



**Office of Temporary  
and Disability Assistance**

# **Request for Proposals**

## **Solutions to End Homelessness Program**

### **2024-2027**

**RFP Release Date: April 12, 2024**

**RFP Due Date: 3:00pm May 29, 2024**

**Designated Contact:**

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## **Solutions to End Homeless Program (STEHP)**

### **Request for Proposals**

#### **Timeline of Key Events and Procurement Schedule**

<b>Event</b>	<b>Date</b>
Request for Proposals Release	April 12, 2024
Deadline to Submit Questions	May 3, 2024
Proposed Date of Answers (on or about)	May 10, 2024
Proposals Due	May 29, 2024
Award(s) Announced	July 2024
Contract Start Date	October 1, 2024
Contract End Date	September 30, 2027

#### **Inquiries:**

Any questions about this RFP must be submitted in writing by May 3, 2024 to the attention of Laura French at the New York State (NYS) Office of Temporary and Disability Assistance (OTDA), Bureau of Housing and Support Services (BHSS), 40 North Pearl Street, Floor 10B, Albany, New York 12243 or e-mail to [servicesRFP.qanda@otda.ny.gov](mailto:servicesRFP.qanda@otda.ny.gov).

All questions must be typed. Along with your question(s), provide your name, organization, mailing address, and email. Questions must be submitted prior to the May 3, 2024 deadline.

The written responses to all questions will be posted at [www.otda.ny.gov](http://www.otda.ny.gov) Contracts and Grants/ Procurement Bid Opportunities page. The NYS OTDA will not entertain questions via telephone. Any question received after the specified deadline may be answered at the discretion of OTDA and if answered would be published in the Question and Answer document.

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## **Section One - Summary Information**

### **1.1 Introduction**

The New York State (NYS) Office of Temporary and Disability Assistance (OTDA) announces a funding opportunity for units of local government, local social services districts, tribal organizations and nonprofit corporations under the Solutions to End Homelessness Program (STEHP) funded through the Emergency Solutions Grants program (ESG) available through the U.S. Department of Housing and Urban Development (HUD) and NYS homeless assistance funds. STEHP funding is intended to enhance and support the quality and quantity of facilities and services needed to address the needs of homeless individuals and families, and those households at risk of homelessness in NYS.

Contracts awarded under STEHP include federal funds from ESG which has a Catalog of Federal Domestic Assistance (CFDA) number 14.231. Regulations regarding ESG are pursuant to the Stewart B. McKinney Act as amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH). STEHP contractors are required to be in full compliance with any and all federal regulations. OTDA will notify contractors of any changes promulgated by HUD.

OTDA is anticipating approximately \$16 million in STEHP funds to be available for eligible providers in NYS for the first year of operation under this RFP. OTDA will make available statewide STEHP funds subject to appropriations from HUD and the NYS budget.

All applicants applying directly to OTDA for funds should provide certification that the local social service district approves of the project. All applicants must provide certification that the Continuum of Care (CoC) body endorses the project as being integrated in the community-wide system to prevent and end homelessness to the maximum extent practicable. In addition, to qualify for funding, a private nonprofit organization as defined by program regulations must be one which is exempt from taxation under subtitle A of the Internal Revenue Code, has an accounting system, a voluntary board, and practices nondiscrimination in the provision of assistance.

Current (STEHP) contractors must submit a proposal in response to this RFP to be considered for future funding. To assure that the most accurate information is on file, current contractors should submit all requested information with this application even if there have been no changes since prior submissions. Each organization is responsible for ensuring that all requested information is included with the application and that it is current and complete.

OTDA will award available funds statewide for STEHP projects on a competitive basis. This funding will be for a three (3) year contract cycle (SFY 2024-2027) to be funded annually in one (1) year increments depending upon the availability of continued STEHP funding, satisfactory performance, and the discretion of OTDA. OTDA reserves the option to extend the contract cycle for up to two (2) additional years, to be funded in one (1) year increments. Proposals should reflect projections, needs, and budgeted items for a one-year grant period. If selected, the proposal and all parts of it submitted in response to this RFP may become part of a contract with OTDA, subject to approval by the NYS Attorney General and the Office of the State Comptroller. At the time of contract development, awardees will be required to submit additional budget and program information for the final contract. OTDA reserves the right to negotiate any aspect of a proposal in order to ensure that the final agreement meets OTDA objectives.

THE DEADLINE FOR SUBMISSION OF PROPOSALS IS 3:00PM ON May 29, 2024. Proposals received after the deadline will be reviewed at the sole discretion of OTDA.

All applications must meet the three following minimum requirements:

- Proposals must be submitted by Eligible Applicants, as defined in Section 1.2 of this RFP.
- Applicants must propose performing an Eligible Activity and serving an Eligible Service Population, as defined in Section 1.6 of this RFP.
- Applicants must include a letter of endorsement from the CoC in the format provided in Section 4 of this RFP.

Should an application fail to meet any of these three minimum requirements, it will receive a score of 0.

## **1.2 Eligible Applicants**

Nonprofit corporations are eligible to apply for these funds. All nonprofits are subject to the Prequalification Requirement in the Statewide Financial System (SFS). Units of local government, local social services districts and tribal entities whose document vaults are available in SFS are also eligible to apply for these funds. Applicants submitting on behalf of a consortium should identify the primary applicant and establish the relationship with all partners. The applicant must submit a letter(s) from the local CoC(s) body, using the template provided.

Pursuant to New York State Division of Budget Bulletin H-1032, dated June 7, 2013, New York State has instituted key reform initiative to the grant contract process which require not-for-profits to be Prequalified in order for proposals to be evaluated and any resulting contracts executed.

Proposals received from eligible not-for-profit applicants who have not been Prequalified by the proposal due date of 3:00 PM EST on May 29, 2024 will not be able to submit their bid response through SFS.

Please do not delay in beginning and completing the prequalification process. The State reserves 5-10 business days to review submitted prequalification applications. Prequalification applications submitted to the State for review less than 5 days prior to the RFP due date and time may not be considered. Applicants should not assume their prequalification information will be reviewed if they do not adhere to this timeframe. Due to the length of time this process could take to complete, it is advised new registrants send in their registration as soon as possible. Failure to register early enough may prevent potential applicants from being able to complete an application on time.

Not-for-profit vendors that are not prequalified can initiate and complete bid responses. However, not-for-profit vendors that are not prequalified will NOT be allowed to submit the bid response for consideration.

Detailed information on [Registration](#) and [Prequalification](#) is available on the Grants Management website.

To register an organization, send a complete [Grants Management Registration form for SFS Vendors](#) and accompanying documentation where required by email to

[grantsreform@its.ny.gov](mailto:grantsreform@its.ny.gov). You will be provided with a Username and Password allowing you to access SFS.

### 1.3 Application Process (how to apply)

See section 2.1 for further instructions. Submit only one application per Agency.

This grant opportunity is being conducted as an SFS bid event on the SFS online platform. Go to [sfs.ny.gov](https://sfs.ny.gov). Applicants should log-in with Vendor credentials. If you have previously registered and do not know your Username, please contact the SFS Help Desk at (855) 233-8363 or at [Helpdesk@sfs.ny.gov](mailto:Helpdesk@sfs.ny.gov). If you do not know your Password, please click the [SFS Vendor Forgot Password](#) link from the main log in page and follow the prompts.

The three role permissions needed to view and work on a bid event are: Bid Event Inquiry, Bid Event Initiator, and Bid Response Submitter.

Training materials focused on grants management functionality is currently available in SFS from the SFS Coach tile. Selecting **SFS Training for Vendors** from the topic drop-down list. Leave other fields blank. Select **Searching/responding to Grant Opportunities video** as a guide on how to apply.

Additionally, the [SFS Vendor Portal Access Reference Guide.pdf \(ny.gov\)](#) can help Grantees understand which Grants Management roles they need in the SFS Vendor Portal based on the work they are currently involved in. The [Grantee / Vendor User Manual \(ny.gov\)](#) provides screenshots and step-by-step guidance on how to complete grants management related tasks in SFS.

Specific questions about SFS should be sent to the SFS Help Desk at [helpdesk@sfs.ny.gov](mailto:helpdesk@sfs.ny.gov)

### 1.4 Program Description

The goal of STEHP is to assist homeless individuals and families with supportive services during their experience of homelessness. STEHP may also assist individuals and families who are at-risk of homelessness by providing services to maintain permanent housing. OTDA intends to support comprehensive programs that are designed to: assist individuals living on the street with outreach services; help maintain and improve the quality of emergency shelters, transitional housing and drop-in centers for homeless individuals and families; help meet the costs of operating such programs; provide comprehensive supportive services aimed at housing stabilization; provide rapid re-housing services (obtaining a permanent living situation); and/or provide supportive services to those at-risk of homelessness. OTDA intends to support programs which are coordinated with their local CoC.

No further entries this page.

## 1.5 HUD Definitions of Homeless and At-Risk of Homelessness

The following definitions of Homeless and At-Risk of Homelessness are provided for all references of these terms in this RFP:

### HOMELESS DEFINITION

Category 1	Literally Homeless	<p>(1) Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:</p> <ul style="list-style-type: none"> <li>(i) Has a primary nighttime residence that is a public or private place not meant for human habitation;</li> <li>(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</li> <li>(iii) Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.</li> </ul>
Category 2	Imminent Risk of Homelessness	<p>(2) Individual or family who will imminently lose their primary nighttime residence, provided that:</p> <ul style="list-style-type: none"> <li>(i) Residence will be lost within 14 days of the date of application for homeless assistance;</li> <li>(ii) No subsequent residence has been identified; and</li> <li>(iii) The individual or family lacks the resources or support networks needed to obtain other permanent housing.</li> </ul>
Category 3	Homeless under other Federal statutes	<p>(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:</p> <ul style="list-style-type: none"> <li>(i) Are defined as homeless under the other listed federal statutes;</li> <li>(ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the homeless assistance application;</li> <li>(iii) Have experienced persistent instability as measured by two moves or more during in the preceding 60 days; and</li> <li>(iv) Can be expected to continue in such status for an extended period of time due to special needs or barriers.</li> </ul>
Category 4	Fleeing/ Attempting to Flee DV	<p>(4) Any individual or family who:</p> <ul style="list-style-type: none"> <li>(i) Is fleeing, or attempting to flee, domestic or dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence.</li> <li>(ii) Has no other residence: and</li> <li>(iii) Lacks the resources or support networks, e.g. family, friends, faith-based or other social networks, to obtain other permanent housing.</li> </ul>

**AT-RISK OF HOMELESSNESS**

<p>Category 1</p>	<p>Individuals and Families</p>	<p>An individual or family who:</p> <ul style="list-style-type: none"> <li>(i) Has an annual income below 30% of median family income for the area; AND</li> <li>(ii) Does not have sufficient resources or support networks immediately available to prevent them from moving to an emergency shelter or another place defined in Category 1 of the “homeless” definition; AND</li> <li>(iii) Meets one of the following conditions: <ul style="list-style-type: none"> <li>(A) Has moved because of economic reasons 2 or more times during the 60 days immediately preceding the application for assistance; OR</li> <li>(B) Is living in the home of another because of economic hardship; OR</li> <li>(C) Has been notified that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance; OR</li> <li>(D) Lives in a hotel or motel and the cost is not paid for by charitable organizations or by Federal, State, or local government programs for low-income individuals; OR</li> <li>(E) Lives in an SRO or efficiency apartment unit in which there reside more than 2 persons or lives in a larger housing unit in which there reside more than one and a half persons per room; OR (F) Is exiting a publicly funded institution or system of care; OR</li> <li>(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient’s approved Con Plan</li> </ul> </li> </ul>
<p>Category 2</p>	<p>Unaccompanied Children and Youth</p>	<p>A child or youth who does not qualify as homeless under the homeless definition, but qualifies as homeless under another Federal statute.</p>
<p>Category 3</p>	<p>Families with Children and Youth</p>	<p>An unaccompanied youth who does not qualify as homeless under the homeless definition but qualifies as homeless under section 725(2) of the McKinney-Vento Homeless Assistance Act, and the parent(s) or guardian(s) of that child or youth if living with him or her.</p>



## 1.6 Eligible and Ineligible Activities, Expenses and Service Populations

Funds received under STEHP may be used for one or more of the five categories listed below, (A-E). STEHP funds awarded through this RFP cannot be used to supplant or replace existing public or private funds. Applicants should clearly demonstrate that existing funds have not been supplanted. Consult the Glossary of Terms at the end Section 1 for further clarification about activities. Expenses may be subject to Minority/Women-Owned Business Enterprise (MWBE) provisions defined in General Terms and Conditions of the Master Contract and Attachment A1 posted with this opportunity.

**A. STREET OUTREACH:** Provision of supportive services to homeless persons or families in category 1 (i) of the homeless definition. Supportive services include engagement, case management, access to benefits, emergency health services, emergency mental health services, transportation and assistance accessing housing.

**1. Eligible Street Outreach activities** include (but are not limited to):

- ✓ Activities which will engage unsheltered homeless persons for the purpose of providing immediate support, intervention, and referrals/connections to services such as medical assistance, mental health counseling, substance abuse counseling, and employment counseling;
- ✓ Activities that will assist in obtaining emergency shelter and permanent housing;
- ✓ Assistance in obtaining any Federal, State, and local benefits such as Supplemental Security Income (SSI) benefits, Temporary Assistance (TA), SNAP/Food Stamps, veteran's benefits, provision of or referral to SSI/SSDI Outreach, Access and Recovery (SOAR) activities;
- ✓ Provision of emergency health and mental health services by licensed professionals on an outpatient basis in the street setting;
- ✓ Staff or participant travel;
- ✓ Case management, direct service salaries and fringe benefits necessary to provide street outreach for homeless persons including dedicated SOAR case management;
- ✓ Administrative expenses, inclusive of indirect costs of up to 5% of the award amount, may be charged with an itemized listing of costs; and
- ✓ Homelessness Management Information System (HMIS) reporting.

**2. Ineligible Street Outreach expenses** include:

- Salary of any personnel related to **Emergency Shelters, Transitional Housing, Rapid Re-housing, and Prevention** activities;
- Legal services to participants such as counsel and direct representation;
- 211 or similar telephone referral systems;
- Organizational advocacy, planning or capacity building;
- On-going regular day care expenses;
- Transportation costs not directly associated with service delivery;
- Payments to medical, mental health and substance abuse providers on behalf of the participant; and
- Service activities that support a program which mandates religious requirements for participants.

**B. EMERGENCY SHELTERS:** related to operating and providing supportive services in warming centers, drop-in centers and overnight shelters to persons or families defined as homeless.

**1. Eligible Emergency Shelter expenses** include (but are not limited to):

- ✓ Rent, maintenance, repairs, security, fuel, equipment, insurance, utilities, food, furnishings, and other expenses associated with daily operations of shelters;
- ✓ Activities that will assist in obtaining permanent housing;
- ✓ Provision of, or referral to support services designed to stabilize households in order to obtain permanent, habitable housing including services related to employment, substance abuse, domestic violence, housekeeping, budgeting, education, parenting, mental health and physical health;
- ✓ Assistance in obtaining any Federal, State, and local benefits such as SSI benefits, TA, SNAP/Food Stamps, veteran's benefits, provision of or referral to SOAR activities;
- ✓ Staff or participant travel;
- ✓ Other services such as childcare when parent is receiving services, transportation, job placement and job training;
- ✓ Case management including dedicated SOAR case management, direct service salaries and fringe benefits necessary to provide operational and supportive services for homeless persons connected with drop-in centers and emergency shelters;
- ✓ Administrative expenses, inclusive of indirect costs of up to 5% of the award amount, may be charged with an itemized listing of costs; and
- ✓ HMIS reporting.

**2. Ineligible Emergency Shelter expenses** include:

- Salary of any personnel related to **Street Outreach, Transitional Housing, Rapid Re-housing, and Prevention** activities;
- Legal services to participants such as counsel and direct representation;
- 211 or similar telephone referral systems;
- Organizational advocacy, planning or capacity building;
- On-going regular daycare expenses;
- Transportation costs not directly associated with service delivery;
- Service activities that support a program which mandates religious requirements for participants.
- Depreciation;
- Costs associated with the organization rather than the emergency shelter project, such as advertisements, surveys, fundraising, public relations;
- Bad debts/late fees;
- Mortgage payments;
- Participant personal vehicle expenses;
- Payments to medical, mental health and substance abuse providers on behalf of the participant;
- Operational costs or services associated with a permanent housing facility; and
- Expenses which are reimbursed through temporary housing assistance, or other public assistance programs.

**C. TRANSITIONAL HOUSING:** related to operating and providing supportive services in Transitional Housing programs to persons or families defined as homeless. Transitional Housing programs should participate in the Coordinated Entry process to the maximum extent practicable.

**1. Eligible Transitional Housing expenses** include (but are not limited to):

- ✓ Rent, maintenance, repairs, security, fuel, equipment, insurance, utilities, food, furnishings, and other expenses associated with daily operations of transitional housing programs;
- ✓ Activities that will assist in obtaining permanent housing;
- ✓ Provision of, or referral to support services designed to stabilize households in order to obtain permanent, habitable housing including services related to employment, substance abuse, domestic violence, housekeeping, budgeting, education, parenting, mental health and physical health;
- ✓ Assistance in obtaining any Federal, State, and local benefits such as SSI benefits, TA, SNAP/Food Stamps, veteran's benefits, provision of or referral to SOAR activities;
- ✓ Staff or participant travel;
- ✓ Other services such as childcare when parent is receiving services, transportation, job placement and job training;
- ✓ Case management including dedicated SOAR case management, direct service salaries and fringe benefits necessary to provide operational and supportive services for homeless persons connected with transitional housing programs;
- ✓ Administrative expenses, inclusive of indirect costs of up to 5% of the award amount, may be charged with an itemized listing of costs; and
- ✓ HMIS reporting.

**2. Ineligible Transitional Housing expenses** include:

- Salary of any personnel related to **Street Outreach, Emergency Shelters, Rapid Re-housing, and Prevention** activities;
- Legal services to participants such as counsel and direct representation;
- 211 or similar telephone referral systems;
- Organizational advocacy, planning or capacity building;
- On-going regular day care expenses;
- Transportation costs not directly associated with service delivery;
- Service activities that support a program which mandates religious requirements for participants.
- Depreciation;
- Costs associated with the organization rather than the emergency shelter project, such as advertisements, surveys, fundraising, public relations;
- Bad debts/late fees;
- Payments to medical, mental health and substance abuse providers on behalf of the participant;
- Participant personal vehicle expenses;
- Mortgage payments; and
- Operational costs or services associated with a permanent housing facility.

**D. RAPID RE-HOUSING (RRH):** Programs focused on finding and retaining permanent housing for homeless persons or families in categories 1 and 4 of the homeless definition, as long as those in category 4 also qualify under category 1. Activities include locating a rental unit, habitability inspections, assistance moving into a unit, rental assistance, financial assistance and case management. RRH programs should be participating in the Coordinated Entry process to the maximum extent practicable. RRH participants should have adequate access to case management with a goal of housing stability at exit. RRH programs must offer case management activities to all participants at least one time per month for at least six months, whether or not financial or rental assistance is still being provided. When it comes to determining the level of subsidies given, OTDA encourages objective determinations that allow for meeting individualized needs in order to promote housing stability for the duration of the program and after discharge. Though initial income eligibility is not required, RRH participants receiving any services past 12 months (from time of placement into permanent housing) must have income at or below 30% of Area Median Income (AMI). AMI is published at this website [Income Limits | HUD USER!](#). Ongoing monthly rental assistance payments cannot be used in conjunction with any other Federal or State rental subsidy program. Participant income is not required to participate and the full monthly rental amount may be paid with this funding.

**1. Eligible Rapid Re-housing expenses** include (but are not limited to):

- ✓ Housing search;
- ✓ Habitability inspections;
- ✓ Moving and storage fees;
- ✓ Security and utility deposits;
- ✓ Rental and utility arrears up to a six month period;
- ✓ Rental and utility assistance up to any 24 months in a three year period;
- ✓ Financial assistance;
- ✓ Assistance in obtaining any Federal, State, and local benefits such as SSI benefits, TA, SNAP/Food Stamps, veteran's benefits, provision of or referral to SOAR activities;
- ✓ Staff or participant travel;
- ✓ Provision of, or referral to support services designed to stabilize households in permanent, habitable housing including services related to employment, substance abuse, domestic violence, housekeeping, budgeting, education, parenting, mental health and physical health;
- ✓ Case management salaries and fringe benefits necessary to provide RRH services including dedicated SOAR case management;
- ✓ Administrative expenses, inclusive of indirect costs of up to 5% of the award amount, may be charged with an itemized listing of costs; and
- ✓ HMIS reporting.

**2. Ineligible Rapid Re-housing expenses** include:

- Services to anyone other than those defined as homeless in categories 1 and 4 of the homeless definition;
- Legal services to participants such as counsel and direct representation;
- Salary of any personnel related to **Street Outreach, Emergency Shelters, Transitional Housing, and Prevention** activities;
- 211 or similar telephone referral systems;

- Eviction prevention activities;
- Furniture, food, supplies for participant apartments;
- Construction or rehabilitation;
- Participant credit card bills or other consumer debt;
- Participant personal vehicle expenses;
- Payments to medical, mental health and substance abuse providers on behalf of the participant;
- Pet care;
- Entertainment activities;
- Direct payments to program participants; and
- Financial and rental assistance for program participants to live in applicant's own housing stock.

**E. PREVENTION:** Programs designed to prevent homelessness by assisting eligible persons and families in maintaining permanent housing. Program services may include but are not limited to mediation programs, financial and rental assistance, and case management. Prevention participants must be at risk of homelessness by definition or from categories 2, 3 and 4 of the homeless definition with an income below 30% of AMI at intake. AMI is published at this website [Income Limits | HUD USER](#). Income eligibility must be recertified every three months for participants receiving continued Prevention assistance. Case management meetings must occur at least once per month while participant is in the Prevention program. Ongoing monthly rental assistance payments cannot be used in conjunction with any other Federal or State rental subsidy program. Participant income is not required to participate and the full monthly rental amount may be paid with this funding.

**1. Eligible Prevention expenses** include (but are not limited to):

- ✓ Habitability inspections;
- ✓ Utility and rental arrears payments for up to a six month period;
- ✓ Rental assistance payments up to 24 months in a three year period;
- ✓ Financial assistance;
- ✓ Mediation programs with landlords, advocacy on behalf of participant;
- ✓ Activities to educate participants regarding tenant's rights and responsibilities; to organize tenants to address code violations, landlord abandonment or harassment;
- ✓ Assistance in obtaining any Federal, State, and local benefits such as SSI benefits, TA, SNAP/Food Stamps, veteran's benefits, provision of or referral to SOAR activities;
- ✓ Case management salaries and fringe benefits necessary to provide prevention services including dedicated SOAR case management;
- ✓ Provision of, or referral to support services designed to stabilize households in permanent, habitable housing including services related to substance abuse, domestic violence, housekeeping, budgeting, education, employment, parenting, mental health and physical health;
- ✓ Security deposit, first/last month's rent and moving costs in the event a move is required to maintain permanent housing;
- ✓ Staff or participant travel;
- ✓ Administrative expenses, inclusive of indirect costs of up to 5% of the award amount, may be charged with an itemized listing of costs; and

✓ HMIS reporting.

**2. Ineligible Prevention expenses** include:

- Legal services to participants such as counsel and direct representation;
- Housing/services to persons residing on the street, in emergency shelters or transitional housing;
- Provision of aftercare case management and assistance to residents exiting homeless housing programs;
- Salary of any personnel related to **Street Outreach, Emergency Shelters, Transitional Housing, and Rapid re-housing** activities;
- 211 or similar telephone referral systems;
- Direct payments to program participants;
- Mortgage costs (including funds to homeowners with any fees, taxes, or other costs of refinancing a mortgage to make it affordable);
- Furniture, food, supplies for participant apartments;
- Construction or rehabilitation;
- Credit card bills or other consumer debt;
- Participant personal vehicle expenses;
- Payments to medical, mental health and substance abuse providers on behalf of the participant;
- Pet care;
- Entertainment activities;
- Financial and rental assistance for program participants to live in applicant's own housing stock.

No further entries this page.

The following chart summarizes some information from this section.

