this line should not be commingled with other voucher-related activities. It is equal to the beginning administrative fee equity balance plus the total administrative fee revenue minus total administrative expense. Prior to the 2004 funding, administrative fees could be used for any housing related purposes. In the 2004 and later appropriations acts, Congress limited the use of these administrative fees to Section 8 housing-related activities only (see III.A.1.a, “Activities Allowed and Unallowed”).

- (b) FDS Line 11180 – (Housing Assistance Payments Equity)

This line represents the HAP equity for the HCVP only. Amounts reported in this line should not be commingled with other voucher-related activities as outlined in PIH-Notice 2008-09. It is equal to the beginning HAP equity plus total HAP revenue minus total HAP expense. Current CY appropriated HAP funding cannot be used to fund prior CY HAP deficits. Additionally, such funds may be used only for HCVP rental assistance purposes and may not be transferred, advanced, or loaned to another program (see III.A.1.b, “Activities Allowed or Unallowed”).

- (c) Recent Office of Inspector General (OIG) reports have noted deficiencies in the reporting of equity balances. Material deficiencies by the entity may require reconciling of prior-year data to establish valid equity balances.

2. Performance Reporting

- a. HUD-52648, *SEMAP Certification – Addendum for Reporting Data for Deconcentration Bonus Indicator (OMB No. 2577-0215)* – PHAs with jurisdiction in metropolitan FMR areas have the option of submitting data to HUD with their annual SEMAP certifications on the percent of their tenant-based Section 8 families with children who live in, and who have moved during the PHA fiscal year to, low poverty census tracts in the PHA's principal operating area. Submission of this information with the SEMAP certification makes the PHA eligible for bonus points under SEMAP (24 CFR section 985.3(h)).

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

- (1) Line 1a – *Number of Section 8 families with children assisted by the HA in its principal operating area at the end of the last PHA fiscal year (FY) who live in low poverty census tracts*
- (2) Line 1b – *Total Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA FY*
- (3) Line 1c – *Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the last PHA FY*
- (4) Line 2a – *Percent of all Section 8 families with children residing in low poverty census tracts at the end of the last completed PHA FY*
- (5) Line 2b – *Number of Section 8 families with children who moved to low poverty census tracts during the last completed PHA FY*
- (6) Line 2c – *Number of Section 8 families with children who moved during the last completed PHA FY*

- b. HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each public and Indian housing grant that involves development, operating, or modernization assistance, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- (1) 3. Dollar Amount of Award
- (2) 8. Program Code
- (3) Part I, Column C – Total Number of New Hires that are Sec. 3 Residents

- (4) Part II, Contracts Awarded, 1. Construction Contracts
 - (a) A. Total dollar amount of construction contracts awarded on the project
 - (b) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (c) D. Total number of Section 3 businesses receiving construction contracts
- (5) Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (a) A. Total dollar amount of all non-construction contracts awarded on the project/activity
 - (b) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (c) D. Total number of Section 3 businesses receiving non-construction contracts

3. Special Reporting

HUD-50058, *Family Report (OMB No. 2577-0083)* – The PHA is required to submit this form electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA’s jurisdiction under portability (24 CFR part 908 and 24 CFR section 982.158).

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

- a. Line 2a – *Type of Action*
- b. Line 2b – *Effective Date of Action*
- c. Line 3b, 3c – *Names*
- d. Line 3e – *Date of Birth*
- e. Line 3n – *Social Security Numbers*
- f. Line 5a – *Unit Address*
- g. Line 5h, 5i – *Unit Inspection Dates*
- h. Line 7i – *Total Annual Income*

- i. Lines 2k and 17a – *Family’s Participation in the Family Self Sufficiency (FSS) Program*
- j. Line 17k (2) – *FSS Account Balance*

4. Section 1512 ARRA Reporting – Not Applicable

5. Subaward Reporting under the Transparency Act – Applicable

N. Special Tests and Provisions

1. Selection from the Waiting List

Compliance Requirement – The PHA must have written policies in its HCVP administrative plan for selecting applicants from the waiting list and PHA documentation must show that the PHA follows these policies when selecting applicants for admission from the waiting list. Except as provided in 24 CFR section 982.203 (Special admission (non-waiting list)), all families admitted to the program must be selected from the waiting list. “Selection” from the waiting list generally occurs when the PHA notifies a family whose name reaches the top of the waiting list to come in to verify eligibility for admission (24 CFR sections 5.410, 982.54(d), and 982.201 through 982.207).

Audit Objective – Determine whether the PHA is following its own selection policies in selecting applicants from the waiting list to become participants.

Suggested Audit Procedures

- a. Review the PHA’s applicant selection policies.
- b. Test a sample of new participants admitted to the program to ascertain if they were selected from the waiting list in accordance with the PHA’s applicant selection policies.
- c. Test a sample of applicant names that reached the top of the waiting list to ascertain if they were admitted to the program or provided the opportunity to be admitted to the program in accordance with the PHA’s applicant selection policies.

2. Reasonable Rent

Compliance Requirement – The PHA’s administrative plan must state the method used by the PHA to determine that the rent to owner is reasonable in comparison to rent for other comparable unassisted units. The PHA determination must consider unit attributes such as the location, quality, size, unit type, and age of the unit, and any amenities, housing services, maintenance and utilities provided by the owner.

The PHA must determine that the rent to owner is reasonable at the time of initial leasing. Also, the PHA must determine reasonable rent during the term of the contract: (a) before

any increase in the rent to owner; and (b) at the HAP contract anniversary if there is a five percent decrease in the published Fair Market Rent (FMR) in effect 60 days before the HAP contract anniversary. The PHA must maintain records to document the basis for the determination that rent to owner is a reasonable rent (initially and during the term of the HAP contract) (24 CFR sections 982.4, 982.54(d)(15), 982.158(f)(7), and 982.507).

Audit Objective – Determine whether the PHA is documenting the determination that the rent to owner is reasonable in accordance with the PHA’s administrative plan at initial leasing and during the term of the contract.

Suggested Audit Procedures

- a. Review the PHA’s method in its administrative plan for determining reasonable rent.
- b. Test a sample of leases for newly leased units and ascertain if the PHA has documented the determination of reasonable rent in accordance with the PHA’s administrative plan.
- c. Test a sample of leases for which the PHA is required to determine reasonable rent during the term of the HAP contract and ascertain if the PHA has documented the determination of reasonable rent in accordance with the PHA’s administrative plan.

3. Utility Allowance Schedule

Compliance Requirement – The PHA must maintain an up-to-date utility allowance schedule. The PHA must review utility rate data for each utility category each year and must adjust its utility allowance schedule if there has been a rate change of 10 percent or more for a utility category or fuel type since the last time the utility allowance schedule was revised (24 CFR section 982.517).

Audit Objective – Determine whether the PHA has reviewed utility rate data within the last 12 months and has adjusted its utility allowance schedule if there has been a rate change of 10 percent or more in a utility category or fuel type since the last time the utility allowance schedule was revised.

Suggested Audit Procedures

- a. Review PHA procedures for obtaining and reviewing utility rate data each year.
- b. Review data on utility rates that the PHA obtained during the last 12 months and ascertain, based on data available at the PHA, if there has been a change of 10 percent or more in a utility rate since the last time the utility allowance schedule was revised, and if so, verify that the PHA revised its utility allowance schedule to reflect the rate increase.

4. Housing Quality Standards Inspections

Compliance Requirement – The PHA must inspect the unit leased to a family at least annually to determine if the unit meets Housing Quality Standards (HQS) and the PHA must conduct quality control re-inspections. The PHA must prepare a unit inspection report (24 CFR sections 982.158(d) and 982.405(b)).

Audit Objective – Determine whether the PHA documented the required annual HQS inspections and quality control re-inspections.

Suggested Audit Procedure

- a. Review the PHA's procedures for performing HQS inspections and quality control re-inspections.
- b. Test a sample of units for which rental assistance was paid during the fiscal year and review inspection reports to ascertain if the unit was inspected.
- c. Review the PHA's reports of re-inspections to ascertain if quality control re-inspections were performed.

