



# ADMINISTRATIVE MANUAL

Emergency Solutions Grant | North Dakota Homeless Grant



Community Housing and Grants Management Division

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**Summary of Changes**

Date	Section	Description of Changes
07/25/2023		Original Version
08/24/2023		<ol style="list-style-type: none"> <li>1. Added NDHG to cover page.</li> <li>2. Establishing Written Procedures (pg. 8)- changed habitability standards inspection for shelter from quarterly to annually.</li> <li>3. Participant File Requirements (pg. 11)- added lead-based paint disclosure to the file list.</li> <li>4. Data Quality and Reporting – Reporting (pg. 13) - removed requirement to submit APR. NDHFA will reserve this for future use.</li> <li>5. Cash Depositories (pg. 15) – clarified one account acceptable for organizations with a GL accounting system to track ESG and NDHG by GL.</li> <li>6. Lead Based Paint (pg. 33)- added shelter leasing activity verbiage.</li> </ol>
11/14/2023		<ol style="list-style-type: none"> <li>1. Involuntary Family Separation Prohibition- Section 1.04 and 2.09</li> <li>2. Added a list of ineligible expenses to Section 1.09</li> <li>3. Added Section 5.03 Immigration Status Participant Eligibility</li> <li>4. Revised Section 6.02 to allow HUD CPD Income Calculator</li> <li>5. Revised Section 8.05 to define gross rent and provide allowance for NDHG recipients to exceed FMR for rental assistance payments. Renter's insurance is not an eligible expense.</li> </ol>

Minor formatting, wording, or grammatical changes are not identified in this list. In addition to the items below, all website links referenced in the manual have been validated and updated where appropriate.

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## PREFACE

This purpose of this Administrative Manual is to assist North Dakota Emergency Solutions Grant (ESG) Program subrecipients in implementing their respective grants and in complying with Federal rules and regulations associated with all Federal funds as communicated by the U.S. Treasury and the Federal Office of Management and Budget. These rules and regulations pertain to administrative and financial management responsibilities.

This Administrative Manual serves as a required guide for proper use and accountability of Federal funds. Should questions arise, subrecipients should immediately contact the North Dakota Housing Finance Agency (NDHFA). It is the responsibility of each subrecipient to assure that all provisions of this manual, Federal rules and regulations, and Financial Award are complied with, and that proper and efficient grant administrative practices are performed.

NDHFA is also responsible for administering the state's North Dakota Homeless Grant (NDHG). Funding is provided through a state general fund appropriation and is allocated on a biennium basis. To provide efficiencies NDHFA will administer the NDHG program similar to the ESG administrative requirements. There are some elements throughout this manual that are applicable to only ESG programs.

## EMERGENCY SOLUTIONS GRANT (ESG) PROGRAM

The Emergency Solutions Grant (ESG) program is authorized by subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378). The program authorizes the Department of Housing and Urban Development (HUD) to make grants to States, units of general-purpose local government, and territories for the rehabilitation or conversion of buildings for use as emergency shelter for people experiencing homelessness, for the payment of certain expenses related to operating emergency shelters, for essential services related to emergency shelters, street outreach people experiencing homelessness, and for homelessness prevention and rapid re-housing assistance.

The Emergency Solutions Grant provides funding to:

1. Engage individuals and families experiencing homelessness who are living on the street or in places not meant for human habitation.
2. Improve the number and quality of emergency shelters for individuals and families experiencing homelessness.
3. Help operate these shelters.
4. Provide essential services to shelter residents.
5. Rapidly re-house individuals and families experiencing homelessness.
6. Prevent families and individuals from becoming homeless.

## DEFINITIONS: (24 CFR 576.2)

**Recipient** means any State, territory, metropolitan city, or urban county, or in the case of reallocation, any unit of general-purpose local government that is approved by HUD to assume financial responsibility and enters into a grant agreement with HUD to administer assistance under this part. NDHFA is the recipient of the State of ND ESG funds.

**Subrecipient** means a unit of general-purpose local government or private nonprofit organization to which a recipient makes available ESG funds. North Dakota Housing Finance Agency (NDHFA) as a State Recipient subgrants ESG funds (except for funds for administrative costs) to subrecipient organizations. Funds are also distributed to the Institute for Community Alliances (ICA) as the North Dakota Continuum of Care (CoC) selected Homeless Management Information System (HMIS) Lead Agency.

***Private nonprofit organization*** means a private nonprofit organization that is a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 and which is exempt from taxation under subtitle A of the Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance. A private nonprofit organization does not include a governmental organization, such as a public housing agency or housing finance agency.

## SECTION 1 GENERAL ADMINISTRATION

### 1.01 Obligation of Funds/Financial Award

NDHFA must obligate the entire ESG grant, except for administrative costs. NDHFA meets this requirement by awarding the ESG funds to subrecipient organizations through an annual competitive grant process. The subrecipient uses the funds to directly carry out an eligible ESG activity that is identified in the financial award and grant agreement. NDHG grant funds are provided on a biennial basis. NDHFA will award NDHG funds in the same manner as ESG awards.

The financial awards to the subrecipient agencies are for twelve months, July 1 – June 30. Final reimbursement requests must be submitted by July 10th.

#### Grant Agreement Checklist

The following checklist is provided as an overall guide for the implementation of your approved Emergency Solutions Grant (ESG) or North Dakota Homeless Grant (NDHG) agreements. The checklist is general in nature, which means that some items may or may not be applicable based on the type of grant awarded. In addition to this checklist, some sections of the manual contain specific checklists for your use. This checklist is provided so that you can ensure certain actions have been taken and should be used as a reference to specific sections of this Administrative Manual. If you are unsure about any aspect of grant implementation procedures, please contact NDHFA for guidance before proceeding.

Action		Yes	N/A
1	Receive Letter from NDHFA		
2	Receive Financial Award		
3	Sign and Return Financial Award within 30 Days of Receipt		
4	Attend Grant Administration Training (as needed)		
5	Submit ACH Authorization Form to NDHFA		
6	Establish Required Grant Files		
7	Establish a Checking Account		
8	Establish Accounting System		
9	Comply with Special Conditions on Financial Award		
10	Develop schedule for submitting semi-annual and final reports		

### 1.02 Establishing Program Written Standards and Procedures Manual

ESG requires that each subrecipient establish and consistently apply policies and procedures for each ESG program administered by the subrecipient. The ND CoC in partnership with NDHFA has adopted the Written Standards for Emergency Solutions Grant and Continuum of Care Programs (Written Standards). NDHG program applicants are also required to adopt the Written Standards. In addition to the Written Standards, the ESG and NDHG subrecipients will be required to adopt program operations policies and procedures. A review of the written procedures is required prior to processing the first program reimbursement request. During monitoring visits, NDHFA will review the subrecipient's policies and look for evidence the agencies are adhering to the policies and procedures.

Operations policies include written policies and procedures that are program specific to the operations of each component the subrecipient will undertake. These policies and procedures are in addition to the Written Standards and are not a personnel manual or employee handbook, but some procedures may overlap.

The program operations manual must address all the ESG or NDHG program elements below. Subrecipients should have one manual for all ESG/NDHG program activities; **this document should not contain information on other grants, programs, or operations.**

**Required for ALL Programs:**

1. Standard policies and procedures for evaluating eligibility.
2. Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid rehousing assistance providers; other homeless assistance providers; and mainstream service and housing providers (see §576.400(b) and (c) for a list of programs with which ESG and NDHG-funded activities must be coordinated and integrated to the maximum extent practicable).
3. Participation in HMIS or CoC-approved comparable database. The subrecipients must ensure that data on all persons served, and all activities assisted under ESG/NDHG are entered into the HMIS. If the subrecipient is a victim service provider, a CoC-approved comparable database, must be used to collect client- level data over time (i.e., longitudinal data) and generate unduplicated aggregate reports based on the data.
4. Housing First: HUD continues to encourage Continuums of Care (CoCs) and providers to implement and strengthen Housing First. This is the commitment to end homelessness and is the most effective approach to ending chronic homelessness. Housing First offers individuals and families experiencing homelessness immediate access to permanent affordable or supportive housing. This model of housing assistance prioritizes rapid placement and stabilization in permanent housing that does not have service participation requirements or preconditions (such as sobriety or a minimum income threshold).
5. Low-Barrier: A minimum number of expectations are placed on people who wish to enter the program.
6. Fair Housing Policy: This must include the following language. Flyers or posters do not constitute a policy.

It is illegal to discriminate in the sale or rental of housing, including against individuals seeking a mortgage or housing assistance, or in other housing-related activities. The Fair Housing Act prohibits this discrimination because of race, color, national origin, religion, sex, familial status, and disability. A variety of other federal civil rights laws, including Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, prohibit discrimination in housing and community development programs and activities, particularly those that are assisted with HUD funding. These civil rights laws include obligations such as taking reasonable steps to ensure meaningful access to their programs and activities for persons with limited English proficiency (LEP) and taking appropriate steps to ensure effective communication with individuals with disabilities through the provision of appropriate auxiliary aids and services. Various federal fair housing and civil rights laws require HUD and its program participants to affirmatively further the purposes of the Fair Housing Act.

7. Anti-Discrimination Policy: This must ensure equal participation opportunity in homeless programs, without discrimination or harassment based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, marital status, citizenship, genetic information, or any other characteristic protected. Flyers or posters do not constitute a policy.

It is illegal to discriminate in the sale or rental of housing, including against individuals seeking a mortgage or housing assistance, or in other housing-related activities. The Fair Housing Act prohibits this discrimination because of race, color, national origin, religion, sex, familial status, and disability.

8. Termination of Assistance Policy: Per 24 CFR 576.402, if a program participant violates program requirements, their NC ESG assistance may be terminated in accordance with a formal process established by the subrecipient, that recognizes the rights of the individuals affected and allows for due process. The Termination of Assistance policy must include a clearly outlined grievance and appeals process. This must include with who, how, and when the appeal can be filed.
9. Confidentiality: The subrecipient must have written procedures to ensure all records containing personal identifying information (as defined in HUD's standards for participation, data collection, and reporting in a local HMIS and 24 CFR 576.500) of any individual or family who applies for and/or receives ESG/NDHG assistance will be kept secure and confidential.
10. Organization Program Description: Program overview, including the program design, intake procedures, the assistance time limit, program eligibility and the specific population served.
11. Habitability Standards: Subrecipients of Housing Stabilization Services (under both rapid rehousing or homeless prevention components), are required (24 CFR 576.403) to conduct a habitability standards inspection on any unit that a participant will be receiving ANY ESG or NDHG financial assistance such as rental assistance, security deposit, last month's deposit, utility deposit, or moving costs. Subrecipients must certify that the unit has passed habitability standards before any ESG/NDHG funds may be released. In addition, an annual habitability standards inspection must be conducted for any unit in which ESG/NDHG funds are being used.

Subrecipients of Emergency Shelter Operations are required to conduct a habitability standards inspection annually. The shelter must pass habitability standards before any ESG/NDHG funds may be released.

Below is a table of contents for the Subrecipient ESG/NDHG Programs Operations Manual. All the items listed in the table of contents must be included for each funded component.

### **1.03 Overall Organization ESG/NDHG Program Design**

1. Organization Mission
2. Housing Focus Policy (Housing First/Low Barrier Policies)
3. Fair Housing Policy (Affirmatively Furthering Fair Housing Policy)
4. Anti-Discrimination Policy
5. Equal Access Policy
6. VAWA Policy
7. Appeals, Grievance Policy and Process
8. Termination of Assistance Policy
9. Confidentiality Policy
10. Record Keeping

### **1.04 Program Design/Component Policies**

#### **Street Outreach**

1. Program Design or Overview (type of assistance offered)
2. Intake Procedures
3. Assistance Time Limit
4. Participant Eligibility Requirements
5. Specific Populations Served (if applicable)
6. Program Rules for the Participant

#### **Emergency Shelter**

1. Program Design or Overview (type of assistance offered)

2. Intake Procedures
  - a. Prohibition of Involuntary Family Separation 24 CFR 576.102(b)
3. Assistance Time Limit
4. Participant Eligibility Requirements
5. Specific Populations Served (if applicable)
6. Minimum Habitability Standards
7. Program Rules for Participants

### **Rapid Rehousing**

1. Program Design or Overview (type of assistance offered)
2. Intake Procedures
3. Assistance Time Limit
4. Participant Eligibility Requirements
5. Specific Populations Served
6. Case Management Expectations
7. Procedures for Determining Rental Assistance including Determination of Participant Share
8. Program Rules for Participants

### **Homeless Prevention**

1. Program Design or Overview (type of assistance offered)
2. Intake Procedures
3. Assistance Time Limit
4. Participant Eligibility Requirements
5. Specific Populations Served
6. Case Management Expectations
7. Procedures for Determining Rental Assistance including Determination of Participant Share
8. Program Rules for Participants.

## **1.05 Record Keeping**

### **Record Retention (24 CFR 576.500 (y))**

All records pertaining to each fiscal year of ESG/NDHG funds must be retained for the greater of 5 years or the period specified below. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

1. Documentation of each program participant's qualification as a family or individual at risk of homelessness or as a homeless family or individual and other program participant records must be retained for 5 years after the expenditure of all funds from the grant under which the program participant was served.
2. Where ESG/NDHG funds are used for the renovation of an emergency shelter involving costs charged to the ESG/NDHG grant that exceed 75 percent of the value of the building before renovation, records must be retained until 10 years after the date that ESG/NDHG funds are first obligated for the renovation; and
3. Where ESG funds are used to convert a building into an emergency shelter and the costs charged to the ESG grant for the conversion exceed 75 percent of the value of the building after conversion, records must be retained until 10 years after the date that ESG/NDHG funds are first obligated for the conversion.

### **Establishing Project Files**

**Availability**

The filing system you establish should be easy to use and provide a historic account of the subrecipient's activities for examination and review by the General Accounting Office, NDHFA, auditors, and subrecipient staff. ESG/NDHG records are subject to the Freedom of Information Act and relevant state laws regarding public availability.

**Timing and Location**

The file system should be established on a program-year basis. This may result in duplication of files but will tie documentation to a given fiscal year and grant. Files should, to the extent possible, be maintained in a central location.

**Major File Categories**

The following list identifies major file categories which should be established in order to permit efficient grants management practices, and to permit an orderly review and audit of all records.

**Administrative File Minimum Requirements****Grant Application**

1. Copy of application/business plan
2. Correspondence concerning the application

**Financial Award**

1. Notice of Award from NDHFA
2. Financial Award
3. Related Correspondence
4. Amendments

**Financial Management and Accounting records**

1. ACH Authorization Form
2. Request for Funds Form
3. Source documentation of all funds (invoices, payrolls, etc.)
4. Canceled checks, deposit slips, bank statements, etc.
5. Related correspondence

**Mid-Term and Final Progress Reports****Sage Reporting****Contracts and Subcontracts (if applicable)**

1. Bid specifications
2. Documentation of soliciting quotes and/or bids for construction, etc.
3. Identification of quotes and/or bids accepted (if applicable), and explanations of acceptance of quotes and/or bids that are not the lowest.
4. Copies of contracts and subcontracts, or as applicable, copies of purchase orders

**Participant File Requirements**

1. Staff Evaluation of Eligibility- this is a new form effective with the 2023 programs and indicates based on staff eligibility determination what assistance the program participant received.
2. Homeless Certification or At Risk of Homelessness Certification and supporting documentations.
3. Release of Information Form- Form must be signed by each household member age 18 or older with a copy in file.

4. Intake and Assessment Form- The agency will conduct a comprehensive housing assessment with the household.
5. Income Eligibility Worksheet and Supporting Income Documentation (pay stubs, etc.)- All sources of household income (for all adult members) must be verified and documented at intake and every three months to determine program eligibility. To be eligible for assistance, gross household income must be below 30% (ESG), 50% (NDHG) area median income (AMI) for the county in which the household is residing.
6. Self-Certification- Must be completed if required verifications/other documents cannot be provided and self-certification is the only way to verify information to determine program eligibility.
7. Lease - A lease is required for households receiving financial assistance such as rental assistance, security deposits, rental arrearages and utility payments/deposits.
8. Rental Assistance Agreement (SFN 62097)
9. Housing Plan (case notes)- A Housing Plan must be completed for all individuals who receive a housing assessment and are determined eligible for services.
10. Rent Reasonableness Checklist and Certification (SFN 59386)
11. Habitability Standards Inspection Form (SFN 61266) All units must meet Habitability Standards before financial assistance can be provided such as rental assistance, security deposits, rental arrearages and utility payments/deposits. Effective October 1, 2023 NSPIRE will replace Housing Quality Standards and habitability standards. More information forthcoming when HUD has finalized NSPIRE.
12. Lead-Based Paint Disclosure
13. Lead-Based Paint Worksheet (SFN 62378) required for all participant files where rapid rehousing or homeless prevention is provided. It may lead you to an exemption or a visual assessment is required.