### ELIGIBLE ACTIVITIES AND SERVICE POPULATIONS BY CATEGORY CHART

CATEGORY	ELIGIBLE ACTIVITIES	POPULATION
<b>STREET OUTREACH</b>	Provision of services while performing street outreach activities to participants. Assistance with obtaining benefits, shelter and permanent housing; staff or participant travel in relation to street outreach; case management and direct service staff salaries plus fringe benefits; HMIS reporting.	Homeless individuals and/ or families from Category 1 (i) of the homeless definition, those staying in a public or private place not meant for habitation.
<b>EMERGENCY SHELTERS</b>	Provision of services to participants in overnight emergency shelters such as medical, psychological, employment, nutritional, substance abuse counseling; Assistance with obtaining benefits and permanent housing; staff or participant travel in relation to shelter stay; case management and direct service staff salaries plus fringe benefits; Expenses related to operating a shelter such as rent; maintenance; repairs; security; fuel; equipment; insurance; utilities; food; furnishings; HMIS reporting.	Homeless individuals and/or families from any category of the homeless definition.
<b>TRANSITIONAL HOUSING</b>	Provision of services to participants in transitional housing such as medical, psychological, employment, nutritional, substance abuse counseling; Assistance with obtaining benefits and permanent housing; staff or participant travel; case management and direct service staff salaries plus fringe benefits; Expenses related to operating the housing such as rent; maintenance; repairs; security; fuel; equipment; insurance; utilities; food; furnishings; HMIS reporting.	Homeless individuals and/or families from any category of the homeless definition.
<b>RAPID RE-HOUSING</b>	Financial and rental assistance related to obtaining permanent housing, such as moving or storage fees, rental or utility arrears, security deposits, rental and utility payments; habitability inspections; benefit/entitlement advocacy; provision of services to assist with participant success in permanent housing; staff or participant travel in relation to the program; staff salaries plus fringe benefits; HMIS reporting.	Homeless individuals and/or families from category 1 of the homeless definition. Homeless individuals and/or families from category 4 of the homeless definition as long as they are from category 1 as well.
<b>PREVENTION</b>	Financial and rental assistance related to maintaining permanent housing, such as moving or storage fees, rental arrears when no other source is available to pay, utility arrears, security deposits, rental and utility payments; habitability inspections; benefit/entitlement advocacy; provision of services to assist with participant success in permanent housing; staff or participant travel in relation to program; staff salaries plus fringe benefits; HMIS reporting.	Individuals and/or families at risk of homelessness by definition or from categories 2, 3 or 4 of the homeless definition with household income below 30% of Area Median Income.

#### 1.7 Projected Distribution of STEHP Funds

OTDA is soliciting applications in support of Street Outreach, Emergency Shelters, Transitional Housing, Rapid Re-Housing, and Prevention. OTDA anticipates awarding not less than 60% and not more than 75% of the funds to Street Outreach, Emergency Shelter, Transitional

Housing and Rapid Re-housing activities. OTDA anticipates awarding not less than 25% and not more than 40% of the funds to Prevention activities. In the event OTDA does not receive sufficient fundable proposals for anticipated activities, the percentages of distribution may not be maintained. Furthermore, OTDA anticipates awarding approximately 30% of the total available funds to NYC based projects and 70% of the total available funds to projects outside of NYC. In the event OTDA does not receive sufficient fundable proposals in the anticipated regions, the balance of funds available may then be used for the other region. OTDA reserves the right to change the projected use of funds should additional funding for certain activities become available, an underserved region is identified and/or should regulations change regarding the use of funds for activities. In that event, OTDA may redistribute funds at its discretion according to the methodologies described in the Selection Process and Award Procedure sections of this RFP.

The following two charts summarize the projected distribution of funds.

**PROJECTED DISTRIBUTION OF FUNDS BY CATEGORY**

CATEGORY	PERCENTAGE
Street Outreach, Emergency Shelters, Transitional Housing, Rapid Rehousing	60-75%
Prevention	25-40%

**PROJECTED DISTRIBUTION OF FUNDS GEOGRAPHICALLY**

AREA	PERCENTAGE
New York City	30%
Rest of State	70%

OTDA will ensure that, at minimum, the amount of ESG that would have been directly allocated to the County of Orange (\$148,060 for Federal Funding Year 2022) will be made available to agencies serving an eligible population residing in the County of Orange.

**1.8 Documentation of Participant Eligibility**

STEHP projects are encouraged to provide or connect participants with supportive services that may be helpful in overcoming housing instability.

STEHP projects are required to maintain adequate documentation of homelessness or at risk of homelessness status to determine the eligibility of persons served by the program. The degree of documentation depends on the type of service provided and can be categorized as third-party written, third-party oral, staff observations and participant self-certification. Projects providing short-term emergency shelter need a lower standard of proof of the person's prior living situation. Projects providing financial and rental assistance require a higher standard of documentation. A copy of the eligibility documentation must be maintained in the participant file. Acceptable documentation is described in Federal Regulation 576.500 (b) and (c).



Youth aged 24 and under seeking assistance shall not be required to provide third party documentation to establish their eligibility under 42 U.S.C.11302 (a) or (b) to receive services

Homeless Management Information System (HMIS) data collection is required, except for agencies that are victim service providers; those providers must use a comparable database system which is not directly entered in or provided to the CoC's HMIS. More on data collection can be found in Federal Regulation 576.107.

All agencies should attempt to collect six-month follow-up data for all participants that discharged to permanent housing. The sole point of the data collection is to verify if the participant is still in permanent housing whether or not it's the same location that they were assisted to maintain or obtain.

Agencies receiving Prevention funding must certify and document that participant income is below 30% of AMI before receiving assistance. Income eligibility must be recertified and documented every three months for participants receiving continued assistance under Prevention. Agencies receiving Rapid Re-housing funding must certify that participant income is at or below 30% of AMI only if services are continuing after 12 months.

All participants being assisted with Rapid Re-housing and Prevention services must inhabit permanent housing which meets ESG habitability standards as described in Federal Regulation 576.403 (a) and (c) or have an agreement with the landlord to comply with habitability standards before housing is occupied.

Rapid Re-housing and Prevention permanent housing must be within Fair Market Rent (FMR); must be Rent Reasonable as compared to other available units in the area; must have a lease between participant and landlord; and must have a rental assistance agreement between funded agency, participant and landlord when providing rental arrears and on-going rental assistance. If a participant is only being assisted with security deposit, last month's rent, moving costs, housing stability services and/or utility deposits and payments then the FMR, Rent Reasonable, lease and rental assistance agreement requirements do not apply. Housing should be determined to be affordable for the participant at the time of discharge from the STEHP program.

Agencies are required to attempt to provide at least six months of supportive services for each Rapid Rehousing program participant.

Rapid Rehousing and Prevention housing stability case management services should not exceed 30 days for the period the program participant is seeking permanent housing. In addition, these services cannot exceed 24 months, not including the previous 30 days, during the period the program participant is living in permanent housing.

The following two charts summarize detail on participant and housing requirements.

## PROGRAM REQUIREMENTS BY CATEGORY

Funding Category	Supportive Services	Community Service Coordination	Documentation	HMIS Data	Six-month Follow-up when discharged to permanent housing
Street Outreach	Yes	Yes	Yes	Yes	Yes
Transitional Housing	Yes	Yes	Yes	Yes	Yes
Emergency Shelters	Yes	Yes	Yes	Yes	Yes
Rapid Rehousing	Yes	Yes	Yes	Yes	Yes
Prevention	Yes	Yes	Yes	Yes	Yes

## ADDITIONAL RAPID REHOUSING AND PREVENTION REQUIREMENTS

Standard	Rental Assistance	Housing Relocation and Stabilization Services, Financial Assistance and Case Management
Fair Market Rent	Yes	No
Rent Reasonableness	Yes	No
Habitability Standards	Yes	Yes
Lead Based Paint Requirements	Yes	Yes
Lease between participant and landlord	Yes	No
Rental assistance agreement between agency and landlord	Yes	No
30 day period to locate permanent housing	Not applicable	Yes
Maximum Amount of Assistance (24 months in a three year period)	Yes	Yes
Prevention Income Eligibility	Initially, and every 90 days	Initially, and every 90 days
Rapid Rehousing Income Eligibility	Only at the one-year mark	Only at the one-year mark

## 1.9 Program Requirements

Each STEHP grantee is required to:

- Follow Federal Regulations for Emergency Solutions Grants Program 24 CFR Part 576, Attachment A of this RFP;
- Follow property management standards for equipment costing more than \$1,000 and having a useful life of one year;
- Assist homeless or persons at risk of homelessness in obtaining appropriate supportive services, mainstream benefits and other available assistance;
- Maintain documentation of eligibility and services provided in participant files;
- Attempt to determine housing status of those participants discharged to all forms of permanent housing six months after their discharges;
- Keep documentation about persons found ineligible;
- Ensure the confidentiality of records concerning project participants;
- To the maximum practical extent, involve homeless or formerly homeless individuals in providing services and in program planning, through employment, volunteer services, in maintaining and operating facilities, or other similar involvement;
- Conform to the Americans with Disabilities Act as of 1990;
- Meet other generally applicable requirements, such as nondiscrimination and equal opportunity;
- Function as part of a CoC, including participating in its Coordinated Entry process;
- Report eligible participant data in the local CoC HMIS Database, or comparable database which conforms to local HMIS guidelines, timelines and user agreements (Ideally system will be able to export and/or import data to minimize duplication of reporting effort);
- Submit performance reports no later than 20 days after the close of the quarter; and
- Upload data reported in local HMIS into New York State's Data Warehouse.

## 1.10 Matching Funds

NYS OTDA has met all of the federal match requirement for ESG by adding State funds to expand resources available pursuant to this RFP. Therefore, applicants need not match the request or any resulting award with funds from other sources. In the event NYS funds decrease or are unavailable in subsequent years, OTDA reserves the right to request that agencies contribute to meet the matching requirement, up to a dollar for dollar (100%) match.

In the event that it becomes necessary for awardees to match STEHP funds, matching with other Stewart B. McKinney or HEARTH Act funds would not be allowed. Matching with other federal funds would be discouraged, although awardees that wished to match with other direct federal awards could demonstrate that the funds may be used as a match to ESG. Allowable matching funds would be, but would not be limited to, the following:

- Funds from other sources;
- Value of any donated material, building or of any lease calculated using a reasonable method to establish fair market value;
- Salary of staff not included in the request needed to carry out the project; and
- Time contributed by volunteers at a rate of \$5.00 per hour, (or for professional services such as medical or legal services, the value may be calculated at the reasonable and customary rate within the community).

## 1.11 Selection Process

All proposals will be reviewed by OTDA staff assisted by such other State personnel as is deemed appropriate. Following the desk review of applications, several other steps may take place to further evaluate proposals. These steps may include a telephone interview with the designated contact person in the organization; a request for additional written information or documentation, if necessary; a site visit; and/or a face-to-face meeting with agency representatives; and/or communication with references.

Proposals will be judged on the following general criteria:

- The responsiveness of the proposal to the RFP (meaning that all information and documentation required by this RFP are provided in a satisfactory manner to determine agency viability and project activities, goals and fundability);
- Evidence of the applicant's understanding of the needs of the homeless population and those at risk of homelessness;
- The programmatic and fiscal feasibility related to the overall management and operation of the project, including the project operating budget, revenue streams and the agency's financial position;
- The applicant's plan to use program funds for the provision of new or additional support services, if applicable;
- The completeness of the Application Questions, Required Documents and Budget portions of the application, through the provision of both statistical data and agency specific information regarding the experiences of the applicant in dealing with the homeless population and those at risk of homelessness;
- The clarity of the measurable and quantifiable expected results and potential for their achievement;
- The overall cost reasonableness and effectiveness of the proposed project;
- Assurances that the requested funds will be expended in a timely manner once a contract has been executed between OTDA and the applicant;
- The applicant's contractual performance history with OTDA or other NYS funding sources (where applicable);
- The applicant's past experience with similar programs, if applicable, that demonstrates the benefits realized as a result of such funding and provides strong justification for the need for STEHP funding;
- The applicant's standing with NYS (such as compliance with the requirements of the Attorney General's Office, Worker's Compensation etc.);
- Assurances of the urgency of need for STEHP funds, and that duplication of services will be avoided in the geographic area in which the STEHP program will operate as evidenced by documentation provided by the CoC in which the project is proposed;
- A commitment to make all STEHP related records available to OTDA or its designee(s) as required by this RFP and any resultant contract;
- Clear and acceptable documentation of the applicant's operational readiness for the proposed project;
- The applicant's demonstrated coordination with the local social services district and the CoC.

Proposals will be prioritized based on the following criteria:

- Projects fully endorsed by the CoC, showing evidence of need and participating to the maximum extent practicable in the activities of the CoC including Coordinated Entry;
- In the Transitional Housing and/or RRH categories, those projects that demonstrate increases in adult participant income and/or mainstream benefits while in the project;
- In the Shelter and Transitional Housing categories, those projects that have been developed with NYS Homeless Housing Assistance Program (HHAP) capital funds and are requesting STEHP funds to support those projects;
- In the Shelter and Transitional Housing categories, those Shelters and Transitional Housing projects that serve unaccompanied runaway and homeless youth under age 18 and/or a young adult population up to age 25; and/or a Domestic Violence population;
- In the Shelter category, those Shelters which operate with a low-barrier entry process;
- Projects demonstrating a connection to SOAR case management;
- Projects that demonstrate at least an 85% positive housing outcome rate;
- Projects that demonstrate retention of permanent housing six months after exit; and
- High priority will be awarded to applicants that serve areas which did not receive ESG funds directly from HUD in FFY 2023. Medium priority will be awarded to applicants that serve areas which received ESG funds directly from HUD up to \$290,000 in FFY 2023. No priority is given to applicants that serve areas which received ESG funds directly from HUD in excess of \$290,000 in FFY 2023.
- High priority will be awarded to applicants proposing RRH projects that serve areas which do not currently receive HUD CoC or ESG funds granted for the purposes of RRH.

The following chart summarizes STEHP priorities:

**STEHP PRIORITIES**

Category	Low-barrier	Fully endorsed by CoC(s)	Increase Income	HHAP	Youth and/or DV	SOAR Case management	85% Positive Housing Outcome	Retention of Permanent Housing after exit	Areas which do not receive any ESG funds from HUD or other RRH funds from HUD
Street Outreach	No	Yes	No	No	No	Yes	Yes	Yes	Yes
Shelters	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
Transitional Housing	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Rapid Re-housing	No	Yes	Yes	No	No	Yes	Yes	Yes	Yes
Prevention	No	Yes	No	No	No	Yes	Yes	Yes	Yes

Proposals will be evaluated on a comparative analysis among proposals received. Proposals will be reviewed and assigned an overall competitive score. Proposals will be funded based upon the application's score and will be subject to the availability of funds. All things being equal, projects will be awarded STEHP monies in descending order, beginning with the highest ranked proposal, until the initial year's funding is exhausted, with the following exceptions:

- Awards may be reduced during the application process or contract term if another source of funding for the activities becomes available, and is deemed appropriate, in which case OTDA may choose to dedicate those funds to other activities at its discretion.
- If there are additional proposals which qualify for funding, no one agency will be awarded more than approximately \$300,000 with the exception of those agencies serving more than one CoC, (as evidenced by the CoC Letters of Support which must accompany the application). Agencies serving more than one CoC may be awarded up to approximately \$300,000 for each CoC served.
- For umbrella applications that include funding in more than one category, OTDA reserves the right to fund only higher priority activities.
- Projects may not be awarded in consecutive descending order by score if categories of funds are exhausted, in which case the next highest score correlating to available funds would be awarded.
- Projects may not be awarded in consecutive descending order by score if regional percentages of funds are exhausted, in which case the next highest score correlating to available funds would be awarded.
- The lowest awarded proposal may not receive the entire requested amount if there are insufficient funds remaining.
- Awards may be proportionately reduced to ensure the availability of funds statewide.
- Awards may be made, regardless of score, to ensure all areas of the State and CoCs are covered with funding priorities.
- Applications received from Legal Services agencies which propose eligible activities will only be considered in the event that there are no other viable proposals for those activities in the area.
- OTDA may consider the applicant's contractual performance history.
- The requested amount of funding may be reduced by ineligible expenses.

OTDA reserves the right to not fund higher scoring applicants from medium and high entitlement areas in order to fund applicants proposing to provide services in Counties in which there is no other funding for that service.

OTDA reserves the right to not fund higher scoring applicants when a higher scoring applicant will already be funded in the same CoC geographic area in order to fund applicants proposing to provide services in other CoCs where otherwise there is no other funding for that service.

OTDA reserves the right to award funds by geographic region to reach underserved areas by funding lower scoring proposals to achieve greater geographic distribution. The geographic distribution of funds will be considered only in the event that an underserved region is identified by OTDA. An underserved region will be determined and substantiated by OTDA with reference to the CoC, relevant statistical evidence, and other anecdotal evidence, including the lack of STEHP-type monies in a geographical region. If awards are made to underserved areas, they will be made on a competitive basis and awards will be strictly based on the overall competitive score of all contractors identified as being able to provide STEHP services in the identified underserved region. Should this situation arise and OTDA is required to exercise this option,

awards will be made to meet the underserved needs of the region without negatively impacting the overall ability of the STEHP program to provide statewide services.

In the event that two or more proposals receive an overall score which is tied, and funding would be exhausted before an award could be made to each applicant at the requested amount, OTDA will award each applicant a pro-rated portion of the remaining funds based on requested amount and amount available.

The following is provided as the relative weight for each section of the application:

<b>Section of Application</b>	<b>Relative Weight</b>
Application Questions, Required Documents and OTDA Priorities	68%
Budget and Financial Audit	32%

Regardless of score, OTDA reserves the right to disqualify an application based on other relevant information, such as the occurrence of STEHP funds supplanting existing funds; an agency's financial position; finding or issues raised by other Government funders; an agency's prequalification status in SFS; vendor responsibility determination and the status of the NYS Office of the Attorney General Charities Registration filing.

The availability of STEHP funds fluctuates from year to year, and the demand always far exceeds the supply. For these reasons, applicants are strongly cautioned against viewing these funds as a potential ongoing revenue stream.

### **1.12 Award Procedure**

The contracts resulting from this RFP will start on or about October 1, 2024. This RFP governs the provision of STEHP for a three (3) year contract cycle to be funded annually for one (1) year periods. OTDA reserves the option to extend the contract cycle for up to two (2) additional years, to be funded in one (1) year increments. Contracts submitted to the NYS Office of State Comptroller (OSC) and the NYS Office of the Attorney General (OAG) will include the maximum amount of the award for the entire three (3) year period. All contract funding will be dependent upon the availability of continued STEHP funding, the need for the services, satisfactory performance and at the sole discretion of OTDA. Upon approval of funding recommendations by OTDA and award notices, contract development instructions will be issued to awardees. OTDA reserves the right to negotiate any aspect of a proposal in order to ensure that the final agreement meets STEHP program objectives. Awardees will be asked to develop and provide electronically a detailed implementation plan that sets forth the program goals. Successful applicants are encouraged to register with the OSC Vendor Responsibility System at <http://www.osc.state.ny.us/vendrep>

Should additional funds become available at any time during the period which this RFP covers, (2024 – 2027), in lieu of releasing a new RFP if deemed in the best interest of the State:

- OTDA may provide inflationary adjustments in subsequent years;
- OTDA may increase awards on a pro-rated basis;

- OTDA may make additional awards based on the remaining unfunded proposals submitted to OTDA as a result of this RFP in a manner consistent with the award methodology set forth;
- OTDA may increase previously proportionally reduced award amounts to current contractors;
- OTDA may increase awards to contractors that have demonstrated positive outcomes and expended 90% of their awarded funds by the end of an annual funding cycle;
- OTDA may increase awards amounts to contractors who will exhaust funds by the end of an annual funding cycle, or who can demonstrate a need in the community for increased funds; or
- OTDA may choose to change its Projected Use of Funds up to and including elimination of activities. In the event funds become available, projects would be awarded funding in a manner consistent with the award methodology set forth in this RFP.

OTDA may reallocate unused and unspent funds from contractors unable to spend the full amount awarded to current STEHP contractors who will exhaust funds by the end of an annual funding cycle, or who can identify a need in the community for increased funds.

OTDA also reserves the right to solicit and accept new proposals, as funding becomes available, should there not be acceptable remaining proposals.

Should available funds be decreased in future years, OTDA reserves the right to reduce awards on a pro-rated basis.

Furthermore, should a contractor not expend at least 75% of the annual award amount by the end of an annual funding cycle, or should a contractor not attain a 75% positive housing outcome rate by the end of an annual funding cycle, OTDA reserves the right to adjust the award amount for future years.

OTDA reserves the right to award all, some, or none of the monies available for the STEHP Program.

### **1.13 Bid Protest Procedure**

#### **Procedure for Handling of Protests/Appeals of Bid Specification(s) and Proposed Awards**

It is the policy of OTDA to provide all Offerors with an opportunity to resolve complaints or inquiries related to bid solicitations or pending contract awards administratively. OTDA encourages all Offerors to seek resolution of complaints concerning the contract award process through consultation with OTDA. All such matters will be accorded impartial and timely consideration. Detailed procedures are as follows:

**Formal Written Protests** - Final agency decisions or recommendations for award generally may be reconsidered only in the context of a formal written protest as described below. Any Offeror or prospective Offeror who believes that there are errors or omissions in the procurement process or who otherwise has been aggrieved in the drafting or issuance of this RFP, proposal evaluation, award, or contract award phases of the procurement, may present a formal complaint to OTDA and request administrative relief concerning such action ("formal protest"). A formal protest must be submitted in writing to OTDA, by ground mail, except where alternate arrangements have been made, to the Director of the OTDA Bureau of Contract Management (BCM), 40 North Pearl Street, 12th Floor, Section D, Albany, NY 12243. A formal protest must include a statement of all legal and/or factual grounds for disagreement with an



OTDA specification or purchasing decision; a description of all remedies or relief requested; and copies of any and all applicable supporting documentation.

**Deadline for Submission of Formal Protests for Errors or Omissions in the Procurement Process** – OTDA must receive formal protests concerning errors, omissions or prejudice, including patently obvious errors in this RFP specifications or documents, at least 10 calendar days before the Bid Submission Date.

**Deadline for Submission of Formal Protests of Contract Award** – OTDA must receive a formal protest concerning a contract award within 10 business days of the issuance of notice of contract award.

**Review and Final Determination of Protests** - Protests will be resolved through written correspondence. However, the protester may request a meeting to discuss a formal protest or OTDA may initiate a meeting on its own accord, at which time the participants may present their concerns. Either the protester or OTDA may decline such a meeting. Where further formal resolution is required, the Director of BCM may designate an OTDA employee ("designee") to determine and undertake the initial resolution or settlement of any protest. The designee will conduct a review of the records involved in the protest and provide a memorandum to the Director of BCM summarizing the facts as determined by the designee, an analysis of the substance of the protest and a preliminary recommendation. The Director of BCM shall: (a) evaluate the designee's findings and recommendations, the evaluation team's reports and recommendations; (b) review the materials presented by the protesting party and/or any materials required of or submitted by other Offerors; (c) if necessary, consult with OTDA Counsel's Office; and (d) prepare a response to the protest. A copy of the protest decision, stating the reason(s) upon which it is based and informing the protester of the right to appeal an unfavorable decision to OSC shall be sent to the protester or its agent within 45 calendar days of receipt of the protest, except that upon notice to the protester such period may be extended. The protest decision will be recorded and included in the procurement record, or otherwise forwarded to OSC upon issuance.

**Appeals** - Upon receipt of the OTDA's determination of a protest, a protester has 10 business days to file an appeal of the determination with OSC Bureau of Contracts. The appeal must be filed with the Bureau Director at [bidprotests@osc.ny.gov](mailto:bidprotests@osc.ny.gov) or New York State Office of the State Comptroller, 110 State Street, 11th Floor, Albany, NY 12236.

The protester's appeal must contain an affirmation in writing that a copy of the appeal has been served on OTDA, the successful bidder (except where the contracting agency upholds the protest and the successful bidder is the appealing party) and any other party that participated in the protest. In its appeal, the interested party shall set forth the basis on which it challenges OTDA's determination. The OSC Bureau of Contracts will conduct a formal review and issue its determination of the appeal in accordance with its established policy and procedures.