5. HQS Enforcement

Compliance Requirement – For units under HAP contract that fail to meet HQS, the PHA must require the owner to correct any life threatening HQS deficiencies within 24 hours after the inspections and all other HQS deficiencies within 30 calendar days or within a specified PHA-approved extension. If the owner does not correct the cited HQS deficiencies within the specified correction period, the PHA must stop (abate) HAPs beginning no later than the first of the month following the specified correction period or must terminate the HAP contract. The owner is not responsible for a breach of HQS as a result of the family's failure to pay for utilities for which the family is responsible under the lease or for tenant damage. For family-caused defects, if the family does not correct the cited HQS deficiencies within the specified correction period, the PHA must take prompt and vigorous action to enforce the family obligations (24 CFR sections 982.158(d) and 982.404).

Audit Objective – Determine whether the PHA documented enforcement of the HQS.

Suggested Audit Procedures

- a. Select a sample of units with failed HQS inspections during the audit period from the PHA's logs or records of failed HQS inspections.
- b. Verify that the files document that the PHA required correction of any cited life threatening HQS deficiencies within 24 hours of the inspection and of all other HQS deficiencies within 30 calendar days of the inspection or within a PHA-approved extension.

- c. If the correction period has ended, verify that the files contain a unit inspection report or evidence of other verification documenting that any PHA-required repairs were completed.
- d. Where the file shows that the owner failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA properly stopped (abated) HAPs or terminated the HAP contract.
- e. Where the file shows that the family failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA took action to enforce the family obligations.

6. Housing Assistance Payment

Compliance Requirement – The PHA must pay a monthly HAP on behalf of the family that corresponds with the amount on line 12u of the HUD-50058. This HAP amount must be reflected on the HAP contract and HAP register. (24 CFR section 982.158 and 24 CFR part 982, subpart K).

Audit Objective – Determine whether owners are receiving, and HUD is billed for, correct HAPs.

Suggested Audit Procedures

- a. Review PHAs' quality control procedures for maintaining the HAP register.
- b. Verify that HAP contracts or contract amendments agree with the amount recorded on the HAP register and the amount on 12u of the HUD-50058.

7. Operating Transfers and Administrative Fees

Compliance Requirement – The Annual Contributions Contract (ACC) establishes the amounts HUD will provide a PHA for HAP and administrative fees. HAP may not be used to cover administrative expenses nor may HAP (including Net Restricted Assets – HAP (NRA)) be loaned, advanced, or transferred to other component units or other programs such as Public and Indian Housing (CFDA 14.850) (24 CFR sections 982.151 and 982.152).

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

Suggested Audit Procedures

- a. Selected a sample of transactions related to the following FDS Lines:

144 – Inter Program – Due From

124 – Accounts receivable – other government

- 125 – Accounts receivable – miscellaneous
- 10020 – Operating transfers out)
- 10030 – Operating transfers from/to primary government
- 10040 – Operating transfer from/to component unit)
- 11170 – Administrative fee equity
- 11180 – Housing assistance payment equity.

- b. Test for improper transfers or inappropriate use of funds.

8. Depository Agreements

Compliance Requirement – PHAs are required to enter into depository agreements with their financial institutions in the form required by HUD. The agreements serve as safeguards for Federal funds and provide third-party rights to HUD (24 CFR section 982.156).

Audit Objective – Determine whether the PHA has entered into the required depository agreements.

Suggested Audit Procedures

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

9. Rolling Forward Equity Balances

Compliance Requirement – PHAs are required to maintain complete and accurate accounts. In addition, the ACC requires PHA to properly account for program activity. Proper accounting requires that (1) account balances are properly maintained, (2) records and accounting transactions support a proper roll-forward of equity and (3) errors are corrected as detected. Several HUD OIG audits reports have noted that PHAs have not been accounting and reporting HAP and Administrative Fee equity accounts properly. This has resulted in several PHAs not being funded correctly and has resulted in OIG findings against HUD and PHAs. If audit testing, account analysis, or third-party (e.g., HUD) information, provides evidence that the current HAP and Administrative Fee equity is not correctly stated, the PHA is required to correct the account balance. Errors affecting these accounts could have begun starting with 2004 or 2005 financial statements (24 CFR section 982.158).

Audit Objective – Determine whether equity balances have been reconciled and rolled forward correctly.

Suggested Audit Procedures

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

IV. OTHER INFORMATION

The MTW program (CFDA 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD. An MTW agency may combine funds from the following three programs:

Section 8 Housing Choice Vouchers (CFDA 14.871);
Public Housing Capital Fund (CFDA 14.872); and
Public and Indian Housing (CFDA 14.850).

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine which funds are included in the MTW Agreement. Even though the Mainstream Vouchers program (CFDA 14.879) follows HCVP procedures, that program is excluded from the MTW program. If HCVP funds are transferred out of HCVP, pursuant to an MTW Agreement, they are subject to the requirements of the MTW Agreement and should not be included in the audit universe and total expenditures for HCVP when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as HCVP expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the HCVP account, pursuant to an MTW Agreement, all of the HCVP funds would then be considered MTW funds.

If the MTW agency does not transfer all the funds from the HCVP into the MTW account or another of the authorized programs, those funds would be considered, and audited, under the HCVP.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- CFDA 14.872 PUBLIC HOUSING CAPITAL FUND (CFP)**
CFDA 14.884 PUBLIC HOUSING CAPITAL FUND COMPETITIVE (RECOVERY ACT FUNDED)
CFDA 14.885 PUBLIC HOUSING CAPITAL FUND STIMULUS (FORMULA) RECOVERY ACT FUNDED

I. PROGRAM OBJECTIVES

The primary objective of the Capital Fund Programs (CFP) is to make assistance available to public housing agencies (PHAs) to carry out capital and management improvement activities. The CFP can also be used for: demolition, resident relocation, resident economic development, security, financing costs, and homeownership. The CFP is the major source of funding made available by HUD to PHAs for their capital activities, including modernization and development of public housing.

The objectives of modernization activities are to improve the physical condition of existing public housing developments, including the redesign, reconstruction, addition, and reconfiguration of public housing sites, buildings, facilities and/or related appurtenances or improvements (including accessibility improvements).

The objectives of management improvement activities are to upgrade the operation of PHA developments, sustain physical improvements at those developments, or correct management deficiencies.

The objectives of development activities are to provide PHAs with the opportunity to replace, build, or acquire units to house low-income families, including costs for planning, financing, land acquisition, demolition, and construction.

II. PROGRAM PROCEDURES

CFP grants are made available to all PHAs, based on a complex formula, which takes into account a number of variables related to unit characteristics and, ultimately, multiplies a per-unit amount by the number of units in the PHA. The PHA also receives funding potentially for up to 10 years for units that have been torn down (or otherwise left the inventory). There are two types of grants: formula grants and replacement housing factor (RHF) grants (both determined by formula). PHAs can use formula grants for any eligible Capital Fund activity. RHF grants can only be used for the development of replacement housing units.

In recent years, Congress has set aside anywhere from \$17 to \$75 million within the Capital Fund account to assist PHAs that have incurred damage to their units as a result of an emergency or natural disaster. PHAs submit an application for this funding. The funding is allocated based on the order in which the Department of Housing and Urban Development (HUD) receives approvable applications.

In recent years, HUD has permitted PHAs to borrow funding secured to a portion of future Capital Fund grants under the Capital Fund Financing Program (CFFP). PHAs have to obtain HUD's permission prior to borrowing funds securitized by any public housing asset (including real property, other PHA owned property purchased with Federal grant funds, and CFP grant funds themselves). HUD reviews each transaction to ensure that PHAs will not be overcommitted to payment of debt service to the detriment of the public housing stock/program, for the reasonableness of the terms of the transaction, and to mitigate risk of default.

In planning its modernization projects, the PHA is required to consult with residents and local government officials. After grant award, the PHA may select an architect or engineer through competitive negotiation to develop the plans and specifications for the construction work. Construction work, as well as management improvements, may be carried out through contract labor (competitively procured) or the PHA's own work force (force account). The PHA or its architect monitors the work in progress for compliance with contract requirements and acceptable work quality, and submits periodic progress reports to HUD.

PHAs develop additional public housing, including mixed-financed housing in accordance with 24 CFR section 941. For development projects, the PHA is responsible for negotiating a local cooperation agreement that establishes what services the locality will provide to the public housing project, for project planning, and for submitting a development proposal (and a site acquisition proposal, if applicable). This includes selecting sites or properties to be acquired, contracting with builders to construct or rehabilitate housing, contracting with developers for the purchase of completed (new or rehabilitated) housing, and purchasing existing housing that may require repairs. In addition, as a developer, the PHA is responsible for selecting and contracting with other parties (e.g., architects and engineers) and for expediting and coordinating the preparation of required HUD submissions.