### **Monitoring File**

1. Monitoring letter from NDHFA
2. Subrecipient responses to NDHFA monitoring findings
3. Relevant correspondence

### **Grant Close-out**

1. Subrecipient final report
2. Close-out letter from NDHFA

### **Financial Audit**

1. Relevant correspondence
2. Final audit
3. Documentation of clear audit findings

### **General Correspondence**

- Correspondence, incoming and outgoing, that does not fall into any other category.

### **Records Retention**

All ESG/NDHG records and files must be retained for a period of five (5) years after the submission of the final financial status report or until all audit findings are resolved, whichever is longer.

## 1.06 Homeless Management Information System (HMIS)

Homeless Management Information System (HMIS) is the information system designated by the CoC to comply with HUD's data collection, management, and reporting standards and used to collect client-level data and data on the provision of housing and services to individuals and families experiencing homelessness and persons at-risk of homelessness. The ICA serves as the HMIS Lead Agency for ND CoC and manages HMIS on ND CoC's behalf. HMIS participation is a statutory requirement for ESG recipients and subrecipients. NDHG recipients are also required to participate in HMIS. Victim service providers cannot, and legal services organizations may choose to not, participate in HMIS. Providers that do not participate in HMIS **are required to use a CoC-approved comparable database that produces unduplicated, aggregate reports instead.**

The subrecipient may use ESG and NDHG funds to pay for the costs of contributing data to the HMIS designated by the CoC for the area, including the costs of:

1. Purchasing or leasing computer hardware.
2. Purchasing software or software licenses.
3. Purchasing or leasing equipment, including telephones, fax machines, and furniture.
4. Obtaining technical support.
5. Leasing office space.
6. Paying charges for electricity, gas, water, phone service, and high-speed data transmission necessary to operate or contribute data to the HMIS.
7. Paying salaries for operating HMIS.
  - a. Completing data entry.
  - b. Monitoring and reviewing data quality.
  - c. Completing data analysis.
  - d. Reporting to the HMIS Lead.
  - e. Training staff on using the HMIS or comparable database.
  - f. Implementing and complying with HMIS requirements.

## 1.07 Data Quality and Reporting

### Data Quality

The ND Continuum of Care Data Quality Management Plan provides the policies and procedures to ensure the data integrity of the ND HMIS. This ensures the ND HMIS is administered in compliance with the CoC Program Interim Rule and in conformance with HMIS Data Standards and related HUD notices. This plan provides actional, measurable steps to address data quality within HMIS. All ESG and NDHG subrecipients must adhere to the management plan and follow HMIS Policies and Procedures.

Agencies provide the following levels of data accuracy and timeliness to ensure data integrity in HMIS:

### Reporting

(RESERVED) NDHFA will work with ICA and ESG recipients to determine what reports outside of the midterm and final progress reports are necessary.

### Data Quality Compliance for Domestic Violence (DV) Service Providers

ESG/NDHG subrecipients who are domestic violence service providers and are providing ESG/NDHG assistance to victims of domestic violence should not use HMIS but must use a CoC-approved comparable database to record client data. DV providers are expected to comply with the same data quality standards as agencies who are not serving victims of domestic violence.

### Coordinated Entry

HUD requires all CoC's to develop and implement a centralized or coordinated assessment process. A centralized or coordinated entry process covers the geographic area (CoC), is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool. The assessment system may vary from community to community based on individual communities' needs. HUD requires all ESG funded subrecipients to participate in the coordinated entry process designated by the CoC it provides services in. Additionally, all NDHG funded agencies must participate in coordinated entry process.

## 1.08 Performance Standards and Measures

### Objectives for the ESG/NDHG program

1. Engage individuals and families experiencing homelessness who are living on the street or in places not meant for human habitation.
2. Improve the number and quality of emergency shelters for individuals and families experiencing homelessness.
3. Help operate these shelters.
4. Provide essential services to shelter residents.
5. Rapidly re-house individuals and families experiencing homelessness.
6. Prevent families and individuals from becoming homeless.

### Overall Goals

1. Reduce the number of unsheltered individuals and families.
2. Reduce length of stay for clients in emergency shelters. Length of stay should generally be no longer than 90 days for shelters.
3. Increase placements into permanent housing for individuals and families experiencing homelessness from emergency shelter.
4. Prevent individuals and families from becoming homeless – either unsheltered or sheltered.
5. Increase the percentage of individuals and families remaining in permanent housing.
6. Increase income or access to mainstream benefits for program participants while in the ESG/NDHG program.

### Performance Measurements

1. Emergency Shelter
  - a. 25% or less of clients will return to homelessness.
2. Street Outreach
  - a. 25% of clients will return to homelessness.
3. Homeless Prevention
  - a. 75% of clients will maintain permanent housing for six months.
  - b. 75% of clients will access permanent housing destinations.
4. Rapid Re-Housing
  - a. 10% or less will return to homelessness.
  - b. 80% or more of all clients will exit to permanent housing destinations.
  - c. 25% or more of adult participants will increase income from employment or other sources.

## 1.09 Grant Administration-Financial Management System

The financial management section has been written to help grant administrators understand and implement financial management systems that comply with the ESG/NDHG program. The procedures address the reporting and financial management requirements of 2 CFR Part 200 Uniform Guidance and

requirements by NDHFA. The OMB Circular referenced above can be found at <https://www.whitehouse.gov/omb/information-for-agencies/circulars/>. ESG subrecipients must ensure the requirements under 24 CFR 576 and applicable policies listed in 2 CFR part 200 are met. NDHG subrecipients may not be required to adhere to all requirements 2 CFR Part 200, but do need to have accounting records, retention policies, provide access, and internal controls.

## **2CFR 200 Subpart D – Post Federal Award Requirements Financial Management**

The financial management system of each subrecipient must provide for the following (see also §§200.333 Retention requirements for records, 200.334 Requests for transfer of records, 200.335 Methods for collection, transmission, and storage of information, 200.336 Access to records, and 200.337 Restrictions on public access to records):

### **Internal Controls**

Subrecipients must establish and maintain effective internal control over the Federal and State award that provides reasonable assurance that the non-Federal entity is managing the Federal or State award in compliance with Federal and State statutes, regulations, and the terms and conditions of the financial award. These internal controls should comply with “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of sponsoring Organizations of the Treadway Commission (COSO).

Subrecipients are required to comply with all ESG requirements as required in – 24 CFR 576, including the provision of case management, helping program participants increase income, either via employment assistance or through the acquisition of mainstream benefits, and helping program participants move into and stay in permanent housing.

The following are subsections to financial management:

1. Cash Depositories
2. Request for Funds
3. Financial Accounting Standards
4. Standards of Allowability and Allocability of Grant Funds
5. Budget Revisions

### **Cash Depositories: Establishing an ESG or NDHG Bank Account - Requirements**

1. Once the subrecipient has received its executed Financial Award, arrangements can be made to establish a non-interest-bearing bank account to receive and expend funds. ESG and NDHG must have separate accounts that meet the requirements or the recipient must have a GL accounting system that accounts for NDHG and ESG in separate GL accounts.
2. The funds must be deposited in a bank with adequate Federal Deposit Insurance Corporation (FDIC) insurance coverage. Funds drawn and deposited in excess of the FDIC coverage must be collaterally secured. FDIC insurance coverage is limited to \$250,000, which means that any request or any combination of requests that will cause the total amount of federal funds being paid to the subrecipient to exceed \$250,000, will require the account receiving funds to be collaterally secured. A statement from the bank verifying the required security should be attached to all requests that would exceed FDIC coverage.
3. The designated depository (bank) should be aware that the ESG/NDHG funds will be transmitted directly from NDHFA to the bank in the form of an Automated Clearing House (ACH) transfer.
4. New subrecipients must complete and submit an ACH Authorization Form (SFN 52477) setting up automatic transfers to the subrecipients account and for identifying those subrecipient officers authorized to request ESG funds from NDHFA. The ACH Authorization Form will also be used

when the subrecipient needs to revise or update its officers authorized to sign its Request for Funds form.

5. Consistent with the national goal of expanding the opportunities for minority business enterprises, subrecipients are encouraged to use minority banks (a bank which is owned at least 50 percent by minority members).

### **Request for Funds - Cash Management Requirements**

All subrecipients must have an ACH Authorization Form (SFN 52477) submitted and approved. Up to two individuals may have designated authority to request ESG/NDHG funds. Only one signature is required on requests.

All requests for reimbursement must be made using the Request for Funds Form (SFN 52681) and must be accompanied by the following documents.

1. Reimbursement Request Summary (SFN 62333). The reimbursement request summary should detail each expense including to which component the expense is to be billed.
2. Source documentation to support the expense including proof of cost incurred and proof of payment.

Requests for reimbursement must be submitted at least quarterly and are due by the 7th business day of the following quarter. Payments will generally be processed by the 20th of the month. It is preferable to have reimbursement requests prepared monthly to expediate the review.

All requests must be submitted electronically either by email or fax to: [hfahomelessprograms@nd.gov](mailto:hfahomelessprograms@nd.gov) or 701-328-8090.

### **Grant Advance Payment- Cash Advances**

Currently cash advance requests are not permitted. NDHFA will evaluate this policy in future program years.

### **Financial Accounting Standards - Requirements**

Subrecipients of ESG/NDHG funds must maintain a financial accounting system which is compliant with various Federal guidelines and provides accurate information, traceable transactions, and accountability of funds. The subrecipient must ensure the following:

1. Accurate, current, and complete disclosure of the financial status of each ESG/NDHG approved activity. The Financial Award includes a budget attachment which describes each approved ESG/NDHG activity, and the dollar amount authorized for each specific activity. As an ESG/NDHG subrecipient, your accounting records must be established to identify expenditures according to each approved activity. You will be required, through mid-term and final progress reports, to account for dollar amounts authorized, expended, and obligated by each approved activity. The accounting records should be kept current and must include approved amendments by NDHFA. A separate accounting system need not be established to account for ESG/NDHG financial activity if the subrecipient's existing system is adaptable to meet the above stated requirements.
2. Effective control over and accountability for all funds, property, and other assets. To ensure adequate internal control, checks must have multiple signatures, appropriate bonding must be secured, and proper segregation of grant management duties and responsibilities must be maintained.
3. If "Match Funds" have been included in the Financial Award as a part of the total project costs, the subrecipient will be required to have the proper documentation to support the expenditure of that amount. Match funds must be reported in the Mid-Term and Final Progress Reports. Match funds are only required for ESG funds.

4. Accounting records must be supported by source documentation. Original invoices, purchase orders, and payroll records must support each payment and be on file and retained for five years from the submission date of the final financial status report or until all audit findings are resolved, whichever is longer, to verify all ESG/NDHG expenditures. Payments must not be made without the invoice physically on hand.
5. Salary: All employees paid in whole or in part from ESG/NDHG funds must prepare a time sheet which indicates the hours worked on the ESG/NDHG project for each pay period. The time sheet should be inclusive of all programs to which an employee devotes time. The amount to be distributed as ESG/NDHG payroll charges during a particular period will be based on the time sheet and hourly payroll cost of the employee. Employee time must be billable to a **specific** grant component. This component must be an eligible activity under the signed financial award and grant agreement. Employees are required to use the NDHFA Timesheet Report (SFN 62211) to report time. Organizations who have an internal timekeeping system may request a waiver to use the NDHFA Timesheet report. This waiver must be requested in writing.
6. A minimum of three accounting documents are suggested for recording ESG/NDHG transactions:
  - a. Cash Receipts Journal: This journal is maintained to record the receipt of all funds (local, state, federal) used for program activities. The record must include the date funds are received, the amount of funds received, and the activity to which the funds are transferred.
  - b. Cash Disbursements Journal: This journal must be maintained to record all checks issued for payment of program costs. The record must include the date of payment, the payee, check number, amount, and the account from which the disbursement was made.
  - c. General Ledger: This journal must be maintained to summarize cash receipts and disbursements on a subaccount basis. All entries of the General Ledger must be made from the Cash Receipts and Cash Disbursements Journal.

### Checklist

- ☐ Necessary accounting journals and ledgers are established and maintained on a current basis.
- ☐ Accounting system is established to meet financial reporting requirements (budgets in accounting records, current cash balances, etc.)
- ☐ Funds are being disbursed upon receipt and excess cash balances are not being held by the subrecipient.
- ☐ All employees paid with ESG/NDHG funds are maintaining time sheets and time can be tracked by Grant and Component.
- ☐ All payments are supported by source documentation.

### Standards for Allowability and Allocability of Grant Funds

Subrecipients of ESG funds will be responsible for determining the types of costs which can be charged to a grant in accordance with 24 CFR Part 576 and requirements established by NDHFA. Costs are incurred within the effective "Budget/Project Period" as stipulated in Part I of the Financial Award. NDHG will follow requirements of ESG.

Subrecipients should refer to 24 CFR Part 576 .101 through 576.107 Program Components and Eligible Activities when determining the allowability and applicability of costs to be charged to the ESG/NDHG program. Subrecipients may not subgrant any of its ESG/NDHG funds.

HUD Provides [SNAPS-Shots Quick Link Reference Guides](#) for understanding program components and activities.

## Ineligible Expenses

Subrecipients will not be reimbursed for expenses not allowable under 24 CFR Part 576. In addition, the following fees which are not specifically defined in CFR will be deemed ineligible.

Emergency Shelter expenses that can be reimbursed should be essential to the operations of the shelter. Examples on non-essential expenses that should be paid with other sources include expenses for enrichment activities, holiday décor, and crafting materials. This is obviously not inclusive.

Late Fees or reinstatement fees charged to the subrecipient for late payments on accounts.

Invoice Fees- fee charged to subrecipient for paper statements.

Renter's Insurance

## Budget Revisions

The financial budget as found in the Financial Award is the approved budget for your ESG/NDHG program funds. Subrecipients may only expend and be reimbursed for expenditures based on the approved budget and only for approved component activities.

All amendment requests must be submitted on Request for Amendment form (SFN 52679).

## Audits

ESG Subrecipients must comply with the requirements of 2 CFR Part 200 "Audits of States, Local Governments, and Non-Profit Organizations." Audit Disclosure forms will be sent annually to subrecipients. These must be completed and returned to NDHFA.

## Procurement Methods and Contracts

This section describes the rules and procedures that must be followed when purchasing supplies, equipment, construction, and services in whole or in part with ESG/NDHG funds. These requirements are established to ensure that materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and executive orders. The objectives of these regulations are to assure that:

1. Unnecessary or duplicate purchases are not made.
2. Favorable prices for goods and services are obtained without sacrificing needed quality.
3. Purchases are made based on maximum open and free competition whenever possible.
4. National goals such as equal employment opportunity, stimulation of small and minority- owned businesses, and fair labor standards are encouraged through government purchases.

The requirements of procurement methods and contracts are delineated in Part 85.36 and Part 84.40-84.48 of Title 24 of the Code of Federal Regulations. A thorough working knowledge of Part 85 requirements is imperative to assure proper grants management.

### 1.10 Match (ESG Only)

Match requirements will be reported in the mid-term and final progress reports. Supporting documentation is required.

In general, federal (other than ESG), state, local, or private funds may be used to satisfy the requirement that the recipient provide matching contributions to ESG, so long as the following conditions are met:

1. The matching funds are contributed to the ESG program and expended for the recipient or subrecipient's allowable ESG costs. \* See Note
2. If the matching funds are from another federal program, there is no specific statutory prohibition on using those funds as match.

3. The matching funds are used in accordance with all requirements that apply to ESG grant funds, except for the expenditure limits in 24 CFR 576.100. This includes requirements such as documentation requirements, eligibility requirements, and eligible costs.
4. The matching funds are expended (that is, the allowable cost is incurred) after the date HUD signs the grant agreement for the ESG funds being matched.
5. The matching funds are expended by the expenditure deadline that applies to the ESG funds being matched.
6. The matching funds have not been and will not be used to match any other Federal program's funds nor any other ESG grant.
7. The recipient does not use ESG funds to meet the other program's matching requirements.
8. The recipient keeps records of the source and use of the matching funds, including the fiscal year for which the matching contribution is counted.