**Reservation of Rights and Responsibilities of the OTDA** - OTDA reserves the right to waive or extend the time requirements for protest submissions, decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the state and OTDA. If OTDA determines that there are compelling circumstances, including the need to proceed immediately with the contract award in the best interest of the state, then these protest procedures may be suspended and such decision shall be documented in the procurement record. OTDA will consider all information relevant to the protest, and may, at its discretion, suspend, modify or cancel the protested procurement action including solicitation of

bids or withdraw the recommendation of Contract award prior to issuance of a formal protest decision.

**Procurement Activity Prior to Final Protest Determination** - Receipt of a formal bid protest shall not stay action on a procurement unless otherwise determined by OTDA. If a formal protest or appeal is received by OTDA on a recommended award prior to the underlying contract being forwarded to OSC, notice of receipt of the protest and appeal must be included in the procurement record forwarded to OSC. If a final protest decision or final decision on appeal has been reached prior to transmittal to OSC, a copy of the final decision must be included in the procurement record and forwarded with the recommendation for award. If a final protest decision is made after the transmittal of a bid package to OSC, but prior to OSC approval under State Finance Law § 112, a copy of the final OTDA decision shall be forwarded to OSC when issued, along with a letter either: a) confirming the original OTDA recommendation for award and supporting the request for final § 112 approval, b) modifying the proposed award recommendation in part and supporting a request for final § 112 approval as modified; or c) withdrawing the original award recommendation.

**Record Retention of Bid Protests** - All records related to formal Offeror protests and appeals shall be retained for at least one year following resolution of the protest. All other records concerning the procurement shall be retained according to the statutory requirements for records retention.

#### **1.14 General Terms and Conditions**

The contract resulting from this RFP will start on or about October 1, 2024. It is anticipated that the successful applicant will receive a contract for up to three (3) years. OTDA reserves the option to extend the contract cycle for up to two (2) additional years, to be funded in one (1) year increments.

OTDA reserves the right to consider proposals in response to this RFP, but not funded at this time, for any additional funding that may become available in the future. Updated information will be requested as deemed necessary by OTDA. OTDA also reserves the right to solicit and accept new proposals, as funding becomes available.

OTDA will conduct a review of all prospective contractors to provide reasonable assurances that the vendor is responsible. Vendor Responsibility will be determined regarding each bidder or offeror's authority to do business in New York, their business integrity, as well as financial and organizational capacity, and performance history.

Successful contractors will be required to submit all final contract documents, narratives and budgets electronically. The following may be incorporated into any contracts resulting from this RFP:

- The Master Contract
- Attachment A-1, (OTDA and STEHP Program terms and conditions)
- Attachment A-2, (Federally Funded Terms)
- Attachment B-1 (Expenditure Based Budget)
- Attachment C (Workplan)
- Attachment D (Payment and Reporting Schedule)

As referenced in Sections IV J-K of the Master Contract and Attachment A-1, Equal Employment Opportunities (EEO) for Minorities and Women apply as do Minority and Women-Owned Business Enterprise (MWBE) goals on discretionary expenses.

The terms and conditions specified in a detailed contract must be signed by OTDA and approved by NYS OAG and the OSC before any work is begun or payments made. **Please note that no services may be reimbursed until a contract has been fully executed.**

**Contractor requirements and procedures for participation by New York State certified minority and women-owned business enterprises and equal employment opportunities for minority group members and women.**

### **New York State Law**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations, OTDA is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of OTDA contracts.

### **Business Participation Opportunities for MWBEs**

For purposes of this solicitation, OTDA hereby establishes an overall 30% M/WBE participation goal, and specific participation goals for both New York State-certified Minority-owned Business Enterprises (“MBE”) and New York State-certified Women-owned Business Enterprises (“WBE”) will be assessed based on the nonprofit’s discretionary spending budget and participation opportunities therein. A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that OTDA may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how OTDA will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. [FOR CONSTRUCTION CONTRACTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE]. [FOR ALL OTHER CONTRACTS - The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract]

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and OTDA may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE

goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Contract’s program manager at OTDA.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to OTDA for review and approval.  
OTDA will review the submitted MWBE Utilization Plan and advise the respondent of OTDA acceptance or issue a notice of deficiency within 30 days of receipt.
- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the OTDA a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OTDA to be inadequate, OTDA shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

OTDA may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If OTDA determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to OTDA, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to OTDA, by the 7<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

### **Equal Employment Opportunity and Workforce Utilization Reporting Requirements**

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of [Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women OR Authority

equivalent to Appendix A]. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning, or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form OTDA-4970, to OTDA with its bid or proposal.

If awarded a Contract, respondent shall submit form OTDA-4971 Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by OTDA on a QUARTERLY basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis. Note – NFP grantees are exempt from Executive Order #162. Further, pursuant to Article 15 of the Executive Law (the Human Rights Law), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note:** Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

### **Participation Opportunities For New York State Certified Service-Disabled Veteran Owned Businesses**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. OTDA recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OTDA contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OTDA conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 to discuss methods of maximizing participation by SDVOBs on the Contract.

### **Executive Order No. 190: Incorporating Health Across All Policies Into State Agency Activities**

Per Executive Order 190 (EO 190), this RFP incorporates the New York State Prevention Agenda and the World Health Organization (WHO) Eight Domains of Livability to further the Health Across All Policies initiative.

The New York State Prevention Agenda is the blueprint for action to improve the health of New Yorkers and become the healthiest state for people of all ages. The five priority areas of the New York State Prevention Agenda are:

1. Preventing Chronic Diseases
2. Promoting a Healthy and Safe Environment
3. Promoting Healthy Women, Infants and Children
4. Promoting Well-Being and Preventing Mental Health and Substance Use Disorders
5. Preventing Communicable Diseases

The WHO Eight Domains of Livability include:

1. Outdoor Spaces and Buildings
  - Providing safe, accessible places for the public to gather indoors and outdoors. Ensuring that parks, sidewalks, safe streets, outdoor seating, and accessible buildings can be used and enjoyed by people of all ages.
2. Transportation
  - Increasing the accessibility, availability and affordability of public transit options, as well as ensuring safe roadways.
3. Housing
  - Expanding affordable housing options for varying life stages, and enacting programs that help people remain in their homes longer to age in place.
4. Social Participation
  - Increasing access to affordable and community-based social activities can help address loneliness and isolation.
5. Respect and Social Inclusion
  - Increasing the availability of intergenerational activities and programs.

6. Civic Participation and Employment
  - Provide ways that all people, including older people, can, if they choose to, work for pay, volunteer their skills and be actively engaged in community life.
7. Communication and Information
  - Providing information through a variety of means and in a culturally competent manner, recognizing that not everyone has a smartphone or internet access.
8. Community and Health Services
  - Ensuring accessible and affordable health services in every community.

The Health Across All Policies initiative is a collaborative approach that integrates health considerations into policymaking across all sectors to improve community health and wellness. To successfully improve the health of all communities, health improvement strategies must target social determinants of health and other complex factors that are often the responsibility of non-health partners such as housing, transportation, education, environment, parks, and economic development.

Consistent with EO 190, where requested in this RFP, applicants must describe how their proposals can improve community health and wellness through alignment and coordination with the NYS Prevention Agenda priorities and the WHO Eight Domains of Livability.

### **1.15 State Agency Rights**

OTDA reserves the right to:

1. Place a monetary cap on the funding amount made in each contract award, and/or make awards for less than the amount requested or greater than the amount requested.
2. Change any of the scheduled dates stated in the RFP.
3. Disqualify by reducing the overall score by 35 points for applications that do not meet the requirements stated in the RFP.
4. Request all bidders who submitted proposals to present supplemental information clarifying their proposal either in writing or by formal presentation.
5. Make funding decisions that maximize compliance with and address the goals identified in this RFP.
6. Fund only one portion, or selected activities, of a selected bidder's proposal; and/or adopt all or part of the selected bidder's proposal based on State requirements.
7. Eliminate any RFP requirements unmet by all bidders, upon notice to all parties that submitted proposals.
8. Waive procedural technicalities, or modify minor irregularities, in proposals received, after notification to the bidder involved.
9. Correct arithmetic errors in any proposal, or make typographical corrections to proposal, with concurrence of the bidder.
10. Award contracts to more than one bidder.
11. Fund any or all proposals received in response to this RFP. OTDA can reject any proposals submitted and reserves the right to withdraw or postpone this RFP, without notice, and without liability, to any bidder, or other party, for expenses incurred in the preparation of any proposals submitted in response to this RFP and may exercise these rights at any time.

12. Use the proposal submitted in response to this RFP as part of an approved contract. At the time of contract development, awardees may be requested to provide additional budget and program information for the final contract.
13. Make additional awards based on the remaining proposals submitted in response to this RFP and/or to provide additional funding to awardees if additional funds become available.
14. Make inquiries of third parties, including but not limited to bidders' references, with regard to the applicants' experience, or other matters deemed relevant to the proposal by OTDA. By submitting a proposal in response to this RFP the applicant gives its consent to any inquiry made by OTDA.
15. Negotiate with the selected bidder(s) prior to contract award.
16. Require contractors to participate in a formal evaluation of the program to be developed by OTDA. Contractors may be required to collect data for these purposes. The evaluation design will maintain confidentiality of participants and recognize practical constraints of collecting this kind of information.
17. Consider statewide distribution and regional distribution within New York City including borough distribution methodology, in evaluating proposals.
18. Fund homeless activities before prevention activities in a County where only one award is being made.

### **1.16 Glossary of Terms**

Coordinated Entry – Refers to HUD's policy where assistance should be allocated as effectively as possible and that it be easily accessible no matter where or how people present along the continuum of services. Continuums of Care prioritize assistance based on vulnerability and severity of service needs to ensure that people who need assistance the most can receive it in a timely manner. More about Coordinated Entry can be found at the following link:

<https://www.hudexchange.info/resource/4427/coordinated-entry-policy-brief/>

Drop-in center – Place where homeless persons can receive case management services and/or get basic needs met, such as, but not limited to, access to meals, showers, laundry, phone, and computers. Drop-in centers fall under the category of Emergency Shelter for the purpose of this RFP.

Emergency Shelter – Facilities in which the primary purpose is to provide short-term temporary shelter for homeless persons in general, or for specific populations of homeless persons.

Fair Market Rent (FMR) – Rent limit set by HUD for an area. When providing rental assistance as defined below, rented housing must not exceed FMR. This rule applies only when providing rental assistance, not to any other service provided under STEHP.

Financial Assistance - Payments made on behalf of a participant that assist the individual or household to obtain or maintain permanent housing. Financial Assistance for the purpose of this program is limited to rental application fee, security deposit, last month's rent, utility deposit, utility payment, utility arrears and moving costs. Payment must be to third parties such as landlords, moving companies, storage facilities, or utility companies.

Habitability Standards – All persons assisted under the categories of Prevention and Rapid Re-housing must be assisted in units that pass HUD's habitability standards. This applies in all cases when providing any service to persons in those categories, such as rental and financial



assistance and case management. Standards can be viewed under 24 CFR 576.403(c) and lead-based paint requirements can be viewed under 24 CFR 576.403 (a).

Homeless Management Information System (HMIS) – An electronic data collection system that facilitates the gathering of information on persons who are homeless or at-risk of becoming homeless. HMIS directly relates to Continuum of Care (CoC) regions and is used to collect data and report outcomes. Awardees will be required to join an HMIS provider or use a comparable database system. If the awardee's primary mission is serving victims of domestic violence/sexual assault/date rape/stalking, a comparable system may be used. Awardees will be required to enter program participant information into an HMIS system, report certain data to OTDA and share data with OTDA's Data Warehouse on a regular basis. Additional information about HMIS systems can be found at [HUD Exchange](#). The expense of HMIS participation is reimbursable under this RFP.

Housing First Approach – According to HUD, Housing First is an approach to connect individuals and families experiencing homelessness quickly and successfully to permanent housing without preconditions and barriers to entry such as sobriety, treatment or service participation. Support services are offered to maximize housing stability and prevent returns to homelessness as opposed to addressing predetermined treatment goals prior to permanent housing entry.

New York State Homeless Assistance Datawarehouse Environment (NYSHADE) - A de-identified database of client demographic and service activity operated and maintained by OTDA which collects HMIS data from CoCs for the purpose of aggregating information statewide.

Positive Housing Outcome – How a program defines the housing situation when a participant has completed program services and has exited. Upon discharge/exit from the program, compared to being in the program, a positive housing outcome is when the participant exits to an equally stable or more stable housing situation. Examples: Exit from an emergency shelter to transitional housing is a more stable outcome. Exit from a Prevention Program to an emergency shelter, where the participant was unable to retain permanent housing, is a less stable outcome or negative housing outcome. Note: A Positive Housing Outcome is possible even if a participant did not follow the program plan.

Prevention – Activities, supportive services or programs designed to prevent the incidence of homelessness, including (but not limited to): rental and financial assistance to prevent eviction or utility termination; rent payments to permit a person or family who will imminently lose housing to remain in permanent housing; mediation programs for landlord-tenant disputes. Prevention participants must be from Categories 2, 3, or 4 of the Homeless Definition or from the At Risk of Homelessness definition with the requirement that income must be below 30% of Area Median Income in all cases. Recertification of income must occur at least every three months. Case management meetings must occur at least once per month during the provision of Prevention services.

Rapid Re-housing (RRH) - Activities, supportive services and programs designed to quickly transition homeless persons or households from Categories 1 and 4 of the homeless definition (on page 6) into permanent housing, including (but not limited to): case management, supportive services, financial assistance, rental assistance, and hotel/motel vouchers during a waiting period for housing. Rapid re-housing programs must attempt to serve participants for at least six (6) months with at least case management and supportive services with a minimum of a case management meeting one time per month.

Rental Assistance - Payments made on behalf of a participant that include rental arrears and ongoing monthly rental payments including first month's rent. Rental Assistance must be paid to third party landlords for tenant-based rental assistance. Rental Assistance cannot be paid for "project based" HUD funded programs with the exception of Public Housing Authorities. Furthermore, agencies cannot pay themselves the tenant's portion of the rent when the funded agency is the landlord.

Rent Reasonableness - The total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private unassisted market and must not be in excess of rents being charged by the owner during the same period for comparable non-luxury unassisted units. Such determinations should consider: (a) location, quality, size, type, and age of unit; and (b) any amenities, housing services, maintenance and utilities to be provided by the owner. Comparable rents may be verified by using a market study, reviewing comparable units advertised for rent, or obtaining written verification from the property owner documenting comparable rents for other units owned.

Six-Month Follow-up – Six months after participants have exited, been discharged and/ or otherwise left the program to permanent housing, the program attempts to contact them for the sole purpose of determining current housing status, the goal being to determine if they have retained permanent housing after assistance ended.

SSI/SSDI Outreach, Access, and Recovery (SOAR) – A method of applying for SSI/SSDI benefits. Specially trained community members increase access to SSI/SSDI for eligible adults experiencing or at-risk of homelessness who have a serious mental illness, medical impairment and/or co-occurring substance use disorder. SOAR trained providers understand the rigorous application process which includes medical documentation, therefore increasing the chances obtaining benefits in a timely manner.

Street Outreach – Programs designed to meet the immediate needs of unsheltered homeless people by seeking them out wherever they are at and connecting them to emergency shelter, housing, and/or critical physical or mental health services.

Supportive Services - Activities directly related to obtaining or maintaining permanent housing and increasing the likelihood of housing stability.

Transitional Housing – Facilities or scattered-site apartments rented by the applicant in which the primary purpose is to provide longer-term temporary housing accompanied by supportive services for homeless persons in general, or for specific populations of homeless persons. Length of stay in transitional housing is usually up to 18-24 months.

## Section Two – Application Process

### 2.1 Instructions for Completing the Application

Applicant Questions are shown in Section 3.1 of this RFP. Required documents are shown in Section 4.1 of this RFP. Applicant Questions and Required Documents should be downloaded from the SFS Bid Event, instructions follow.

Applicants must apply online on the SFS platform to the Solutions to End Homelessness 2024 Bid Event. The three roles needed to view and apply for Bid Events are Bid Event Inquiry, Bid Response Initiator, and Bid Response Submitter.

After logging in, click Bid Event Search, status Available. Click the Event ID for the STEHP 2024 opportunity. Click the 'Bid on Event' button. **Submit one application per Agency in SFS. Only one user can work on and save information to a bid event at a time. If multiple users are working at the same time, some information will not be saved.** Users may return to a saved application. Use the 'Save' and 'Save for Later' buttons until you are ready to submit. When returning after being away, do the Bid Event Search. Click Event ID STEHP 2024, then from the Event Details page, see My bids. Click the blue link that says '1 in-process', then View/Edit to continue.

From Event Details page, scroll down and click the blue link named Events and Comments. Review instructions on this screen and download all documents. Complete documents as directed, save as PDFs and upload throughout the Events Questions section in SFS where directed. PDF is the only format which can be viewed by OTDA. It is imperative that you upload only PDFs in the SFS system.

From the Event Details page, complete Step 1 'Answer General Event Questions' including adding the Project Site Address(es) from the blue link.

From the Event Details page, complete the Event Questions section. All responses require PDF uploads. Applicant Questions are shown in Section 3.1 of this RFP. Download the Applicant Questions Word document. Provide your response to each question directly underneath each question. Save the document as a PDF. Upload the Applicant Questions PDF document in the Event Questions section where directed. Continue to complete all questions in the Event Questions section by uploading the PDF document which is requested.

From the Event Details page, complete Step 2 'Enter Line Bid Responses'. Under Lines, click Period 1. After clicking Period 1, use the blue Budget Properties link and the blue Workplan Properties link to complete the annual budget and annual workplan. See more details below.

#### **Budget**

Complete one overall ANNUAL budget whether applying for one category or multiple categories. In Section Four of the RFP, there is the ANNUAL STEHP Budget Statement by Category form, on which the applicant must indicate funds requested for each category. The form is provided as an excel document in SFS in the Events and Comments section. This form should correlate with the budget developed on the Budget screens. Complete budget screens for ANNUAL grant funds requested. Only use whole dollar amounts for funds requested.

Consult Section 1.6 for Eligible Expenses. Use the following as a guideline for where expenses should appear in the budget. Insert expenses on appropriate lines. Include short narrative

justifications in the fields provided to describe why expenses are needed for the project. Narrative justifications are important to give more detail about the expense and explain how it's related and necessary for the project.

**Personal Services (Salaries)** – Include employees that will be paid in full or in part from contract funds. Each title should be listed separately, and justification should relate to what the position does related to the project.

**Fringe Benefits** - Fringe Benefits should be budgeted in line with your organization's Standard Fringe Benefit Policy and/or Negotiated Bargaining Agreements and should not exceed the current NYS rate. For all employees listed in the Personnel Service Expense Detail, the following mandatory employer payroll taxes must be paid: Social Security (FICA), NYS Unemployment Insurance (SUI), NYS Disability Insurance and Workers' Compensation. Additional fringe benefits such as pension, health, life and/or dental insurance may be provided. If STEHP funds are being requested to cover these expenses, the total fringe benefit and payroll taxes chargeable to this program cannot exceed the OSC's rate, currently at 62.48%. No exceptions are granted to the maximum rate of 62.48%. You may allocate a lower percentage.

**Contractual Services** – Costs for services rendered to the project under a formal or written agreement such as direct provision of services by contractual arrangement. Only the pro-rated portion of the entire expenditure that is related to the STEHP Program is allowed. This line includes institutions, individuals or organizations external to the contractor which have entered into an agreement with the contractor to provide services outlined in or associated with the contract and whose services are to be funded under the contract budget. This includes any other nonprofits performing work under the proposed STEHP contract. All such agreements are to be bona fide written contracts: NYS OTDA reserves the right to request these documents at any time in the future.

**Travel** - These costs may be reimbursed up to the NY State rate (currently the maximum rate is \$.67 per mile). Only travel costs for personnel listed under Personal Services and participant travel costs are acceptable. Out-of-state travel is discouraged, although a contractor may pursue such travel with justification and pre-approval from OTDA.

**Equipment** - This category includes purchase, rental and leasing of equipment. Equipment is any non-consumable, tangible property having a useful life of more than one year. Substantial equipment purchases (costing more than \$5,000) should be avoided. Acquisition costs must be in accordance with NYS requirements and may be evaluated to determine if leasing is a practical and cost-effective alternative. If the only alternative is to purchase such equipment using contract funds, an applicant is required to obtain three competitive bids and must receive OTDA prior approval. All things being equal, the contractor must purchase equipment from the lowest bidder.

**Space/Property** – This section is used to itemize costs associated with Space/Property that the applicant uses to conduct business, or for rental of a shelter or transitional housing site. Include justification of expenses in the field provided. Only the pro-rated portion of the entire expenditure that is related to the STEHP Program is allowed. Example: Agency shelter has 30 beds total, but only 25 are dedicated to STEHP participants, five are reserved for emergency placements by the district. The request may be up to 83.3% of the rent for the shelter building. Do not include rental assistance for participants to third parties on this line.

Utilities – Expenses related to utilities needed to operate an agency facility such as phone, water, electricity, heating etc. Only the pro-rated portion of the entire expenditure that is related to the STEHP Program is allowed unless utility expenses are to support a Shelter or Transitional Housing building. In that case, STEHP may support any uncovered utility expenses. Do not include utility assistance for participants on this line.

Operating Expenses – Items necessary to operate the program such as food, insurance, postage, copies, or supplies.

Other Financial Assistance - Financial Assistance for the purpose of this program is limited to rental application fee, security deposit, last month's rent, utility deposit, utility payment and moving costs in the RRH and Prevention categories. Payment must be to third parties such as landlords, moving companies, storage facilities and utility companies.

Other Rental Assistance – Rental Assistance including rental arrears, first month's rent and ongoing monthly rental payments paid to third parties in the RRH and Prevention categories.

Other Administration - Administrative expenses or indirect rates of up to 5% of the annual requested amount may be charged on this line. Examples of administrative costs may include payroll costs, audit fees and/or portions of administrative staff salaries and/or fringe costs. List the title, the annual salary and the percentage of time spent on STEHP administrative activities. Indirect Costs of up to 5% of the grant request are permissible for agencies that have a federally approved rate. Any cost that is budgeted completely or partially in an itemized direct cost category may not be part of the budgeted indirect costs. Normally, indirect costs are those that may apply to several programs, areas or functions of the provider agency and are not readily or easily assigned to a specific program. The sub-division of such costs on a direct basis to each specific provider, service and operation may cause detailed accounting and is not desirable. For this RFP, an indirect or administrative rate of up to 5% may be charged with a federally approved rate. Documentation establishing the federal rate is required to use an indirect rate.

Other - Eligible items or services necessary to run the program which do not fall into any of the preceding lines in the budget.

Save all work.

#### Workplan Details

In the Project Summary section, describe the STEHP project. State each category of programming for which you are applying (Street Outreach, Emergency Shelter etc.). Estimate number to be served in each category of programming. Provide a detailed description of the target population you intend to serve identifying that the target population is presently homeless or at risk of homelessness according to the definitions in the RFP. Describe service delivery method, hours of operation and where services will be provided. Describe aspects of the programming for each category including general goals and outcomes of the program.

In the Objectives, Tasks and Performance Measure section, add three Objectives with one task and one performance measure under each objective. Use the yellow button to add the next objective. To add a task under an objective, click the objective check box in the Select column, then click the yellow task button or use the + sign. To add a performance measure under a task,

click the task check box in the Select column, then click the yellow performance measure button or use the + sign.

Save all work.

After the budget and workplan are completed and saved, use the return to bid response link. On Event Details page, Step 2, enter 'Your Unit Bid Price', which is the total amount of ANNUAL grant funds requested in the budget. The amount must match the total amount entered on the budget screens.

It is suggested that applicants review all work before submitting. Use the Bid Response PDF link. It will create a PDF of the entire application including uploads. Double-check that all required documents are visible in the PDF. The PDF is what OTDA uses to evaluate the proposal. If documents are not visible, it's likely they were not uploaded in PDF format. (The Bid Response PDF will not incorporate Word or Excel documents).

It is also suggested that applicants plan to submit the final application before the deadline day in case errors need to be resolved.

When ready, use the Submit Bid button. If there are errors or missing information, you will receive a message. Follow prompts on the error messages. Email [helpdesk@sfs.ny.gov](mailto:helpdesk@sfs.ny.gov) if you cannot resolve the errors. No changes will be allowed after the bid is submitted. You will receive confirmation that it has been successfully submitted. The deadline to submit the bid is 3:00pm on May 29, 2024.