On an annual basis, the PHA submits a Public Housing Agency Plan (*OMB No. 2577-0226 – Form HUD-50075*), based on the PHA fiscal year, to HUD for approval. The Plan includes a component that outlines the CFP activities the PHA plans to undertake with its Capital Fund annual allocation. A 5-year plan identifying anticipated expenditures for large capital items is also included. Prior to submitting the Plan to HUD for review and approval, the PHA must hold a public hearing and provide residents, local government officials, and other interested parties with an opportunity to comment on the proposed activities.

The Small Public Housing Authorities Paperwork Reduction Act in the Housing and Economic Recovery Act of 2008 (HERA) (Section 2702 of Pub. L. No. 110-289, July 30, 2008) has exempted qualified PHAs from the annual plan requirement. A qualified PHA is a PHA that (1) has a combined total of 550 or less public housing units and section 8 vouchers, (2) is not designated under section 6(j)(2) of the US Housing Act of 1937 (42 USC 1437d(j)(2)) in the Public Housing Assessment System (PHAS) as a troubled public housing agency during the prior 12 months, and (3) does not have a failing score under the section 8 Management Assessment Program (SEMAP) during the prior 12 months. HUD provides approval for specific activities through approving the PHA Plan, which includes the PHA's budget for CFP funds (24 CFR section 968.315). On an annual basis, the PHA also provides HUD with its Annual Statement Component 7 of the PHA Plan (Form HUD-50075, *OMB No. 2577-0226*) in accordance with 24 CFR section 968.325(e), which details the eligible activities to be funded with the current

year's grant and the estimated costs. A PHA, including a PHA qualified as exempt from submission of the Annual PHA plan, must have an approved 5-year plan to have access to Capital Funds. The funds are limited to a certain number of budget line items (BLIs) until HUD approves the annual Plan. Once HUD approves the annual Plan, it spreads Capital Funds to all of the appropriate BLIs in the Line of Credit Control System (LOCCS) in accordance with the information contained in the PHA Plan. The PHA can then drawdown funds as needed on a 3-day turnaround basis to pay for approved work activities.

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due 2 months after the PHA's fiscal year end and the audited financial statement is due 9 months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

PHAs file actual modernization cost certificates (AMCC) and actual development cost certificates (ADCC) with the local HUD Field Office when they complete a modernization or development project.

Public Housing Capital Fund Competitive (Recovery Act Funded)

Title XII of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5) provided additional funding for projects through the CFP. On May 12, 2009, HUD issued a Notice of Funding Availability (NOFA) in the Federal Register (74 FR 22175) for a competitive program to PHAs for Capital Fund Recovery Competition (CFRC) grants. On June 3, 2009, HUD published on its Recovery Act website a revised CFRC NOFA that made changes, corrections, and clarifications to a number of criteria established in the CFRC NOFA posted on May 7, 2009.

CFRC grants were awarded under the following categories:

Category 1. Improvements Addressing the Needs of the Elderly and/or Persons with Disabilities.

Category 2. Public Housing Transformation.

Category 3. Gap Financing for Projects that are Stalled due to Financing Issues.

Category 4, Option 1. Creation of Energy Efficient Green Communities: Substantial Rehabilitation or New Construction.

Category 4, Option 2. Creation of Energy Efficient Green Communities: Moderate Rehabilitation.

Eligible applicants are all public housing agencies. If an applicant PHA has been designated as "troubled," it must meet specific requirements of the NOFA and be approved by HUD, in order to be considered.

As part of the application for Category 1 (all projects) and Category 4 (Moderate Rehabilitation projects only), a PHA must submit an Annual Statement (Form HUD-50075.1, Parts I & II, OMB No. 2577-0226) in accordance with 24 CFR section 968.325(e), which details the eligible activities to be funded with the current year's grant and the estimated costs. PHAs applying for grants in Category 2 (all projects), Category 3 (all projects), and Category 4 (Substantial Rehabilitation projects only), are required to submit to HUD a "sources and uses" statement in a form prescribed by HUD. Once grants are awarded, the receiving PHAs will be required to modify their Annual Plans and Capital Fund 5-Year Action Plans to incorporate these new and/or modified work items.

PHAs receiving a grant will be required to sign an Annual Contributions Contract (ACC) Amendment. Additional requirements imposed by ARRA are reflected in the ACC Amendment for these funds, as well as the NOFA issued May 7, 2009 and a revised NOFA issued June 3, 2009. The ACC Amendment is the obligating document. Both NOFAs are available at the HUD ARRA website on the Internet at: <http://www.hud.gov/recovery>.

Public Housing Capital Fund Stimulus (Formula) (Recovery Act Funded)

HUD obligated this formula grant funding to 3,134 PHAs on March 18, 2009. HUD calculated the formula grant amount for each PHA using the 2008 Capital Fund formula. PHAs can only use these funds on Capital Fund-eligible activities as described under Section 9 of the US Housing Act of 1937, as amended. PHAs must give priority to the rehabilitation of vacant rental units and capital projects that are already underway and require additional funds or are included in the Capital Fund 5-Year Action Plan. Some PHAs may need to revise the 5-Year Action Plan to identify additional work items for the amount of funding being provided. A PHA must have an approved 5-Year Action Plan to have access to formula grants. PHAs receive one grant and have only one ACC Amendment. Additional requirements imposed by ARRA are reflected in that ACC Amendment for these funds and in PIH Notice 2009-12 (HA) which was issued on March 18, 2009.

Source of Governing Requirements

The programs are authorized under 42 USC 1437g and 3535 (d) and ARRA. Implementing regulations are 24 CFR parts 905, 941, and 968 subparts A and B. In addition, the CFP is operated in conjunction with the PHA Plan process discussed at 24 CFR part 903.

Availability of Other Program Information

HUD posts guidance on the CFP to its Office of Capital Improvements Home Page (<http://www.hud.gov/offices/pih/programs/ph/capfund/index.cfm>) that provides grantees with information on timelines, budgets, financial instructions, and other program guidance. Specific requirements related to the CFFP can be found by clicking on the CFFP link on the left hand side of the Office of Capital Improvements Home Page. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) website at http://www.hud.gov/offices/reac/products/fass/pha_doc.cfm and http://www.hud.gov/offices/reac/library/lib_fapha.cfm.

Guidance on ARRA programs can be found in PIH Notice 2009-12 (HA) issued March 18, 2009 and Frequently Asked Questions (FAQ's) which can be found on the Capital Fund webpage on the Internet at:

<http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. For Capital Fund formula grants (**including ARRA funded grants**) and grants from the set-aside for emergencies and natural disasters, allowed Capital Fund activities include the following: developing, financing, or modernizing public housing; vacancy reduction; deferred maintenance; replacement of obsolete utility systems and dwelling equipment; code compliance; management improvements; demolition and replacement; resident relocation; resident economic empowerment/economic self sufficiency; security; and homeownership (42 USC 1437g(d)).
2. For Capital Fund RHF grants, activities are limited to the development of replacement housing (24 CFR section 905.10(i)(5)(ii)).
3. The PHA may not incur any modernization cost in excess of the total HUD-approved PHA Plan which includes the project budget. Budget revisions may be approved by HUD for deviations from the originally approved modernization program. A PHA shall not incur any modernization cost on behalf of any development that is not covered by its current approved 5-year PHA Plan (24 CFR section 968.225).
4. **For ARRA-funded programs, funds cannot be transferred to or used for operations (BLI 1406), such as staff training, resident assistance, or maintenance staff salaries (unless applied to force account work on a capital project), or rental assistance activities (ARRA, 123 Stat 214).**
5. **For ARRA-funded programs, funds can only be substituted for work items in the PHA Annual Plan or the Capital Fund 5-Year Action Plan that are not already obligated to an open Capital Fund grant (see HUD Notice PIH 2009-12, Restrictions on Use of Funds).**
6. **For ARRA-funded programs, Moving to Work agencies are not permitted to combine ARRA funds with their operating or voucher funds (see HUD Notice PIH 2009-12, VIII, Moving to Work Agency Requirements).**

B. Allowable Costs/Cost Principles

The amount of salary of PHA chief executive officers, other officers, and employees paid with Federal Fiscal Year 2012 Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a Federal position at Level IV of the Executive Schedule (currently \$155,500) during the PHA's fiscal year 2012 (Section 234 of Pub. L. No. 112-55, 125 Stat. 702, November 18, 2011). Implementing guidance has been issued in PIH Notice 2012-14, "Guidance on Public Housing salary restrictions in HUD's Federal Fiscal Year (FFY) 2012 Appropriations Act (P.L.112-55)," issued February 24, 2012 (http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices).