\*Note: because the matching funds are contributed to the ESG program and expended for the recipient or subrecipient's allowable ESG costs, the following are not allowed to be used as match:

1. SNAP benefits (food stamps) because the funds are being used to cover the program participant's costs.
2. Housing Choice Vouchers, because the funds are used to pay the PHA's obligations under its Housing Assistance Payment contract with the owner.
3. Tenant's portions of the rent because it is the tenant's obligation.

For cash match, "provided" means when the funds are expended (or when the allowable cost is incurred). For in-kind match, it is the date the service (or other in-kind match source) is actually provided to the program or project. Remember that ESG matching funds must be expended within the same expenditure deadline that applies to the ESG funds being matched (i.e. the 24-month deadline). Non-cash contributions must be made within the expenditure deadline.

## **SECTION 2 KEY REGULATORY REQUIREMENTS OF ESG/NDHG**

### **2.01 Written Standards (24 CFR 576.400)**

ESG and NDHG subrecipients must follow the Written Standards for Emergency Solutions Grant and Continuum of Care Programs to ensure program compliance.

### **2.02 Centralized Coordinated Entry (24 CFR 573.400)**

Coordinated Entry is a centralized or coordinated process designed to coordinate program participant intake, assessment, and provision of referrals to programs. The Coordinated Access, Referral, Entry, and Stabilization (CARES) System is the coordinated entry and homeless response system for ND and West Central Minnesota CoCs. ESG and NDHG subrecipients must participate in CARES.

### **2.03 Homeless participation (24 CFR 576.405)**

The provision requiring persons with lived experience participation on boards or in an advisory capacity can be fulfilled by ESG subrecipients bringing any policy decisions regarding facilities and services to the CoC governing board where lived experience participation already exists. To the maximum extent practicable, the subrecipient must involve individuals and families experiencing homelessness in constructing, renovating, maintaining, and operating facilities assisted under ESG, in providing services assisted under ESG, and in providing services for occupants of facilities assisted under ESG. This involvement may include employment or volunteer services. NDHG recipients are strongly encouraged to adhere to this provision.

## 2.04 Confidentiality (24 CFR 576.500(x))

Subrecipients must develop and implement written procedures to ensure:

1. All records containing personal identifying information (as defined in HUD's standards for participation, data collection, and reporting in a local HMIS) of any individual or family who applies for and/or receives ESG and NDHG assistance will be kept secure and confidential.
2. The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under the ESG and NDHG will not be made public, except with written authorization of the person responsible for the operation of the shelter.
3. The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the recipient or subrecipient and consistent with state and local laws regarding privacy and obligations of confidentiality.

The confidentiality procedures of the recipient and its subrecipients must be in writing and must be maintained in accordance with this section.

## 2.05 Duplication of Benefits (CPD-21-08 Section III, F.10)

Prohibition Against Duplication of Benefits. Section 312 (42 U.S.C. 5155) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.) prohibits duplication of benefits for programs that provide financial assistance to people or entities suffering losses because of a major disaster or emergency. "Duplication of benefits" occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs. Recipients must establish and maintain adequate procedures to prevent any duplication of benefits.

## 2.06 VAWA Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (24 CFR 576.409)

The core statutory protections of VAWA that prohibit denial or termination of assistance or eviction solely because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking applied upon enactment of VAWA 2013 on March 7, 2013. ESG and NDHG subrecipients that provide rental assistance must ensure that VAWA requirements are incorporated into rental assistance agreements and leases. All program eligibility and termination decisions must be made within VAWA regulatory requirements.

When providing rental assistance, ESG and NDHG programs must provide participants with the HUD Notice of VAWA Occupancy Rights form (HUD-5380), and VAWA Certification of Domestic Violence self-certification form (HUD 5382), ensure the lease includes VAWA lease protections or incorporates the protections in a VAWA lease addendum (HUD Form 91067), and allow participants to make emergency transfers when elements of VAWA apply (HUD Form 5381). Additionally, all subrecipients must have a VAWA Emergency Transfer Plan. All HUD sample forms, and additional guidance is available at <https://www.ndhfa.org/index.php/compliance/vawa/>.

### VAWA Emergency Transfer Plan (24 CFR 576.409 (d))

All agencies providing ESG or NDHG rent assistance must develop an Emergency Transfer Plan as described in 24 CFR 576.409 (d) and in accordance with 24 CFR 5.2005(e).

ESG/NDHF subrecipients may adopt the ND CoC board adopted Emergency Transfer Plan as a safe harbor. Otherwise, the Emergency Transfer Plan must include the following:

For families living in units receiving project-based rental assistance (assisted units), the required policies must provide that if a program participant qualifies for an emergency transfer, but a safe unit is not immediately available for an internal emergency transfer, that program staff make efforts to work with other programs to identify a safe external transfer.

For families receiving tenant-based rental assistance, the required policies must specify what will happen with respect to the non-transferring family member(s), if the family separates to affect an emergency transfer.

## **2.07 Nondiscrimination and Equal Opportunity (24 CFR 5.105(a))**

### **Civil Rights Overview**

This section presents summaries of the key regulations and requirements of civil rights, fair housing, and equal opportunity laws applicable to the administration of the ESG program.

The civil rights laws, related laws, and regulations are designed to protect individuals from discrimination on the basis of:

1. Race
2. National Origin
3. Religion
4. Color
5. Sex
6. Age
7. Disability

As they apply to the ESG program, these laws protect individuals from discrimination in:

1. Housing
2. Benefits created by ESG projects
3. Employment
4. Business Opportunities

Population groups specifically protected by provisions of these laws include:

1. Minorities (specifically - Blacks, Hispanics, Asians and Pacific Islanders, American Indians and Alaskan Natives)
2. Women
3. Groups distinguished by age
4. Persons with Disabilities
5. Family Status

The applicable laws and regulations provide for:

1. Nondiscrimination
2. Equal Opportunity
3. Affirmative Action (to reduce past discrimination)

### **Definitions, Acronyms or Terminology**

Please reference these terms for explanation of names, acronyms, and phrases used in this section.

1. Contractor - An entity selected in accordance with the procurement requirements at 24 CFR 85.36. In accordance with 24 CFR 85.36 (c), such procurement actions must be conducted in a manner that provides for free and open competition.

2. New Hires (as it relates to payrolls) - Full-time employees for permanent, temporary, or seasonal employment opportunities.
3. Low-Income Person - Persons or families whose total household incomes do not exceed 80 percent of the median income for the area.
4. Very Low-Income Person - Persons or families whose total household incomes do not exceed 50 percent of the median income for the area.
5. Section 3 – please consult with NDHFA for further documentation.

### Civil Rights Requirements – Laws & Statutes

Civil Rights laws applicable to ESG programs are set forth in the statutes and Executive Orders which follow:

Statute/Executive Order	Description
Title VI of the Civil Rights Act of 1964	No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of: <ul style="list-style-type: none"> <li>• Race, Color, or National Origin</li> </ul>
Section 3 of the Housing and Urban Development Act of 1968, as amended	To the greatest extent feasible, employment and other economic opportunities, should be directed to: <ul style="list-style-type: none"> <li>• Low- and very low-income persons, and business concerns which provide economic opportunities to low- and very low-income persons.</li> </ul>
Title VIII of the Civil Rights Acts of 1968, as amended (Fair Housing Act)	Prohibits discrimination in housing on the basis of: <ul style="list-style-type: none"> <li>• Race, Color, Religion, Sex, or National Origin</li> </ul> Also requires HUD to administer its programs in a manner that affirmatively furthers fair housing
Section 504 of the Rehabilitation Act of 1973 – as amended	No otherwise qualified individual shall, solely, by reason of his or her handicap be: <ul style="list-style-type: none"> <li>• Excluded from participation (including employment)</li> <li>• Denied program benefits</li> <li>• Subjected to discrimination</li> </ul>
Section 109 of the Housing and Urban Development Act of 1974, as amended	Under any program or activity funded in whole or in part under Title I or Title II of the act (regardless of contract's dollar value), no person shall be excluded from participation (including employment), denied program benefits, or subjected to discrimination on the basis of: <ol style="list-style-type: none"> <li>a. Race, Color, National Origin, or Sex</li> </ol>
Executive Order 11063	No person shall, on the basis of race, color, religion, sex or national origin be discriminated against in: <ol style="list-style-type: none"> <li>b. Housing (and related facilities) provided with federal assistance.</li> <li>c. Lending practices with respect to residential practices when such practices are connected with loans insured or guaranteed by the federal government.</li> </ol>

Executive Order 11246, as amended	No person shall be discriminated against, on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally assisted construction contracts in the excess of \$10,000.
Equal access to HUD- assisted or Insured Housing- §5.105(a)(2)(i-ii)	Requires equal access to housing in HUD programs, regardless of sexual orientation, gender identity, or marital status.
Human Rights Acts of North Dakota	Prohibits discrimination on the basis of race, color, religion, sex, national origin, age, presence of any mental or physical disability, status with regard to marriage or public assistance; and protects individuals from discrimination in employment, public accommodations, housing, state, and local government services, and credit transactions.

### Strategies and Procedures

This section presents strategies and procedures for complying with various civil rights, equal opportunity and affirmative action laws, regulations and requirements outlined in the preceding section of this chapter.

As an ESG grant subrecipient you must assure that all ESG-funded activities undertaken as part of your program are conducted in a manner which will not cause discrimination based on race, creed, color, national origin, religion, sex, disability, or age.

The information that follows can be used in whole or in applicable part to assure conformity with the required civil rights laws and regulations and assist in affirmative action policies.

1. Nondiscrimination, Equal Opportunity, and Affirmative Action in Employment
2. Maintain employment data that indicates staff composition by race, sex, disabled status, and national origin.
3. Develop or review existing personnel policies to assure compliance with nondiscrimination and equal opportunity requirements.
4. Advertise as an equal opportunity employer.
5. Publish an annual statement of nondiscrimination and/or include such statement in any publicity on the ESG program.
6. Develop a network of information points that serve minority, elderly, women, disabled and ethnic groups, in addition to newspaper/public service channels.
7. Utilize information points throughout the community to advertise employment opportunities.
8. Develop or implement an Affirmative Action Plan.
9. Develop a Section 3 plan.
10. Display Equal Opportunity posters prominently.
11. Take affirmative action to overcome the effect of past discrimination.
12. Nondiscrimination, Equal Opportunity, and Affirmative Action in Contracting
13. Advertise as an equal opportunity employer in bid solicitations.
14. Solicit bids from minority, women, and locally owned businesses.
15. Maintain a list of locally owned businesses that were awarded contracts.
16. Require a Section 3 clause in all contracts.
17. Inform contractors of equal opportunity requirements at pre-construction conference.
18. Require contractor to submit monthly utilization reports.

19. Monitor contractor compliance at work sites.
20. Nondiscrimination, Equal Opportunity, and Affirmative Action in Housing
21. Information concerning housing services and activities should be disseminated through agencies and organizations which routinely provide services to protected groups.
22. Contract documents used by subrecipients and lending institutions participating in local programs should be reviewed and revised, if necessary, to eliminate any discriminatory intent or practice.
23. Criteria for selecting recipients of housing assistance should be evaluated for any discriminatory effect.

Examples Fair Housing Activities:

1. Publicize that the subrecipient will assist persons experiencing discrimination in housing.
2. Development and adoption of a fair housing policy with identification of methods of enforcement.
3. Provision of housing counseling services which assist minorities and women seeking housing outside areas of concentration.
4. Work with local real estate brokers to formulate a Voluntary Area-wide Marketing Agreement.
5. Work with local banks to post "equal lending opportunity" advertisements.
6. Use "equal housing opportunity" slogan and logo on city letterhead.
7. Sponsor fair housing seminars and campaigns.
8. Work with minority and women leaders in the area to promote housing development and increase minority and female participation.
9. Assist local housing developers in developing outreach programs to attract minorities and females.
10. Review zoning ordinances and comprehensive plans to ensure they promote inclusive communities, development of assisted housing in areas of opportunity.
11. Create a local housing authority.
12. Publicly advertise the city as a "fair housing city."
13. Adopt a code enforcement ordinance which will compel landlords to keep their units in safe and sanitary condition.
14. Beneficiaries
15. Identify the needs of low- to moderate-income persons, minorities, and women.
16. Develop and maintain a data base for the project area which includes information about population characteristics, i.e., sex, race, age, head of household, etc.
17. Maintain data on direct and indirect beneficiaries of the project which include the above characteristics.

## 2.08 Equal Access (24 CFR 5.106)

Equal access in accordance with the individual's gender identity in community planning and development programs.

1. **Applicability.** This section applies to assistance provided under Community Planning and Development (CPD) programs, including assistance under the following CPD programs: HOME Investment Partnerships program (24 CFR part 92), Housing Trust Fund program (24 CFR part 93), Community Development Block Grant program (24 CFR part 570), Housing Opportunities for Persons With AIDS program (24 CFR part 574), Emergency Solutions Grants program (24 CFR part 576), Continuum of Care program (24 CFR part 578), or Rural Housing Stability Assistance Program (24 CFR part 579). The requirements of this section apply to recipients and

subrecipients, as well as to owners, operators, and managers of shelters and other buildings and facilities and providers of services funded in whole or in part by any CPD program.

2. Equal access in accordance with gender identity. The admissions, occupancy, and operating policies and procedures of recipients, subrecipients, owners, operators, managers, and providers identified in paragraph (a) of this section, including policies and procedures to protect privacy, health, safety, and security, shall be established, or amended, as necessary, and administered in a nondiscriminatory manner to ensure that:
  - a. Equal access to CPD programs, shelters, other buildings and facilities, benefits, services, and accommodations is provided to an individual in accordance with the individual's gender identity, and in a manner that affords equal access to the individual's family.
  - b. An individual is placed, served, and accommodated in accordance with the gender identity of the individual.
  - c. An individual is not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of the individual's gender identity.
  - d. Eligibility determinations are made, and assisted housing is made available in CPD programs as required by § 5.105(a)(2).
3. Placement and accommodation in temporary, emergency shelters and other buildings and facilities with shared sleeping quarters or shared bathing facilities:
  - a. Placement and accommodation. Placement and accommodation of an individual in temporary, emergency shelters and other buildings and facilities with physical limitations or configurations that require, and are permitted to have, shared sleeping quarters or shared bathing facilities shall be made in accordance with the individual's gender identity.
  - b. Post-admission accommodations. A recipient, subrecipient, owner, operator, manager, or provider must take nondiscriminatory steps that may be necessary and appropriate to address privacy concerns raised by residents or occupants and as needed, update its admissions, occupancy, and operating policies and procedures in accordance with paragraph (b) of this section.
4. Documentation and record retention. Providers shall document and maintain records of compliance with the requirements in paragraph (b) of this section for a period of 5 years.

## **2.09 Prohibition Against Involuntary Family Separation 24 CFR 576.102(b) (Emergency Shelter)**

Subrecipients are prohibited from having an admission policy that uses the age of a child under 18, as a basis for denying any family's admission to an emergency shelter if the emergency shelter provides shelter to families with children under 18.

## **2.10 Fair Housing**

The Federal Fair Housing Law provides that "...no person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate-related transactions including lenders, builders, and homeowners' insurance companies" (24 CFR 100.5).

Fair Housing and Equal Opportunity (FHEO) Office's mission is to eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities. They provide enforcement, administration, and promote public understanding of fair housing policy and law. [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp](https://www.hud.gov/program_offices/fair_housing_equal_opp).

Subrecipients must agree to administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act (42 U.S.C.3608(e)(5));

(E.O.12259(1-202)); (24 CFR 570.601). This means promoting and publicizing Fair Housing laws as explained below. Subrecipients must also agree to develop and maintain records of the efforts taken to assure fair housing.

Fair housing laws, provisions and regulations apply to the community as a whole – not just to ESG-supported housing projects – and they are an essential part of the community's ESG responsibilities.