## Section Three – Applicant Questions

### 3.1 Applicant Questions – Upload 1

The following thirty-five (35) questions appear on a Word document which should be downloaded from the Events and Comments section in SFS. Type a response to each question directly underneath the question. Save as a PDF. Upload the entire Applicant Questions document on the Event Details page in the Event Questions section. Only PDF format can be viewed by OTDA.

#### Homeless Services Delivery Section

Applicant question 1. Provide the service area, city(ies) and county(ies). If multiple counties are served, how much funding will be directed toward each county?

Response:

Applicant question 2. Provide the name(s) and identifier(s) of the Continuum(s) of Care (CoC) where services will be provided.

Response:

Applicant question 3. Briefly describe the proposed project including categories of activities. Include target population(s), anticipated number of individuals and/or families to be served, and the STEHP services to be provided for each population. Describe service delivery, general goals and outcomes of the project. Include hours of operation and location of services. Include how the project will promote a healthy and safe environment, promote healthy women, infants and children, and promote well-being and preventing mental health and substance use disorders consistent with EO 190.

Response:

Applicant question 4. If this application requests funds for the Shelter category, does the Shelter project operate with a 'low-barrier' entry and daily operating process? Yes or No. If 'Yes', describe how the entry process and daily operating functions are 'low-barrier'. If 'No', describe entry requirements and expectations for a continued shelter stay and why these are necessary for this shelter project. If there is not a request for shelter funds, put Not Applicable.

Response:

Applicant question 5. If the application is requesting funds in the Shelter and/or Transitional Housing categories, provide the HHAP contract number associated with that housing project. If the Shelter and/or Transitional Housing project is not associated with an HHAP contract, write "No HHAP contract". If no funds are requested for Shelter and/or Transitional Housing, write "Not Applicable".

Response:

Applicant question 6. Provide a brief overview and history of your agency. Include your agency's experience in serving the target population(s).

Response:

Applicant question 7. Describe the community where services will be provided. Besides general information about the community, include factors that may create and/or perpetuate homelessness or cause people to be at-risk of homelessness.

Response:

Applicant question 8. How does this proposal respond to the community factors described in question 7?

Response:

Applicant question 9. Explain how homeless services are currently coordinated and delivered in the service area by the CoC. Describe which organizations/individuals are represented and the entity charged with coordinating the planning.

Response:

Applicant question 10. Explain your agency's role in the CoC or local planning process. If your agency is not active in the CoC, explain what efforts will be undertaken to engage in or seek an active role.

Response:

Applicant question 11. How will the proposed STEHP program be coordinated with the existing programs in the CoC or local planning process? What role does your agency play in the Coordinated Entry process?

Response:

Applicant question 12. How are the proposed STEHP services not otherwise available? How will duplication of efforts for the same population and activities be avoided?

Response:

Applicant question 13. Applicants will be asked to upload the CoC's Homeless Assistance Programs Populations and Subpopulations chart on the Event Details page in the Event Questions section. For this question, provide a text response on how the Homeless Assistance Programs Populations and Subpopulations chart relates to your proposed program.

Response:

Applicant question 14. Applicants will be asked to upload the CoC's Homeless Assistance Programs Housing Inventory Chart on the Event Details page in the Event Questions section. For this question, provide a text response on how the CoC's Homeless Assistance Programs Housing Inventory Chart relates to your program.

Response:

## Project Details Section

Applicant question 15. Describe barriers the target population faces which precipitate a need for STEHP assistance.

Response:

Applicant question 16. Describe the typical living situation, or lack thereof, for the majority of proposed program participants when they request services.

Response:



Applicant question 17. How will it be determined that a potential participant is eligible for the program?

Response:

Applicant question 18. Does your agency use a Housing First Approach to serving people? If a Housing First Approach will be used for proposed projects, describe how. If not, describe why it is not used.

Response:

Applicant question 19. Describe the intake and assessment process when a participant enters the program.

Response:

Applicant question 20. Discuss what supportive services will be available and how they will assist participants with housing stability and independent living?

Response:

Applicant question 21. Describe the case management practices such as frequency of meetings with participants and engagement strategies you have found to be successful.

Response:

Applicant question 22. If the project is requesting funds in Transitional Housing, and/or Rapid Re-housing, does your project assist adult participants with increasing income, whether earned or in the form of benefits? If 'Yes', describe how. What percentage of participants are predicted to increase income between the time of entry into the program and the time of exit from the program? If there is not a request in Transitional Housing and/or Rapid Rehousing, write "not applicable".

Response:

Applicant question 23. Will participants be connected with a SOAR case manager? If 'Yes', please describe how.

Response:

Applicant question 24. Explain requirements or expectations you have for participants while in the program.

Response:

Applicant question 25. Discuss the average length of engagement for program participants.

Response:

Applicant question 26. Describe discharge planning from the program. What strategies are used to influence discharges to stable housing?

Response:

Applicant question 27. Under what circumstances would participants be terminated (asked to leave) from the program? Describe procedures for handling terminations.

Response:

Applicant question 28. Applicants will be asked to download and complete the 'Living Destinations Chart' from the Events and Comments section of SFS. Then applicants will be asked to upload the completed chart on the Event Details page in the Event Questions section. For this question, provide a text response that explains the rationale for all of the projected destinations on the 'Living Destinations Chart'. On what basis did you make your projections?

Response:

Applicant question 29. What living destinations are considered to be Positive Housing Outcomes for your program based on the definition in this RFP? Why do you consider these housing outcomes to be positive? How will your program influence the positive outcomes?

Response:

Applicant question 30. What is your Positive Housing Outcome rate? (percentage of those discharging to a Positive Housing Outcome out of total number discharged)

Response:

Applicant question 31. Six month follow-up check-ins after discharge to permanent housing are required. How will your program successfully perform the follow-ups?

Response:

Applicant question 32. What percentage of all participants that exited to permanent housing do you estimate will still be in permanent housing at the six month follow-up check-in and why?

Response:

Applicant question 33. What are the strengths of your program considering the population(s) you have chosen to serve?

Response:

Applicant question 34. What challenges has your program been working to overcome and how? If this is a new program, what challenges do you anticipate?

Response:

Applicant question 35. In the past five years, has your agency or program been audited or reviewed by government agencies? If so, which ones and what were the results?

Describe how any negative findings were resolved.

Response:

END OF APPLICANT QUESTIONS

## **Section Four – Required Documents**

### **4.1 Documents Which Must Accompany the Application**

The following list of documents must accompany the application. A copy of the actual documents follow the list. They should be downloaded from the Events and Comments section of the SFS application. Please complete each one and submit with the application. All documents are required. All documents must be uploaded in PDF format no matter what format they are downloaded from; only PDF format can be viewed by OTDA.

- Summary of Annual Funding Request and Number Served
- Living Destinations Chart
- Rapid Rehousing in Community
- Agency Agreement, Applicant Certification, Participation in HMIS
- Local Social Services District Certification of Approval
- CoC Letter of Support
- Annual STEHP Budget Statement by Category
- MWBE 4976 Certification of Good Faith Efforts
- MWBE 4970 Equal Opportunity Employment
- MWBE 4934 Staffing Plan
- MWBE 4937 Utilization Plan
- MWBE 4938 Letter of Intent
- Contractor's Certification/Acknowledgements/Understanding
- Offeror's Assurance of No Conflict of Interest or Detrimental Effect
- Sexual Harassment Prevention Certification
- Prohibiting Contracts with Entities that Support Discrimination
- Non-Collusive Bidding Certification Required by Section 139-D of State Finance Law

**REQUIRED DOCUMENT – SUMMARY OF ANNUAL FUNDING REQUEST AND NUMBER SERVED**

<b>ORGANIZATION</b>	
<b>COUNTY/BOROUGH</b>	
	<b>ANNUAL FUNDS REQUESTED</b>
<b>STREET OUTREACH</b>	\$
<b>EMERGENCY SHELTERS</b>	\$
<b>TRANSITIONAL HOUSING</b>	\$
<b>RAPID RE-HOUSING</b>	\$
<b>PREVENTION</b>	\$
<b>TOTAL</b>	\$

**COMPLETE THE FOLLOWING CHART RELATED TO ANNUAL NUMBER SERVED FOR EACH CATEGORY AND ENTIRE FUNDING REQUEST. Although the same person may be served in more than one category, s/he should be counted only once in the Entire Request row. While the eligible service population can encompass both individuals and families, for the purpose of continuity of statistical data for reporting requirements, please use number of individuals. For example, if services are provided to all members of a family of four, enter four as the estimated number to be served. If services are provided to only one member of a family of four, enter one as the estimated number to be served.**

<b>FUNDS</b>	<b>ESTIMATED ANNUAL # OF PERSONS SERVED</b>	<b>ESTIMATED ANNUAL # OF PERSONS TO REMAIN IN OR MOVE TO PERMANENT HOUSING</b>	<b>ESTIMATED ANNUAL # OF PERSONS TO REMAIN IN PERMANENT HOUSING SIX MONTHS AFTER COMPLETION OF PROGRAM</b>
<b>STREET OUTREACH</b>			
<b>EMERGENCY SHELTERS</b>			
<b>TRANSITIONAL HOUSING</b>			
<b>RAPID RE-HOUSING</b>			
<b>PREVENTION</b>			
<b>ENTIRE REQUEST</b>			

## REQUIRED DOCUMENT – LIVING DESTINATIONS CHART

Directions for completing the chart: The chart represents where participants will live at discharge or exit from your program. Although the same person may be served in more than one category, s/he should be counted only once in the Total Unduplicated Column. While the eligible service population can encompass both individuals and families, for the purpose of continuity of statistical data for reporting requirements, please use number of individuals. For example, if services are provided to all members of a family of four, enter four as the estimated number to be served. If services are provided to only one member of a family of four, enter one as the estimated number to be served.

Living destinations upon completion of program	Street Outreach Persons	Emergency Shelter Persons	Transitional Housing Persons	Rapid Re-housing Persons	Prevention Persons	Total Unduplicated Persons <u>may or may not be the sum of each row</u> ; count a person once even if served in more than one category
<b>Permanent Destinations:</b> Permanent Supportive Housing, rental with or without subsidy, homeownership, living with family or friends permanently.						
<b>Temporary Destinations:</b> Emergency Shelter, hotel/motel, Transitional Housing, safe haven, staying with family or friends temporarily; place not meant for human habitation, residential project.						
<b>Institutional Destinations:</b> Hospital, psychiatric facility, substance abuse treatment center, foster care/group home, jail, juvenile detention facility; long-term care or nursing home.						
<b>Miscellaneous:</b> other, refused, don't know; deceased; data not collected.						
<b>Total: <u>sum of each row.</u></b>						

**REQUIRED DOCUMENT - RAPID REHOUSING PROGRAMS IN THE COMMUNITY**

Is this application proposing a Rapid Rehousing project? Yes \_\_\_\_\_ No \_\_\_\_\_ (if No, do not continue with this form)

If Yes, for which county(ies) are you proposing a RRH project? \_\_\_\_\_

In the chart below, please confirm with your CoC and HMIS Administrator to identify any other Rapid Rehousing projects operating within the county(ies) where the proposed STEHP Rapid Rehousing project would operate. Do not include current STEHP projects which will end September 2024 or CoC DV Bonus Rapid Rehousing projects.

Agency that operates the Rapid Rehousing Project	Funding Source	Annual Program Amount	Counties Served

## REQUIRED DOCUMENT - AGENCY AGREEMENT

It is understood and agreed to by the applicant that (1) This RFP does not commit the New York State Office of Temporary and Disability Assistance (OTDA) to award any contracts, pay the costs incurred in the preparation of response to this RFP, or to procure or contract services. (2) OTDA reserves the right to amend, modify or withdraw this RFP and to reject any proposals submitted, and may exercise such right at any time and without notice and without liability to any offer or other parties for their expenses incurred in the preparation of a proposal or otherwise. Proposals will be prepared at the sole cost and expense of the agency. (3) OTDA reserves the right to accept or reject any or all proposals that do not completely conform to the instructions given in the RFP, including time frames for submission thereof. (4) Submission of a proposal will be deemed to be the consent of the applicant to any inquiry made by OTDA of third parties with regard to the applicant's experience or other matters deemed by OTDA relevant to the proposal. (5) Funds granted for this project will be used only for the conduct of the project as approved. (6) The contract may be terminated in whole, or in part, by OTDA. Such termination shall not affect obligations incurred under the grant prior to the effective date of such termination. (7) When funds are advanced any unexpended balance or funds unaccounted for at the end of the approved period must be returned. (8) Any significant revision of the approved project proposal must be in writing by the contractor prior to enactment of the change. (9) Progress reports must be submitted as required by OTDA. The final program and financial reports must be submitted within a specified time period after the project terminates. Necessary records and accounts including financial and property controls will be maintained and made available to OTDA for audit purposes. (10) All reports of investigations, studies, and publications made as a result of this proposal must acknowledge the support provided by OTDA. (11) All personal information concerning individuals served or studies conducted under the project are confidential and such information may not be disclosed to unauthorized persons, corporations, or agencies. (12) OTDA reserves a royalty free non-exclusive license to use and to authorize others to use all copyrighted material resulting from this project. (13) Successful applicants will be subject to the State's prompt contracting law. (14) Selected contractors agree to be bound by the Affirmative Action/Equal Opportunities anti-discrimination provisions as more fully set forth in Section XIV, General Terms and Conditions of this RFP.

OTDA reserves the right, if funds become available, to make additional awards based on the remaining proposals submitted to this RFP, in lieu of releasing a new RFP, if deemed to be in the best interest of the State. In the event funds become available, projects would be awarded funding in a manner consistent with the award methodology set forth in this Request for Proposals.

This RFP governs the provision of STEHP services for a FIVE (5) year contract cycle to be funded annually depending upon the availability of continued STEHP funding, satisfactory performance, and the discretion of the OTDA. For those applicants selected as a result of this Request for Proposals (RFP), subsequent year's funding may be at an increased or decreased level depending on funds available.

The applicant certifies that to the best of his/her knowledge and belief the information in this application is true and correct, and that he/she will comply with the above agreement if the contract is received.

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(Signature of official authorized to sign for applicant)

(printed name)

(Date)

**REQUIRED DOCUMENT - APPLICANT CERTIFICATION**

If funded, I, \_\_\_\_\_, \_\_\_\_\_ of  
(Official authorized to sign for applicant agency) (Title)

\_\_\_\_\_, certify that I will ensure compliance with program requirements, as outlined in this RFP or subsequent additional regulations issued by OTDA under the Solutions To End Homelessness Program (STEHP), or by HUD under the Emergency Solutions Grants program (ESG).

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)



**REQUIRED DOCUMENT - LOCAL SOCIAL SERVICES DISTRICT CERTIFICATION OF APPROVAL**

Instructions for applicant: Request a completed letter following the format below from your Department of Social Services. If you are proposing to serve multiple Counties, request a letter from each. Upload the letter(s) in SFS in PDF format.

Instructions for Department of Social Services. Copy the text below onto your letterhead. Fill in the blanks. Sign the letter. Return to applicant. This letter should be included with the STEHP application.

I, \_\_\_\_\_, serving as \_\_\_\_\_ of  
(name) (Title)

\_\_\_\_\_,  
(County Department of Social Services or similar body)

have reviewed the application submitted by

\_\_\_\_\_  
(agency)

for funds under the Solutions to End Homelessness Program (STEHP), and approve of the project as required under federal and state regulations governing this program.

\_\_\_\_\_  
(signature) (date)

## REQUIRED DOCUMENT - CoC LETTER OF SUPPORT

Instructions for applicant: Request a completed letter following the format below from your CoC chairperson. If you are proposing to serve multiple CoCs, request a letter from each CoC. Upload the letter(s) in SFS in PDF format.

Instructions for CoC Chairperson. Copy the text below onto your CoC letterhead. Fill in the blanks. Consider the five statements and answer yes or no from your perspective. Sign the letter. Return to applicant. This letter must be included with the STEHP application.

### CoC LETTER TEMPLATE

CoC Letterhead

Today's Date

I, \_\_\_\_\_ (name) \_\_\_\_\_, as \_\_\_\_\_ (title) \_\_\_\_\_ of the

\_\_\_\_\_ (CoC name or identifier) \_\_\_\_\_ verify that:

1. The proposed STEHP project \_\_\_\_\_ (project) \_\_\_\_\_ does fill a gap, or a gap will exist if this project is not operational. The project is viewed as a valuable addition to the community.  
\_\_\_\_\_ Yes \_\_\_\_\_ No

2. \_\_\_\_\_ (agency) \_\_\_\_\_ participates to the maximum extent practicable in CoC activities including Coordinated Entry. \_\_\_\_\_ Yes \_\_\_\_\_ No

3. \_\_\_\_\_ (agency) \_\_\_\_\_ is a regular user of our HMIS system or is using a comparable system that contributes to our data. If agency is not using the HMIS or comparable system, it has taken steps to begin using or has made a formal promise to use the system. \_\_\_\_\_ Yes  
\_\_\_\_\_ No

4. \_\_\_\_\_ (agency) \_\_\_\_\_ is aware of the CoC's performance goals, is agreeable to evaluating their own performance and is supporting the CoC's goals. \_\_\_\_\_ Yes \_\_\_\_\_ No

5. Our CoC as a whole is willing to participate in the New York State Homeless Assistance Datawarehouse Environment (NYSHADE) by signing an MOU with OTDA and submitting data on a regular basis. \_\_\_\_\_ Yes \_\_\_\_\_ No

You may add comments in this space.

Sincerely,

*Please sign*

Name and Title

**REQUIRED DOCUMENT - PARTICIPATION IN HMIS**

I, \_\_\_\_\_, as an authorized official of

\_\_\_\_\_ (Agency) fully understand that data for STEHP must be entered into the Homeless Management Information System (or a comparable database in the case of serving the domestic violence population). Expenses for this system must be incurred by

my agency. Partial or full expenses may be reimbursable under STEHP funding.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**REQUIRED DOCUMENT – ANNUAL STEHP BUDGET STATEMENT BY CATEGORY**

ANNUAL STEHP BUDGET STATEMENT						
<p><b>INSTRUCTIONS:</b> Download this excel document from the Events and Comments section. On the budget form below, indicate the amount of annual funds being requested to support the proposed project in the appropriate column(s) for both Personnel Services and Non-Personnel Services for annual STEHP funds. Then enter information for each line into SFS budget pages. Double check that your "SFS Grant Funds" budget equals the "Annual STEHP" totals in the gray column. Upload the budget in SFS in PDF format.</p>						
PERSONNEL SERVICES						
Item (as contained in the contract)	Annual Street Outreach	Annual Shelters	Annual Transitional Housing	Annual Rapid Rehousing	Annual Prevention	Annual STEHP Total
B-1. Personnel						\$0.00
B-2. Fringe Benefits						\$0.00
<b>Personnel Services</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
NON-PERSONNEL SERVICES						
Item (as contained in the contract)	Annual Street Outreach	Annual Shelters	Annual Transitional Housing	Annual Rapid Rehousing	Annual Prevention	Annual STEHP Total
B-3. Contractual						\$0.00
B-4. Travel						\$0.00
B-5. Equipment						\$0.00
B-6. Space Property Rent						\$0.00
B-7. Utilities						\$0.00
B-8. Operating Expenses						\$0.00
B-10 Other - Financial Assistance						\$0.00
B-11 Other- Rental Assistance						\$0.00
B-12 Other - Administration						\$0.00
B-13 Other						\$0.00
<b>Non-Personnel Services Total</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTAL FUNDS</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

## M/WBE GOAL REQUIREMENTS

### CERTIFICATION OF GOOD FAITH EFFORTS

**Contractors** (to include those who submit bids/proposals in an effort to be selected for contract award as well as those successful bidders/proposers with whom OTDA enters into State contracts) must document “good faith efforts” to provide meaningful participation by New York State Certified M/WBE subcontractors or suppliers/vendors in the performance of this contract.

The undersigned hereby acknowledges that he/she took or may need to take the following actions on behalf of the Contractor to demonstrate, and upon request by OTDA, to provide written verification to document the aforesaid good faith efforts:

- (a) The Contractor attended any pre-bid, pre-award, or other meetings scheduled by the contracting agency or the NYS Department of Economic Development or its designee to inform certified minority- or women-owned business enterprises of contracting and subcontracting opportunities available on the project, for purposes of complying with contract participation goal requirements;
- (b) The Contractor identified economically feasible units of the project that could be contracted or subcontracted to certified minority- and women-owned business enterprises in order to increase the likelihood of participation by such enterprises on the contract;
- (c) The Contractor undertook efforts to reasonably structure the contract scope of work for purposes of subcontracting with certified minority- and- women-owned business enterprises;
- (d) The Contractor advertised in a timely fashion and in appropriate general circulation, trade and minority- and women-oriented publications, if any, concerning the contracting or subcontracting opportunity;
- (e) The Contractor made written solicitations in a timely fashion to a reasonable number of certified minority- and women- owned business enterprises identified from current certified lists of such business enterprises provided or maintained by the NYS Empire State Development’s Division of Minority and Women Owned Business Development, or its designee, of the contracting or subcontracting opportunity. The directory of certified businesses can be viewed at: <http://esd.ny.gov/index.html>
- (f) The Contractor can document if any timely responses to any such advertisements and solicitations were provided by certified minority- and women-owned business enterprises;
- (g) The Contractor followed-up initial solicitations by contacting the enterprises to determine whether the enterprises were interested in such contracting or subcontracting opportunity;
- (h) The Contractor provided interested certified minority- and women-owned business enterprises in a timely fashion with adequate information about the plans, specifications or terms and conditions of the State contract and requirements for the contracting or subcontracting opportunity so as to prepare an informed response to a contractor solicitation;
- (i) The Contractor submitted a completed, acceptable utilization plan in accordance with applicable requirements to meet goals for participation of certified minority-and women-owned business enterprises established in the State contract;

- (j) The Contractor used the services of community organizations, contractor groups, state and federal business assistance offices and other organizations identified by the NYS Department of Economic Development or its designee that provide assistance in the recruitment and placement of minority and women business enterprises;
- (k) The Contractor negotiated in good faith with certified minority- and women-owned business enterprises submitting bids, proposals, or quotations and did not, without justifiable reason, reject as unsatisfactory any bids, proposals or quotations prepared by any certified minority- or women-owned business enterprise. "Good faith" negotiating means engaging in good faith discussions with certified minority- or women-owned business enterprises about the nature of the work, scheduling, requirements for special equipment, opportunities for dividing of work among the bidders, proposers, and various subcontractors and the bids of the minority or women businesses, including sharing with them any cost estimates from the request for proposal or invitation to bid documents, if available; and,
- (l) The Contractor undertook efforts to make payments for any work performed by certified minority- and women-owned business enterprises in a timely fashion so as to facilitate continued performance by certified minority- and women-owned business enterprises.

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Signature Date

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Print Name

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Title

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Company

---

Contract Number

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Program/Solicitation Name

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES-  
EQUAL EMPLOYMENT OPPORTUNITY  
POLICY STATEMENT**

**M/WBE AND EEO POLICY STATEMENT**

I, \_\_\_\_\_, the (awardee/contractor) \_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at \_\_\_\_\_

**M/WBE**

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that, if legally permissible, bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

**EEO**

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_\_

By \_\_\_\_\_

Print: \_\_\_\_\_ Title: \_\_\_\_\_

**STAFFING PLAN**

Submit with Bid or Proposal – Instructions on page 2

Solicitation No.: [REDACTED]		Reporting Entity: [REDACTED]		Report includes Contractor's/Subcontractor's: <input type="checkbox"/> Workforce to be utilized on this contract	
Offeror's Name: [REDACTED]				<input type="checkbox"/> Offeror	
Offeror's Address: [REDACTED]				<input type="checkbox"/> Subcontractor	
				Subcontractor's name: [REDACTED]	

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Workforce	Workforce by Gender		Workforce by Race/Ethnic Identification								Disabled		Veteran					
		Total Male (M)	Total Female (F)	White (M)	White (F)	Black (M)	Black (F)	Hispanic (M)	Hispanic (F)	Asian (M)	Asian (F)	Native American (M)	Native American (F)	(M)	(F)	(M)	(F)		
Officials/Administrators	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Professionals	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Technicians	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Sales Workers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Office/Clerical	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Craft Workers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Laborers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Service Workers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Temporary /Apprentices	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
Totals	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		
PREPARED BY (Signature): [REDACTED]								TELEPHONE NO.: [REDACTED]				DATE: [REDACTED]							
NAME AND TITLE OF PREPARER (Print or Type): [REDACTED]								EMAIL ADDRESS: [REDACTED]								Submit completed with bid or proposal			



**General instructions:** All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (M/WBE 101) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

**Instructions for completing:**

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check the box acknowledging work force to be utilized on the contract.
3. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'.
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the OM/WBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

**RACE/ETHNIC IDENTIFICATION**

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

**OTHER CATEGORIES**

- **DISABLED INDIVIDUAL** any person who:
  - has a physical or mental impairment that substantially limits one or more major life activity(ies)
  - has a record of such an impairment; or
  - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.