D. Davis-Bacon Act

Projects funded with Capital Funds that are developed in accordance with 24 CFR part 941 – Public Housing Development and/or modernized in accordance with 24 CFR part 968 – Public Housing Modernization that contain only public housing units and mixed-finance projects developed in accordance 24 CFR part 941 subpart F – Public/Private Partnerships for the Mixed-Finance Development of Public Housing are subject to the Davis-Bacon Act (42 USC 1437j(a) and (b), 24 CFR section 941.208 and 24 CFR section 941.610 (a)(8)(vi)).

All ARRA funded projects are subject to the Davis-Bacon Act (Section 1606 of ARRA).

G. Matching, Level of Effort, Earmarking

1. **Matching** – Not Applicable
2. **Level of Effort** – Not Applicable
3. **Earmarking**
 - a. All Capital Fund administrative expenditures (BLI 1410) are limited to 10 percent of the total grant, excluding any costs related to lead-based paint or asbestos testing (whether conducted by force account employees or by a contractor), in-house architectural/engineering (A/E) work, or other special administrative costs required by State or local law, unless specifically approved by HUD (24 CFR section 968.112(n)(2)(ii)).
 - b. A PHA may draw up to 0.11 percent of each expenditure reimbursement for administration of the Recovery Act grant. With field office approval, a PHA may draw beyond 0.11 percent of the expenditure if the PHA demonstrates that it has already incurred the administrative expense but the total amount drawn down for administration is capped at 10 percent of the grant (24 CFR section 968.112 (n)(2)(i) and HUD Notice PIH 2010-34 (HA), Section VI, Restrictions on Use of Funds).

- c. Management improvements (BLI 1408) cannot exceed 20 percent of the total grant and cannot be used for operations and rental assistance activities such as staff training, resident assistance, security salaries, and maintenance staff salaries unless applied to force account work on a capital project (24 CFR section 968.112 (n)(2)(i) and HUD Notice PIH 2010-34 (HA), Section VI, Restrictions on Use of Funds).
- d. For Capital Fund grants, operations expenditures (BLI 1406) are limited to 20 percent of the total grant amount for large PHAs (250 PH Units or greater); up to 100 percent of the Capital Fund can be expended from operations (BLI 1406) for small PHAs (less than 250 PH Units) (42 USC 1437g(g)).

H. Period of Availability of Federal Funds

For ARRA-funded programs, recipients must obligate 100 percent of their funds within 1 year of the ACC amendment effective date; expend at least 60 percent of such funds within 2 years of the ACC amendment effective date; and expend 100 percent of such funds within 3 years of the ACC amendment effective date (ARRA, 123 Stat. 215).

V. Procurement and Suspension and Debarment

For ARRA funded programs, PHAs were instructed to amend their procurement policy and standards to conform to 24 CFR part 85 or ARRA. However, the PHAs were permitted to leave intact or insert their own procedures provided that they are not contrary to the purposes of 24 CFR part 85 or ARRA (PIH Notice 2009-12 (HA) Section VI, Procurement, subsection 3). For example, PHAs were permitted to use their existing protest procedures and standards of conduct provided their procedures were not contrary to 24 CFR part 85 and ARRA. Additionally, PHAs awarding contract(s) noncompetitively must do so on a contract-by-contract basis and in compliance with all 24 CFR part 85 requirements, including the requirements for a cost analysis and the conflict of interest statement. This noncompetitive process must be documented in the PHA's Capital Fund Stimulus Grant Procurement Policy. PHAs may use the Procurement Handbook for Public Housing Agencies (HUD Handbook 7460.8 Rev-2) for guidance on procurement requirements in 24 CFR part 85. The Procurement Handbook is available on the Internet at <http://www.hud.gov/offices/adm/hudclips/handbooks/pihh/74608/index.cfm>. Additional information can be found at the Office of Capital Improvement Recovery Act web page on the Internet at: <http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm>" (HUD Notice PIH 2009-12 (HA), Procurement and HUD Notice PIH 2010-34 (HA)) (ARRA, 123 Stat. 215).

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement of Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. Financial Reports (*OMB No. 2535-0107*) – Financial Assessment Subsystem, FASS-PHA. 24 CFR part 902 – Public Housing Assessment System (PHAS) Subpart C-Phase Indicator #2 Financial Condition requires the PHA to provide annual reports on a PHA-wide basis (42 USC 1437d (j)(1)(K)). Financial reporting requirements in 24 CFR section 902.33(a)(2) provide that the information be submitted electronically in the format prescribed by HUD using the Financial Data Schedule (FDS). Further 24 CFR section 902.35, “Financial condition scoring and threshold,” establishes the procedures to be observed by the PHA.

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

- (1) Headings for HUD Programs and Activities
 - (a) Asset Management Property, or AMP (Low-Rent Public Housing and Capital Fund Programs)
 - (b) Component Units (Non-Profit Entities)
- (2) Line Items
 - FDS Line 125 – (Accounts Receivable – Misc)
 - FDS Line 144 – (Inter-Program – Due From)
 - FDS Line 171 – (Notes, Loans, & Mortgages Receivable – Non-current)
 - FDS Line 172 – (Notes, Loans, & Mortgages Receivable – Non-current Past Due)
 - FDS Line 174 – (Other Assets)
 - FDS Line 176 – (Investment in Joint Ventures)
 - FDS Line 347 – (Inter-Program – Due To)
 - FDS Line 348 – (Loan Liability – Current)
 - FDS Line 355 – (Loan Liability – Non-Current)

FDS Line 10010 – (Operating Transfers – In)

FDS Line 10020 – (Operating Transfers – Out)

FDS Line 10030 – (Operating Transfers From/To Primary Government)

FDS Line 10093 – (Transfers Between Programs and Projects-In)

FDS Line 10094 – (Transfers Between Programs and Projects-Out)

- e. HUD 53001, *Actual Modernization Cost Certificate (AMCC)* (OMB No. 2577-0157)-. Upon expenditure by the PHA of all funds, or termination by HUD of the activities funded in a modernization program, a PHA shall submit the AMCC to HUD for review and approval (24 CFR section 968.145).

2. Performance Reporting

Form HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons*, (OMB No. 2529-0043) – For each public and Indian housing grant that involves development, operating, or modernization assistance, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a) and 135.90).

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts
 - (1) A. Total dollar amount of construction contracts awarded on the project
 - (2) B. Total dollar amount of construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving construction contracts
- e. Part II, Contracts Awarded, 2. Non-Construction Contracts
 - (1) A. Total dollar amount of all non-construction contracts awarded on the project/activity

- (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
 - (3) D. Total number of Section 3 businesses receiving non-construction contracts
- 3. **Special Reporting** – Not Applicable
 - 4. **Section 1512 ARRA Reporting** – Applicable
 - 5. **Subaward Reporting under the Transparency Act** – Not Applicable

N. Special Tests and Provisions

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

Compliance Requirement – On an annual basis the PHA must report on the financial condition of the PHA and on the transactions that the PHA is entering into with private and nonprofit entities (FDS Line Items 125, 144, and 347) (24 CFR section 902.33). In the FASS-PHA Financial Assessment Sub System, the PHA transactions with non-profit and private development entities are shown under the headings for HUD Programs and Business Activities Asset Management Property, or AMP (Low-Rent and Capital Fund Programs) for the Capital Fund Program. Such transactions would be noted in the FDS Line items shown above in Section III.L.1.e.(2). The FASS-PHA Financial Report is reviewed and approved or rejected by the REAC.

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

Audit Objective – Determine whether the expenditures set out in the FDS line items that indicate participation by non-profit and private development entities agree with the data reported in the PHA Plan.

Suggested Audit Procedures

- a. Review the data in FDS Line Items 125, 144, and 347 to determine the extent of non-profit and private development entities utilizing the Capital Fund Program.
- b. Ascertain that the data in the FDS Line Items 125, 144, and 347 are substantially in agreement with the estimated sources and uses reported in

the PHA Plan, Implementation Schedule (i.e., expenditures do not exceed the budget by 10 percent).