1. Under the Fair Housing Act, the following actions are illegal when taken based on race, color, national origin, sex, religion, familial status, or disability:
  - a. Refusing to sell, rent, negotiate, or otherwise make housing unavailable.
  - b. Falsely stating that housing is unavailable.
  - c. Providing different services or facilities.
  - d. Imposing different terms and conditions (including qualifications, fees, pricing, rules, etc.).
  - e. Advertising or making statements that express a limitation or preference.
  - f. Steering, exclusionary zoning, blockbusting, or redlining.
  - g. Retaliating against anyone exercising her/his rights under the Fair Housing Act (includes intimidation and coercion).
  - h. Refusing to provide a reasonable accommodation or modification for someone with a disability.
2. Affirmatively Furthering Fair Housing
  - a. Analysis of Impediments to Fair Housing Choice (AI) -- In exchange for federal funds, jurisdictions are required to submit certification of affirmatively furthering fair housing to the U.S. Department of Housing and Urban Development (HUD). This certification has three required elements:
    - i. Complete an Analysis of Impediments to Fair Housing Choice (AI).
    - ii. Take actions to overcome the effects of any impediments identified.
    - iii. Maintain records reflecting the actions taken in response to the analysis.
  - b. HUD provides a definition of impediments to fair housing choice as:
    - i. Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices.
    - ii. Any actions, omissions, or decisions that have the effect of restricting housing choices or the availability of housing choices based on race, color, religion, sex, disability, familial status, or national origin.

An Analysis of Impediments to Fair Housing Choice (AI) has been conducted for the State of North Dakota. The final document was issued on May 11, 2015 and is available on the North Dakota Housing Finance Agency website at:

<https://www.ndhfa.org/wp-content/uploads/2022/11/AnalysisofImpedimentstoFairHousingChoice.pdf>.

The AI identified several private and public sector impediments to fair housing choice. Private sector impediments that were assigned a severity ranking of medium or high included discriminatory terms and conditions in rental and home purchase markets, refusal to rent, failure to make reasonable accommodations, preferential statements in advertising, and the issuance of predatory type home loans. Public sector impediments include inadequate fair housing outreach and education, lack of sufficient fair housing testing and enforcement, and NIMBYism.

ESG subrecipients are required to affirmatively further fair housing in their community in soliciting renters, determining eligibility, and in the conduct of all transactions.

- c. Data and Documentation. The ESG subrecipient must document the steps it has taken to promote fair housing and keep these records in the ESG Civil Rights File.

When developing a fair housing/affirmative marketing program, it is very important that the subrecipient documents all the actions taken -- as well as the results of those actions. If these efforts are not documented, NDHFA will be unable to demonstrate to HUD that subrecipients are meeting their fair housing obligations.

NDHFA and ESG subrecipients with housing projects will assess affirmative marketing efforts of owners by comparing predetermined occupancy goals (based on the area from which potential tenants will come) to actual occupancy data the owner is required to maintain. Outreach efforts on the part of the owner will also be evaluated by reviewing marketing efforts (HUD Form 935-2A).

- d. Resources

High Plains Fair Housing Center, located in Grand Forks, ND, is a private, non-profit organization dedicated to the reduction and eradication of housing discrimination in the state:

High Plains Fair Housing Center Michelle Rydz, Executive Director  
PO Box 5222, Grand Forks, ND 58206  
701-203-1077, Toll Free 866-380-2738  
[www.highplainsfhc.org](http://www.highplainsfhc.org)

- e. Housing Complaints

The Human Rights Division of the Department of Labor and Human Rights is responsible for enforcing the North Dakota Human Rights Act (N.D.C.C. Chapter 14- 02.4) and the North Dakota Housing Discrimination Act (N.D.C.C. Chapter 14-02.5).

This responsibility includes investigating complaints alleging discriminatory practices, educating the public about human rights laws, and studying the nature and extent of discrimination in North Dakota.

Complaints must be referred directly to:

North Dakota Department of Labor Human Rights Division  
600 E. Boulevard Ave., Dept. 406  
Bismarck, ND 58505-0340  
Phone - 701-328-2660 locally or 1-800-582-8032 toll free in ND  
TTY - 711  
Spanish Users 1-800-435-8590  
Fax - 701-328-2031  
E-mail - [labor@nd.gov](mailto:labor@nd.gov)  
Website - [www.nd.gov/labor/human-rights](http://www.nd.gov/labor/human-rights)

The name(s) of complainants and the name(s) of the respondent(s) must not be disclosed to any entity other than the ND Department of Labor. NDHFA should, however, be notified that a complaint has been registered.

To learn more about the complaint process, use the following link:  
<https://www.nd.gov/labor/printable-brochures>.

## 2.11 Section 504

Compliance with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 754) requires that local subrecipients shall operate each program or activity receiving Federal financial

assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with physical disabilities.

Section 504 provides that "No otherwise qualified individual with physical disabilities in the United States shall, solely by reason of his physical disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance".

#### Citizen Participation

Recipients must make affirmative efforts to involve racial and ethnic minorities, people with disabilities, and female headed households in the citizen participation process. Below is a link to the ND Citizen Participation Plan: <https://www.ndhfa.org/index.php/consolidated-plan/>.

#### Limited English Proficiency

1. ESG subrecipients have an obligation under Title VI to reduce language barriers that can preclude meaningful access by person with limited English proficiency (LEP) to programs, services, and activities.
2. Written translations of vital documents must be provided for each LEP language group totaling 1,000 persons or 5% of the population.

#### Section 504 Non-discrimination Notice

1. Subrecipients must provide a Section 504 non-discrimination notice within printed informational materials the subrecipient makes available to participants, beneficiaries, applicants, and employees.
2. Must include the name and contact number of the Section 504 Coordinator.
3. A sample notice can be found in the NDHFA Emergency Solutions Grant Section 504 Guidance and Plan.

#### Physical Accessibility

1. In new multifamily housing projects, a minimum of five percent of the total dwelling units or at least one unit, whichever is greater, must be made accessible for persons with mobility impairments [24 CFR § 8.22(b)].
2. An additional two percent (or at least one unit, whichever is greater) must be made accessible for persons with hearing or vision impairments [24 CFR § 8.22(b)].

#### Program Accessibility

1. A subrecipient must operate each housing and non-housing program or activity receiving federal assistance so that the program or activity is readily accessible to and usable by individuals with handicaps, when viewed in its entirety.
2. A subrecipient is not necessarily required to make each of its existing facilities accessible to and usable by individuals with handicaps.
3. Reasonable Accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use areas.
4. The requested accommodation must be reasonable.
5. Does not impose an undue financial and administrative burden on the housing provider.
6. Does not fundamentally alter the nature of the housing provider's operations.
7. The determination of undue financial and administrative burden is made on a case-by- case basis.

8. Section 504 requires subrecipients to provide and pay for reasonable accommodations that involve structural modifications to units or public and common areas.

#### Equal Access Rule

HUD's Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Rule became effective on March 3, 2012.

1. Housing assisted by HUD shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status (24 CFR Section 5.015(a)(2).
2. Clarification of "family" definition to include persons regardless of actual or perceived sexual orientation, gender identity, or marital status.
3. Prohibits inquiries of an applicant or occupant's sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available.
4. Prohibits FHA-approved lenders from basic eligibility determinations for FHA- insured loans on actual or perceived sexual orientation or gender identity.

#### Requirements for All Subrecipients

To comply with Section 504, the following actions must be initiated:

1. Each ESG subrecipient financial award includes an assurance to NDHFA that the ESG Program will be operated in compliance with Section 504 requirements (24 CFR 8.50(a)). This assurance obligates the subrecipient for the period during which federal financial assistance is extended.
2. Each subrecipient shall review NDHFA's 504 Guidance and Plan and complete a self-evaluation (SFN 62340) of current policies and practices with respect to communications, employment, and program/physical accessibility to determine whether, in whole or in part, they do not or may not meet the requirements of being accessible to individuals with disabilities. The self-evaluation is required to be completed before the first request for funds is processed.
3. The self-evaluation shall designate all buildings and structures as "new" or "existing" depending on whether the building was constructed or altered after July 1988 (24 CFR 8.51(a)). The self-evaluation shall determine whether buildings and structures that house programs and services for the public can be approached, entered, and used by persons with disabilities. At minimum the following items should be addressed in the self-evaluation: Parking – Spaces, Curbs, Ramps, Routes and Pathways - Slopes, Levels, Ramps, Notices, Entrance Ways - Widths and Heights, Interiors - Door Grasp, Pressure, Pathways, Elevators, Service - Counter Heights, Notices, and Auxiliary Services - Telephones, Restrooms, and Drinking Fountains.
4. Each subrecipient shall modify any policies and practices that do not meet the requirements for program accessibility (24 CFR 8.51). Because compliance with 504 does not necessarily require a subrecipient to make each of its existing facilities accessible to and usable by individuals with handicaps, or require a subrecipient to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or cause undue financial and administrative burdens, a subrecipient may comply with the requirements of this section in its programs and activities receiving Federal financial assistance through such means as relocation of programs, assignment of aids to beneficiaries, home visits, or any other method that results in making its program or activity accessible to individuals with handicaps. A subrecipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section (24 CFR 8.21(i)).
5. Each subrecipient must ensure that members of the population eligible to be served or likely to be impacted directly by a federally assisted program who have visual or hearing impairments are provided with the information necessary to understand and participate in the program. Methods

for ensuring participation include, but are not limited to, qualified sign language and oral interpreters, readers, or the use of taped and Braille materials.

6. Each subrecipient must maintain data for NDHFA showing the extent to which individuals with disabilities are beneficiaries of federally assisted programs.

Other Section 504 Requirements, as applicable.

If structural changes to non-housing facilities will be undertaken to achieve program accessibility (see notes below), a subrecipient shall develop a transition plan with the assistance of interested persons, including handicapped individuals or organizations representing handicapped individuals, for those areas which cannot be made accessible administratively (24 CFR 8.21 (4)).

The construction activities identified in the transition plan must have been/must be completed within three years of completion of the self-evaluation that was before the final request for funds for any grant award made after July 1988 (24 CFR 8.21(c) 3 - see #2 above). The transition plan must be made available for public inspection, and, at a minimum, it shall:

1. Identify all physical obstacles that limit the accessibility of programs and activities to individuals with disabilities.
2. Describe in detail the method to be used in making the facility accessible.
3. Set forth a schedule for completion of the modifications. If the schedule exceeds one (1) year, then you must identify the actions to be taken during each year of the transition period.
4. Identify the individual responsible for implementation of the plan.
5. Identify the persons or groups with whose assistance the plan was prepared.

NOTE: Unless the grant subrecipient has recently acquired a facility constructed prior to 1988, that will house programs and services available to the public, and intends to make physical alterations to this facility, the three-year construction period for meeting the accessibility requirement for existing facilities under this regulation will have expired.

NOTE: New non-housing facilities (designed, constructed, or altered after July 11, 1988) shall be designed and constructed to be readily accessible to and usable by individuals with handicaps (24 CFR 8.32).

**If the subrecipient employs fifteen or more persons:**

1. A responsible employee must be designated to coordinate the community's efforts to comply with Section 504.
2. The subrecipient must adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to housing covered by this part.
3. The subrecipient shall publish a statement of compliance to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the grantee that it does not discriminate based on handicap in violation of this part. The notification shall state, where appropriate, that the subrecipient does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. The notification shall also include an identification of the responsible employee designated above.
4. A subrecipient shall make the initial notification required by this paragraph within 90 days of receipt of the executed contract with NDHFA. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in subrecipients' publications, and distribution of memoranda or other written communications.

5. The subrecipient must maintain a file, make available for public inspection, and provide to the responsible civil rights official, upon request: (1) a list of the interested persons consulted; (2) a description of areas examined in the self- evaluation and any problems identified; and (3) a description of any modifications made and of any remedial steps taken.
6. The regulation requires that you must have available a TDD or equally effective method for communicating with hearing impaired persons. North Dakota has an approved relay service which may be utilized. To utilize the relay system, the subrecipient must have a policy indicating the use of the relay system by the subrecipient and publish the telephone numbers in the newspaper. The numbers are: 711 (Voice or TTY), 800-435-8590 (Spanish)
7. If you have been the subrecipient of prior ESG funds and have a completed self- evaluation and if applicable, a transition plan, as mentioned above, the three-year period for completing the construction activities specified in a transition plan for most subrecipients has expired. For “existing” buildings and facilities that house programs and services for the public and are not accessible you must have adopted policies and/or modified practices to achieve accessibility. Prior subrecipients should prepare a summary of their past compliance activities.

## **2.12 Affirmative Outreach (24 CFR 576.407(b))**

The recipient or subrecipient must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures the recipient or subrecipient intends to use to make known the availability of the facilities, assistance, and services will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the recipient or subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. The recipient and its subrecipients must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, recipients and subrecipients are also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons.

## **2.13 Equal Participation of Faith-Based Organizations (24 CFR 576.406)**

### **Equal participation of faith-based organizations in HUD programs and activities.**

Faith- based organizations are eligible, on the same basis as any other organization, to participate in HUD programs and activities. Neither the Federal Government, nor a State, tribal, or local government, nor any other entity that administers any HUD program or activity, shall discriminate against an organization based on the organization's religious character or affiliation, or lack thereof. In addition, decisions about awards of Federal financial assistance must be free from political interference or even the appearance of such interference and must be made based on merit, not on the religious character, affiliation, or lack thereof, of an organization.

### **Separation of explicitly religious activities from direct Federal financial assistance.**

A faith-based organization that applies for, or participates in, a HUD program or activity supported with Federal financial assistance retains its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct Federal financial assistance that it receives (e.g., via contract, grant, sub-grant, sub- award or cooperative agreement) to support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), or in any other manner prohibited by law. A faith-based organization that receives direct Federal financial assistance may use space (including a sanctuary, chapel, prayer hall, or other space) in its facilities (including a temple,

synagogue, church, mosque, or other place of worship) to carry out activities under a HUD program without removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization participating in a HUD program or activity retains its authority over its internal governance, and may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

### **Explicitly religious activities**

If an organization engages in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), the explicitly religious activities must be offered separately, in time or location, from the programs or activities supported by direct Federal financial assistance and participation must be voluntary for the beneficiaries of the programs or activities that receive direct Federal financial assistance.

### **Intermediary responsibilities to ensure equal participation of faith-based organizations in HUD programs.**

If an intermediary—acting under a contract, grant, or other agreement with the Federal Government or with a State, tribal or local government that is administering a program supported by Federal financial assistance—is given the authority to select a nongovernmental organization to receive Federal financial assistance under a contract, grant, sub-grant, sub-award, or cooperative agreement, the intermediary must ensure that such organization complies with the requirements of this section. If the intermediary is a nongovernmental organization, it retains all other rights of a nongovernmental organization under the program's statutory and regulatory provisions.

### **Beneficiary protections**

Faith-based organizations that carry out programs or activities with direct Federal financial assistance from HUD must give written notice to beneficiaries and prospective beneficiaries of the programs or activities describing certain protections available to them, as provided in this subsection. In addition, if a beneficiary or prospective beneficiary object to the religious character of the organization carrying out the programs or activities, that organization must promptly undertake reasonable efforts to identify and refer the beneficiary or prospective beneficiary to an alternative provider to which the beneficiary or prospective beneficiary has no such objection.

## **2.14 Environmental Review**

The environmental review must be completed before any ESG Program funds are expended (including costs incurred that will be reimbursed with ESG funding). Activities under the ESG are subject to environmental review by HUD under 24 CFR part 58.

The three levels of review most common for CoC Program and ESG Program projects are:

**Exempt or Categorically Excluded Not Subject to 58.5 (CENST)** – For projects without any new environmental risks or impacts, including tenant-based rental assistance, tenant-based leasing, supportive services, and administrative costs, including leasing office or emergency shelter space.

**Categorically Excluded Subject to 58.5 (CEST)** – For projects with minor new risks and impacts, including project-based rental assistance and minor rehab.

**Environmental Assessment (EA)** – For any projects that include larger environmental impacts such as major rehabilitation, new construction, and demolition.

The following activities are in the Categorically Excluded Not Subject to Federal laws and authorities cited in Sec. 58.5:

1. Tenant-based rental assistance.

2. Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services.
3. Operating costs include maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs.
4. Economic development activities, including but not limited to, equipment purchases, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations.
5. Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction including closing costs and down payment assistance, interest buydowns and similar activities that result in a transfer of title.
6. Affordable housing predevelopment costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not create a physical impact.
7. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved. Approval must be made by the same responsible entity that conducted the environmental review on the original project. Reevaluation of environmental findings is not required.