**GENDER** Male or Female

**M/WBE UTILIZATION PLAN**

**INSTRUCTIONS:** This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (MWBE) under the contract. Note – A dually certified firm cannot be counted toward both the MBE and WBE participation goals. Attach additional sheets if necessary.

Offeror's Name: _____		Federal Identification No.: _____		
Address: _____		Solicitation Name/Contract No.: _____		
City, State, Zip Code: _____		MWBE Certified: Y/N _____		
Telephone No.: _____		MWBE Participation Goals: MBE _____% WBE _____%		
Region/Location of Work: _____				
1. Certified MWBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
A. _____	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE	_____	_____	_____
B. _____	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE	_____	_____	_____
<b>6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM - OTDA - 4969.</b>				
PREPARED BY (Signature): _____		TELEPHONE NO.: _____		
DATE: _____		EMAIL ADDRESS: _____		
NAME AND TITLE OF PREPARER (Print or Type): _____		<b>FOR MWBE USE ONLY</b>		
SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE MWBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.		REVIEWED BY: _____ DATE: _____		
		UTILIZATION PLAN APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____		
		Contract No.: _____		
		Contract Award Date: _____		
		Estimated Date of Completion: _____		
		Amount Obligated Under the Contract: _____		
		Description of Work: _____		
		NOTICE OF DEFICIENCY ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO		
		Date: _____		
		NOTICE OF ACCEPTANCE ISSUED: <input type="checkbox"/> YES <input type="checkbox"/> NO		
		Date: _____		

### M/WBE SUBCONTRACTORS AND SUPPLIERS LETTER OF INTENT TO PARTICIPATE

Contractor: [REDACTED]

Contract No.: [REDACTED]

Address: [REDACTED]

Federal ID#: [REDACTED]

Dear Contractor:

I, [REDACTED] intend to perform work for [REDACTED]  
(Name of Subcontractor/Supplier) (Name of Prime Contractor)

My Minority/Women Business Enterprise (M/WBE) status as a MBE () and/or WBE () is certified as of [REDACTED].  
(Certification date)

[REDACTED] is prepared to do the following:  
(Name of Subcontractor/Supplier)

(Describe work to be performed on the above project)	Unit Price	Total Amount
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

You have projected [REDACTED] for such work to start.  
(Commencement Date)

[REDACTED] will sign a formal contract for the above work conditioned  
(Name of Subcontractor/Supplier)

upon the approval of your executed contract with the contractor.

Please choose one of the following options:

**MBE: Subcontractor [REDACTED] Supplier [REDACTED]**

**WBE: Subcontractor [REDACTED] Supplier [REDACTED]**

Company Official's Name: [REDACTED]

Title: [REDACTED]

Company Official's Signature

Date: [REDACTED]

Address: [REDACTED]

**\*\*\*This section is to be completed by the prime contractor\*\*\***

Company Official's Name: [REDACTED]

Title: [REDACTED]

Company Official's Signature

Date: [REDACTED]

Telephone Number: [REDACTED]

Fax Number: [REDACTED]

## **Contractor’s Certification/Acknowledgements/Understanding**

### **Contractor’s Acknowledgement of Understanding of Post-Employment Provisions**

The Authorized Signatory of the Contractor acknowledges that he/she has the authority to sign on behalf of the Contractor, has read and understands the provisions applicable to post-employment restrictions affecting former State officers and employees, and agrees to abide by the Provisions of the Public Officer’s Law during the term of the Agreement.

### **Contractor’s Disclosure of Any Existing and/or Contemplated Conflict of Interest**

Have you any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, of affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Contractor or former officers and employees of the Agencies and their Affiliates, in connection with your rendering services enumerated in this Agreement?

Yes \_\_\_ No \_\_\_

**If your answer to the above is “Yes”, please attach a written explanation, include a statement with your Agreement documents describing how your Staffing Firm would eliminate or prevent the Conflict of Interest. Indicate what procedures will be followed to detect, notify OTDA of, and resolve any such conflicts.**

By my signature on this form, I certify that all information disclosed to the State is complete, true, and accurate with regard to Conflicts of Interest.

### **Contractor’s Disclosure of Former State Employees**

Do you employ and/or use any subcontractors who are former employees of OTDA that will be assigned to perform services under this Agreement?

Yes \_\_\_ No \_\_\_

**If your answer to the above is “Yes”, please attach a written statement identifying any/all employees and/or subcontractors who are former employees of OTDA that will be assigned to perform services under this Agreement, include a description of their work duties, and the dates of their employment.**

By my signature on this form, I certify that all information disclosed to the State is complete, true, and accurate with regard to Former State Employees.

### **Contractor’s Disclosure of Any Investigation or Disciplinary Action by the New York State Commission on Public Integrity or its Predecessor State Entities (Collectively, “Commission”)**

Have you or any of your members, shareholders of 5% or more, parents, affiliates, or subsidiaries, been the subject of any investigation or disciplinary action by the New York.

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State Commission on Public Integrity or its predecessor State entities (collectively, "Commission")?

Yes \_\_\_ No \_\_\_

**If your answer to the above is "Yes", please attach a written explanation; include a statement with your Proposal providing a brief description indicating how any matter before the Commission was resolved, or whether it remains unresolved.**

By my signature on this form, I certify that all information disclosed to the State is complete, true, and accurate with regard to investigations or disciplinary actions by the Commission.

**Contractor's Agreement to Notify OTDA of Potential Future Conflicts**

By signature below, the Authorized Signatory of the Contractor, certifies that he/she will notify OTDA of any/all new potential conflicts of interest and any/all new contractor staff that are prior OTDA employees during the term of the contract, prior to hiring of said individual, and will complete and submit an updated version of this form to OTDA at the time of becoming aware of any such new potential conflicts of interest, and of any/all new contractor or subcontractor staff that are prior OTDA employees.

**The Signature Below Indicates Certification/Acknowledgement/Understanding of Each of the Above**

Authorized Signatory Date

Printed or Typed Name

Title Contract Number

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## **Offeror Assurance of No Conflict of Interest or Detrimental Effect**

The Offeror proposing to provide services pursuant to this solicitation, as Contractor, Joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this solicitation does not and will not create a conflict of interest with nor, position the Offeror to breach any other Agreement currently in force with the State of New York.

Furthermore, the attests that it will not act in any manner that is detrimental to any State project on which the Offeror is rendering services. Specifically, the Offeror attests that:

1. The fulfillment of obligations by the Offeror, as proposed in the response, does not violate any existing Contracts or Agreements between the Offeror and the State.
2. The fulfillment of obligations by the Offeror, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Offeror has with regard to any existing Contracts or Agreements between the Offeror and the State.
3. The fulfillment of obligations by the Offeror, as proposed in the response, does not and will not compromise the Offeror's ability to carry out its obligations under any existing Agreements between the Offeror and the State.
4. The fulfillment of any other contractual obligations that the Offeror has with the State will not affect or influence its ability to perform under any Agreement with OTDA resulting from this RFP.
5. During the negotiation and execution of any Agreement resulting from this RFP, the Offeror will not knowingly take any action or make any decision which creates a Potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another.
6. In fulfilling obligations under each of its State contracts, including any Agreement which results from this RFP, the Offeror will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another.
7. No former officer or employee of the State who is now employed by the Offeror, nor any former officer or employee of the Offeror who is now employed by the State, has played a role with regard to the administration of this procurement in a manner that may violate section 73(8)(a) of the State Ethics Law.
8. The Offeror has not and shall not offer to any employee, member, or director of OTDA any gift, whether in the form of money, service, loan, travel, entertainment, hospitality thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member, or director, or could reasonably be expected to influence said employee, member, or director in the performance of the official duty of said employee, member, or director or was intended as a reward for any official action on the part of said employee member, or director.

Offerors responding to this RFP should note that OTDA recognizes that conflicts may occur in the future because an Offeror may have existing or new relationships. OTDA will review the

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nature of any such new relationship and reserves the right to terminate the Agreement for cause if, in its judgment, a real or potential conflict of interest cannot be cured. Signature:

\_\_\_\_\_ Date:

\_\_\_\_\_ Name:

\_\_\_\_\_

Title: \_\_\_\_\_ **Note:** This form must be signed by an authorized executive or legal representative (person that is authorized to bind the Offeror contractually).

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## Sexual Harassment Prevention Certification

State Finance Law §139-I requires bidders on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training (that meets the Department of Labor’s model policy and training standards) to all its employees. “By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.”

Contractor:

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Bids that do not contain the certification will not be considered for award; provided however, that if the bidder cannot make the certification, the bidder may provide a signed statement with their bid detailing the reasons why the certification cannot be made.

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## PROHIBITING CONTRACTS WITH ENTITIES THAT SUPPORT DISCRIMINATION

### EO 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY  
SECTION 139-D OF THE STATE FINANCE LAW**

SECTION 139-D. Statement of Non-Collusion in bids to the State:

**BY SUBMISSION OF THIS BID, BIDDER AND EACH PERSON SIGNING ON BEHALF OF BIDDER CERTIFIES, AND IN THE CASE OF JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:**

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor,

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor, and

[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], AND [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE; BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION. THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:**

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ as the act and deed of said corporation or partnership.

**Exhibit 1: Non-Collusive Bidding Certification-3**

Identifying Data

Potential Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

Street

\_\_\_\_\_  
City, Town, etc.

Telephone: \_\_\_\_\_ Title: \_\_\_\_\_

If applicable, Responsible Corporate Officer

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Joint or combined bids by companies or firms must be certified on behalf of each participant.

\_\_\_\_\_  
Legal name of person, firm or corporation

\_\_\_\_\_  
Legal name of person, firm or corporation

By \_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Address \_\_\_\_\_  
Street

\_\_\_\_\_  
Street

\_\_\_\_\_  
City State

\_\_\_\_\_  
City State

# Section Five - Regulations

## Emergency Solutions Grant Federal Regulations Attached

The following Regulations govern the STEHP program.

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This content is from the eCFR and is authoritative but unofficial.

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## **Title 24 – Housing and Urban Development**

### **Subtitle B – Regulations Relating to Housing and Urban Development**

#### **Chapter V – Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development**

#### **Subchapter C – Community Facilities**

#### **Part 576** Emergency Solutions Grants Program

##### **Subpart A** General Provisions

§ 576.1 Applicability and purpose.

§ 576.2 Definitions.

§ 576.3 Allocation of funding.

##### **Subpart B** Program Components and Eligible Activities

§ 576.100 General provisions and expenditure limits.

§ 576.101 Street outreach component.

§ 576.102 Emergency shelter component.

§ 576.103 Homelessness prevention component.

§ 576.104 Rapid re-housing assistance component.

§ 576.105 Housing relocation and stabilization services.

§ 576.106 Short-term and medium-term rental assistance.

§ 576.107 HMIS component.

§ 576.108 Administrative activities.

§ 576.109 Indirect costs.

##### **Subpart C** Award and Use of Funds

§ 576.200 Submission requirements and grant approval.

§ 576.201 Matching requirement.

§ 576.202 Means of carrying out grant activities.

§ 576.203 Obligation, expenditure, and payment requirements.

##### **Subpart D** Reallocations

§ 576.300 In general.

§ 576.301 Metropolitan cities and urban counties.

§ 576.302 States.

§ 576.303 Territories.

##### **Subpart E** Program Requirements

§ 576.400 Area-wide systems coordination requirements.

§ 576.401 Evaluation of program participant eligibility and needs.

§ 576.402 Terminating assistance.

§ 576.403 Shelter and housing standards.

§ 576.404 Conflicts of interest.

§ 576.405 Homeless participation.

§ 576.406 Equal participation of faith-based organizations.

§ 576.407 Other Federal requirements.

§ 576.408 Displacement, relocation, and acquisition.

§ 576.409 Protection for victims of domestic violence, dating violence, sexual assault, or stalking.

#### **Subpart F** Grant Administration

§ 576.500 Recordkeeping and reporting requirements.

§ 576.501 Enforcement.

## **PART 576—EMERGENCY SOLUTIONS GRANTS PROGRAM**

**Authority:** 12 U.S.C. 1701x, 1701 x-1; 42 U.S.C. 11371 et seq., 42 U.S.C. 3535(d).

**Source:** 76 FR 75974, Dec. 5, 2011, unless otherwise noted.

### **Subpart A—General Provisions**

#### **§ 576.1 Applicability and purpose.**

This part implements the Emergency Solutions Grants (ESG) program 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 the homeless, for the payment of certain expenses related to operating emergency shelters, for essential services related to emergency shelters and street outreach for the homeless, and for homelessness prevention and rapid re-housing assistance.

#### **§ 576.2 Definitions.**

At risk of homelessness means:

(1) An individual or family who:

(i) Has an annual income below 30 percent of median family income for the area, as determined by HUD;

(ii) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “homeless” definition in this section; and

(iii) Meets one of the following conditions:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention 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 for assistance;
  - (D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
  - (E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
  - (F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
  - (G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;
- (2) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
- (3) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

**Consolidated plan** means a plan prepared in accordance with 24 CFR part 91. An *approved consolidated plan* means a consolidated plan that has been approved by HUD in accordance with 24 CFR part 91.

**Continuum of Care** means the group composed of representatives of relevant organizations, which generally includes nonprofit homeless providers; victim service providers; faith-based organizations; governments; businesses; advocates; public housing agencies; school districts; social service providers; mental health agencies; hospitals; universities; affordable housing developers; law enforcement; organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons that are organized to plan for and provide, as necessary, a system of outreach, engagement, and assessment; emergency shelter; rapid re-housing; transitional housing; permanent housing; and prevention strategies to address the various needs of homeless persons and persons at risk of homelessness for a specific geographic area.

**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. Any project funded as an emergency shelter under a Fiscal Year 2010 Emergency Solutions grant may continue to be funded under ESG.

**Homeless** means:

- (1) 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;
  - (ii) An individual or family living in a supervised 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, or local government programs for low-income individuals); or
  - (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
- (i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - (ii) No subsequent residence has been identified; and
  - (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act ([42 U.S.C. 5732a](#)), section 637 of the Head Start Act ([42 U.S.C. 9832](#)), section 41403 of the Violence Against Women Act of 1994 ([42 U.S.C. 14043e-2](#)), section 330(h) of the Public Health Service Act ([42 U.S.C. 254b\(h\)](#)), section 3 of the Food and Nutrition Act of 2008 ([7 U.S.C. 2012](#)), section 17(b) of the Child Nutrition Act of 1966 ([42 U.S.C. 1786\(b\)](#)) or section 725 of the McKinney-Vento Homeless Assistance Act ([42 U.S.C. 11434a](#));
  - (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- (4) Any individual or family who:
- (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;



- (ii) Has no other residence; and
- (iii) Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

**Homeless Management Information System (HMIS)** means the information system designated by the Continuum of Care to comply with the 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 homeless individuals and families and persons at-risk of homelessness.

**Metropolitan city** means a city that was classified as a metropolitan city under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which ESG funds are made available. This term includes the District of Columbia.

**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.

**Program income** shall have the meaning provided in 2 CFR 200.80. Program income includes any amount of a security or utility deposit returned to the recipient or subrecipient.

**Program participant** means an individual or family who is assisted under ESG program.

**Program year** means the consolidated program year established by the recipient under 24 CFR part 91.

**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.

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

**Subrecipient** means a unit of general purpose local government or private nonprofit organization to which a recipient makes available ESG funds.

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

**Unit of general purpose local government** means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

**Urban county** means a county that was classified as an urban county under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which ESG funds are made available.

**Victim service provider** means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. This term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

[76 FR 75974, Dec. 5, 2011, as amended at 80 FR 75939, Dec. 7, 2015]

### § 576.3 Allocation of funding.

- (a) **Territories.** HUD will set aside for allocation to the territories up to 0.2 percent, but not less than 0.1 percent, of the total amount of each appropriation under this part in any fiscal year. HUD will allocate this set-aside amount to each territory based on its proportionate share of the total population of all territories and its rate of compliance with the most recent expenditure deadline under § 576.203.
- (b) **States, metropolitan cities, and urban counties.** HUD will allocate the amounts that remain after the set-aside to territories under paragraph (a) of this section to States, metropolitan cities, and urban counties, as follows:
  - (1) HUD will provide that the percentage of the total amount available for allocation to each State, metropolitan city, or urban county is equal to the percentage of the total amount available under section 106 of the Housing and Community Development Act of 1974 for the prior fiscal year that was allocated to that State, metropolitan city, or urban county.
  - (2) Except as otherwise provided by law, if the amount a metropolitan city or urban county would be allocated under paragraph (b)(1) is less than 0.05 percent of the total fiscal year appropriation for ESG, that amount will be added to the allocation for the State in which the city or county is located.
- (c) **Notification of allocation amount.** HUD will notify each State, metropolitan city, urban county, and territory that is eligible to receive an allocation under this section of the amount of its allocation.

### Subpart B—Program Components and Eligible Activities

#### § 576.100 General provisions and expenditure limits.

- (a) ESG funds may be used for five program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS; as well as administrative activities. The five program components and the eligible activities that may be funded under each are set forth in § 576.101 through § 576.107. Eligible administrative activities are set forth in § 576.108.
- (b) The total amount of the recipient's fiscal year grant that may be used for street outreach and emergency shelter activities cannot exceed the greater of:
  - (1) 60 percent of the recipient's fiscal year grant; or
  - (2) The amount of Fiscal Year 2010 grant funds committed for homeless assistance activities.
- (c) The total amount of ESG funds that may be used for administrative activities cannot exceed 7.5 percent of the recipient's fiscal year grant.
- (d) Subject to the cost principles in 2 CFR part 200, subpart E, and other requirements in this part, employee compensation and other overhead costs directly related to carrying out street outreach, emergency shelter, homelessness prevention, rapid re-housing, and HMIS are eligible costs of those program components. These costs are not subject to the expenditure limit in paragraph (c) of this section.

[76 FR 75974, Dec. 5, 2011, as amended at 80 FR 75939, Dec. 7, 2015]

## § 576.101 Street outreach component.

- (a) **Eligible costs.** Subject to the expenditure limit in § 576.100(b), ESG funds may be used for costs of providing essential services necessary to reach out to unsheltered homeless people; connect them with emergency shelter, housing, or critical services; and provide urgent, nonfacility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. For the purposes of this section, the term “unsheltered homeless people” means individuals and families who qualify as homeless under paragraph (1)(i) of the “homeless” definition under § 576.2. The eligible costs and requirements for essential services consist of:
- (1) **Engagement.** The costs of activities to locate, identify, and build relationships with unsheltered homeless people and engage them for the purpose of providing immediate support, intervention, and connections with homeless assistance programs and/or mainstream social services and housing programs. These activities consist of making an initial assessment of needs and eligibility; providing crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; and actively connecting and providing information and referrals to programs targeted to homeless people and mainstream social services and housing programs, including emergency shelter, transitional housing, community-based services, permanent supportive housing, and rapid re-housing programs. Eligible costs include the cell phone costs of outreach workers during the performance of these activities.
  - (2) **Case management.** The cost of assessing housing and service needs, arranging, coordinating, and monitoring the delivery of 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.**
    - (i) 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.
    - (ii) ESG funds may be used only for these services to the extent that other appropriate health services are inaccessible or unavailable within the area.
    - (iii) 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 emergency medical treatment; and providing medication and follow-up services.
  - (4) **Emergency mental health services.**
    - (i) 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.
    - (ii) 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.

- (iii) 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.
  - (iv) Eligible treatment consists of crisis interventions, the prescription of psychotropic medications, explanation about 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. These costs include the following:
- (i) The cost of a program participant's travel on public transportation;
  - (ii) If service workers use their own vehicles, mileage allowance for service workers to visit program participants;
  - (iii) The cost of purchasing or leasing a vehicle for the recipient or subrecipient 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
  - (iv) The travel costs of recipient or subrecipient staff to accompany or assist program participants to use public transportation.
- (6) **Services for special populations.** ESG funds may be used to provide services for homeless youth, 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. The term *victim services* means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, or stalking, including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.
- (b) **Minimum period of use.** The recipient or subrecipient must provide services to homeless individuals and families for at least the period during which ESG funds are provided.
- (c) **Maintenance of effort.**
- (1) If the recipient or subrecipient is a unit of general purpose local government, its ESG funds cannot be used to replace funds the local government provided for street outreach and emergency shelter services during the immediately preceding 12-month period, unless HUD determines that the unit of general purpose local government is in a severe financial deficit.
  - (2) Upon the recipient's request, HUD will determine whether the unit of general purpose local government is in a severe financial deficit, based on the recipient's demonstration of each of the following:
    - (i) The average poverty rate in the unit of general purpose local government's jurisdiction was equal to or greater than 125 percent of the average national poverty rate, during the calendar year for which the most recent data are available, as determined according to information from the U.S. Census Bureau.

- (ii) The average per-capita income in the unit of general purpose local government's jurisdiction was less than 75 percent of the average national per-capita income, during the calendar year for which the most recent data are available, as determined according to information from the Census Bureau.
- (iii) The unit of general purpose local government has a current annual budget deficit that requires a reduction in funding for services for homeless people.
- (iv) The unit of general purpose local government has taken all reasonable steps to prevent a reduction in funding of services for homeless people. Reasonable steps may include steps to increase revenue generation, steps to maximize cost savings, or steps to reduce expenditures in areas other than services for homeless people.

### § 576.102 Emergency shelter component.

- (a) **General.** Subject to the expenditure limit in § 576.100(b), ESG funds may be used for costs of providing essential services to homeless families and individuals in emergency shelters, renovating buildings to be used as emergency shelter for homeless families and individuals, and operating emergency shelters.
  - (1) **Essential services.** ESG funds may be used to provide essential services to individuals and families who are in an emergency shelter, as follows:
    - (i) **Case management.** The cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant is eligible. Component services and activities consist of:
      - (A) Using the centralized or coordinated assessment system as required under § 576.400(d);
      - (B) Conducting the initial evaluation required under § 576.401(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.
    - (ii) **Child care.** The costs of child care for program participants, including providing meals and snacks, and comprehensive and coordinated sets of appropriate developmental activities, are eligible. The children must be under the age of 13, unless they are disabled. Disabled children must be under the age of 18. The child-care center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible.
    - (iii) **Education services.** When necessary for the program participant to obtain and maintain housing, the costs of improving knowledge and basic educational skills are 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.

- (iv) **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. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is an eligible cost. Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates. 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.
- (v) **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 noncosmetic dental care.
- (vi) **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, appeal of veterans and public benefit claim denials, and the resolution of outstanding criminal warrants.
  - (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 subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's 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.
- (vii) **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 are budgeting resources, managing money, managing a household, resolving conflict, shopping for food and needed items, improving nutrition, using public transportation, and parenting.
- (viii) **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 in order 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 consists of 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.
- (ix) **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 consists of 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.
- (x) **Transportation.** Eligible costs consist of the transportation costs of a program participant's travel to and from medical care, employment, child care, 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 subrecipient 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 subrecipient staff to accompany or assist program participants to use public transportation.
- (xi) **Services for special populations.** ESG funds may be used to provide services for homeless youth, 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)(i) through (a)(1)(x) of this section. The term *victim services* means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, or stalking, including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.
- (2) **Renovation.** Eligible costs include labor, materials, tools, and other costs for renovation (including major rehabilitation of an emergency shelter or conversion of a building into an emergency shelter). The emergency shelter must be owned by a government entity or private nonprofit organization.
  - (3) **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 homeless family or individual, eligible costs may also include a hotel or motel voucher for that family or individual.
  - (4) **Assistance required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA).** Eligible costs are the costs of providing URA assistance under § 576.408, including relocation payments and other assistance to persons displaced by a project assisted with ESG funds. Persons that receive URA assistance are not considered “program participants” for the purposes of this part, and relocation payments and other URA assistance are not considered “rental assistance” or “housing relocation and stabilization services” for the purposes of this part.
- (b) **Prohibition against involuntary family separation.** The age, of a child under age 18 must not be used as a basis for denying any family's admission to an emergency shelter that uses Emergency Solutions Grant (ESG) funding or services and provides shelter to families with children under age 18.
- (c) **Minimum period of use.**
- (1) **Renovated buildings.** Each building renovated with ESG funds must be maintained as a shelter for homeless individuals and families for not less than a period of 3 or 10 years, depending on the type of renovation and the value of the building. The “value of the building” is the reasonable monetary value assigned to the building, such as the value assigned by an independent real estate appraiser. The minimum use period must begin on the date the building is first occupied by a homeless individual or family after the completed renovation. A minimum period of use of 10 years, required for major rehabilitation and conversion, must be enforced by a recorded deed or use restriction.
    - (i) **Major rehabilitation.** If the rehabilitation cost of an emergency shelter exceeds 75 percent of the value of the building before rehabilitation, the minimum period of use is 10 years.
    - (ii) **Conversion.** If the cost to convert a building into an emergency shelter exceeds 75 percent of the value of the building after conversion, the minimum period of use is 10 years.