2. Debt Secured to Public Housing Asset

Compliance Requirement – PHAs are only permitted to borrow funds secured to public housing assets (including real property, other PHA owned property purchased with Federal grant funds and CFP grant funds themselves) if they have obtained HUD’s authorization prior to creating a security interest in public housing assets. This requirement does not prohibit a PHA from borrowing funds that are unsecured or that are not secured to public housing assets. In granting the required authorization, HUD will issue both an approval letter as well as a CFFP ACC Amendment (42 USC 1437z-2).

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

Suggested Audit Procedures

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

3. Environmental Review

Compliance Requirement – An environmental review must be completed for any project or activities (**including those project or activities funded by ARRA**) before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds. Environmental review procedures for entities who are assuming HUD’s environmental responsibilities are contained in 24 CFR part 58. An environmental assessment must be prepared for an activity unless the recipient determines that the activity met a criterion specified in the regulations that would exempt or exclude it from Request for Release of Funds (RROF) and environmental certification requirements (24 CFR sections 50.19(b), 58.34(a) and 58.35(b)). If the responsible entity determines that a project or activity is exempt, it must document in writing its determination for the exemption demonstrating how the conditions specified for exemption are met. Neither a recipient nor any participant in the project, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance until HUD has approved the recipient’s RROF and the related certification from the responsible entity (24 CFR section 58.22).

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

environmental review process and the certification and RROF has been approved by HUD.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications that the environmental reviews were conducted for projects and activities unless an exemption was made.
- b. Select a sample of projects or activities where an environmental review was performed.
- c. Test whether program funds were committed only after completion of the environmental review process and the RROF and certification has been approved by HUD.
- d. Select a sample of projects or activities where an environmental review was not performed.
- e. Ascertain if a written determination was made that the review was not required. Verify that documentation supporting any determination not to make an environmental review was consistent with the criteria contained in 24 CFR sections 58.34 and 58.35(b).

IV. OTHER INFORMATION

For ARRA funded programs, ARRA gave HUD the authority to waive or specify alternative requirements for some of the statutory and regulatory provisions to facilitate the use of ARRA funds.

The Moving to Work (MTW) demonstration program (CFDA 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD. An MTW agency may combine funds from the following three programs:

Section 8 Housing Choice Vouchers (CFDA 14.871);
Public Housing Capital Fund (CFDA 14.872); and
Public and Indian Housing (CFDA 14.850).

Because the ARRA-funded CFP programs (CFDAs 14.884 and 14.885) cannot be used for operating or rental assistance, HUD has not permitted these programs in the CFP Cluster to be included in the MTW Demonstration program.

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine which funds are included in the MTW Agreement. If CFP funds are transferred out of CFP, pursuant to an MTW Agreement, they are subject to the requirements of the MTW Agreement and should not be included in the audit universe and total expenditures for CFP when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as CFP expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred

into the CFP account pursuant to an MTW Agreement, all of the CFP funds would then be considered MTW funds.

Where the MTW agency does not transfer all the funds from the CFP into the MTW account or another of the authorized program, those funds would be considered, and audited, under the CFP.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.873 NATIVE HAWAIIAN HOUSING BLOCK GRANTS
CFDA 14.883 NATIVE HAWAIIAN HOUSING BLOCK GRANTS (RECOVERY ACT FUNDED)

I. PROGRAM OBJECTIVES

The primary objectives of the Native Hawaiian Housing Block Grant (NHHBG) programs are: (1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Hawaiian home lands for occupancy by low-income Native Hawaiian families; (2) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families; (3) to coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State, and local activities to further economic and community development; (4) to plan for and integrate infrastructure resources on the Hawaiian home lands with housing development; and (5) to promote the development of private capital markets; and to allow the private capital markets to operate and grow, thereby benefiting Native Hawaiian communities.

II. PROGRAM PROCEDURES

The NHHBG programs are distributed according to a formula, based on factors that reflect the needs for assistance for affordable housing activities. To access funds, the Department of Hawaiian Home Lands (DHHL), the recipient, must submit a Housing Plan (HP) to the Department of Housing and Urban Development (HUD), and HUD must find that the HP meets the requirements of section 802 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

Funding for the NHHBG program under the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5) is distributed according to the same funding formula that was used to allocate NHHBG funds in Fiscal Year (FY) 2008. The formula is based on factors that reflect the needs for assistance for affordable housing activities. To access funds, DHHL must submit an amendment to their FY 2008 HP to the HUD, and HUD must find that the HP meets the requirements of section 802 of NAHASDA and ARRA. NHHBG funds awarded to the recipient may only be used for affordable housing activities that are consistent with its HP and ARRA.

Source of Governing Requirements

These programs are authorized by NAHASDA, codified at 25 USC 4221 through 4240, **and ARRA**. The implementing regulations are in 24 CFR part 1006.

Availability of Other Program Information

Additional information about HUD ARRA programs is available on the Internet at <http://www.hud.gov/recovery> and information on the NHHBG program is available at <http://www.hud.gov/offices/pih/ih/codetalk/onap/nhhbgprogram.cfm>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Non-ARRA NHHBG funds (including program income generated by activities carried out with grant funds) may only be used for the following NAHASDA-eligible activities:

1. *Development* – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities (25 USC 4229(b)(1)).
2. *Housing Services* – The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or home-ownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted by this program (25 USC 4229(b)(2)).
3. *Housing Management Services* – The provision of management services for affordable housing, including preparation of work specifications; loan processing, inspections; tenant selection; management of tenant-based rental assistance; and management of affordable housing projects (25 USC 4229(b)(3)).
4. *Crime Prevention and Safety Activities* – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime (25 USC 4229(b)(4)).
5. *Model Activities* – Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by the Secretary of HUD as appropriate for such purpose (25 USC 4229(b)(5)).
6. **ARRA NHHBG funds (including program income generated by activities carried out with grant funds) may only be used for the following NAHASDA-eligible activities: new construction, acquisition, rehabilitation, including energy efficiency and conservation, and infrastructure development (ARRA, 123 Stat. 216).**

D. Davis-Bacon Act

For non-ARRA NHHBG funds, contracts and agreements for assistance, sale or lease under this part must require prevailing wage rates under the Davis-Bacon Act to be paid to laborers and mechanics employed in the development of affordable housing. When NHHBG assistance is only used to assist homebuyers to acquire single family housing, the Davis-Bacon wage rates apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that NHHBG assistance will be used to assist homebuyers to buy the housing (Section 805(b) of NAHASDA; 24 CFR section 1006.345(a)).

For ARRA NHHBG funds, ARRA imposes the Davis-Bacon Act on all contracts and agreements for payments to laborers and mechanics employed in the development of affordable housing (Section 1606 of ARRA).

E. Eligibility**1. Eligibility for Individuals**

The Director of DHHL shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA (25 USC 4230(d)). The following families are eligible for affordable housing activities:

- a. Low income Native Hawaiian families eligible to reside on the Hawaiian home lands (24 CFR section 1006.301(a)).
- b. When approved by HUD, a non-low income Native Hawaiian family may receive assistance for homeownership activities and loan guarantee activities to address a need for housing that cannot be reasonably met without that assistance (24 CFR section 1006.301(b)).
- c. A non-Native Hawaiian family may receive housing or NHHBG assistance if the DHHL documents that non-Native Hawaiian family's housing needs cannot be reasonably met without such assistance, and the presence of that family is essential to the well-being of Native Hawaiian families (24 CFR section 1006.301(c)).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**3. Eligibility for Subrecipients – Not Applicable****G. Matching, Level of Effort, Earmarking****1. Matching – Not Applicable****2. Level of Effort – Not Applicable**

3. **Earmarking** – Recipients may use up to the amount authorized by HUD of each grant received for administration and planning (24 CFR section 1006.230).

H. **Period of Availability of Funds**

For ARRA NHHBG funds, the recipient will be required to obligate 100 percent of its funds within 1 year of the date funds are made available; expend at least 50 percent of such funds within 2 years of the date on which funds became available; and expend 100 percent of such funds within 3 years of such date (ARRA, 123 Stat. 216).

J. **Program Income**

Any program income may be retained by the DHHL provided it is used for affordable housing activities. If the amount of income received in a single year by DHHL, which would otherwise be considered program income, does not exceed \$25,000, such funds may be retained but will not be considered to be or be treated as program income (25 USC 4225; 24 CFR section 1006.340).

L. **Reporting**

1. **Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. **Performance Reporting** – Not Applicable

3. **Special Reporting** – Not Applicable

4. **Section 1512 ARRA Reporting** – Applicable

5. **Subaward Reporting under the Transparency Act** – Not Applicable

N. **Special Tests and Provisions**

1. **Environmental Review**

Compliance Requirement – Program regulations provide that DHHL will assume responsibilities for environmental review and decision-making under the requirements of 24 CFR part 58. Funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the request for release of funds and related certification (24 CFR Section 1006.350).