Subrecipients undertaking any of these activities must complete ESG Environmental Review form (SFN 61896) as part of the financial award process. NDHFA will then determine the level of review necessary and complete an environmental review.

All other activities, please consult with NDHFA for further environmental review requirements.

### **2.15 Lead Based Paint Subpart M – Tenant Based Rental Assistance**

Subrecipients that receive funds for emergency shelter, homeless prevention and rapid re- housing MUST comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821- 4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M and R. Most emergency shelters are exempt, because they fall under the definition of zero-bedroom dwellings, which are exempt under the Title X statute. If the shelter does not qualify for the zero-bedroom exemption, it is covered by the regulation.

A zero-bedroom dwelling is defined in section 35.110 as “any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rental of individual rooms in residential dwellings.” The term “single room occupancy housing” is defined as “housing consisting of zero-bedroom dwelling units that may contain food preparation or sanitary facilities or both.” Group homes are exempt if they consist of “rental of individual rooms in residential dwellings.”

Subrecipients are encouraged to review the Lead Safe Housing Rule (LSHR) Toolkit Subpart M for Tenant Based Rental Assistance and Subpart K for Shelter Leasing Activities. <https://www.hudexchange.info/programs/lead-based-paint/lshr-toolkit/subpart-m/implement/> to ensure appropriate implementation of requirements related to providing rental assistance to program participants.

### **Participant Communication**

For any unit where assistance will be funded by ESG or NDHG, program participants must receive a copy of the disclosure form and acknowledgement of receipt of the pamphlet “Protect Your Family from Lead

in Your Home". See Communicating with Tenants section for both the disclosure and pamphlet. <https://www.hudexchange.info/programs/lead-based-paint/lshr-toolkit/subpart-m/implement/>

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

1. The household living in the unit is being assisted with ESG financial assistance (rent assistance, utility assistance, utility/security deposits, or arrears).
2. The unit was constructed prior to 1978.
3. A child under the age of six, or a woman who could become pregnant is or may be living in the unit.

Use Form SFN 62378 to record compliance with lead-based paint. It must be in each participant file. If visual assessment is required, follow instructions on Visual Assessment (SFN 62379).

### **Communication with Public Health Department**

ESG subrecipients using funds for rental assistance will have to communicate with the public health department on a quarterly basis to coordinate which units have or may have a child with an EBLL. <https://www.hudexchange.info/programs/lead-based-paint/lshr-toolkit/subpart-m/implement/>

### **Visual Assessments (SFN 62379)**

Staff who perform unit inspections will be required to visually assess the unit for lead based paint. Staff are highly encouraged to complete the HUD Lead Based Paint visual assessment training tool. <https://apps.hud.gov/offices/lead/training/visualassessment/h00101.htm>

### **Visual Assessment Record Log**

Subrecipients should use a visual assessment log to record all visual assessments completed and outcomes of assessment. <https://www.hudexchange.info/resource/6312/lshr-visual-assessment-findings-and-resolution-record/>

### **Repair Work and Ongoing Maintenance**

When A Unit Requires Paint Stabilization subrecipients need to have records including:

1. Third Party Clearance Report
2. Documents pertaining to disturbance of paint and Lead Hazard Reduction:
  - a. Copy Pre-renovation Form with acknowledgment of receipt of EPA pamphlet "Renovate Right."
  - b. Documentation of the paint stabilization work performed on property such as a scope of work or work write up.
  - c. Documentation that the work was performed by a trained and certified (EPA or State) Renovator using safe work practices.
  - d. Documentation that the work incorporated occupant protection and, if warranted, temporary relocation (if occupied).
  - e. Documentation indicating relocation is not required.
3. If TBRA will assist for more than 1 year, records must include documents pertaining to ongoing maintenance:
  - a. Records that show an annual visual assessment, such as a unit inspection report. See toolkit forms: Visual Assessment Findings and Resolution Record.
  - b. Records that show deteriorated paint was repaired and notices provided above using safe work practices and occupant protection and include a Notice of Evaluation and Clearance report as relevant.
  - c. Clearance report.

- d. Notice of Lead Hazard Reduction.
- e. Notice by the owner to the tenant asking occupants to report deteriorated paint.

### SECTION 3 ESG/NDHG PROGRAM COMPONENTS

This section identifies the requirements for each ESG/NDHG funded program component. Subrecipients should use this information to develop their program policies and procedures.

**Emergency Shelter (ES):** Increase the quantity and quality of temporary shelter provided to individuals and families experiencing homelessness by paying for operating and essential services.

**Street Outreach (SO):** Meet the immediate needs of unsheltered individuals and families by connecting them with emergency shelter, housing, and critical health services.

**Homelessness Prevention (HP):** Prevent households from becoming homeless through rental assistance and housing relocation and stabilization services.

#### Housing Relocation and Stabilization Services

- 1. Financial Assistance
- 2. Services Costs Rental Assistance

#### Rental Assistance

- 1. Short term rent assistance – up to 3 months
- 2. Medium term rent assistance – 4-24 months

**Rapid Re-housing (RRH):** Quickly move individuals and families experiencing homelessness into permanent housing through rental assistance and housing relocation and stabilization services.

#### Housing Relocation and Stabilization Services

- 1. Financial Assistance
- 2. Services Costs Rental Assistance

#### Rental Assistance

- 1. Short term rent assistance – up to 3 months
- 2. Medium term rent assistance – 4-24 months

**Homeless Management Information System (HMIS):** Support subrecipient's participation in the HMIS collection and data analysis of households that are homeless or at risk of homelessness.

### 3.01 Emergency Shelter (ES)

Component: Emergency Shelter. These activities are designed to increase the quantity and quality of temporary shelters provided to homeless people, through the renovation of existing shelters or conversion of buildings to shelters, paying for the operating costs of shelters, and providing essential services. 5706.102			
Activity Types			
Essential Services	Renovation (also includes Major Rehab and Conversion)	Shelter Operations	Assistance Required under the Uniform Relocation Act and Real Property Acquisition Act of 1970 (URA)
Eligible Costs	Eligible Costs	Eligible Costs	Eligible Costs

d. Case management e. Childcare f. Education Services g. Employment Assistance/Job Training h. Outpatient Health Services i. Legal Services j. Life Skills Training k. Mental Health Services l. Substance Abuse Treatment Services m. Transportation n. Services for Special Populations	<ul style="list-style-type: none"> <li>• Labor</li> <li>• Materials</li> <li>• Tools</li> <li>• Other Costs for renovation (including rehab or conversion)</li> </ul>	<ul style="list-style-type: none"> <li>• Maintenance</li> <li>• Rent</li> <li>• Security</li> <li>• Fuel</li> <li>• Equipment</li> <li>• Insurance</li> <li>• Utilities</li> <li>• Food</li> <li>• Furnishings</li> <li>• Supplies necessary for shelter operation.</li> <li>• Hotel/Motel Vouchers</li> </ul>	<ul style="list-style-type: none"> <li>• Relocation payments</li> <li>• Other assistance to displaced persons</li> </ul>
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From the HUD ESG regulations, “emergency shelter means any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and which does not require occupants to sign leases or occupancy agreements.” Shelter stays should be avoided, if possible, and when not possible, limited to the shortest time necessary to help participants regain permanent housing.

Emergency shelter programs should be closely linked to an array of programs to accomplish this goal of stable permanent housing including, but not limited to, rapid re-housing, transitional housing, affordable housing placement, and employment.

Linkages should also be made to applicable mainstream programs such as SOAR, food stamps, TANF, etc.

ESG and NDHG funds may be used for costs of providing essential services to homeless families and individuals in emergency shelters and operating emergency shelters.

### Essential Services

1. *Case management.* (A) Using the centralized or coordinated assessment (B) Conducting the initial evaluation (a), including verifying and documenting eligibility; (C) Counseling; (D) Developing, securing, and coordinating services and obtaining Federal, State, and local benefits; (E) Monitoring and evaluating program participant progress; (F) Providing information and referrals to other providers; (G) Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking; and (H) Developing an individualized housing and service plan, including planning a path to permanent housing stability.
2. *Childcare.* Childcare for program participants, including providing meals and snacks, and comprehensive and coordinated sets of appropriate developmental activities, are eligible. Children must be under age 13 unless they are disabled. Children who are disabled must be under age 18. The child-care center must be licensed by the jurisdiction in which it operates for its costs to be eligible.
3. *Education services.* When necessary for the program participant to obtain and maintain housing, the cost of improving knowledge and basic educational skills is eligible. Services include instruction or training in consumer education, health education, substance abuse prevention,

literacy, English as a Second Language, and General Educational Development (GED). Component services or activities are screening, assessment, and testing; individual or group instruction; tutoring; provision of books, supplies and instructional material; counseling; and referral to community resources.

4. *Employment assistance and job training.* The costs of employment assistance and job training programs are eligible, including classroom, online, and/or computer instruction; on-the-job instruction; and services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. Learning skills include those skills that can be used to secure and retain a job. Services that assist individuals in securing employment consist of employment screening, assessment, or testing; structured job skills and job-seeking skills; special training and tutoring, including literacy training and prevocational training; books and instructional material; counseling or job coaching; and referral to community resources.
5. *Outpatient health services.* Eligible costs are for the direct outpatient treatment of medical conditions and are provided by licensed medical professionals. Emergency Solutions Grant (ESG) funds may be used only for these services to the extent that other appropriate health services are unavailable within the community. Eligible treatment consists of assessing a program participant's health problems and developing a treatment plan; assisting program participants to understand their health needs; providing directly or assisting program participants to obtain appropriate medical treatment, preventive medical care, and health maintenance services, including emergency medical services; providing medication and follow-up services; and providing preventive and non-cosmetic dental care.
6. *Legal services.* (A) Eligible costs are the hourly fees for legal advice and representation by attorneys licensed and in good standing with the bar association of the State in which the services are provided, and by person(s) under the supervision of the licensed attorney, regarding matters that interfere with the program participant's ability to obtain and retain housing. (B) Emergency Solutions Grant (ESG) funds may be used only for these services to the extent that other appropriate legal services are unavailable or inaccessible within the community. (C) Eligible subject matters are child support, guardianship, paternity, emancipation, and legal separation, orders of protection and other civil remedies for victims of domestic violence, dating violence, sexual assault, and stalking, and appeal of veterans and public benefit claim denials. (D) Component services or activities may include client intake, preparation of cases for trial, provision of legal advice, representation at hearings, and counseling. (E) Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipients is a legal services provider and performs the services itself, the eligible costs are the subrecipients' employees' salaries and other costs necessary to perform the services. (F) Legal services for immigration and citizenship matters and issues relating to mortgages are ineligible costs. Retainer fee arrangements and contingency fee arrangements are ineligible costs.
7. *Life skills training.* The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, substance use, and homelessness are eligible costs. These services must be necessary to assist the program participant to function independently in the community. Component life skills training include budgeting resources, managing money, managing a household, resolving conflict, shopping for food and needed items, improving nutrition, using public transportation, and parenting.

8. *Mental health services.* (A) Eligible costs are the direct outpatient treatment by licensed professionals of mental health conditions. (B) ESG funds may only be used for these services to the extent that other appropriate mental health services are unavailable or inaccessible within the community. (C) Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems to bring about positive resolution of the problem or improved individual or family functioning or circumstances. Problem areas may include family and marital relationships, parent-child problems, or symptom management. (D) Eligible treatment includes crisis interventions; individual, family, or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.
9. *Substance abuse treatment services.* (A) Eligible substance abuse treatment services are designed to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors and are provided by licensed or certified professionals. (B) ESG funds may only be used for these services to the extent that other appropriate substance abuse treatment services are unavailable or inaccessible within the community. (C) Eligible treatment includes client intake and assessment, and outpatient treatment for up to 30 days. Group and individual counseling and drug testing are eligible costs. Inpatient detoxification and other inpatient drug or alcohol treatment are not eligible costs.
10. *Transportation.* Eligible costs consist of the transportation costs of a program participant's travel to and from medical care, employment, childcare, or other eligible essential services facilities. These costs include the following: (A) The cost of a program participant's travel on public transportation; (B) If service workers use their own vehicles, mileage allowance for service workers to visit program participants; (C) The cost of purchasing or leasing a vehicle for the recipient or subrecipients in which staff transports program participants and/or staff serving program participants, and the cost of gas, insurance, taxes, and maintenance for the vehicle; and (D) The travel costs of recipient or subrecipients staff to accompany or assist program participants to use public transportation.

### Shelter operations

Eligible costs are the costs of maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies necessary for the operation of the emergency shelter. Where no appropriate emergency shelter is available for a family or individual experiencing homelessness, eligible costs may also include a hotel or motel voucher for that family or individual.

Shelter Operations: Maintenance
<p>In general, maintenance activities include cleaning, minor or routine repairs of furnishings, equipment, and fixtures; protective or preventative measures to keep a building, its systems, and its grounds in working order.</p> <p>Maintenance activities:</p> <ul style="list-style-type: none"> <li>• Do not materially add to the value of the building/property.</li> <li>• Do not appreciably prolong the useful life of the building/property.</li> <li>• Do not adapt the building/property to new uses.</li> </ul> <p>Examples of maintenance activities could include activities such as replacing a few shingles on a leaky roof, patching leaking pipes or plumbing, replacing a broken window, fixing a crack in a sidewalk, filling potholes in a parking lot, or repairing portions of a fence.</p>
<p>Minimum period of use:</p> <p>The minimum period of use for maintenance activities is the same as for other shelter operations and essential services activities – that is, the recipient/subrecipient must provide services or shelter to individuals and families</p>

experiencing homelessness at least for the period during which the ESG or NDHG funds are provided (for example, the contract period specified in a subrecipient agreement). See §576.102 (C)(2).

Level of environmental review required:

Maintenance is categorically excluded from National Environmental Policy Act (NEPA), and not subject to 58.5 but still subject to 58.6. See 58.35 (b)(3).

## Habitability Standards

The ESG Program requires subrecipients to follow habitability standards for **emergency shelter operations programs** and for **homelessness prevention and rapid re-housing** programs assisting participants to obtain or remain in permanent housing. NDHG will follow the same standards.

Emergency shelter habitability standards will be verified using the ESG/NDHG Minimum Habitability Standards for Emergency Shelters Checklist (SFN 62377). This form is required as part of the financial award process.

The ESG/NDHG Housing Habitability Standards Checklist (SFN 61266) must be filled out and filed for each program participant remaining in or moving into permanent housing that is being funded by ESG/NDHG. **Effective October 1, 2023 inspection procedures will transition to NSPIRE. More information will be released when finalized by HUD.**

The ESG Program Interim Rule establishes different habitability standards for emergency shelters and for permanent housing (the Rapid Re-housing and Homelessness Prevention components).

### Emergency Shelter Standards

- Emergency shelters that receive funds for renovation or shelter operations must meet the minimum standards for safety, sanitation, and privacy provided in 576.403 (b).
- In addition, emergency shelters that receive funds for renovation (conversion, major rehabilitation, or other renovation) also must meet state or local government safety and sanitation standards, as applicable.

### Permanent Housing Standards

The recipient or subrecipient cannot use funds to help a program participant remain in or move into housing that does not meet the minimum habitability standards under §576.403 (c). This restriction applies to all activities under the Homelessness Prevention and Rapid Re-housing components.

Recipients and subrecipients must document compliance with the applicable standards. Note that these checklists do not cover the requirements to comply with the Lead-Based Paint requirements at §576.406 (a). For more discussion about how and when the standards apply, see ESG Minimum Standards for Emergency Shelters and Permanent Housing.

Any Emergency Shelter that receives ESG assistance for shelter operations must meet the following minimum safety, sanitation, and privacy standards:

#### 1. Structure and materials

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

#### 2. Access

The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and 28 CFR part 35; where applicable.

### 3. Space and security

Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings. Interior air quality  
Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.

#### **Minimum Standards DO NOT Apply to Essential Services and HMIS Activities**

- The minimum standards for emergency shelters apply only when ESG funds are used for **shelter operations and conversion, major rehabilitation, or other renovation**.
- **Essential services** provided under the Street Outreach and Emergency Shelter components do not trigger either the minimum standards for emergency shelter or the minimum standards for permanent housing. This is because there is no unit to inspect; these services are provided for persons who are sleeping in emergency shelters or with a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.

### 4. Water supply

The shelter's water supply must be free of contamination.

### 5. Sanitary facilities

Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.