(iii) **Renovation other than major rehabilitation or conversion.** In all other cases where ESG funds are used for renovation, the minimum period of use is 3 years.

(2) **Essential services and shelter operations.** Where the recipient or subrecipient uses ESG funds solely for essential services or shelter operations, the recipient or subrecipient must provide services or shelter to homeless individuals and families at least for the period during which the ESG funds are provided. The recipient or subrecipient does not need to limit these services or shelter to a particular site or structure, so long as the site or structure serves the same type of persons originally served with the assistance (e.g., families with children, unaccompanied youth, disabled individuals, or victims of domestic violence) or serves homeless persons in the same area where the recipient or subrecipient originally provided the services or shelter.

(d) **Maintenance of effort.** The maintenance of effort requirements under § 576.101(c), which apply to the use of ESG funds for essential services related to street outreach, also apply for the use of such funds for essential services related to emergency shelter.

### § 576.103 Homelessness prevention component.

ESG funds may be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance necessary to prevent an individual or family from moving into an emergency shelter or another place described in paragraph (1) of the “homeless” definition in § 576.2. This assistance, referred to as homelessness prevention, may be provided to individuals and families who meet the criteria under the “at risk of homelessness” definition, or who meet the criteria in paragraph (2), (3), or (4) of the “homeless” definition in § 576.2 and have an annual income below 30 percent of median family income for the area, as determined by HUD. The costs of homelessness prevention are only eligible to the extent that the assistance is necessary to help the program participant regain stability in the program participant's current permanent housing or move into other permanent housing and achieve stability in that housing. Homelessness prevention must be provided in accordance with the housing relocation and stabilization services requirements in § 576.105, the short-term and medium-term rental assistance requirements in § 576.106, and the written standards and procedures established under § 576.400.

### § 576.104 Rapid re-housing assistance component.

ESG funds may be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing. This assistance, referred to as rapid re-housing assistance, may be provided to program participants who meet the criteria under paragraph (1) of the “homeless” definition in § 576.2 or who meet the criteria under paragraph (4) of the “homeless” definition and live in an emergency shelter or other place described in paragraph (1) of the “homeless” definition. The rapid re-housing assistance must be provided in accordance with the housing relocation and stabilization services requirements in § 576.105, the short- and medium-term rental assistance requirements in § 576.106, and the written standards and procedures established under § 576.400.

### § 576.105 Housing relocation and stabilization services.

(a) **Financial assistance costs.** Subject to the general conditions under § 576.103 and § 576.104, ESG funds may be used to pay housing owners, utility companies, and other third parties for the following costs:

(1) **Rental application fees.** ESG funds may pay for the rental housing application fee that is charged by the owner to all applicants.

- (2) **Security deposits.** ESG funds may pay for a security deposit that is equal to no more than 2 months' rent.
- (3) **Last month's rent.** If necessary to obtain housing for a program participant, the last month's rent may be paid from ESG funds to the owner of that housing at the time the owner is paid the security deposit and the first month's rent. This assistance must not exceed one month's rent and must be included in calculating the program participant's total rental assistance, which cannot exceed 24 months during any 3-year period.
- (4) **Utility deposits.** ESG funds may pay for a standard utility deposit required by the utility company for all customers for the utilities listed in paragraph (5) of this section.
- (5) **Utility payments.** ESG funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.
- (6) **Moving costs.** ESG funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance under paragraph (b) of this section and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.
- (7) If a program participant receiving short- or medium-term rental assistance under § 576.106 meets the conditions for an emergency transfer under 24 CFR 5.2005(e), ESG funds may be used to pay amounts owed for breaking a lease to effect an emergency transfer. These costs are not subject to the 24-month limit on rental assistance under § 576.106.
- (b) **Services costs.** Subject to the general restrictions under § 576.103 and § 576.104, ESG funds may be used to pay the costs of providing the following services:
  - (1) **Housing search and placement.** Services or activities necessary to assist program participants in locating, obtaining, and retaining suitable permanent housing, include the following:
    - (i) Assessment of housing barriers, needs, and preferences;
    - (ii) Development of an action plan for locating housing;
    - (iii) Housing search;
    - (iv) Outreach to and negotiation with owners;
    - (v) Assistance with submitting rental applications and understanding leases;
    - (vi) Assessment of housing for compliance with Emergency Solutions Grant (ESG) requirements for habitability, lead-based paint, and rent reasonableness;
    - (vii) Assistance with obtaining utilities and making moving arrangements; and
    - (viii) Tenant counseling.

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

(A) Using the centralized or coordinated assessment system as required under § 576.400(d), to evaluate individuals and families applying for or receiving homelessness prevention or rapid re-housing assistance;

(B) Conducting the initial evaluation required under § 576.401(a), including verifying and documenting eligibility, for individuals and families applying for homelessness prevention or rapid re-housing assistance;

(C) Counseling;

(D) Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;

(E) Monitoring and evaluating program participant progress;

(F) Providing information and referrals to other providers;

(G) Developing an individualized housing and service plan, including planning a path to permanent housing stability; and

(H) Conducting re-evaluations required under § 576.401(b).

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

(4) **Legal services.** ESG funds may pay for legal services, as set forth in § 576.102(a)(1)(vi), except that the eligible subject matters also include landlord/tenant matters, and the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which the program participant currently resides.

(5) **Credit repair.** ESG funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.

(c) **Maximum amounts and periods of assistance.** The recipient may set a maximum dollar amount that a program participant may receive for each type of financial assistance under paragraph (a) of this section. The recipient may also set a maximum period for which a program participant may receive any of the types of assistance or services under this section. However, except for housing stability case management, the total period for which any program participant may receive the services under paragraph (b) of this section must not exceed 24 months during any 3-year period. The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family.

- (d) **Use with other subsidies.** Financial assistance under paragraph (a) of this section 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 URA, during the period of time covered by the URA payments.
- (e) **Housing counseling.** Housing counseling, as defined in § 5.100, that is funded with or provided in connection with ESG funds must be carried out in accordance with § 5.111. When recipients or subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of housing counseling, as defined in § 5.100, and therefore are not required to be carried out in accordance with the certification requirements of § 5.111

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### § 576.106 Short-term and medium-term rental assistance.

- (a) **General provisions.** Subject to the general conditions under § 576.103 and § 576.104, the recipient or subrecipient may provide a program participant with up to 24 months of rental assistance during any 3-year period. This assistance may be short-term rental assistance, medium-term rental assistance, payment of rental arrears, or any combination of this assistance.
  - (1) Short-term rental assistance is assistance for up to 3 months of rent.
  - (2) Medium-term rental assistance is assistance for more than 3 months but not more than 24 months of rent.
  - (3) Payment of rental arrears consists of a one-time payment for up to 6 months of rent in arrears, including any late fees on those arrears.
  - (4) Rental assistance may be tenant-based or project-based, as set forth in paragraphs (h) and (i) of this section.
- (b) **Discretion to set caps and conditions.** Subject to the requirements of this section, the recipient may set a maximum amount or percentage of rental assistance that a program participant may receive, a maximum number of months that a program participant may receive rental assistance, or a maximum number of times that a program participant may receive rental assistance. The recipient may also require program participants to share in the costs of rent.
- (c) **Use with other subsidies.** 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 of time covered by the URA payments.
- (d) **Rent restrictions.**
  - (1) Rental assistance cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

- (2) For purposes of calculating rent under this section, the rent shall equal the sum of the total monthly rent for the unit, any fees required for occupancy under the lease (other than late fees and pet fees) and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.
- (e) **Rental assistance agreement.** The recipient or subrecipient may make rental assistance payments only to an owner with whom the recipient or subrecipient 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 recipient or subrecipient 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. Each rental assistance agreement that is executed or renewed on or after *December 16, 2016* must include all protections that apply to tenants and applicants under 24 CFR part 5, subpart L, as supplemented by § 576.409, except for the emergency transfer plan requirements under 24 CFR 5.2005(e) and 576.409(d). If the housing is not assisted under another “covered housing program”, as defined in 24 CFR 5.2003, the agreement may provide that the owner's obligations under 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), expire at the end of the rental assistance period.
- (f) **Late payments.** The recipient or subrecipient must make timely payments to each owner in accordance with the rental assistance agreement. 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 recipient or subrecipient is solely responsible for paying late payment penalties that it incurs with non-ESG funds.
- (g) **Lease.** 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. For program participants living in housing with project-based rental assistance under paragraph (i) of this section, the lease must have an initial term of 1 year. Each lease executed on or after *December 16, 2016* must include a lease provision or incorporate a lease addendum that includes all requirements that apply to tenants, the owner or lease under 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), as supplemented by 24 CFR 576.409, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). If the housing is not assisted under another “covered housing program,” as defined in 24 CFR 5.2003, the lease provision or lease addendum may be written to expire at the end of the rental assistance period.
- (h) **Tenant-based rental assistance.**
  - (1) A program participant who receives tenant-based rental assistance may select a housing unit in which to live and may move to another unit or building and continue to receive rental assistance, as long as the program participant continues to meet the program requirements.
  - (2) The recipient may require that all program participants live within a particular area for the period in which the rental assistance is provided.
  - (3) The rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if:

- (i) The program participant moves out of the housing unit for which the program participant has a lease;
  - (ii) The lease terminates and is not renewed; or
  - (iii) The program participant becomes ineligible to receive ESG rental assistance.
- (i) **Project-based rental assistance.** If the recipient or subrecipient identifies a permanent housing unit that meets ESG requirements and becomes available before a program participant is identified to lease the unit, the recipient or subrecipient may enter into a rental assistance agreement with the owner to reserve the unit and subsidize its rent in accordance with the following requirements:
- (1) The rental assistance agreement may cover one or more permanent housing units in the same building. Each unit covered by the rental assistance agreement (“assisted unit”) may only be occupied by program participants, except as provided under paragraph (i)(4) of this section.
  - (2) The recipient or subrecipient may pay up to 100 percent of the first month's rent, provided that a program participant signs a lease and moves into the unit before the end of the month for which the first month's rent is paid. The rent paid before a program participant moves into the unit must not exceed the rent to be charged under the program participant's lease and must be included when determining that program participant's total rental assistance.
  - (3) The recipient or subrecipient may make monthly rental assistance payments only for each whole or partial month an assisted unit is leased to a program participant. When a program participant moves out of an assisted unit, the recipient or subrecipient may pay the next month's rent, *i.e.*, the first month's rent for a new program participant, as provided in paragraph (i)(2) of this section.
  - (4) The program participant's lease must not condition the term of occupancy to the provision of rental assistance payments. If the program participant is determined ineligible or reaches the maximum number of months over which rental assistance can be provided, the recipient or subrecipient must suspend or terminate the rental assistance payments for the unit. If the payments are suspended, the individual or family may remain in the assisted unit as permitted under the lease, and the recipient or subrecipient may resume payments if the individual or family again becomes eligible and needs further rental assistance. If the payments are terminated, the rental assistance may be transferred to another available unit in the same building, provided that the other unit meets all ESG requirements.
  - (5) The rental assistance agreement must have an initial term of one year. When a new program participant moves into an assisted unit, the term of the rental assistance agreement may be extended to cover the initial term of the program participant's lease. If the program participant's lease is renewed, the rental assistance agreement may be renewed or extended, as needed, up to the maximum number of months for which the program participant remains eligible. However, under no circumstances may the recipient or subrecipient commit ESG funds to be expended beyond the expenditure deadline in § 576.203 or commit funds for a future ESG grant before the grant is awarded.
- (j) **Changes in household composition.** The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family.

[76 FR 75974, Dec. 5, 2011,, as amended at 81 FR 80808, Nov. 16, 2016]

## § 576.107 HMIS component.

### (a) *Eligible costs.*

- (1) The recipient or subrecipient may use ESG funds to pay the costs of contributing data to the HMIS designated by the Continuum of Care for the area, including the costs of:
  - (i) Purchasing or leasing computer hardware;
  - (ii) Purchasing software or software licenses;
  - (iii) Purchasing or leasing equipment, including telephones, fax machines, and furniture;
  - (iv) Obtaining technical support;
  - (v) Leasing office space;
  - (vi) Paying charges for electricity, gas, water, phone service, and high-speed data transmission necessary to operate or contribute data to the HMIS;
  - (vii) Paying salaries for operating HMIS, including:
    - (A) Completing data entry;
    - (B) Monitoring and reviewing data quality;
    - (C) Completing data analysis;
    - (D) Reporting to the HMIS Lead;
    - (F) Training staff on using the HMIS or comparable database; and
    - (G) Implementing and complying with HMIS requirements;
  - (viii) Paying costs of staff to travel to and attend HUD-sponsored and HUD-approved training on HMIS and programs authorized by Title IV of the McKinney-Vento Homeless Assistance Act;
  - (ix) Paying staff travel costs to conduct intake; and
  - (x) Paying participation fees charged by the HMIS Lead, if the recipient or subrecipient is not the HMIS Lead. The HMIS Lead is the entity designated by the Continuum of Care to operate the area's HMIS.
- (2) If the recipient is the HMIS lead agency, as designated by the Continuum of Care in the most recent fiscal year Continuum of Care Homeless Assistance Grants Competition, it may also use ESG funds to pay the costs of:
  - (i) Hosting and maintaining HMIS software or data;
  - (ii) Backing up, recovering, or repairing HMIS software or data;
  - (iii) Upgrading, customizing, and enhancing the HMIS;
  - (iv) Integrating and warehousing data, including development of a data warehouse for use in aggregating data from subrecipients using multiple software systems;
  - (v) Administering the system;
  - (vi) Reporting to providers, the Continuum of Care, and HUD; and

(vii) Conducting training on using the system or a comparable database, including traveling to the training.

(3) If the subrecipient is a victim services provider or a legal services provider, it may use ESG funds to establish and operate a comparable database that collects client-level data over time (*i.e.*, longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS.

(b) **General restrictions.** Activities funded under this section must comply with HUD's standards on participation, data collection, and reporting under a local HMIS.

### § 576.108 Administrative activities.

(a) **Eligible costs.** The recipient may use up to 7.5 percent of its ESG grant for the payment of administrative costs related to the planning and execution of ESG activities. This does not include staff and overhead costs directly related to carrying out activities eligible under § 576.101 through § 576.107, because those costs are eligible as part of those activities. Eligible administrative costs include:

(1) **General management, oversight and coordination.** Costs of overall program management, coordination, monitoring, and evaluation. These costs include, but are not limited to, necessary expenditures for the following:

(i) Salaries, wages, and related costs of the recipient's staff, the staff of subrecipients, or other staff engaged in program administration. In charging costs to this category, the recipient may either include the entire salary, wages, and related costs allocable to the program of each person whose *primary* responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. The recipient may use only one of these methods for each fiscal year grant. Program administration assignments include the following:

(A) Preparing program budgets and schedules, and amendments to those budgets and schedules;

(B) Developing systems for assuring compliance with program requirements;

(C) Developing interagency agreements and agreements with subrecipients and contractors to carry out program activities;

(D) Monitoring program activities for progress and compliance with program requirements;

(E) Preparing reports and other documents directly related to the program for submission to HUD;

(F) Coordinating the resolution of audit and monitoring findings;

(G) Evaluating program results against stated objectives; and

(H) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraph (a)(1)(i)(A) through (G) of this section.

(ii) Travel costs incurred for monitoring of subrecipients;



- (iii) Administrative services performed under third-party contracts or agreements, including general legal services, accounting services, and audit services; and
  - (iv) Other costs for goods and services required for administration of the program, including rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.
- (2) **Training on ESG requirements.** Costs of providing training on ESG requirements and attending HUD-sponsored ESG trainings.
  - (3) **Consolidated plan.** Costs of preparing and amending the ESG and homelessness-related sections of the consolidated plan in accordance with ESG requirements and 24 CFR part 91.
  - (4) **Environmental review.** Costs of carrying out the environmental review responsibilities under § 576.407.
- (b) **Sharing requirement.**
- (1) **States.** If the recipient is a State, the recipient must share its funds for administrative costs with its subrecipients that are units of general purpose local government. The amount shared must be reasonable under the circumstances. The recipient may share its funds for administrative costs with its subrecipients that are private nonprofit organizations.
  - (2) **Territories, metropolitan cities, and urban counties.** If the recipient is a territory, metropolitan city, or urban county, the recipient may share its funds for administrative costs with its subrecipients.

### § 576.109 Indirect costs.

- (a) **In general.** ESG grant funds may be used to pay indirect costs in accordance with 2 CFR part 200, subpart E.
- (b) **Allocation.** Indirect costs may be allocated to each eligible activity under § 576.101 through § 576.108, so long as that allocation is consistent with 2 CFR part 200, subpart E.
- (c) **Expenditure limits.** The indirect costs charged to an activity subject to an expenditure limit under § 576.100 must be added to the direct costs charged for that activity when determining the total costs subject to the expenditure limit.

[76 FR 75974, Dec. 5, 2011, as amended at 80 FR 75939, Dec. 7, 2015]

## Subpart C—Award and Use of Funds

### § 576.200 Submission requirements and grant approval.

- (a) **Application submission and approval.** In addition to meeting the application submission requirements in 24 CFR part 5, subpart K, each State, urban county, or metropolitan city must submit and obtain HUD approval of a consolidated plan in accordance with the requirements in 24 CFR part 91, and each territory must submit and obtain HUD approval of a consolidated plan in accordance with the requirements that apply to local governments under 24 CFR part 91. As provided under 2 CFR 200.207, HUD may impose special conditions or restrictions on a grant, if the recipient is determined to be high risk.

- (b) **Amendments.** The recipient must amend its approved consolidated plan in order to make a change in its allocation priorities; make a change in its method of distributing funds; carry out an activity not previously described in the plan; or change the purpose, scope, location, or beneficiaries of an activity. The amendment must be completed and submitted to HUD in accordance with the requirements under 24 CFR 91.505.

[76 FR 75974, Dec. 5, 2011, as amended at 80 FR 75939, Dec. 7, 2015]

### § 576.201 Matching requirement.

- (a) The recipient must make matching contributions to supplement the recipient's ESG program in an amount that equals the recipient's fiscal year grant for ESG. This amount may include contributions to any project under the recipient's ESG program, including any subrecipient's ESG project, if the requirements in this section are met. The first \$100,000 of a State's fiscal year grant is not required to be matched, but the benefit of this exception must pass to the state's subrecipients that are least capable of providing matching contributions. The match requirements under this section do not apply if the recipient is a territory.
- (b) To be recognized as match for ESG, each contribution must meet the requirements under 2 CFR 200.306, except that:
  - (1) Notwithstanding 2 CFR 200.306(b)(4), matching contributions are not subject to the expenditure limits in § 576.100; and
  - (2) Notwithstanding 2 CFR 200.306(b)(5), the recipient may use funds from another Federal program as match for ESG, unless doing so would violate a specific statutory prohibition or the recipient or subrecipient counts ESG funds as match for that program.
- (c) The recipient may count as match the value specified in 2 CFR 200.306(d) for any building the recipient or subrecipient donates for long-term use in the recipient's ESG program, provided that depreciation on the building is not counted as match or charged to any Federal award. If a third party donates a building to the recipient or subrecipient, the recipient may count as match either depreciation of the building and fair rental charges for the land for each year the building is used for the recipient's ESG program or, if the building is donated for long-term use in the recipient's ESG program, the fair market value of the capital assets, as specified in 2 CFR 200.306(h)(2), (i), and (j). To qualify as a donation for long-term use, the donation must be evidenced by a recorded deed or use restriction that is effective for at least 10 years after the donation date. If the donated building is renovated with ESG funds, the minimum period of use under § 576.102(c) may increase the period for which the building must be used in the recipient's ESG program.
- (d) **Eligible types of matching contributions.** The matching requirement may be met by one or both of the following:
  - (1) **Cash contributions.** Cash expended for allowable costs, as defined in OMB Circulars A-87 (2 CFR part 225) and A-122 (2 CFR part 230), of the recipient or subrecipient.
  - (2) **Noncash contributions.** The value of any real property, equipment, goods, or services contributed to the recipient's or subrecipient's ESG program, provided that if the recipient or subrecipient had to pay for them with grant funds, the costs would have been allowable. Noncash contributions may also include the purchase value of any donated building.
- (e) **Calculating the amount of noncash contributions.**

- (1) To determine the value of any donated material or building, or of any lease, the recipient must use a method reasonably calculated to establish the fair market value.
  - (2) Services provided by individuals must be valued at rates consistent with those ordinarily paid for similar work in the recipient's or subrecipient's organization. If the recipient or subrecipient does not have employees performing similar work, the rates must be consistent with those ordinarily paid by other employers for similar work in the same labor market.
  - (3) Some noncash contributions are real property, equipment, goods, or services that, if the recipient or subrecipient had to pay for them with grant funds, the payments would have been indirect costs. Matching credit for these contributions must be given only if the recipient or subrecipient has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of those contributions.
- (f) **Costs paid by program income.** Costs paid by program income shall count toward meeting the recipient's matching requirements, provided the costs are eligible ESG costs that supplement the recipient's ESG program.

[76 FR 75974, Dec. 5, 2011, as amended at 80 FR 75939, Dec. 7, 2015]

### § 576.202 Means of carrying out grant activities.

- (a) **States.** If the recipient is a State, the recipient may use an amount consistent with the restrictions in § 576.100 and § 576.108 to carry out administrative activities through its employees or procurement contracts. If the recipient is a State, and has been identified as the HMIS lead by the Continuum of Care, the State may use funds to carry out HMIS activities set forth in § 576.107(a)(2). The recipient must subgrant the remaining funds in its fiscal year grant to:
- (1) Units of general purpose local government in the State, which may include metropolitan cities and urban counties that receive ESG funds directly from HUD; or
  - (2) Private nonprofit organizations, provided that for emergency shelter activities the recipient obtains a certification of approval from the unit of general purpose local government for the geographic area in which those activities are to be carried out.
- (b) **Recipients other than States; subrecipients.** The recipient, if it is not a State, and all subrecipients may carry out all eligible activities through their employees, procurement contracts, or subgrants to private nonprofit organizations. If the recipient is an urban county, it may carry out activities through any of its member governments, so long as the county applies to its members the same requirements that are applicable to local government subrecipients under this part.

### § 576.203 Obligation, expenditure, and payment requirements.

- (a) **Obligation of funds.**
- (1) **Funds allocated to States.**
    - (i) Within 60 days from the date that HUD signs the grant agreement with the State (or grant amendment for reallocated funds), the recipient must obligate the entire grant, except the amount for its administrative costs. This requirement is met by a subgrant agreement with, or a letter of award requiring payment from the grant to, a subrecipient.

(ii) Within 120 days after the date that the State obligates its funds to a unit of general purpose local government, the subrecipient must obligate all of those funds by a subgrant agreement with, or a letter of award requiring payment to, a private nonprofit organization; a procurement contract; or the written designation of a department within the government of the subrecipient to directly carry out an eligible activity.

(2) **Funds allocated to metropolitan cities, urban counties, and territories.** Within 180 days after the date that HUD signs the grant agreement (or a grant amendment for reallocation of funds) with the metropolitan city, urban county, or territory, the recipient must obligate all the grant amount, except the amount for its administrative costs. This requirement is met by an agreement with, or a letter of award requiring payment to, a subrecipient; a procurement contract; or a written designation of a department within the government of the recipient to directly carry out an eligible activity. If the recipient is an urban county, this requirement may also be met with an agreement with, or letter of award requiring payment to, a member government, which has designated a department to directly carry out an eligible activity.