Audit Objective – Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of the environmental review process.

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and verify that:

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

IV. OTHER INFORMATION

ARRA gave HUD the authority to waive or specify alternative requirements for some of the NHHBG statutory and regulatory provisions to facilitate the use of ARRA NHHBG funds.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.881 MOVING TO WORK DEMONSTRATION PROGRAM

I. PROGRAM OBJECTIVES

The Moving to Work (MTW) Demonstration program offers public housing authorities (PHAs) the opportunity to design and test innovative, locally-designed housing and self-sufficiency strategies for low-, very-low, and extremely low-income families by allowing exemptions from existing public housing and tenant-based Housing Choice Voucher (HCV) rules and, with HUD approval, permits PHAs to combine operating, capital, and tenant-based assistance funds into a single agency-wide funding source.

The purpose of the MTW Demonstration program is to give PHAs and HUD the flexibility to design and test various approaches for providing and administering housing assistance that accomplish the statutory objectives to:

- reduce cost and achieve greater costs effectiveness in Federal expenditures;
- give incentives to families with children where the head of household is working, is seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and
- increase housing choices for low-income families.

II. PROGRAM PROCEDURES

The MTW Demonstration program is authorized by Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (see “Source of Governing Requirements” below). Initially, 30 PHAs were permitted to participate in the demonstration program and since then Congress has authorized 9 additional agencies. The agencies authorized to conduct MTW programs are required to establish a reasonable rent policy designed to encourage employment and self-sufficiency by participating families, such as by excluding some or all of a family’s earned income for purposes of determining rent.

The MTW Demonstration program does not provide any additional funding to PHAs. Funding originates from the following HUD programs:

1. Section 8, Housing Choice Vouchers (CFDA 14.871),
2. Section 9, Public and Indian Housing (CFDA 14.850), and
3. Section 9, Public Housing Capital Fund (CFDA 14.872).

The authorized funding is stated in each PHA’s Attachment A of the Standard MTW Agreement.

Statutory Requirements for MTW Agencies

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

1. Ensure that at least 75 percent of the families assisted by the PHA under the demonstration will be very low-income families (i.e., families with incomes of less than 50 percent of area median income) (Section 204(c)(3)(A) of Pub. L. No. 104-134 (42 USC 1437f(note)));
2. Establish a reasonable rent policy that is designed to encourage employment and self-sufficiency on the part of participating families (Section 204(c)(3)(B) of Pub. L. No. 104-134 (42 USC 1437f(note)));
3. Continue to assist substantially the same total number of low-income families under the demonstration as would have been served had the PHA not participated in MTW Section 204(c)(3)(C) of Pub. L. No. 104-134 (42 USC 1437f(note)));
4. Maintain under the demonstration a comparable mix of families, by family size, as would have been assisted had the PHA not participated in MTW (Section 204(c)(3)(D) of Pub. L. No. 104-134 (42 USC 1437f(note))); and
5. Assure that housing assisted under the demonstration meets housing quality standards established or approved by HUD (Section 204(c)(3)(E) of Pub. L. No. 104-134 (42 USC 1437f(note))).

In addition, the following Sections of the 1937 Housing Act continue to apply:

1. The term “low-income families” is defined by reference to Section 3(b)(2) of the 1937 Housing Act (42 USC 1437a(b)(2)) (Section 204(b) of Pub. L. No. 104-134 (42 USC 1437f(note)));
2. Section 18 of the 1937 Housing Act (42 U.S.C. 1437p) which governs demolition and disposition, applies to public housing notwithstanding any use of the housing under MTW (Section 204(e)(1) of Pub. L. No. 104-134 (42 USC 1437f(note))); and
3. Section 12 of the 1937 Housing Act (42 U.S.C. 1437j), governing wage rates and the community service requirement, applies to housing assisted under MTW, other than housing assisted solely due to occupancy by families receiving tenant-based assistance (Section 204(e)(2) of Pub. L. No. 104-134 (42 USC 1437f(note))).

The Moving to Work Agreement

The Standard MTW Agreement, Attachments and Amendments

A Standard MTW Agreement was developed in 2008 by HUD in consultation with existing MTW Agencies. The Standard MTW Agreement was set up for a 10-year period, 2008-2018. It consists of the following:

- *Attachment A* of the Standard MTW Agreement contains the calculation of subsidies, customized for each individual PHA.
- The Standard MTW Agreement provides a mechanism, through the submission of MTW Plans and Reports, to review and approve new MTW activities and for PHAs to share their anticipated and actual activity outcome data with HUD and the PHA's stakeholders. *Attachment B* of the Standard MTW Agreement contains standard reporting requirements that apply to all MTW Agencies. Activities approved in the Annual MTW Plan must be reported in the ongoing activities section as stipulated in Attachment B.

1. *Annual MTW Plans*

If the PHA has ten percent or more of its housing stock in MTW, the PHA will prepare and submit an Annual MTW Plan, in accordance with Attachment B, or equivalent HUD form as approved by OMB, in lieu of the 5-year and Annual MTW. The Annual MTW Plan is due no later than 75 days prior to the start of the PHA's fiscal year. HUD will respond to the PHA within 75 days after receiving the Annual MTW Plan. If HUD does not respond to the PHA within 75 days after an on-time receipt of the PHA's Annual MTW Plan, the PHA's Annual MTW Plan is approved and the PHA is authorized to implement that Plan. If HUD does not receive the PHA's Annual MTW Plan 75 days before the beginning of the PHA's fiscal year, the PHA's Annual MTW Plan is not approved until HUD responds.

2. *Annual MTW Reports*

The PHA will prepare Annual MTW Reports, including the required information in HUD Form 50900, which will provide information on the status and outcomes of the activities approved in the Annual MTW Plan (see III.L.1.h, below).

- *Attachment C* of the Standard MTW Agreement contains a standard statement of authorizations that all MTW PHAs may carry out under the MTW Demonstration. The authorizations in Attachment C include acceptable uses of MTW funds and administrative activities related to both Public Housing (CFDA 14.850) and Section 8 Housing Choice Vouchers (CFDA 14.871), authorizations related to Public Housing only, authorizations related to Section 8 Housing Choice Vouchers only and authorizations related to family self-sufficiency.

- *Attachment D of the Standard MTW Agreement* contains a statement of agency-specific authorizations that are customized for each individual PHA. This may include but is not limited to: Legacy and Community-Specific authorizations, authorizations related to both Public Housing and Section 8 Housing Choice Vouchers, authorizations related to public housing only and authorizations related to Section 8 Housing Choice Vouchers only, acceptable uses of MTW funds, asset management, and administrative issues.
- *The First Amendment to the Standard MTW Agreement* deletes Section I.E. of the Standard MTW Agreement. Section I.E. of the Standard MTW Agreement states that “Notwithstanding any provision set forth in this Restated Agreement, including without limitations, the term of years and all extensions, renewals and options, and the terms set forth herein otherwise, any federal law that amends, modifies, or changes the aforementioned term of years and/or other terms of this Restated Agreement shall supersede this Restated Agreement such that the provisions of the law shall apply as set forth in the law.” The First Amendment replaces Section II.F of the Standard MTW Agreement and inserts new language regarding local asset management. The First Amendment also addresses financial reporting requirements and other reporting requirements pertaining to the Annual MTW Plan and Report under Attachment B. PHAs are not required to sign the First Amendment.

Procedure for Budget Flexibility

PHAs in the MTW Demonstration program have considerable flexibility in determining how to use Federal funds. They are allowed to combine funds from the Public Housing Operating (CFDA 14.850), and Capital Fund (CFDA 14.772) Programs and the Housing Choice Voucher (CFDA 14.871) tenant-based rental assistance program to meet the purposes of the demonstration if they have requested the use of *Authorization B.1 – Single Fund Budget with Full Flexibility* from Attachment C of the Standard MTW Agreement via an Annual MTW Plan that was approved by HUD. The funds normally are combined into one single fund budget, commonly referred to as the MTW Block Grant. No other funds can be placed into the MTW Block Grant.