### 6. Thermal environment

The shelter must have any necessary heating/ cooling facilities in proper operating condition.

### 7. Illumination and electricity

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

### 8. Food preparation

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

### 9. Sanitary conditions

The shelter must be maintained in a sanitary condition.

### 10. Fire safety

There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing- impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or another emergency.

## 3.02 Street Outreach: (SO)

Component: Street Outreach. These activities are designed to meet the immediate needs of individuals experiencing homelessness by connecting them with emergency shelter, housing, and/or critical health services.  
§576.101

Activity Type: Essential Services
<p>Eligible costs</p> <ul style="list-style-type: none"> <li>• Engagement</li> <li>• Case Management</li> <li>• Emergency Health Services</li> <li>• Emergency Mental Health Services</li> <li>• Transportation</li> <li>• Services for Special Populations</li> </ul>

ESG funds may be used for costs of providing essential services necessary to reach out to unsheltered people experiencing homelessness; connect them with emergency shelter, housing, or critical services; and provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. The term “unsheltered homeless people” is defined as:

*An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; ...*

There are six eligible activities for Street Outreach, as follows:

1. **Engagement.** The location, identification, and relationship building with unsheltered homeless people and the engagement with them for the purpose of providing immediate support, intervention, and connections with homeless assistance programs and/or mainstream social services and housing programs. Eligible activities include assessment of needs and eligibility; providing crisis counseling; addressing urgent physical needs, and actively connecting and providing information and referrals to programs targeted to homeless people and mainstream social services and housing programs. Eligible costs include cell phone costs of outreach workers during the performance of these activities.
2. **Case management.** The assessment of housing and service needs and implementing individualized services to meet the needs of the program participant. Eligible services and activities are as follows: using the centralized or coordinated assessment system as required under § 576.400(d); conducting the initial evaluation required under § 576.401(a), including verifying and documenting eligibility; counseling; developing, securing and coordinating services; obtaining Federal, State, and local benefits; monitoring and evaluating program participant progress; providing information and referrals to other providers; and developing an individualized housing and service plan, including planning a path to permanent housing stability.
3. **Emergency health services.** Eligible costs are for the direct outpatient treatment of medical conditions and are provided by licensed medical professionals operating in community-based settings, including streets, parks, and other places where unsheltered homeless people are living. Eligible treatment consists of developing a treatment plan; assisting program participants to understand their health needs; providing directly or obtaining emergency medical treatment; and providing medication and follow-up services.
4. **Emergency mental health services.** Eligible costs are the direct outpatient treatment by licensed professionals of mental health conditions operating in community-based settings, including streets, parks, and other places where unsheltered people are living. ESG funds may be used only for these services to the extent that other appropriate mental health services are

inaccessible or unavailable within the community. Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or circumstances. Eligible treatment consists of crisis interventions, the prescription and management of psychotropic medications, explanation of the use and management of medications, and combinations of therapeutic approaches to address multiple problems.

5. *Transportation.* The transportation costs of travel by outreach workers, social workers, medical professionals, or other service providers are eligible, provided that this travel takes place during the provision of services eligible under this section. The costs of transporting unsheltered people to emergency shelters or other service facilities are also eligible.
6. *Services for special populations.* ESG funds may be used to provide services for youth experiencing homelessness, victim services, and services for people living with HIV/AIDS, so long as the costs of providing these services are eligible under paragraphs (a)(1) through (a)(5) of this section.

### Implementation of Street Outreach

Street Outreach should be principally focused to one goal: that of supporting homeless households in achieving some form of permanent, sustainable housing. While Street Outreach teams may use incentives to encourage trust and build relationships, or to ensure that homeless households' emergency needs are met, the awards made should not be used to support other programs that seek to alleviate the burden of living on the streets. Outreach teams will have the most comprehensive knowledge of street-based individuals/ households within the locality. Outreach teams will be responsible for ensuring that a case plan is established for each household that is client centered, realistic and focused on a goal of permanent housing. Outreach teams will be expected to establish close working relationships with other service providers, not only Emergency Shelters, but other mainstream and housing focused services, such as Rapid Re- Housing. Not every homeless household is expected to need admittance to an emergency shelter and Street Outreach teams should be prepared to implement a variety of interventions in securing permanent housing. Linkages should also be made to applicable mainstream programs such as SOAR, food stamps, TANF, etc.

Assigning Essential Services to the Appropriate Program Component Reference- SNAPs-Shots July 2, 2013	
In the ESG Program, recipients/subrecipients may provide essential services under both the Street Outreach and Emergency Shelter components. However, the specific allowable costs under each component <b>depend on the population being served and where the services are provided.</b>	
<ol style="list-style-type: none"> <li>1. <b>Unsheltered individuals experiencing homelessness</b> staying on the streets or in other places not meant for human habitation can receive:               <ol style="list-style-type: none"> <li>a. Non-facility based essential services on the street, parks, or other locations where people experiencing homelessness may be staying, under the Street Outreach component, and</li> <li>b. Essential services in an emergency shelter, under the Emergency Shelter component.</li> </ol> </li> <li>2. Persons staying in an emergency shelter can receive essential services, under the Emergency Shelter component:               <ol style="list-style-type: none"> <li>a. In an emergency shelter, and</li> <li>b. At another site, such as a childcare center for children under 13 who are staying in a shelter.</li> </ol> </li> </ol>	
Note: See <a href="#">ESG HUD FAQ 983</a> for requirements for a day shelter to qualify as an emergency shelter.	
What Services Can be Provided?	
The following table summarizes and compares the services allowable under each component.	
Street Outreach	Emergency Shelter
Engagement	Not eligible
Case Management	Case Management

-Not eligible	Child Care
-Not eligible	Education Services
-Not eligible	Employment Assistance/Job Training
Emergency Health Services	Outpatient Health Services
-Not eligible	Legal Services
-Not eligible	Life Skills Training
Emergency Mental Health Services	Mental Health Services
-Not eligible	Substance Abuse Treatment Services
Transportation	Transportation
Services for Special Populations	Services for Special Populations

### 3.03 Rapid Re-Housing: (RRH)

Component: Rapid Re-Housing. These activities are designed to move homeless people quickly to permanent housing through housing relocation and stabilization services and short-and/or medium-term rental assistance 576.104

Activity Types		
Rental Assistance	Housing Relocation and Stabilization Services	
Eligible costs	Financial Assistance	Services Costs
<ul style="list-style-type: none"> <li>Short-term rental assistance</li> <li>Medium-term rental assistance</li> <li>Rental arrears <ul style="list-style-type: none"> <li>Rental assistance can be project-based or tenant-based.</li> </ul> </li> </ul>	Eligible Costs <ul style="list-style-type: none"> <li>Rental application fees</li> <li>Security deposits</li> <li>Last month's rent</li> <li>Utility deposits</li> <li>Utility payments</li> <li>Moving costs</li> </ul>	Eligible Costs <ul style="list-style-type: none"> <li>Housing search and placement</li> <li>Housing stability case management</li> <li>Mediation</li> <li>Legal services</li> <li>Credit repair</li> </ul>

Households receiving Rapid Re-housing ESG assistance do not have to income qualify at program entrance but must have an income below 30% Area Median Income (AMI) for the geographic area after twelve months of assistance at annual certification. For NDHG, household income may not exceed 50% AMI. Rapid Re-housing programs are designed to help individuals and families experiencing homelessness rapidly transition into permanent housing.

Linkages should also be made to applicable mainstream programs such as SOAR, TANF, etc. Rapid Re-housing funds may be used to provide housing relocation and stabilization services and short to medium term rental assistance. Assistance must be necessary to help the program participant obtain and remain in permanent housing.

### 3.04 Homelessness Prevention: (HP)

Component: Homeless Prevision. These activities are designed to prevent an individual or family from moving into an emergency shelter or living in a public or private place not meant for humans through housing relocation and stabilization services and short-and/or medium-term rental assistance. 576.103

Activity Types
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Rental Assistance	Housing Relocation and Stabilization Services	
<b>Eligible costs</b> <ul style="list-style-type: none"> <li>• Short-term rental assistance</li> <li>• Medium-term rental assistance</li> <li>• Rental arrears <ul style="list-style-type: none"> <li>○ Rental assistance can be project-based or tenant-based.</li> </ul> </li> </ul>	Financial Assistance	Services Costs
	<b>Eligible Costs</b> <ul style="list-style-type: none"> <li>• Rental application fees</li> <li>• Security deposits</li> <li>• Last month's rent</li> <li>• Utility deposits</li> <li>• Utility payments</li> <li>• Moving costs</li> </ul>	<b>Eligible Costs</b> <ul style="list-style-type: none"> <li>• Housing search and placement</li> <li>• Housing stability case management</li> <li>• Mediation</li> <li>• Legal services</li> <li>• Credit repair</li> </ul>


Households receiving ESG Homelessness Prevention assistance must have an income level below 30% Area Median Income (AMI) for the geographic area at entry and must meet the definition of “at risk of homelessness”. For NDHG, the income level must not exceed 50% AMI. The household must demonstrate that they do not have sufficient resources or support networks to prevent them from losing their housing and moving to an emergency shelter or other place not meant for human habitation.

Participants must be re-certified every three months. Linkages should also be made to applicable mainstream programs such as SOAR, TANF, etc. Homelessness Prevention funds may be used to provide housing relocation and stabilization services and short-to medium-term rental assistance. Assistance must be necessary to help the program participant regain stability in their current permanent housing or obtain other permanent housing.

#### Homeless Prevention or Rapid Re-Housing?

Remember: The main difference between Homelessness Prevention and Rapid Re-housing is the homelessness status of the participant at the time they enter the program.

Eligible Activities		
Rapid Re-Housing and Homelessness Prevention Components		
<b>Rental Assistance</b> 24 CFR §576.106 	<ul style="list-style-type: none"> <li>• Short-term rental assistance (0-3 months)</li> <li>• Medium-term rental assistance (4-24 months)</li> <li>• Rental arrears (one-time payment for up to 6 months of rent in arrears)</li> </ul> <p><i>Any combination of the above types, so long as the total amount of assistance does not exceed 24 months.</i></p> <p>Rental assistance can be project-based or tenant-based.</p>	
	<b>Housing Relocation and Stabilization Services</b> 24 CFR § 576.105 	<ul style="list-style-type: none"> <li>• Rental Application Fees (when charged by owner to all applicants)</li> <li>• Security Deposits (no more than 2 month's rent)</li> <li>• Last Month's Rent (applies to 24-month cap)</li> <li>• Utility Deposits (when required by utility company for all customers)</li> <li>• Utility Payments (up to 24 months of payments per service, including up to 6 months of arrears per service)</li> <li>• Moving Costs (e.g., truck rental moving company, up to 3 months of storage)</li> </ul>
	<b>Services</b>	<ul style="list-style-type: none"> <li>• Housing Search and Placement</li> <li>• Housing Stability Case Management</li> </ul>

	<p>24 CFR § 576.105</p>  <ul style="list-style-type: none"> <li>• Mediation</li> <li>• Legal Services</li> <li>• Credit Repair (e.g., budgeting/money management)</li> </ul>
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## SECTION 4 DEFINITION OF HOMELESSNESS, AT-RISK OF HOMELESSNESS

HUD defines homelessness into four categories. Category 3 (Homeless under Other Federal Statutes) is only allowable after a request from the local CoC to use it AND approval by HUD, therefore is not listed below. Currently, the ND CoC is not approved to fund any activities for Category 3.

1. **Category 1:** Literally Homeless or Core Definition (1) individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning (i) has a primary nighttime residence that is a public or private place not meant for human habitation (ii) is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state and local government programs) OR (iii) is exiting an institution where they resided for 90 days or less AND who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

**Qualifies for:** Emergency Shelter, Rapid Re-Housing, Transitional Housing, Street Outreach, Supportive Services programs.

2. **Category 2:** Imminent Risk of Homelessness (2) Individual or family who will imminently lose their primary nighttime residence, provided that (i) residence will be lost within 14 days of the date of application for homeless assistance (ii) no subsequent residence has been identified AND the individual or family lacks the resources or support networks needed to obtain other permanent housing. Must also exhibit one or more of the following risk factors:
  - a. Has moved frequently because of economic reasons "two or more times during the 60 days immediately preceding the application for assistance."
  - b. Is living in the home of another because of economic hardship.
  - c. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application.
  - d. Lives in a hotel or motel paid for by charitable organizations or the federal, state, or charitable organizations.
  - e. Lives in severely overcrowded housing (in a single-room occupancy or efficiency apartment unit in which more than two persons, on average, reside or another type of housing in which there reside more than 1.5 persons per room, as defined by the U.S. Census Bureau).
  - f. Is exiting a publicly funded institution or system of care (healthcare, mental health, foster care, correction program).
  - g. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness (characteristics described in the funded jurisdictions Consolidated Plan).

**Qualifies for:** Emergency Shelter, Rapid Re-Housing, Transitional Housing, Homeless Prevention.

3. **Category 4:** Fleeing/Attempting to Flee Domestic Violence (4) any individual or family who is fleeing, or is attempting to flee, domestic violence (ii) has no other residence AND (iii) lacks the resources or support networks to obtain other permanent housing.

## SECTION 5 PARTICIPANT ELIGIBILITY DOCUMENTATION REQUIREMENTS

Subrecipients must document homeless status for every program participant. ESG and NDHG records are required to be maintained for 5 years after the expenditure of all funds from the grant. Subrecipients must follow the Written Standards for Emergency Solutions Grant and Continuum of Care Programs to ensure program compliance. The Written Standards describe minimum procedures for verifying homelessness status. This ESG/NDHG Manual establishes requirements for subrecipients in conjunction with and addition to the Written Standards. Lack of third- party documentation cannot prevent a household from receiving emergency assistance including shelter and victim services. Subrecipient policy manuals should incorporate these procedures.

Evidence for establishing and verifying homeless status in preferred order of documentation is:

1. Third-party documentation – source documents provided by an outside source.
2. Staff/Intake worker observation – documented by staff.
3. Certification from the person seeking assistance –staff must certify efforts made to obtain third party documentation before allowing applicant to self-certify.

### 5.01 Homeless Certification

Complete ESG/NDHG Homeless Certification (SFN 59247) AND include acceptable evidence of eligibility.

1. **Homeless CATEGORY 1 Literally Homeless (Eligible for Rapid-Rehousing Assistance)** acceptable evidence includes:
  - a. A written observation by an outreach worker of the conditions where the individual or family was living, a written referral by another housing or service provider. Staff Certification of Homelessness (SFN 62381).
  - b. ESG/NDHG Homeless Self-Certification (SFN 60319).
2. **Homeless CATEGORY 1** and is exiting an institution where he or she resided for 90 days or less, acceptable evidence includes evidence listed above for CATEGORY 1 and ONE of the following:
  - a. Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institution, stating the beginning and end dates of the time residing in the institution. All oral statements must be recorded by the intake worker on Staff Certification of Homelessness (SFN 62381).
  - b. Where the evidence listed above is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described and a certification by the individual seeking assistance that states he or she is exiting or has just exited an institution where he or she resided for 90 days or less. A written observation by an outreach worker of the conditions where the individual or family was living, or a written referral by another housing or service provider (SFN 62381).
3. **Homeless CATEGORY 2** evidence includes at least one of the following stating that the household must leave within 21 days:
  - a. A court order resulting from an eviction notice or equivalent notice, or a formal eviction notice.
  - b. For applicants whose primary nighttime residence is a hotel or motel room not paid for by charitable organizations or federal, state, or local government programs, evidence

that the individual or family lacks the resources necessary to reside there for more than 21 days after the date of application for homeless assistance.

- c. An oral or written statement by the individual or head of household that the owner or renter of the housing in which they currently reside will not allow them to stay for more than 21 days after the date of application for homeless assistance. The intake worker must record the statement and certify that it was found credible.

To be found credible, the oral statement must either: Use Staff Certification of Homelessness (SFN 62381) to document:

- i. Be verified by the owner or renter of the housing in which the individual or family resides at the time of application for homeless assistance AND
- ii. Be documented by a written certification by the owner or renter or by the intake worker's recording of the owner or renter's oral statement.

**If the intake worker is unable to contact the owner or renter:**

- i. The intake worker must provide written documentation certifying that he/she performed due diligence in attempting to obtain verification and written certification that the applicant's statement was true and complete.
- iii. Certification by the individual or head of household that no subsequent residence has been identified; AND
- iv. Certification or other written documentation that the individual or family lacks the resources and support networks needed to obtain other permanent housing.