(b) **Expenditures.** The recipient must draw down and expend funds from each year's grant not less than once during each quarter of the recipient's program year. All of the recipient's grant must be expended for eligible activity costs within 24 months after the date HUD signs the grant agreement with the recipient. For the purposes of this paragraph, expenditure means either an actual cash disbursement for a direct charge for a good or service or an indirect cost or the accrual of a direct charge for a good or service or an indirect cost.

(c) **Payments to subrecipients.** The recipient must pay each subrecipient for allowable costs within 30 days after receiving the subrecipient's complete payment request. This requirement also applies to each subrecipient that is a unit of general purpose local government.

## Subpart D—Reallocations

### § 576.300 In general.

- (1) Funds not awarded by HUD due to failure by the recipient to submit and obtain HUD approval of a consolidated plan will be reallocated in accordance with §§ 576.301 through 576.303.
- (2) Recaptured funds will be awarded by formula. In October and April each year, HUD will determine if the amount of recaptured funds is at least 30 percent of the most recent fiscal year appropriation. If so, HUD will amend all existing grants and reallocate the funds. If the amount is less than 30 percent of the most recent fiscal year appropriation, the funds will be reallocated in conjunction with the next fiscal year's allocation of funding.

### § 576.301 Metropolitan cities and urban counties.

Grant funds returned by a metropolitan city or urban county will be reallocated as follows:

- (a) **Eligible recipient.** HUD will make the funds available to the State in which the city or county is located.
- (b) **Notification of availability.** HUD will promptly notify the State of the availability of the amounts to be reallocated.
- (c) **Application requirement.** Within 45 days after the date of notification, the State must submit to HUD a substantial amendment to its consolidated plan in accordance with 24 CFR part 91.

- (d) **Restrictions that apply to reallocated amounts.** The same requirements that apply to grant funds allocated under § 576.3 apply to grant funds reallocated under this section, except that the State must distribute the reallocated funds:
  - (1) To private nonprofit organizations and units of general purpose local government in the geographic area in which the metropolitan city or urban county is located;
  - (2) If funds remain, to private nonprofit organizations and units of general purpose local government located throughout the State.

### § 576.302 States.

Grant funds returned by a State will be reallocated as follows:

- (a) **Eligible recipients.** HUD will make the funds available:
  - (1) To metropolitan cities and urban counties in the State that were not allocated funds under § 576.3 because the amount they would have been allocated did not meet the minimum requirement under § 576.3(b)(2);
  - (2) If funds remain, to county governments in the State other than urban counties;
  - (3) Then, if funds remain, to metropolitan cities and urban counties in the State that were allocated funds under § 576.3.
- (b) **Notification of availability.** HUD will notify eligible recipients of the availability of the funds by a notification letter or FEDERAL REGISTER notice, which will specify how the awards of funds will be made.
- (c) **Application requirements.** Within 45 days after the date of notification, the eligible recipient must submit to HUD:
  - (1) A substantial amendment to its approved consolidated plan in accordance with 24 CFR part 91; or
  - (2) If the eligible recipient does not have an approved consolidated plan, an abbreviated consolidated plan that meets the requirements in the FEDERAL REGISTER notice or notification letter from HUD.
- (d) **Restrictions that apply to reallocated amounts.** The same requirements that apply to grant funds allocated under § 576.3 apply to grant funds reallocated under this section.

### § 576.303 Territories.

- (a) **General.** Grant funds returned by a territory will be reallocated to other territories, then if funds remain, to States.
- (b) **Allocation method.** The funds will be allocated as follows:
  - (1) For territories, the funds will be allocated among the territories in direct proportion with each territory's share of the total population of all of the eligible territories. If HUD determines that a territory failed to spend its funds in accordance with ESG requirements, then HUD may exclude the territory from the allocation of reallocation amounts under this section.
  - (2) For States, the funds will be allocated to each State in direct proportion with each State's share of the total amount of funds allocated to States under § 576.3.
- (c) **Notification of availability.** HUD will notify eligible recipients of the availability of the fund by a letter or FEDERAL REGISTER notice, which will specify how the awards of funds will be made.

- (d) **Application requirements.** Within 45 days after the date of notification, the eligible recipient must submit to HUD a substantial amendment to its consolidated plan in accordance with 24 CFR part 91.
- (e) **Restrictions that apply to reallocated amounts.** The same requirements that apply to grant funds allocated under § 576.3 apply to grant funds reallocated under this section.

## Subpart E—Program Requirements

### § 576.400 Area-wide systems coordination requirements.

- (a) **Consultation with Continuums of Care.** The recipient must consult with each Continuum of Care that serves the recipient's jurisdiction in determining how to allocate ESG funds each program year; developing the performance standards for, and evaluating the outcomes of, projects and activities assisted by ESG funds; and developing funding, policies, and procedures for the administration and operation of the HMIS.
- (b) **Coordination with other targeted homeless services.** The recipient and its subrecipients must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with other programs targeted to homeless people in the area covered by the Continuum of Care or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area. These programs include:
  - (1) Shelter Plus Care Program (24 CFR part 582);
  - (2) Supportive Housing Program (24 CFR part 583);
  - (3) Section 8 Moderate Rehabilitation Program for Single Room Occupancy Program for Homeless Individuals (24 CFR part 882);
  - (4) HUD—Veterans Affairs Supportive Housing (HUD—VASH) (division K, title II, Consolidated Appropriations Act, 2008, Pub. L. 110–161 (2007), 73 FR 25026 (May 6, 2008));
  - (5) Education for Homeless Children and Youth Grants for State and Local Activities (title VII–B of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*));
  - (6) Grants for the Benefit of Homeless Individuals (section 506 of the Public Health Services Act (42 U.S.C. 290aa–5));
  - (7) Healthcare for the Homeless (42 CFR part 51c);
  - (8) Programs for Runaway and Homeless Youth (Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*));
  - (9) Projects for Assistance in Transition from Homelessness (part C of title V of the Public Health Service Act (42 U.S.C. 290cc–21 *et seq.*));
  - (10) Services in Supportive Housing Grants (section 520A of the Public Health Service Act);
  - (11) Emergency Food and Shelter Program (title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 *et seq.*));
  - (12) Transitional Housing Assistance Grants for Victims of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Program (section 40299 of the Violent Crime Control and Law Enforcement Act (42 U.S.C. 13975));

- (13) Homeless Veterans Reintegration Program (section 5(a)(1)) of the Homeless Veterans Comprehensive Assistance Act (38 U.S.C. 2021);
  - (14) Domiciliary Care for Homeless Veterans Program (38 U.S.C. 2043);
  - (15) VA Homeless Providers Grant and Per Diem Program (38 CFR part 61);
  - (16) Health Care for Homeless Veterans Program (38 U.S.C. 2031);
  - (17) Homeless Veterans Dental Program (38 U.S.C. 2062);
  - (18) Supportive Services for Veteran Families Program (38 CFR part 62); and
  - (19) Veteran Justice Outreach Initiative (38 U.S.C. 2031).
- (c) **System and program coordination with mainstream resources.** The recipient and its subrecipients must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible. Examples of these programs include:
- (1) Public housing programs assisted under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (24 CFR parts 905, 968, and 990);
  - (2) Housing programs receiving tenant-based or project-based assistance under section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f) (respectively 24 CFR parts 982 and 983);
  - (3) Supportive Housing for Persons with Disabilities (Section 811) (24 CFR part 891);
  - (4) HOME Investment Partnerships Program (24 CFR part 92);
  - (5) Temporary Assistance for Needy Families (TANF) (45 CFR parts 260–265);
  - (6) Health Center Program (42 CFR part 51c);
  - (7) State Children's Health Insurance Program (42 CFR part 457);
  - (8) Head Start (45 CFR chapter XIII, subchapter B);
  - (9) Mental Health and Substance Abuse Block Grants (45 CFR part 96); and
  - (10) Services funded under the Workforce Investment Act (29 U.S.C. 2801 *et seq.*).
- (d) **Centralized or coordinated assessment.** Once the Continuum of Care has developed a centralized assessment system or a coordinated assessment system in accordance with requirements to be established by HUD, each ESG-funded program or project within the Continuum of Care's area must use that assessment system. The recipient and subrecipient must work with the Continuum of Care to ensure the screening, assessment and referral of program participants are consistent with the written standards required by paragraph (e) of this section. A victim service provider may choose not to use the Continuum of Care's centralized or coordinated assessment system.
- (e) **Written standards for providing ESG assistance.**
- (1) If the recipient is a metropolitan city, urban county, or territory, the recipient must have written standards for providing Emergency Solutions Grant (ESG) assistance and must consistently apply those standards for all program participants. The recipient must describe these standards in its consolidated plan.

(2) If the recipient is a state:

- (i) The recipient must establish and consistently apply, or require that its subrecipients establish and consistently apply, written standards for providing ESG assistance. If the written standards are established by the subrecipients, the recipient may require these written standards to be:
  - (A) Established for each area covered by a Continuum of Care or area over which the services are coordinated and followed by each subrecipient providing assistance in that area; or
  - (B) Established by each subrecipient and applied consistently within the subrecipient's program.
- (ii) Written standards developed by the state must be included in the state's Consolidated Plan. If the written standards are developed by its subrecipients, the recipient must describe its requirements for the establishment and implementation of these standards in the state's Consolidated Plan.

(3) At a minimum these written standards must include:

- (i) Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under Emergency Solutions Grant (ESG);
- (ii) Standards for targeting and providing essential services related to street outreach;
- (iii) Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;
- (iv) Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
- (v) Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing 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-funded activities must be coordinated and integrated to the maximum extent practicable);
- (vi) Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance (these policies must include the emergency transfer priority required under § 576.409);
- (vii) 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;
- (viii) 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; and
- (ix) 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.

- (f) **Participation in HMIS.** The recipient must ensure that data on all persons served and all activities assisted under ESG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If the subrecipient is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (*i.e.*, longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS.

[76 FR 75974, Dec. 5, 2011, as amended at 81 FR 80808, Nov. 16, 2016]

### § 576.401 Evaluation of program participant eligibility and needs.

- (a) **Evaluations.** The recipient or its subrecipient must conduct an initial evaluation to determine the eligibility of each individual or family's eligibility for ESG assistance and the amount and types of assistance the individual or family needs to regain stability in permanent housing. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements set forth under § 576.400(d) and the written standards established under § 576.400(e).
- (b) **Re-evaluations for homelessness prevention and rapid re-housing assistance.**
- (1) The recipient or subrecipient must re-evaluate the program participant's eligibility and the types and amounts of assistance the program participant needs not less than once every 3 months for program participants receiving homelessness prevention assistance, and not less than once annually for program participants receiving rapid re-housing assistance. At a minimum, each re-evaluation of eligibility must establish that:
- (i) The program participant does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD; and
- (ii) The program participant lacks sufficient resources and support networks necessary to retain housing without ESG assistance.
- (2) The recipient or subrecipient may require each program participant receiving homelessness prevention or rapid re-housing assistance to notify the recipient or subrecipient regarding changes in the program participant's income or other circumstances (*e.g.*, changes in household composition) that affect the program participant's need for assistance under ESG. When notified of a relevant change, the recipient or subrecipient must re-evaluate the program participant's eligibility and the amount and types of assistance the program participant needs.
- (c) **Annual income.** When determining the annual income of an individual or family, the recipient or subrecipient must use the standard for calculating annual income under 24 CFR 5.609.
- (d) **Connecting program participants to mainstream and other resources.** The recipient and its 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:
  - (i) Medicaid (42 CFR chapter IV, subchapter C);
  - (ii) Supplemental Nutrition Assistance Program (7 CFR parts 271–283);
  - (iii) Women, Infants and Children (WIC) (7 CFR part 246);
  - (iv) Federal-State Unemployment Insurance Program (20 CFR parts 601–603, 606, 609, 614–617, 625, 640, 650);
  - (v) Social Security Disability Insurance (SSDI) (20 CFR part 404);
  - (vi) Supplemental Security Income (SSI) (20 CFR part 416);
  - (vii) Child and Adult Care Food Program (42 U.S.C. 1766(t) (7 CFR part 226));
  - (viii) Other assistance available under the programs listed in § 576.400(c).

(e) **Housing stability case management.**

- (1) While providing homelessness prevention or rapid re-housing assistance to a program participant, the recipient or subrecipient must:
  - (i) 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
  - (ii) Develop a plan to assist the program participant to retain permanent housing after the ESG assistance ends, taking into account all relevant considerations, 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.
- (2) The recipient or subrecipient is exempt from the requirement under paragraph (e)(1)(i) of this section if the Violence Against Women Act of 1994 (42 U.S.C. 13701 *et seq.*) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*) prohibits that recipient or subrecipient from making its shelter or housing conditional on the participant's acceptance of services.

**§ 576.402 Terminating assistance.**

- (a) **In general.** If a program participant violates program requirements, the recipient or subrecipient may terminate the assistance in accordance with a formal process established by the recipient or subrecipient that recognizes the rights of individuals affected. The recipient or subrecipient must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases.
- (b) **Program participants receiving rental assistance or housing relocation and stabilization services.** To terminate rental assistance or housing relocation and stabilization services to a program participant, the required formal process, at a minimum, must consist of:
  - (1) Written notice to the program participant containing a clear statement of the reasons for termination;
  - (2) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

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

(c) **Ability to provide further assistance.** Termination under this section does not bar the recipient or subrecipient from providing further assistance at a later date to the same family or individual.

### § 576.403 Shelter and housing standards.

(a) **Lead-based paint remediation and disclosure.** 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 apply to all shelters assisted under ESG program and all housing occupied by program participants.

(b) **Minimum standards for emergency shelters.** Any building for which Emergency Solutions Grant (ESG) funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any emergency shelter that receives assistance for shelter operations must also meet the following minimum safety, sanitation, and privacy standards. The recipient may also establish standards that exceed or add to these minimum 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. Any renovation (including major rehabilitation and conversion) carried out with ESG assistance must use Energy Star and WaterSense products and appliances.

(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.

(4) **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.

(5) **Water supply.** The shelter's water supply must be free of contamination.

(6) **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.

(7) **Thermal environment.** The shelter must have any necessary heating/cooling facilities in proper operating condition.

(8) **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.

(9) **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.

(10) **Sanitary conditions.** The shelter must be maintained in a sanitary condition.

(11) **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 other emergency.

(c) **Minimum standards for permanent housing.** When ESG funds are used for permanent housing under 24 CFR 576.105 or 576.106, the minimum standards in 24 CFR 5.703 apply, except that:

(1) **Definition of HUD housing.** For the purposes of ESG, "HUD housing" in 24 CFR 5.703 means the program participant's unit, systems equipment that directly services those units, items and components within the primary and secondary means of egress from those units' doors to the public way, and common features related to the program participant's use of the building (e.g., the laundry room, community room, mail room).

(2) **Housing inspections.** For the first 30 days in which a program participant receives homelessness prevention assistance, the recipient or subrecipient may provide services under 24 CFR 576.105(b) to help the program participant remain in their unit without inspecting the unit to determine whether it meets the minimum standards identified in this paragraph (c), except that the recipient or subrecipient must still comply with the requirements under 24 CFR part 35. Before otherwise using ESG funds under 24 CFR 576.105 or 576.106 to help a program participant remain in or move into specific housing, however, the recipient or subrecipient must inspect that housing to confirm that it meets the requirements in this section. In addition, recipient or subrecipient must inspect the housing at least once every 12 months during the period of assistance to confirm the housing continues to meet the minimum standards in this paragraph (c).

(3) **Correction of deficiencies.** If an inspection reveals one or more deficiencies that prevent the housing from meeting the requirements in this section, ESG funds must not be used under 24 CFR 576.105 or 576.106 with respect to that housing unless the owner corrects the deficiencies within 30 days from the date of the initial inspection and the recipient or subrecipient verifies that all deficiencies have been corrected.

(4) **Rental arrears.** Housing for which rental arrears are paid is only subject to the requirements in this section, if a program participant is seeking to stay in that housing.

(5) **Additional standards.** The recipient may also add standards that exceed these minimum standards.

(6) **Other exemptions from 24 CFR part 5, subpart G.** The requirements in 24 CFR 5.703(b)(2) and (d)(6) and 5.705 through 5.713 do not apply.

[76 FR 75974, Dec. 5, 2011, as amended at 88 FR 30498, May 11, 2023]

## § 576.404 Conflicts of interest.

(a) **Organizational conflicts of interest.** The provision of any type or amount of ESG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the recipient, the subrecipient, or a parent or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent or subsidiary of the subrecipient, carry out the initial evaluation required under § 576.401 or administer homelessness prevention assistance under § 576.103. Recipients and subrecipients must also maintain written standards of conduct covering organizational conflicts of interest required under 2 CFR 200.318.

- (b) **Individual conflicts of interest.** For the procurement of goods and services, the recipient and its subrecipients must comply with 2 CFR 200.317 and 200.318. For all other transactions and activities, the following restrictions apply:
- (1) **Conflicts prohibited.** No person described in paragraph (b)(2) of this section who exercises or has exercised any functions or responsibilities with respect to activities assisted under the ESG program, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.
  - (2) **Persons covered.** The conflict-of-interest provisions of paragraph (b)(1) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or its subrecipients.
  - (3) **Exceptions.** Upon the written request of the recipient, HUD may grant an exception to the provisions of this subsection on a case-by-case basis, taking into account the cumulative effects of the criteria in paragraph (b)(3)(ii) of this section, provided that the recipient has satisfactorily met the threshold requirements of paragraph (b)(3)(i) of this section.
    - (i) **Threshold requirements.** HUD will consider an exception only after the recipient has provided the following documentation:
      - (A) If the recipient or subrecipient is a government, disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
      - (B) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate state or local law.
    - (ii) **Factors to be considered for exceptions.** In determining whether to grant a requested exception after the recipient has satisfactorily met the threshold requirements under paragraph (b)(3)(i) of this section, HUD must conclude that the exception will serve to further the purposes of the ESG program and the effective and efficient administration of the recipient's or subrecipient's program or project, taking into account the cumulative effect of the following factors, as applicable:
      - (A) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
      - (B) Whether an opportunity was provided for open competitive bidding or negotiation;
      - (C) Whether the affected person has withdrawn from his or her functions, responsibilities or the decision-making process with respect to the specific activity in question;
      - (D) Whether the interest or benefit was present before the affected person was in the position described in paragraph (b)(1) of this section;
      - (E) Whether undue hardship results to the recipient, the subrecipient, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict; and
      - (F) Any other relevant considerations.

- (c) **Contractors.** All contractors of the recipient or subrecipient must comply with the same requirements that apply to subrecipients under this section.

[76 FR 75974, Dec. 5, 2011, as amended at 80 FR 75939, Dec. 7, 2015]

### § 576.405 Homeless participation.

- (a) Unless the recipient is a State, the recipient must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of the recipient, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under Emergency Solutions Grant (ESG).
- (b) If the recipient is unable to meet requirement under paragraph (a), it must instead develop and implement a plan to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding any facilities, services, or other assistance that receive funding under Emergency Solutions Grant (ESG). The plan must be included in the annual action plan required under 24 CFR 91.220.
- (c) To the maximum extent practicable, the recipient or subrecipient must involve homeless individuals and families 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.

### § 576.406 Equal participation of faith-based organizations.

The HUD program requirements in § 5.109 of this title apply to the ESG program, including the requirements regarding disposition and change in use of real property by a faith-based organization.

[81 FR 19418, Apr. 4, 2016]

### § 576.407 Other Federal requirements.

- (a) **General.** The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a) and the housing counseling requirements at 24 CFR 5.111. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR part 75 apply, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).
- (b) **Affirmative outreach.** 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 that 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.

- (c) **Uniform requirements.** The requirements of 24 CFR part 200 apply to the recipient and subrecipients, and:
- (1) Program income may be used as matching contributions, subject to the requirements in § 576.201;
  - (2) The disposition of real property for which ESG funds are used for major rehabilitation, conversion, or other renovation under § 576.102 is governed by the minimum period of use requirements under § 576.102(c).
- (d) **Environmental review responsibilities.**
- (1) Activities under this part are subject to environmental review by HUD under 24 CFR part 50. The recipient shall supply all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50. The recipient also shall carry out mitigating measures required by HUD or select alternate eligible property. HUD may eliminate from consideration any application that would require an Environmental Impact Statement (EIS).
  - (2) The recipient or subrecipient, or any contractor of the recipient or subrecipient, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for eligible activities under this part, until HUD has performed an environmental review under 24 CFR part 50 and the recipient has received HUD approval of the property.
- (e) **Davis-Bacon Act.** The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) do not apply to the ESG program.
- (f) **Procurement of Recovered Materials.** The recipient and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[76 FR 75974, Dec. 5, 2011, as amended at 80 FR 75939, Dec. 7, 2015; 81 FR 90660, Dec. 14, 2016; 85 FR 61568, Sept. 29, 2020]

### § 576.408 Displacement, relocation, and acquisition.

- (a) **Minimizing displacement.** Consistent with the other goals and objectives of Emergency Solutions Grant (ESG), the recipient and its subrecipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under Emergency Solutions Grant (ESG).
- (b) **Temporary relocation not permitted.** No tenant-occupant of housing (a dwelling unit) that is converted into an emergency shelter may be required to relocate temporarily for a project assisted with ESG funds, or be required to move to another unit in the same building/complex. When a tenant moves for a project assisted with ESG funds under conditions that trigger the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601-4655, as described in paragraph (c) of this section, the tenant should be treated as permanently displaced and offered relocation assistance and payments consistent with that paragraph.

(c) **Relocation assistance for displaced persons.**

(1) **In general.** A displaced person (defined in paragraph (c)(2) of this section) must be provided relocation assistance at the levels described in, and in accordance with, the URA and 49 CFR part 24. A displaced person must be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601 et seq.). Whenever possible, minority persons shall be given reasonable opportunities to relocate to comparable and suitable decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require providing a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. (See 49 CFR 24.205(c)(2)(ii)(D).) As required by Section 504 of the Rehabilitation Act (29 U.S.C. 794) and 49 CFR part 24, replacement dwellings must also contain the accessibility features needed by displaced persons with disabilities.

(2) **Displaced Person.**

- (i) For purposes of paragraph (c) of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm, including any corporation, partnership, or association) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under the ESG program. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property that is made:
- (A) After the owner (or person in control of the site) issues a notice to move permanently from the property or refuses to renew an expiring lease, if the move occurs on or after:
- (I) The date of the submission by the recipient (or subrecipient, as applicable) of an application for assistance to HUD (or the recipient, as applicable) that is later approved and funded if the recipient (or subrecipient, as applicable) has site control as evidenced by a deed, sales contract, or option contract to acquire the property; or
- (II) The date on which the recipient (or subrecipient, as applicable) selects the applicable site, if the recipient (or subrecipient, as applicable) does not have site control at the time of the application, provided that the recipient (or subrecipient, as applicable) eventually obtains control over the site;
- (B) Before the date described in paragraph (c)(2)(i)(A) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or
- (C) By a tenant-occupant of a dwelling unit and the tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition of the property for the project.
- (ii) Notwithstanding paragraph (c)(2)(i) of this section, a person does not qualify as a displaced person if:
- (A) The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement; violation of applicable Federal, State or local law, or other good cause; and the recipient determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.



- (B) The person moved into the property after the submission of the application but, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced), and the fact that the person would not qualify as a “displaced person” (or for any assistance under this section) as a result of the project;
  - (C) The person is ineligible under 49 CFR 24.2(a)(9)(ii); or
  - (D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.
- (iii) The recipient or subrecipient may, at any time, request that HUD to determine whether a displacement is or would be covered by this rule.
- (3) **Initiation of negotiations.** For purposes of determining the type of replacement housing payment assistance to be provided to a displaced person pursuant to this section:
- (i) If the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, “initiation of negotiations” means the execution of the agreement between the recipient and the subrecipient or the agreement between the recipient (or subrecipient, as applicable) and the person owning or controlling the property;
  - (ii) If site control is only evidenced by an option contract to acquire the property, the “initiation of negotiations” does not become effective until the execution of a written agreement that creates a legally enforceable commitment to proceed with the purchase, such as a sales contract.
- (d) **Real property acquisition requirements.** The acquisition of real property, whether funded privately or publicly, for a project assisted with Emergency Solutions Grant (ESG) funds is subject to the URA and Federal governmentwide regulations at 49 CFR part 24, subpart B.
- (e) **Appeals.** A person who disagrees with the recipient's (or subrecipient's, if applicable) determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the recipient under 49 CFR 24.10. A low-income person who disagrees with the recipient's determination may submit a written request for review of that determination by the appropriate HUD field office.