Source of Governing Requirements

The MTW program is authorized by Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134, dated April 26, 1996, 110 Stat 1321-281)). The requirements in the Housing Act of 1937 listed above and the other statutes that apply to the three programs apply to MTW Agencies, including environmental requirements. In addition, the following sections of the Housing Act of 1937 apply: Section 3(b)(2) (42 USC 1437a(b)(2)); Section 12 (42 USC 1437j); and Section 18 (42 USC 1437p).

Availability of Other Program Information

Additional information regarding the Moving to Work Demonstration program is available on HUD’s website, at <http://www.hud.gov/offices/pih/programs/ph/mtw/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

The auditor should review the agency's specific MTW Agreement, Attachments, and Amendments for the authorizations applicable to each MTW Agency.

A. Activities Allowed or Unallowed

1. The authorizations in Attachment C of the Standard MTW Agreement include acceptable uses of MTW funds and administrative activities related to both Public Housing (CFDA 14.850) and Section 8 Housing Choice Vouchers (CFDA 14.871), authorizations related to Public Housing only, authorizations related to Section 8 Housing Choice Vouchers only, and authorizations related to family self-sufficiency. Unless otherwise stated in Attachment D of the Standard MTW Agreement, the MTW Demonstration Program applies to all of the PHA's public housing-assisted units (including PHA-owned properties and units comprising a part of mixed-income, mixed finance communities), tenant-based Section 8 voucher assistance, Section 8 project-based voucher assistance under Section 8(o) and Homeownership units developed using Section 8(y) voucher assistance.
2. Activities using the authorizations granted in Attachment C of the Standard MTW Agreement must be included in the PHA's Annual MTW Plan in accordance with HUD Form 50900 and subsequently approved by HUD. HUD will review these activities in order to verify that these activities are within the MTW authorizations provided by HUD. All activities must be approved before the PHA can implement that activity. Lists of approved activities for the MTW Agency can be found in the Ongoing Activities Section of the PHA's HUD Form 50900, Annual MTW Plan and Annual MTW Report.

B. Allowable Costs/Cost Principles

The amount of salary of PHA chief executive officers, other officers, and employees paid with Federal Fiscal Year 2012 Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a Federal position at Level IV of the Executive Schedule (currently \$155,500) during the PHA's fiscal year 2012 (Section 234 of Pub. L. No. 112-55, 125 Stat. 702, November 18, 2011). Implementing guidance has been issued in PIH Notice 2012-14, "Guidance on Public Housing salary restrictions in HUD's Federal Fiscal Year (FFY) 2012 Appropriations Act (P.L.112-55)," issued February 24, 2012 (http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices).

D. Davis Bacon Act

With respect to public housing, the PHA must comply with Davis-Bacon or HUD-determined wage rate requirements of Section 12 of the Housing Act of 1937 (42 USC 1437j(a) and (b)).

E. Eligibility

1. **Eligibility for Individuals** – Beneficiaries must be “low-income families,” as defined in Section 3(b)(2) of the 1937 Housing Act (42 USC 1437a(b)(2)) (Section 204(b) of Pub. L. No. 104-134 (42 USC 1437f(note))).
2. **Eligibility of Group of Individuals or Area of Service Delivery** – Not Applicable
3. **Eligibility for Subrecipients** – Not Applicable

G. Matching, Level of Effort, Earmarking

1. **Matching** – Not Applicable
2. **Level of Effort** – Not Applicable
3. **Earmarking**

At least 75 percent of the families assisted must be “very low-income families,” as defined in Section 3(b)(2) of the Housing Act of 1937 (42 USC 1437a(b)(2)) (Section 204(c)(3)(A) of Pub. L. No. 104-134 (42 USC 1437f(note))).

L. Reporting**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. HUD-50058-MTW, *Family Report (OMB No. 2577-0083)* – The information on this form is submitted to HUD through the Public and Indian Housing Information Center (PIC). The use of the HUD-50058 MTW form is restricted to MTW agencies. Data must be submitted each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the *Family Report* when a family ends participation in the program or moves out of the PHA’s jurisdiction under portability.

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

- (1) Line 2a – *Type of action*
 - (2) Line 2b – *Effective date of action*
 - (3) Line 2k – *FSS participation now or in the last year*
 - (4) Line 3b, 3c – *Last name, First name*
 - (5) Line 3e – *Date of birth*
 - (6) Line 3n – *Social Security Numbers*
 - (7) Line 5a – *Unit address*
 - (8) Line 5h – *Date unit last past HQS inspection*
 - (9) Line 5i – *Date of last annual HQS Inspection*
 - (10) Line 7i – *Total annual income*
 - (11) Line 13h – *Contract rent to owner*
 - (12) Line 13k – *Tenant Rent*
 - (13) Line 13x – *Mixed family tenant rent*
 - (14) Line 17a – *Participation in special programs – Participation in the Family Self Sufficiency (FSS) Program*
 - (15) Line 17k(2) – *FSS account information – Balance*
- e. *Financial Reports (OMB No. 2535-0107)* – Financial Assessment Sub-system, FASS-PH. The Uniform Financial Reporting Standards (24 CFR section 5.801) require PHAs to submit timely GAAP-based unaudited and audited financial information electronically to HUD.

Key FDS Line Information – The line items under the following headings contain critical information:

- (1) FDS Line 122 – (Accounts Receivable – HUD Other Projects)
- (2) FDS Line 131 – (Investments – unrestricted)
- (3) FDS Line 132 – (Investments – restricted)
- (4) FDS Line 144 – (Inter-program – due from)

- (5) FDS Line 331 – (Accounts payable – HUD PHA programs)
- (6) FDS Line 342 – (Deferred revenue)
- (7) FDS Line 345 – (Other current liabilities)
- (8) FDS Line 346 – (Accrued liabilities – other)
- (9) FDS Line 347 – (Inter-program – due to)
- (10) FDS Line 508.1 – (Invested in capital assets, net of related debt)
- (11) FDS Line 511.1 – (Restricted Net Assets)
- (12) FDS Line 512.1 – (Unrestricted net assets)
- (13) FDS Line 97300 – (Housing assistance payments)
- (14) FDS Line 10010 – (Operating transfers in)
- (15) FDS Line 10020 – (Operating transfers out)
- (16) FDS Line 10030 – (Operating transfers from/to primary government)
- (17) FDS Line 10093 – (Transfers between programs and projects in)
- (18) FDS Line 10094 – (Transfers between programs and projects out)

f. HUD 50900, *Moving to Work Form (OMB No. 2577-0216)*

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

Annual MTW Report, Section VII, Sources and Uses of Funding

- (1) A. List planned sources (Operating, Capital, Housing Choice Voucher (HCV)) and uses of MTW funds
- (2) B. List planned sources and uses of State or local funds
- (3) C. If applicable, list planned sources and uses of the central office cost center (COCC)
- (4) E. List or describe use of single-fund flexibility, if applicable, describe uses across traditional program lines or special circumstances in support of an MTW activity

2. Performance Reporting

Annual MTW Plan and Annual MTW Report (OMB No. 2577-0216) – PHAs are required to submit an Annual MTW Plan and Annual MTW Report that includes the information listed in HUD Form 50900. PHAs are required to demonstrate that the statutory objectives of (1) “continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined” and (2) “maintaining a comparable mix of families (by family size) is served, as would have been provided had the amounts not been used under the demonstration.” The information needed to demonstrate these objectives is contained in Section II.B of the Annual MTW Plan and Report (Section 204(c)(3)(C) and (D) of Pub. L. No. 104-134 (42 USC 1437f(note))).

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

- a. Total number of MTW PH units leased in Plan year
- b. Total number of MTW HCV units leased in Plan year
- c. Number of project-based vouchers committed or in use at the end of the Plan year

3. Special Reporting – Not Applicable

4. Section 1512 ARRA Reporting – Not Applicable

5. Subaward Reporting under the Transparency Act – Not Applicable

N. Special Tests and Provisions

1. Reasonable Rent Policy

Compliance Requirement – MTW agencies are required to establish a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family’s earned income for purposes of determining rent. The rent policy must be in the Annual MTW Plan and Reports (Section 204(c)(3)(B) of Pub. L. No. 104-134 (42 USC 1437f(note))).

Audit Objective – Determined whether the PHA has implemented a reasonable rent policy.

Suggested Audit Procedures

- a. Review the reasonable rent policy in the Annual MTW Plan and Reports.
- b. Verify that the reasonable rent policy has been implemented.