- 4. **Homeless CATEGORY 4:** Acceptable evidence if the individual or family is receiving shelter or services provided by a victim service provider:

- a. Self-Certification Form (SFN 60319) AND
- b. A certification by the intake worker (SFN 62381)

If the individual is seeking services from non- victim service provider:

- i. The Self Certification Form (SFN 60319) documenting that applicant is fleeing a domestic violence situation, has not identified a subsequent residence, and lacks the resources or support networks, e.g., family, friends, faith-based, or other social networks, needed to obtain housing where his/her safety would not be jeopardized AND
- ii. Written observation by the intake worker, a written referral by a housing or service provider, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or any other organization from whom the individual or head of household has sought assistance for domestic violence. (SFN 62381)

## 5.02 At-Risk of Homeless Certification

Complete the ESG/NDHG At-Risk of Homelessness Certification (SFN 59248) AND include acceptable evidence of eligibility.

Category 1: Family or Individual acceptable evidence includes:

- 1. **Annual Income:** When determining the annual income of an individual or family, the recipient or subrecipients must use the standard for calculating annual income under 24 CFR 5.609. Verification of Income form SNF 59246. Check guidance for further evidence requirements.

## 2. Lacks Sufficient Resources

- a. Source documents - notice of termination from employment, unemployment compensation statement, bank statement, health-care bill showing arrears, utility bill showing arrears.
- b. To the extent that source documents are unobtainable, a written statement by the relevant third party - (e.g., former employer, public administrator, relative) or written certification by the intake staff of the oral verification by the relevant third party that the applicant meets one or both criteria of the definition of “at risk of homelessness” OR
- c. If source documents and third-party verification are unobtainable, a written statement by intake staff describing the efforts taken to obtain the required evidence.

Acceptable evidence for documenting at least one of the 7 risk factors:

**Risk 1:** Persistent Housing instability- has moved because of economic reasons 2 or more times during the 60 days immediately preceding the application for assistance. Must demonstrate the following:

- a. Housing History must demonstrate two or more moves within 60 days. Acceptable documentation includes HMIS Records, referral from housing/service provider, letter from tenant/owner. Intake observation is not appropriate.
- b. Economic reasons include notice of termination from employment, unemployment compensation statement, bank statement, health-care bill showing arrears, utility bill showing arrears.

**Risk 2:** Living in the home of another because of economic hardship, must demonstrate the following:

- a. Housing must be in the home of another; examples included doubled up, living with family or friends. Documentation may include a letter from the tenant/homeowner.
- b. Economic reasons include notice of termination from employment, unemployment compensation statement, bank statement, health-care bill showing arrears, utility bill showing arrears.

**Risk 3:** Housing loss within 21 days- includes notified that their right to occupy their current housing or living situation will be termination within 21 days after the date of application for assistance. Notification must be in writing and only their party source documentation is acceptable. Documentation may include letter from homeowner/tenant, eviction notice, court order.

**Risk 4:** Living in a rented hotel or motel and cost is not paid for by charitable organization or by Federal, State, or local government programs for low-income individuals. Documentation required includes:

- a. Hotel/motel verification – letter from hotel/motel manager/staff, invoices for nights of stay. Invoices must have applicant named as guest.
- b. Proof that payment was not paid for by any above-named organizations. Cancelled checks, invoice showing cash paid, credit card statement.

**Risk 5:** Living in a severely over-crowded unit as defined by US Census Bureau: lives in Single Room Occupancy (SRO) or efficiency unit in which there reside more than 2 persons or lives in a larger housing unit with more than 1.5 persons per room.

- a. Document number or rooms in the unit acceptable documents include lease, property tax assessor print out, intake observation.
- b. Document number of individuals living in the unit acceptable documents include lease agreement, or intake observation.

**Risk 6:** Exiting publicly funded institution or system of care. Documentation includes discharge paperwork or referral letter.

**Risk 7:** Living in housing associated with instability and an increased risk of homelessness. Examples include being a youth household with dependent child, lacking transportation to work, or other circumstances or barriers identified. May use Self Certification (SFN 60319) to document.

### **Category 2: Unaccompanied Children and Youth**

A child or youth who does not qualify as homeless under the homeless definition but qualifies as homeless under another Federal statute must provide verification of homeless status by the agency administering the applicable Federal program. Verification must be from third party and must certify the homeless status.

### **Category 3: Families with Children and Youth**

An unaccompanied youth who does not qualify as homeless under the homeless definition but qualifies as homeless under section 725(2) of the McKinney-Vento Homeless Assistance Act, and the parent(s) or that child or youth is living with him or her.

1. Documentation of homeless status from letter or referral by agency administering the federal program.
2. Confirmation family/guardian is residing with children/youth.

## **5.03 Immigration Status and Program Eligibility**

Congress restricted certain federal public benefits based on immigration status, which would include some types of ESG/ESG-CV assistance. **However, other types of ESG/ESG-CV assistance, which are necessary for life or safety, are not subject to the Act's restriction on access to public benefits based on immigration status.** Keep in mind that nonprofit charitable organizations are not required to verify applicants' status before providing federal public benefits.

We provide additional information about access to housing and services for non-citizens below. For additional guidance on refugee resettlement, please review [Operation Allies Welcome | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#).

On August 11, 2016 HUD, HHS, and the DOJ issued a [joint letter](#) reminding recipients of federal funds how the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 applies to their programs. HUD encourages recipients and subrecipients to review the letter, in addition to guidance in the [PRWORA fact sheet](#) which describes how the Act applies to HUD's CoC and ESG Programs. This guidance is further outlined below.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 imposed restrictions on eligibility for receipt of public benefits. Essentially, the law provides that illegal aliens are not to receive public benefits and specifies how the inquiry into a person's status is to be conducted.

However, there are certain types of federal assistance that are not subject to the Act's restriction on access to public benefits based on immigration status. This includes activities that: (1) deliver in-kind services at the community level, (2) are necessary for the protection of life or safety, and (3) do not condition the provision of assistance on the potential program participant's income or resources.

***HUD has determined that the following forms of assistance are not subject to the Act's immigration-based restrictions because they meet all three of the aforementioned criteria:***

- Street Outreach Services
- Emergency Shelter
- Safe Haven
- Rapid Re-Housing (prior to annual re-evaluation, as required by HUD)

- CoC Program transitional housing, in cases where the recipient or subrecipient owns or leases the building used to provide transitional housing

However, the following forms of assistance are subject to the Act's restriction on access to public benefits based on immigration status. For these projects, recipients that are governments are required to comply with the law and should contact their legal counsel for advice on how to comply.

- ESG Rapid Re-Housing at annual re-evaluation (24 CFR 576.401(b))
- ESG Homelessness Prevention
- CoC Program transitional housing for which the recipient or subrecipient provides rental assistance payments on behalf of program participants
- CoC Program permanent supportive housing program

HUD reminds nonprofit organizations that are subrecipients of CoC or ESG Program funds that the Act does not require nonprofit charitable organizations to verify the immigration status of applicants for federal, state, or local public benefits. A nonprofit charitable organization that chooses not to verify cannot be penalized (e.g., through cancellation of its grant or denial of reimbursement for benefit expenditures) for providing federal public benefits to an individual who is not a U.S. citizen, U.S. non-citizen national, or qualified alien, except when it does so either in violation of independent program verification requirements or in the face of a verification determination made by a non-exempt entity. However, if your organization chooses to verify, even though it is a nonprofit charitable organization that is not required to do so under the Act, you should comply with the procedures set forth in this Guidance and provide benefits only to those whom you verify to be U.S. citizens, U.S. non-citizen nationals or qualified aliens. Any verification request to INS by a nonprofit charitable organization must be accompanied by the written consent of the individual whose status is to be verified to the release of information about the individual to a nongovernmental entity. The consent must be notarized or executed under penalty of perjury. (INS Form G-639 may be used for this purpose.).

## **SECTION 6 INTAKE, INCOME ELIGIBILITY AND RE-CERTIFICATION**

### **6.01 Intake and Eligibility Assessments**

Coordinated Entry is a centralized or coordinated process designed to coordinate program participation intake, assessment, and provision of referrals to programs. The Coordinated Access, Referral, Entry, and Stabilization (CARES) System is the coordinated entry and homeless response system for ND and West Central Minnesota CoCs. ESG and NDHG subrecipients must participate in CARES. All ESG and NDHG program participants must participate in and subrecipients must document an initial consultation (CARES Housing Crisis Triage and/or Housing Prioritization Tool and/or HMIS Intake forms specific to ESG and NDHG projects) to assess needs and to determine program eligibility. The consultation should include verification of homeless status, Coordinated Entry System assessment, barriers to housing stability, data entry of required HMIS or comparable database universal data elements and any other program specific information such as income and documentation of insufficient support networks. Participants may not receive assistance for the same eligible activity from multiple federal sources. If the participant is not eligible for assistance, subrecipients are required to provide documentation regarding non-eligibility and to identify other appropriate service referrals that can meet the applicant's needs. No household can receive more than 24 months of ESG assistance in 3 years.

#### **Emergency Shelter, Street Outreach**

Eligibility for these programs requires a verification of homelessness. See previous section on documenting housing status. There are no income eligibility requirements for emergency shelter or street outreach.

#### **CARES Housing Crisis Triage**

The CARES Housing Crisis Triage should be completed with any household that presents to an agency that is in a housing crisis (literally homeless or at risk of homelessness). The Triage will identify eligibility, resources that have been tried or are needed, and the support network for the client. The Triage will help determine next steps (i.e., emergency shelter, diversion, prevention) for the client.

### **Housing Prioritization Tool**

The Housing Prioritization Tool (HPT) should be completed after the Housing Crisis Triage has been completed with clients who are literally homeless, at risk of homelessness where the household will not be able to self-resolve or prevention/diversion resources will not help resolve their situation, or if they are fleeing or attempting to flee unsafe living situations. The HPT will help determine the most appropriate type of housing for the client. The HPT should be conducted within the following timeline:

Emergency shelter: day after entering the shelter IF the participant's situation cannot be resolved within the next 14 days.

1. Unsafe or imminent risk of violence or harm: within 36 hours.
2. Unsheltered: immediately.
3. Institutions (if literally homeless prior to facility entry and were in the facility less than 90 days): before leaving the institution.
4. Imminent risk of homelessness due to limited resources: 14 days.

### **HMIS ESG/NDHG Intake Forms**

HMIS ESG/NDHG Intake forms must be completed with every household that is being entered into the ESG or NDHG project.

## **6.02 Income Eligibility**

When determining the annual income of an individual or family, the subrecipient must use the standard for calculating annual income under 24 CFR 5.609. As a reminder, there are no income eligibility requirements for emergency shelter and street outreach. To qualify for rapid re-housing a household's income must be below 30 percent Area Median Income (AMI) at annual recertification and to qualify for homelessness prevention a household's income must be below 30 percent AMI for the geographic area at the time of entering the program and at each 90-day recertification.

1. Annual income means all amounts, monetary or not, which go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member OR are anticipated to be received from a source outside the family during the 12-month period following admission or annual recertification date. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
2. Annual income includes, but is not limited to, the full amount before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services. Income includes the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the

family. Where the family has net family assets greater than \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

4. The full number of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount.
5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay.
6. Welfare assistance payments. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments, (i) qualify as assistance under the TANF program definition at 45 CFR 260.31 AND (ii) are not otherwise excluded.

### **Income Exclusions**

When determining income, the following income is excluded. Annual income does not include the following:

1. Income from employment of children (including foster children) under the age of 18.
2. Payments received for the care of foster children or foster adults.
3. Lump-sum additions to family assets, such as inheritances and insurance payments.
4. Amounts received by the family that are specifically for, or in reimbursement of, the costs of medical expenses for any family member.
5. Income of a live-in aide.
6. The full amount of student financial assistance paid directly to the student or to the educational institution.
7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
8. Amounts received under training programs funded by HUD.
9. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
10. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program.
11. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. No resident may receive more than one such stipend during the same time period.
12. Incremental earnings and benefits to any family member from participation in qualifying state or local employment training programs and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program.
13. Temporary, nonrecurring, or sporadic income (including gifts).
14. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

15. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse).
16. Adoption assistance payments in excess of \$480 per adopted child.
17. [Reserved for future HUD Use]
18. Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
19. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
20. Amounts paid by a state agency to a family member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
21. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

### HUD CPD Income Calculator

Staff conducting income eligibility verifications may use the HUD CPD Income Calculator to assist with the income determination. This does not replace the need for verification documents such as paystubs, employer verification, or benefit award letters. A print out from the calculator may serve as the income eligibility worksheet. [HUD CPD Income Calculator Link](#)

### 6.03 Re-Certification

Re-certification is required for homelessness prevention and rapid re-housing programs and determines whether an individual or family is still eligible for a program. Those served with homelessness prevention require the household to be under 30% AMI at intake and they must be recertified for program eligibility, homeless status, and lack of resources every three months. Those served with rapid re-housing do not require an initial income certification but do require proof of homeless status and lack of resources. For rapid re-housing a client's income must be below 30% AMI at their annual recertification.

Re-Evaluations of Eligibility		
Component	Frequency	Requirements
<b>Rapid Re-Housing</b>	Eligibility and types/amounts of assistance must be re-evaluated not less than once <b>annually</b> .	At a minimum, each re-evaluation must establish and document: <ul style="list-style-type: none"> <li>The program participant does not have an annual income that exceeds 30% of median family income for the area, 50% AMI for NDHG.</li> <li>The program participant lacks sufficient resources and support networks necessary to</li> </ul>
<b>Homelessness Prevention</b>	Eligibility and types/amounts of assistance must be re-evaluated not less than once every <b>3 months</b> .	

		retain housing without ESG assistance.
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## SECTION 7 CASE MANAGEMENT

### 7.01 Mainstream Benefits

All ESG and NDHG subrecipient agencies are expected to provide case management to all program participants, including connecting program participants to mainstream and other resources. Subrecipients must assist each program participant, as needed, to obtain:

1. Appropriate supportive services, including assistance in obtaining permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and
2. Other Federal, State, local, and private assistance available to assist the program participant in obtaining housing stability, including:
  - a. *Medicaid* (42 CFR chapter IV, subchapter C)
  - b. *Supplemental Nutrition Assistance Program* (7 CFR parts 271– 283)
  - c. *Women, Infants and Children* (WIC) (7 CFR part 246)
  - d. *Federal-State Unemployment Insurance Program* (20 CFR parts 601– 603, 606, 609, 614-617, 625, 640, 650)
  - e. *Social Security Disability Insurance* (SSDI) (20 CFR part 404)
  - f. *Supplemental Security Income* (SSI) (20 CFR part 416)
  - g. *Child and Adult Care Food Program* (42 U.S.C. 1766(t) (7 CFR part 226))
  - h. Other assistance available under the programs listed in § 576.400(c)

### 7.02 Homeless Prevention and Rapid Re-Housing Case Management

Housing stability case management is required of subrecipients providing homelessness prevention or rapid re-housing assistance.

Subrecipients must:

1. Require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability; AND
2. Develop a plan to assist the program participant to retain permanent housing after the ESG or NDHG assistance ends, considering all relevant items, such as the program participant's current or expected income and expenses, other public or private assistance for which the program participant will be eligible and likely to receive, and the relative affordability of available housing in the area.

## SECTION 8 RENTAL ASSISTANCE

### 8.01 Rental Assistance Requirements

1. NDHFA has not established a mandatory share of rent and utility costs that program participants must contribute while in rapid re-housing and prevention programs. Subrecipients must develop and utilize agency policies and procedures for providing rental assistance that meet the standards of 576.400:
2. Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention or rapid re- housing assistance.

3. Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time.
4. Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance; or the maximum number of times the program participant may receive assistance.
5. Renter's insurance is not an eligible expense.

## **8.02 Rental Assistance Agreements (SFN 62097)**

Short- and medium-term rental assistance programs require that a program participant and a landlord have a written lease for the provision of rental assistance. In addition, the interim rule also requires a rental assistance agreement between the subrecipient agency and the landlord. The subrecipient agency may make rental assistance payments only to a landlord with whom the subrecipients has entered into a rental assistance agreement. The rental assistance agreement must set forth the terms under which rental assistance will be provided, including the requirements that apply under this section. The rental assistance agreement must provide that, during the term of the agreement, the owner must give the subrecipients a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant.