### § 576.409 Protection for victims of domestic violence, dating violence, sexual assault, or stalking.

- (a) **Applicability of VAWA protections.** 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. The VAWA regulatory requirements under 24 CFR part 5, subpart L, as supplemented by this section, apply to all eligibility and termination decisions that are made with respect to ESG rental assistance on or after *December 16, 2016*. The recipient must ensure that the requirements under 24 CFR part 5, subpart L, are included or incorporated into rental assistance agreements and leases as provided in § 576.106(e) and (g).
- (b) **Covered housing provider.** For the ESG program, “covered housing provider,” as such term is used in HUD's regulations in 24 CFR part 5, subpart L, refers to:
  - (1) The recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2005(e);

- (2) The housing owner for the purposes of 24 CFR 5.2005(d)(1), (d)(3), and (d)(4) and 5.2009(a);
  - (3) The housing owner and the recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2005(d)(2); and
  - (4) The housing owner and the recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2007. However, the recipient or subrecipient may limit documentation requests under 24 CFR 5.2007 to only the recipient or subrecipient, provided that:
    - (i) This limitation is made clear in both the notice described under 24 CFR 5.2005(a)(1) and the rental assistance agreement;
    - (ii) The entity designated to receive documentation requests determines whether the program participant is entitled to protection under VAWA and immediately advise the program participant of the determination; and
    - (iii) If the program participant is entitled to protection, the entity designated to receive documentation requests must notify the owner in writing that the program participant is entitled to protection under VAWA and work with the owner on the program participant's behalf. Any further sharing or disclosure of the program participant's information will be subject to the requirements in 24 CFR 5.2007.
- (c) **Notification.** As provided under 24 CFR 5.2005(a) each recipient or subrecipient that determines eligibility for or administers ESG rental assistance is responsible for ensuring that the notice and certification form described under 24 CFR 5.2005(a)(1) is provided to each applicant for ESG rental assistance and each program participant receiving ESG rental assistance at each of the following times:
- (1) When an individual or family is denied ESG rental assistance;
  - (2) When an individual or family's application for a unit receiving project-based rental assistance is denied;
  - (3) When a program participant begins receiving ESG rental assistance;
  - (4) When a program participant is notified of termination of ESG rental assistance; and
  - (5) When a program participant receives notification of eviction.
- (d) **Emergency transfer plan.**
- (1) The recipient must develop the emergency transfer plan under 24 CFR 5.2005(e) or, if the recipient is a state, require its subrecipients that administer ESG rental assistance to develop the emergency transfer plan(s) required under 24 CFR 5.2005(e). If the state's subrecipients are required to develop the plan(s), the recipient must specify whether an emergency transfer plan is to be developed for:
    - (i) The state as a whole;
    - (ii) Each area within the state that is covered by a Continuum of Care; or
    - (iii) Each subrecipient that administers ESG rental assistance.
  - (2) Once the applicable plan is developed in accordance with this section, the recipient and each subrecipient that administers ESG rental assistance must implement the plan in accordance with 24 CFR 5.2005(e).

- (3) Each emergency transfer plan must meet the requirements in 24 CFR 5.2005(e) and include the following program requirements:
  - (i) 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 participant shall have priority over all other applicants for tenant-based rental assistance, utility assistance, and units for which project-based rental assistance is provided.
  - (ii) 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 in order to effect an emergency transfer.
- (e) **Bifurcation.** For the purposes of this part, the following requirements shall apply in place of the requirements at 24 CFR 5.2009(b):
  - (1) When a family receiving tenant-based rental assistance separates under 24 CFR 5.2009(a), the family's tenant-based rental assistance and utility assistance, if any, shall continue for the family member(s) who are not evicted or removed.
  - (2) If a family living in a unit receiving project-based rental assistance separates under 24 CFR 5.2009(a), the family member(s) who are not evicted or removed can remain in the assisted unit without interruption to the rental assistance or utility assistance provided for the unit.
- (f) **Emergency shelters.** The following requirements apply to emergency shelters funded under § 576.102:
  - (1) No individual or family may be denied admission to or removed from the emergency shelter on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the individual or family otherwise qualifies for admission or occupancy.
  - (2) The terms "affiliated individual," "dating violence," "domestic violence," "sexual assault," and "stalking" are defined in 24 CFR 5.2003.

[81 FR 80808, Nov. 16, 2016]

## Subpart F—Grant Administration

### § 576.500 Recordkeeping and reporting requirements.

- (a) **In general.** The recipient must have policies and procedures to ensure the requirements of this part are met, including those required by 2 CFR part 200. The policies and procedures must be established in writing and implemented by the recipient and its subrecipients to ensure that ESG funds are used in accordance with the requirements. In addition, sufficient records must be established and maintained to enable the recipient and HUD to determine whether ESG requirements are being met.
- (b) **Homeless status.** The recipient must maintain and follow written intake procedures to ensure compliance with the homeless definition in § 576.2. The procedures must require documentation at intake of the evidence relied upon to establish and verify homeless status. The procedures must establish the order of priority for obtaining evidence as third-party documentation first, intake worker observations second, and certification from the person seeking assistance third. However, lack of third-party documentation must not prevent an individual or family from being immediately admitted to emergency shelter, receiving street outreach services, or being immediately admitted to shelter or receiving services provided by a victim

service provider. Records contained in an HMIS or comparable database used by victim service or legal service providers are acceptable evidence of third-party documentation and intake worker observations if the HMIS retains an auditable history of all entries, including the person who entered the data, the date of entry, and the change made; and if the HMIS prevents overrides or changes of the dates on which entries are made.

- (1) If the individual or family qualifies as homeless under paragraph (1)(i) or (ii) of the homeless definition in § 576.2, acceptable evidence includes 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, or a certification by the individual or head of household seeking assistance.
- (2) If the individual qualifies as homeless under paragraph (1)(iii) of the homeless definition in § 576.2, because he or she resided in an emergency shelter or place not meant for human habitation and is exiting an institution where he or she resided for 90 days or less, acceptable evidence includes the evidence described in paragraph (b)(1) of this section and one of the following:
  - (i) 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; or
  - (ii) Where the evidence in paragraph (b)(2)(i) of this section is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described in paragraph (b)(2)(i) 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.
- (3) If the individual or family qualifies as homeless under paragraph (2) of the homeless definition in § 576.2, because the individual or family will imminently lose their housing, the evidence must include:
  - (i)
    - (A) A court order resulting from an eviction action that requires the individual or family to leave their residence within 14 days after the date of their application for homeless assistance; or the equivalent notice under applicable state law, a Notice to Quit, or a Notice to Terminate issued under state law;
    - (B) For individuals and families whose primary nighttime residence is a hotel or motel room not paid for by charitable organizations or federal, state, or local government programs for low-income individuals, evidence that the individual or family lacks the resources necessary to reside there for more than 14 days after the date of application for homeless assistance; or
    - (C) An oral 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 14 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: (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 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; or (II) if the intake worker is unable to contact the owner or renter, be documented by a written certification by the intake worker of his or her due

diligence in attempting to obtain the owner or renter's verification and the written certification by the individual or head of household seeking assistance that his or her statement was true and complete;

- (ii) Certification by the individual or head of household that no subsequent residence has been identified; and
  - (iii) Certification or other written documentation that the individual or family lacks the resources and support networks needed to obtain other permanent housing.
- (4) If the individual or family qualifies as homeless under paragraph (3) of the homeless definition in § 576.2, because the individual or family does not otherwise qualify as homeless under the homeless definition but is an unaccompanied youth under 25 years of age, or homeless family with one or more children or youth, and is defined as homeless under another Federal statute or section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), the evidence must include:
- (i) For paragraph (3)(i) of the homeless definition in § 576.2, certification of homeless status by the local private nonprofit organization or state or local governmental entity responsible for administering assistance under the Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*), the Head Start Act (42 U.S.C. 9831 *et seq.*), subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e *et seq.*), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Food and Nutrition Act of 2008 (7 U.S.C. 2011 *et seq.*), section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*), as applicable;
  - (ii) For paragraph (3)(ii) of the homeless definition in § 576.2, referral by a housing or service provider, written observation by an outreach worker, or certification by the homeless individual or head of household seeking assistance;
  - (iii) For paragraph (3)(iii) of the homeless definition in § 576.2, certification by the individual or head of household and any available supporting documentation that the individual or family moved two or more times during the 60-day period immediately preceding the date of application for homeless assistance, including: recorded statements or records obtained from each owner or renter of housing, provider of shelter or housing, or social worker, case worker, or other appropriate official of a hospital or institution in which the individual or family resided; or, where these statements or records are unobtainable, a written record of the intake worker's due diligence in attempting to obtain these statements or records. Where a move was due to the individual or family fleeing domestic violence, dating violence, sexual assault, or stalking, then the intake worker may alternatively obtain a written certification from the individual or head of household seeking assistance that they were fleeing that situation and that they resided at that address; and
  - (iv) For paragraph (3)(iv) of the homeless definition in § 576.2, written diagnosis from a professional who is licensed by the state to diagnose and treat that condition (or intake staff-recorded observation of disability that within 45 days of date of the application for assistance is confirmed by a professional who is licensed by the state to diagnose and treat that condition); employment records; department of corrections records; literacy, English proficiency tests; or other reasonable documentation of the conditions required under paragraph (3)(iv) of the homeless definition.

(5) If the individual or family qualifies under paragraph (4) of the homeless definition in § 576.2, because the individual or family is fleeing domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions related to violence, then acceptable evidence includes an oral statement by the individual or head of household seeking assistance that they are fleeing that situation, that no subsequent residence has been identified and that they lack the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other housing. If the individual or family is receiving shelter or services provided by a victim service provider, the oral statement must be documented by either a certification by the individual or head of household; or a certification by the intake worker. Otherwise, the oral statement that the individual or head of household seeking assistance 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 must be documented by a certification by the individual or head of household that the oral statement is true and complete, and, where the safety of the individual or family would not be jeopardized, the domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening condition must be verified by a written observation by the intake worker or 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, dating violence, sexual assault, or stalking. The written referral or observation need only include the minimum amount of information necessary to document that the individual or family is fleeing, or attempting to flee domestic violence, dating violence, sexual assault, and stalking.

(c) **At risk of homelessness status.** For each individual or family who receives Emergency Solutions Grant (ESG) homelessness prevention assistance, the records must include the evidence relied upon to establish and verify the individual or family's "at risk of homelessness" status. This evidence must include an intake and certification form that meets HUD specifications and is completed by the recipient or subrecipient. The evidence must also include:

(1) If the program participant meets the criteria under paragraph (1) of the "at risk of homelessness" definition in § 576.2:

(i) The documentation specified under this section for determining annual income;

(ii) The program participant's certification on a form specified by HUD that the program participant has insufficient financial resources and support networks; e.g., family, friends, faith-based or other social networks, immediately available to attain housing stability and meets one or more of the conditions under paragraph (1)(iii) of the definition of "at risk of homelessness" in § 576.2;

(iii) The most reliable evidence available to show that the program participant does not have sufficient resources or support networks; e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "homeless" definition. Acceptable evidence includes:

(A) Source documents (e.g., 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 the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party that the applicant meets one or both of the criteria under paragraph (1)(ii) of the definition of "at risk of homelessness" in § 576.2; or
  - (C) To the extent that source documents and third-party verification are unobtainable, a written statement by the recipient's or subrecipient's intake staff describing the efforts taken to obtain the required evidence; and
- (iv) The most reliable evidence available to show that the program participant meets one or more of the conditions under paragraph (1)(iii) of the definition of "at risk of homelessness" in § 576.2. Acceptable evidence includes:
- (A) Source documents that evidence one or more of the conditions under paragraph (1)(iii) of the definition (e.g., eviction notice, notice of termination from employment, bank statement);
  - (B) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., former employer, owner, primary leaseholder, public administrator, hotel or motel manager) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party that the applicant meets one or more of the criteria under paragraph (1)(iii) of the definition of "at risk of homelessness"; or
  - (C) To the extent that source documents and third-party verification are unobtainable, a written statement by the recipient's or subrecipient's intake staff that the staff person has visited the applicant's residence and determined that the applicant meets one or more of the criteria under paragraph (1)(iii) of the definition or, if a visit is not practicable or relevant to the determination, a written statement by the recipient's or subrecipient's intake staff describing the efforts taken to obtain the required evidence; or
- (2) If the program participant meets the criteria under paragraph (2) or
- (3) of the "at risk of homelessness" definition in § 576.2, certification of the child or youth's homeless status by the agency or organization responsible for administering assistance under the Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*), the Head Start Act (42 U.S.C. 9831 *et seq.*), subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e *et seq.*), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Food and Nutrition Act of 2008 (7 U.S.C. 2011 *et seq.*), section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*), as applicable.
- (d) **Determinations of ineligibility.** For each individual and family determined ineligible to receive Emergency Solutions Grant (ESG) assistance, the record must include documentation of the reason for that determination.
- (e) **Annual income.** For each program participant who receives homelessness prevention assistance, or who receives rapid re-housing assistance longer than one year, the following documentation of annual income must be maintained:
- (1) Income evaluation form containing the minimum requirements specified by HUD and completed by the recipient or subrecipient; and

- (2) Source documents for the assets held by the program participant and income received over the most recent period for which representative data is available before the date of the evaluation (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement);
  - (3) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party of the income the program participant received over the most recent period for which representative data is available; or
  - (4) To the extent that source documents and third party verification are unobtainable, the written certification by the program participant of the amount of income the program participant received for the most recent period representative of the income that the program participant is reasonably expected to receive over the 3-month period following the evaluation.
- (f) **Program participant records.** In addition to evidence of homeless status or "at risk of homelessness" status, as applicable, records must be kept for each program participant that document:
- (1) The services and assistance provided to that program participant, including, as applicable, the security deposit, rental assistance, and utility payments made on behalf of the program participant;
  - (2) Compliance with the applicable requirements for providing services and assistance to that program participant under the program components and eligible activities provisions at § 576.101 through § 576.106, the provision on determining eligibility and amount and type of assistance at § 576.401(a) and (b), and the provision on using appropriate assistance and services at § 576.401(d) and (e); and
  - (3) Where applicable, compliance with the termination of assistance requirement in § 576.402.
- (g) **Centralized or coordinated assessment systems and procedures.** The recipient and its subrecipients must keep documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system(s) developed by the Continuum of Care(s) in accordance with the requirements established by HUD.
- (h) **Rental assistance agreements and payments.** The records must include copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by program participants.
- (i) **Utility allowance.** The records must document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.
- (j) **Shelter and housing standards.** The records must include documentation of compliance with the shelter and housing standards in § 576.403, including inspection reports.
- (k) **Emergency shelter facilities.** The recipient must keep records of the emergency shelters assisted under the ESG program, including the amount and type of assistance provided to each emergency shelter. As applicable, the recipient's records must also include documentation of the value of the building before the rehabilitation of an existing emergency shelter or after the conversion of a building into an emergency shelter and copies of the recorded deed or use restrictions.
- (l) **Services and assistance provided.** The recipient must keep records of the types of essential services, rental assistance, and housing stabilization and relocation services provided under the recipient's program and the amounts spent on these services and assistance. The recipient and its subrecipients



that are units of general purpose local government must keep records to demonstrate compliance with the maintenance of effort requirement, including records of the unit of the general purpose local government's annual budgets and sources of funding for street outreach and emergency shelter services.

- (m) **Coordination with Continuum(s) of Care and other programs.** The recipient and its subrecipients must document their compliance with the requirements of § 576.400 for consulting with the Continuum(s) of Care and coordinating and integrating ESG assistance with programs targeted toward homeless people and mainstream service and assistance programs.
- (n) **HMIS.** The recipient must keep records of the participation in HMIS or a comparable database by all projects of the recipient and its subrecipients.
- (o) **Matching.** The recipient must keep records of the source and use of contributions made to satisfy the matching requirement in § 576.201. The records must indicate the particular fiscal year grant for which each matching contribution is counted. The records must show how the value placed on third-party, noncash contributions was derived. To the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocation of regular personnel costs.
- (p) **Conflicts of interest.** The recipient and its subrecipients must keep records to show compliance with the organizational conflicts-of-interest requirements in § 576.404(a), a copy of the personal conflicts of interest policy or codes of conduct developed and implemented to comply with the requirements in § 576.404(b), and records supporting exceptions to the personal conflicts of interest prohibitions.
- (q) **Homeless participation.** The recipient must document its compliance with the homeless participation requirements under § 576.405.
- (r) **Faith-based activities.** The recipient and its subrecipients must document their compliance with the faith-based activities requirements under § 576.406.
- (s) **Other Federal requirements.** The recipient and its subrecipients must document their compliance with the Federal requirements in § 576.407 and § 576.409, as applicable, including:
  - (1) Records demonstrating compliance with the nondiscrimination and equal opportunity requirements under § 576.407(a) and the affirmative outreach requirements in § 576.407(b), including:
    - (i) Data concerning race, ethnicity, disability status, sex, and family characteristics of persons and households who are applicants for, or program participants in, any program or activity funded in whole or in part with ESG funds; and
    - (ii) Documentation of the actions that the recipient has taken to affirmatively further fair housing, pursuant to §§ 5.151 and 5.152 of this title.
  - (2) Records demonstrating compliance with the uniform administrative requirements in 24 CFR part 200.
  - (3) Records demonstrating compliance with the environmental review requirements, including flood insurance requirements.
  - (4) Certifications and disclosure forms required under the lobbying and disclosure requirements in 24 CFR part 87.
  - (5) Data on emergency transfers requested under § 576.409, pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of such requests.
- (t) **Relocation.** The records must include documentation of compliance with the displacement, relocation, and acquisition requirements in § 576.408.

(u) **Financial records.**

- (1) The recipient must retain supporting documentation for all costs charged to the ESG grant.
- (2) The recipient and its subrecipients must keep documentation showing that ESG grant funds were spent on allowable costs in accordance with the requirements for eligible activities under “§§ 576.101 through 576.109, financial management in 2 CFR 200.302, and the cost principles in 2 CFR part 200, subpart E.
- (3) The recipient and its subrecipients must retain records of the receipt and use of program income.
- (4) The recipient must keep documentation of compliance with the expenditure limits in § 576.100 and the expenditure deadline in § 576.203.

(v) **Subrecipients and contractors.**

- (1) The recipient must retain copies of all solicitations of and agreements with subrecipients, records of all payment requests by and dates of payments made to subrecipients, and documentation of all monitoring and sanctions of subrecipients, as applicable. If the recipient is a State, the recipient must keep records of each recapture and distribution of recaptured funds under § 576.501.
- (2) The recipient and its subrecipients must retain copies of all procurement contracts and documentation of compliance with the procurement requirements in 2 CFR part 200, subpart D.
- (3) The recipient must ensure that its subrecipients comply with the recordkeeping requirements specified by the recipient and HUD notice or regulations.

(w) **Other records specified by HUD.** The recipient must keep other records specified by HUD.

(x) **Confidentiality.**

- (1) The recipient and its subrecipients must develop and implement written procedures to ensure:
  - (i) All records containing personally 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 assistance will be kept secure and confidential;
  - (ii) The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under the ESG will not be made public, except with written authorization of the person responsible for the operation of the shelter; and
  - (iii) 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.
- (2) The confidentiality procedures of the recipient and its subrecipients must be in writing and must be maintained in accordance with this section.

(y) **Period of record retention.** All records pertaining to each fiscal year of ESG 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 funds are used for the renovation of an emergency shelter involves costs charged to the ESG 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 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 funds are first obligated for the conversion.

(z) **Access to records.**

- (1) **Federal Government rights.** Notwithstanding the confidentiality procedures established under paragraph (x) of this section, the recipient and its subrecipients must comply with the requirements for access to records in 2 CFR 200.336.
- (2) **Public rights.** The recipient must provide citizens, public agencies, and other interested parties with reasonable access (consistent with state and local laws regarding privacy and obligations of confidentiality and the confidentiality requirements in this part) to records regarding any uses of ESG funds the recipient received during the preceding 5 years.

- (aa) **Reports.** The recipient must collect and report data on its use of ESG funds in the Integrated Disbursement and Information System (IDIS) and other reporting systems, as specified by HUD. The recipient must also comply with the reporting requirements in 2 CFR part 200 and 24 CFR part 91 and the reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, (31 U.S.C. 6101 note), which are set forth in appendix A to 2 CFR part 170.

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## § 576.501 Enforcement.

(a) **Performance reviews.**

- (1) HUD will review the performance of each recipient in carrying out its responsibilities under this part whenever determined necessary by HUD, but at least annually. In conducting performance reviews, HUD will rely primarily on information obtained from the records and reports from the recipient and, when appropriate, its subrecipients, as well as information from onsite monitoring, audit reports, and information from IDIS and HMIS. Where applicable, HUD may also consider relevant information pertaining to the recipient's performance gained from other sources, including citizen comments, complaint determinations, and litigation. Reviews to determine compliance with specific requirements of this part will be conducted as necessary, with or without prior notice to the recipient.
- (2) If HUD determines preliminarily that the recipient or one of its subrecipients has not complied with an ESG program requirement, HUD will give the recipient notice of this determination and an opportunity to demonstrate, within the time prescribed by HUD and on the basis of substantial facts and data, that the recipient has complied with Emergency Solutions Grant (ESG) requirements. HUD may change the method of payment to require the recipient to obtain HUD's prior approval each time the recipient draws down Emergency Solutions Grant (ESG) funds. To obtain prior approval, the recipient may be required to manually submit its payment requests and supporting documentation to HUD in order to show that the funds to be drawn down will be expended on eligible activities in accordance with all ESG program requirements.

- (3) If the recipient fails to demonstrate to HUD's satisfaction that the activities were carried out in compliance with ESG program requirements, HUD will take one or more of the remedial actions or sanctions specified in paragraph (b) of this section.
- (b) **Remedial actions and sanctions.** Remedial actions and sanctions for a failure to meet an ESG program requirement will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence.
  - (1) HUD may instruct the recipient to submit and comply with proposals for action to correct, mitigate, and prevent noncompliance with ESG requirements, including:
    - (i) Preparing and following a schedule of actions for carrying out activities affected by the noncompliance, including schedules, timetables, and milestones necessary to implement the affected activities;
    - (ii) Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;
    - (iii) Canceling or revising activities likely to be affected by the noncompliance, before expending ESG funds for the activities;
    - (iv) Reprogramming ESG funds that have not yet been expended from affected activities to other eligible activities;
    - (v) Suspending disbursement of ESG funds for some or all activities;
    - (vi) Reducing or terminating the remaining grant of a subrecipient and reallocating those funds to other subrecipients; and
    - (vii) Making matching contributions before or as draws are made from the recipient's ESG grant.
  - (2) HUD may change the method of payment to a reimbursement basis.
  - (3) HUD may suspend payments to the extent HUD deems it necessary to preclude the further expenditure of funds for affected activities.
  - (4) HUD may remove the recipient from participation in reallocations of funds under subpart D of this part.
  - (5) HUD may deny matching credit for all or part of the cost of the affected activities and require the recipient to make further matching contributions to make up for the contribution determined to be ineligible.
  - (6) HUD may require the recipient to reimburse its line of credit in an amount equal to the funds used for the affected activities.
  - (7) HUD may reduce or terminate the remaining grant of a recipient and reallocate those funds to other recipients in accordance with subpart D of this part.
  - (8) HUD may condition a future grant.
  - (9) HUD may take other remedies that are legally available.
- (c) **Recipient sanctions.** If the recipient determines that a subrecipient is not complying with an ESG program requirement or its subgrant agreement, the recipient must take appropriate actions, as prescribed for HUD in paragraphs (a) and (b) of this section. If the recipient is a State and funds become available as a result

of an action under this section, the recipient must reallocate those funds to other subrecipients as soon as practicable. If the recipient is a unit of general purpose local government of territory, it must either reallocate those funds to other subrecipients or reprogram the funds for other activities to be carried out by the recipient as soon as practicable. The recipient must amend its Consolidated Plan in accordance with its citizenship participation plan if funds become available and are reallocated or reprogrammed under this section. The reallocated or reprogrammed funds must be used by the expenditure deadline in § 576.203.