2. Housing Quality Standards

Compliance Requirement – MTW Agencies must assure that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary. The HCV program regulations at 24 CFR sections 982.401 through 982.405 set forth basic housing quality standards (HQS) which all units must meet, and the PHA must verify by inspection, before initial assistance can be paid on behalf of a family and at least annually throughout the term of the assisted tenancy. Current HQS regulations consist of 13 key aspects of housing quality, performance requirements, and acceptability criteria to meet each performance requirement. HQS include requirements for all housing types, including single and multi-family dwelling units, as well as specific requirements for special housing types, such as manufactured homes, congregate housing, single room occupancy, shared housing, and group residences (Section 204(c)(3)(E) of Pub. L. No. 104-134 (42 USC 1437f(note))).

Audit Objective – Determine whether the PHA has implemented procedures to ensure that units meet HUD housing quality standards.

Suggested Audit Procedures

- a. Review the Annual MTW Plan to determine how HSQs are proposed to be implemented. The PHA should explain whether it plans to follow HQS as established by HUD or if it plans to develop a local HQS standard that is at least as stringent as the HUD standard.
- b. Verify by a review of documentation that the PHA identifies those units on which housing quality inspections are due.
- c. Verify by a review of documentation that the PHA performs inspections of these units and that any needed repairs were completed timely.

IV OTHER INFORMATION

An MTW agency may combine funds from the following three programs:

- (1) Section 8 Housing Choice Vouchers (CDFA 14.871);
- (2) Public Housing Capital Fund (CFDA 14.872); and
- (3) Public and Indian Housing (CFDA 14.850).

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine which funds are included in the MTW Agreement. The amounts transferred into the MTW Block Grant are subject to the requirements of the MTW Agreement and should be included in the audit universe and total expenditures for MTW Agencies (CDFA 14.881) when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures for the MTW program.

If the MTW agency does not set up a separate MTW account, but uses the flexibility of the MTW demonstration program to transfer funds among the three programs, the accounts would become MTW accounts and would need to be identified as MTW funds.

If the MTW agency does not transfer all of the funds from a program into the MTW account or another of the three programs, the remaining funds would be considered, and audited, under the CFDA number for that program.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- CFDA 14.907 LEAD-BASED PAINT HAZARD CONTROL IN PRIVATELY-OWNED HOUSING (RECOVERY ACT FUNDED)**
- CFDA 14.908 HEALTHY HOMES DEMONSTRATION GRANTS (RECOVERY ACT FUNDED)**
- CFDA 14.909 LEAD HAZARD REDUCTION DEMONSTRATION GRANT PROGRAM (RECOVERY ACT FUNDED)**
- CFDA 14.910 HEALTHY HOMES TECHNICAL STUDIES GRANTS (RECOVERY ACT FUNDED)**

I. PROGRAM OBJECTIVES

The objectives of the Lead-Based Paint Hazard Control in Privately-Owned Housing (LBPHC) program and the Lead Hazard Reduction Demonstration Grant Program (LHRD) are to:

(1) maximize the combination of children less than 6 years of age protected from lead poisoning and housing units where lead-hazards are controlled; (2) prevent childhood lead poisoning; (3) stimulate lower-cost and cost-effective methods and approaches to lead hazard control work that can be replicated; (4) build local capacity to safely and effectively address lead hazards during lead hazard control, renovation, remodeling, and maintenance activities by integrating lead safe work practices into housing maintenance, repair, weatherization, rehabilitation and other programs that will continue beyond the grant period; (5) affirmatively further fair housing and environmental justice; (6) develop a comprehensive community approach to address lead hazards in housing by mobilizing public and private resources, involving cooperation among all levels of government, the private sector, and grassroots community-based nonprofit organizations, including faith-based organizations, to develop cost-effective methods for identifying and controlling lead-based paint hazards; (7) establish a public registry of lead-safe housing; and (8) promote job training, employment, and other economic opportunities for low-income and minority residents and businesses that are owned by and/or employ minorities and low-income persons as defined in 24 CFR section 135.5 (see 59 FR 33881, June 30, 1994).

The objective of the Healthy Homes Demonstration Grants (HHD) program is to develop, demonstrate, and promote cost-effective, preventive measures to correct multiple safety and health hazards that produce serious disease in children and other sensitive subgroups, such as the elderly, with a particular focus on low-income households.

The objective of the Healthy Homes Technical Studies Grants program (HHTS) is to fund technical studies to improve methods for detecting and controlling housing-related health and safety hazards.

II. PROGRAM PROCEDURES

Title XII of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (ARRA) appropriated \$100 million to be used to fund applicants who had applied under the Lead Hazard Reduction Program Notices of Funding Availability (NOFA) for Fiscal Year 2008, and were found in the application review to be qualified for award, but were not awarded because of funding limitations. LBPHC and LHRD provides grant funds to assist State, tribal, and local

governments to identify and control lead-based paint hazards in privately-owned housing that is owned by or rented to low- or very-low income families. State, Tribal, and local governments are the only eligible grantees for the LBPHC and LHRD programs. Grantees must use their LBPHC and LHRD funds to identify and control lead-based paint hazards in privately-owned housing that is owned by or rented to low- or very-low income families, and build local capacity to safely and effectively address lead hazards during lead hazard control, renovation, remodeling, and maintenance activities by integrating lead safe work practices into housing maintenance, repair, weatherization, rehabilitation and other programs that will continue beyond the grant period.

State, Tribal, and local governments, not-for-profit organizations, and for-profit organizations are the only eligible grantees for the HHD and HHTS programs.

Source of Governing Requirements

Authorizations for the LBPHC and LHRD are in Title X of the Housing and Community Development Act of 1992 (Pub L. No. 102-550) and Title XII of ARRA. Authorizations for the HHD and HHTS are Sections 501 and 502 of the Housing and Urban Development Act of 1970; and Consolidated Appropriations Act, 2008 (Pub. L. No. 110-161, 121 Stat. 2428); and Title XII of ARRA.

Availability of Other Program Information

Information that will assist in understanding these programs is available on the Internet at the Office of Healthy Homes and Lead Hazard Control web page and HUD's Recovery Act web page at: <http://www.hud.gov/offices/lead/> and <http://www.hud.gov/recovery>. FY 2008 Notices of Funds Available are at <http://archives.hud.gov/funding/2008/grplead.cfm>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Grantees must use LBPHC and LHRD funds for evaluation and control of lead-based paint hazards in residential housing (Section 1011(e) of Pub L. No. 102-550).
2. Grantees may use HHD funds for evaluation and control of lead-based paint hazards in residential housing as part of overall healthy homes activities (Pub. L. No. 110-161, 121 Stat. 2428).
3. Grantees may use HHTS funds for research activities (Pub. L. No. 110-161, 121 Stat. 2428).

D. Davis-Bacon Act

ARRA impose the Davis-Bacon Act requirements on all contractors and subcontractors for wages paid to laborers and mechanics (Section 1606 of ARRA).

E. Eligibility

1. **Eligibility for Individuals** – Only privately-owned housing that is owned by or rented to low- or very-low income families is eligible to receive LBPHC, LHRD, HHD, or HHTS assistance (Section 1011(a)(1) of Pub L. No. 102-550).
2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable
3. **Eligibility for Subrecipients** – Not Applicable

G. Matching, Level of Effort, Earmarking**1. Matching**

- a. Recipients must contribution not less than 10 percent of the total LBPHC grant amount (Section 1011(h) of Pub. L. No. 102-550).
- b. Recipients must contribution not less than 25 percent of the total LHRD grant amount or 10 percent if the higher matching requirement is waived by HUD (Pub. L. No. 110-161, 121 Stat. 2428).
- c. There are no matching requirements for HHD or HHTS funds.

2. Level of Effort – Not Applicable**3. Earmarking**

- a. No more than 10 percent of the grant may be used for administrative costs (Section 1011(j) of Pub. L. No. 102-550).
- b. No more than 40 percent of a HHTS grant may be used for construction activities (Section IV.E.9 of the HHTS NOFA).

H. Period of Availability of Federal Funds

Recipients must expend at least 50 percent of funds within 2 years of the date on which funds became available to the recipient; and expend 100 percent of such funds within 3 years of such date. A LBPHC funding commitment is available on the date of execution of a written agreement between the Recipient and HUD (ARRA, 123 Stat. 224).

L. Reporting**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**4. Section 1512 ARRA Reporting** – Applicable**5. Subaward Reporting under the Transparency Act** – Not Applicable**IV. OTHER INFORMATION**

The ARRA gave HUD the authority to waive or specify alternative requirements for some of the statutory and regulatory provisions to facilitate the use of ARRA funds.