The rental assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease.

The rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if:

1. The program participant moves out of the housing for which they have a lease.
2. The lease terminates and is not renewed.
3. The program participant becomes ineligible to receive ESG rental assistance.

## **8.03 Late Payments**

The subrecipient must make timely payments to each owner in accordance with the rental assistance agreement. The subrecipient is solely responsible for paying late payment penalties that it incurs with non-ESG funds.

## **8.04 Leases**

Each program participant receiving rental assistance must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks.

## **8.05 Rent Reasonableness and Fair Market Rent (FMR)**

Rental assistance cannot be provided for a housing unit unless the unit complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507. The rent restrictions are intended to make sure that program participants can remain in their housing after ESG or NDHG assistance ends. Rent reasonableness requirements DO NOT APPLY when a program participant receives only financial assistance or services under Housing Relocation and Stabilization Services. This includes rental application fees, security deposits, last month's rent, utility payments/deposits, moving costs, housing search and

placement, housing stability case management, landlord- tenant mediation, legal services, and credit repair.

The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not exceed rents currently being charged by the owner for comparable unassisted units. Gross rent is defined as the rental payments, tenant paid utility allowance, and any non-optional fees. Subrecipient should annually obtain a current utility schedule from the local housing authority to assist with determining the utility allowance associated with the tenant paid utilities in order to calculate the total gross rent charged for the unit and comparable.

Subrecipients must complete the Rent Reasonableness Checklist and Certification (SFN 59386). Rent reasonableness is determined by searching for comparable apartments. Comparable means similar style, size, and same number of bedrooms. Searchable options include online searches such as apartments.com, apartment guides, classified ads, MFP housing database.

The proposed unit should be compared to three (3) other units unless there are no comparable units available. Recipients must notate on form if three units to compare were unavailable.

What HUD says:

<b>Determining and Documenting Rent Reasonableness</b>	
<p>Recipients are responsible for determining what documentation is required in order to ensure the rent reasonableness standard is met. Recipients and subrecipients should determine rent reasonableness by considering the location, quality, size, type, and age of the unit, and any amenities, maintenance, and utilities to be provided by the owner. Comparable rents can be checked by using a market study of rents charged for units of different sizes in different locations or by reviewing advertisements for comparable rental units. For example, a participant's case file might include the unit's rent and description, a printout of three comparable units' rents, and evidence that these comparison units shared the same features (location, size, amenities, quality, etc.). Another acceptable method of documentation is written verification signed by the property owner or management company, on letterhead, affirming that the rent for a unit assisted with ESG funds is comparable to current rents charged for similar unassisted units managed by the same owner.</p>	<p style="text-align: center;"><b>Caution</b></p> <p>Comparable rents vary over time with market changes, so it is important to ensure that the comparison you are using is up-to-date and appropriate for each prospective unit.</p>
<p>Recipients must establish their own written policies and procedures for documenting comparable rents and ensure that they are followed when documenting rent reasonableness in the case file. A recipient may require all subrecipients to use a specific form or a particular data source. Use of a single form to collect data on rents for units of different sizes and locations will make the data collection process uniform.</p>	

### **Fair Market Rent (FMR)**

Rental assistance cannot be provided for a housing unit unless the total rent for the unit does not exceed Fair Market Rent (FMR) established by HUD, as provided under 24 CFR 982.503. The rent restrictions are intended to make sure that program participants can remain in their housing after assistance ends. FMR requirements DO NOT APPLY when a program participant receives only financial assistance or services under Housing Relocation and Stabilization Services. This includes rental application fees, security deposits, last month's rent, utility payments/deposits, moving costs, housing search and placement, housing stability case management, landlord-tenant mediation, legal services, and credit repair.

FMRs are gross rent estimates. The U.S. Department of Housing and Urban Development (HUD) annually estimates FMRs. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. By law, HUD is required to publish new FMRs at the start of the federal fiscal year, on October 1 and can be found online at: <http://www.huduser.org/portal/datasets/fmr.html>.

When calculating whether the “contract rent” (amount payable to the landlord) is at or below the FMR, be sure to add the contract rent to the utility allowance provided by the appropriate local housing authority. The monthly utility allowance is calculated only for those utilities that the tenant pays for separately from the rent. The utility allowance does not include telephone, cable or satellite television service, or internet service. If all utilities are included in the rent, there is no utility allowance.

*FMR – Utility costs included in rent per PHA schedule = Maximum contract allowed rent*

### Special Considerations for NDHG Recipients

NDHG Rental Assistance Payments may exceed FMRs only if other resources for finding rental assistance at the FMR have been exhausted. Recipients must document rent reasonableness in order to provide the evidence necessary to determine comparable rents exceed FMRs.

### 8.06 Housing Habitability

The ESG/NDHG Housing Habitability Standards Checklist (SFN 61266) must be filled out and filed for each program participant remaining in or moving into permanent housing that is being funded by ESG/NDHG. Effective October 1, 2023 inspection procedures will transition to NSPIRE. More information will be released when finalized by HUD.

### 8.07 Lead Based Paint

For any unit where assistance will be funded by ESG or NDHG program participants must receive a copy of the disclosure form and acknowledgement of receipt of the pamphlet “Protect Your Family from Lead in Your Home”

For homeless prevention and rapid re-housing, a lead-based paint visual assessment must be completed for all units that meet the three following conditions:

1. The household living in the unit is being assisted with ESG financial assistance (rent assistance, utility assistance, utility/security deposits, or arrears).
2. The unit was constructed prior to 1978.
3. A child under the age of six, or a woman who is or could become pregnant is or may be living in the unit.

To document compliance complete the Lead Screening Worksheet (SFN 62378) for each participant unit, this assessment will identify whether lead based paint is applicable, whether a visual assessment is required and record the visual assessment findings.

When a visual assessment is required, complete the Lead Based Paint Visual Assessment (SFN 62379) Staff who perform unit inspections will be required to assess the unit for lead based paint if the unit is not exempt. Staff are highly encouraged to complete the HUD Lead Based Paint visual assessment training tool available online at <https://apps.hud.gov/offices/lead/training/visualassessment/h00101.htm>.

If visual assessment indicates lead hazards are required to be mitigated, refer to HUD exchange for further requirements.

Summary of LSHR Requirements for TBRA	
Different HUD activities have different requirements, this chart summarizes those for TBRA. Details on these requirements are found in this module.	
Activity	Requirement
Approach to Lead Hazard Evaluation and Reduction	Identify and stabilize deteriorated paint.
Notification	Yes

Lead Hazard Evaluation	Visual Assessment
Lead Hazard Reduction	Paint Stabilization – Safe Work Practices and Clearance
Ongoing Maintenance	Yes
Elevated Blood Lead Level (EBLL) Requirements	Yes
Options	Test deteriorated paint. Use safe work practices only on lead-based paint (LBP) surfaces.

### Use with Other Subsidies

ESG financial assistance for rents and utilities cannot be provided to a program participant who is receiving the same type of assistance through other public sources or to a program participant who has been provided with replacement housing payments under the Uniform Relocation Act (URA), during the period covered by URA payments.

Except for a one-time payment of rental arrears on the tenant's portion of the rental payment, rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance or living in a housing unit receiving project-based rental assistance or operating assistance, through other public sources. Rental assistance may not be provided to a program participant who has been provided with replacement housing payments under the URA during the period covered by the URA payments.

## SECTION 9 MONITORING

All ESG and NDHG subrecipients will be monitored on an annual basis. The method and time schedule of the monitoring visit will be coordinated with the subrecipient.

An on-site monitoring of each shelter will be conducted during the grant period. This visit will be coordinated with the subrecipient.

The following are the Grant Monitoring Report and Guidelines that will be used by NDHFA staff.

### 9.01 Grant Monitoring Report

Annually NDHFA program administration staff will complete a risk assessment and determine which subrecipients will receive a full grant monitoring. The ESG/NDHG Monitoring Report and Guidelines will be used as a checklist for reviewing the subrecipient (SFN 60470).

ESG/NDHG Required Client File Documentation Quick Guide

All ESG/NDHG SFN Forms are available online at [www.ndhfa.org](http://www.ndhfa.org).

### 9.02 Client Eligibility Forms

#### Staff Evaluation of Eligibility (SFN 62383)

This form is used to document participant eligibility for assistance and the forms and types of assistance the individual needs to regain stability in housing.

#### Identification Documentation

There must be identification documentation for all household members whether receiving case management and/or financial assistance. Documentation must be a copy of one of the following:

- Driver's License
- Social Security Card

- Medicaid Card
- Birth Certificate
- Passport

### **Homeless Definition and Certification SFN 59247 or At Risk of Homeless Certification (SFN 59248)**

The agency must complete the Homeless Definition and Certification indicating current living situation and provide the appropriate documentation as indicated on the form. Must be completed for each household. This includes documentation of lack of resources.

### **Release of Information Form**

A Release of Information form must be signed by each household member age 18 or older with a copy in the file.

### **Intake and Assessment Form**

The agency will conduct a comprehensive housing assessment with the household.

### **Case Management Notes**

**Income Documentation** (pay stubs, etc.) when income verification is required.

Homeless Prevention- Intake and recertification every 3 months. Rapid Rehousing- annual recertification.

All client files where income is calculated should contain an Income Eligibility Worksheet (SFN 62393). A print out from the HUD CPD Income calculator may replace the Income Eligibility Worksheet (SFN 62393)

Income Source Documents include Income Verification Form (SFN 59246), if income was verified by a third party and/or source documentation such as award letters, paystubs, or benefits statements.

### **Self-Certification (SFN 60319)**

Must be completed if required verifications/other documents cannot be provided and self-certification is the only way to verify information to determine program eligibility.

### **Staff Certification of Homelessness (SFN 62381)**

Used when third party written verification is unavailable to document oral or in person verification or to document staff observation of housing status.

### **Lease**

A lease is required for households receiving financial assistance such as rental assistance, security deposits, rental arrearages, and utility payments/deposits.

### **Rental Assistance Agreement (SFN 62097)**

### **Housing Plan** (case notes)

A Housing Plan must be completed for all individuals that receive a housing assessment and are determined eligible for services.

### **Rent Reasonableness (SFN 59386)**

Subrecipients must complete and file a Rent Reasonableness form for rental assistance above Fair Market Rent (FMR).

### **Habitability Standards Inspection Form (SFN 61266)**

All units must meet Habitability Standards before financial assistance can be provided such as rental assistance, security deposits, rental arrearages, and utility payments/deposits.

### **Lead-Based Paint Disclosure**

**Lead-Based Paint Screening Worksheet (SFN 62378)**

Required for all participant files. LBP Visual Assessment (SFN 62379), when applicable.

**Services Costs**

If clients are terminated or declared ineligible documentation used to make the determinations and the process of termination are required to be retained.

**SECTION 10 REPORTING**

Reporting constitutes a very essential part of program administration, providing NDHFA with the ability to track progress and problems, and to identify technical assistance needs. All subrecipients are required to submit ESG Mid-Term/Final Progress Reports as specified in this section. Failure to submit ESG Mid-Term/Final reports will result in the withholding of funds until the reports are submitted. Failure to submit these reports as specified will also impact the subrecipient's score on future ESG applications.

The ESG Mid-Term/Final Report form is to be completed and submitted to NDHFA two times during the grant year as specified below:

1. The ESG Mid-Term Progress Report (SFN 52677) is due no later than January 31 of each grant year and is to cover the subrecipient's activities from the start date of the ESG award through December 31. The subrecipient is to provide information on the unduplicated number of individuals served from
2. The ESG Final Progress Report (SFN 62161) must be completed and submitted to NDHFA with the subrecipient's final request for funds or no later than 30 days following the end of grant year, whichever occurs earlier. The subrecipient is to provide information on the unduplicated number of individuals served from the start date of the award through the end of the grant year.

**SECTION 11 GRANT AMENDMENTS**

This section lists the types of grant amendments that may be requested, defines each type of amendment, describes the procedures for submitting an amendment request, and includes the form on which to request an amendment. Form SFN 52679 will be completed and used for approval of amendment request.

**Types of Amendments**

1. Extension of Time
2. Budget Revisions
3. Scope of Work
4. Special Conditions

**Definitions**

**Extension of Time:** This type of amendment must be requested when the subrecipient determines that all grant work cannot be completed prior to the grant expiration date.

**Budget Revisions:** This type of amendment must be requested when:

1. The subrecipient wants to transfer funds to another approved grant activity.
2. The subrecipient decides not to implement an approved activity.
3. The subrecipient wants to transfer unobligated funds from one completed activity to another activity.

**Scope of Work:** This type of amendment must be requested when expanding or reducing the approved scope of work to be performed.

**Special Conditions:** This type of amendment must be submitted if a subrecipient wishes to seek approval to modify, eliminate, or extend the time of a special condition on the grant award.

**Procedures for Submitting and Acting on Request for Amendment.**

1. Requests for amendments, especially for extension of time, should be submitted no later than 30 days prior to the grant expiration date.
2. All amendments must be submitted on the Request for Amendment form and must be signed by the Executive Director.
3. If an amendment request is approved by NDHFA, the Request for Amendment form will be returned reflecting signed approval. If the request is disapproved, a letter of explanation will be forwarded with the Request for Amendment form. All approved amendments will become a part of the original Financial Award and will be subject to all applicable conditions and assurances.
4. If NDHFA finds that a Request for Amendment is for an action that has already taken place, the amendment will not be approved.

#### Request for Amendment Form (SFN 52679) Directions

Block 1: Enter the official mailing address of the subrecipient.

Block 2: Enter NDHFA assigned Instrument Number on the Financial Award.

Block 3: Amendment requests are to be numerically accounted for locally. Indicate the appropriate request number.

Block 4: Enter the Approved Budget/Project Period from the Financial Award.

Block 5: Enter date of the preparation of the Request for Amendment.

Block 6: Place a mark in the appropriate space to reflect the type of amendment being requested. Only fill in Extension Revised Date if requesting an Extension of Time.

Block 7: Provide a detailed explanation of the amendment, to include the reason and the results.

Enter activities funded on award. Enter amount awarded for each activity funded. In the Revised NDHFA Budget column, enter +/- for each activity amending. Total Budget column automatically calculates. Approved NDHFA Budget should equal Total Budget unless amending for more or less dollars.

Block 8: Enter the name and title of the Executive Director. This is the individual who signed the Award.

Block 9: For NDHFA use only. Send original signed document to:

North Dakota Housing Finance Agency  
Attn ND Homeless Programs  
PO Box 1535  
Bismarck, ND 58502-1535  
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## SECTION 12 GRANT CLOSE-OUT PROCEDURES

This section describes the close-out procedures to be used by NDHFA and the subrecipient.

### Final Subrecipient Performance Report

Subrecipients must file a Final Performance Report with the last Request for Funds or within 30 days of project completion. Failure of the subrecipient to submit a report as required will not preclude NDHFA from closing out a grant when such action is determined to be in the best interest of both parties. The failure or refusal by a subrecipient to comply with such requirement shall be considered in the performance determination by NDHFA in reviewing any future grant applications from the subrecipient.

### **Grant Close-Out**

A final grant close-out letter will be issued to a subrecipient upon receipt and approval by NDHFA of the Final Report.

A grant may be closed-out when all other responsibilities of the subrecipient under the grant agreement have been carried out satisfactorily, or there is no further State interest in keeping the grant agreement open for the purpose of securing performance.

### **Grant Suspension and Termination**

#### **1. Suspension**

When a subrecipient fails to comply with the grant award stipulations, standards, or conditions of its grant, NDHFA may suspend the grant, withhold further payments, or prohibit the subrecipient from incurring additional obligations of grant funds, pending corrective action by the subrecipient.

#### **2. Termination**

- a. **Termination for Cause.** NDHFA may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the subrecipient has failed to comply with the conditions of the grant. NDHFA shall promptly notify the subrecipient in writing of the termination and the reasons for the termination, together with the effective date. Payments made to a subrecipient or a recovery by NDHFA under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties. For this type of termination, NDHFA will not honor any costs. If funds have been paid to the subrecipient, they must be repaid to NDHFA.
- b. **Termination for Convenience.** NDHFA or subrecipient may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The subrecipient shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. NDHFA will consider all circumstances under which a grant is to be terminated and, on a case-by-case basis determine if any eligible, incurred costs will be honored.