

CHAPTER 3 – HOMEOWNER REHABILITATION

Chapter Overview

Overview of HOME Program Requirements
Eligible Activities
Forms of Financial Assistance
Eligible Homeowner Rehabilitation Costs
CHDOs (Community Housing Development Organizations)
Eligible Property Types
Maximum Property Value
Property Standards
The Applicant/Beneficiary
Income Eligibility Requirements
Ownership Requirements
Other Federal Requirements
Implementing a Homeowner Rehabilitation Program

Overview of HOME Program Requirements

The chapter covers eligible homeowner rehabilitation activities, applicant eligibility requirements, forms of financial assistance, and property standards and value. A summary of the key homeowner rehabilitation rules and how to document compliance with these rules is provided as Attachment 1.

Manual Reminder: The HOME Administration Manual contains information on eligible uses and requirements of HOME funds as general guidance. However, the Department further defines eligible uses and requirements for HOME funds administered by the Department via the Housing and Community Development Annual Action Plan, NAHP Application Guidelines and the HOME Program Contract. **Applicants and grantees must adhere to the requirements imposed on HOME funds for the particular program year and specific award.**

Eligible Activities

HOME funds may be used to assist existing homeowners with the repair, rehabilitation or reconstruction of owner-occupied units.

Whenever HOME funds are used for rehabilitation, the work must be performed according to the Department's Minimum Standards for Rehabilitation, the unit must be brought up to the applicable local code. If a local code does not exist, the unit may be brought up to the standards of one of the national model codes. These Minimum Standards for Rehabilitation can be found on the Department's website.

All of these types of repairs are eligible if they are undertaken within a more comprehensive scope of work that brings the unit up to the applicable codes and standards:

- Weatherization programs.
- Emergency repair programs.

- Handicapped accessibility programs.

Forms of Financial Assistance

Grantees may structure HOME assistance for owner-occupied rehabilitation using any of the following five forms:

- Grants.
- Deferred-payment loans.
- Non-interest-bearing loans.
- Interest-bearing loans.
- Interest subsidies.

Regardless of the type of assistance, grantees may choose to finance all of the rehabilitation cost or only a portion of the cost.

- If financing all of the cost of rehabilitation, a grant or deferred-payment loan is often necessary to provide the deep subsidy required by the very low-and low-income participants of rehabilitation programs.
- In some cases, a low-interest loan may be affordable or more appropriate. Examples of such cases include owner-occupants with sufficient income to repay a loan on a monthly basis; or when refinancing of existing debt, necessary to lower the owner-occupant's overall housing debt, is included as part of the rehabilitation loan.
- If a grantee chooses to finance only a part of the rehabilitation cost, it may structure its assistance to be used in combination with other financing. For example, the grantee and a private lender could jointly loan the funds needed for rehabilitation. This arrangement, referred to as a participation loan, results in one loan from the lender and one from the grantee, usually at a low interest rate. The size of the HOME loan is typically dependent upon the amount available for the conventional loan.
- Another option would be for the grantee to provide HOME assistance as a grant or deferred-payment loan to "write down" the principal amount of a private loan thus making the monthly loan repayment affordable to the homeowner. This technique is often referred to as principal reduction.
- Interest subsidies, also referred to as interest reduction grants or interest rate buydowns, are similar to principal reduction grants or loans except that the HOME funds are used to "buy down" the interest rate to an affordable level. In this case, the HOME subsidy is paid directly to the lender and not provided to the homeowner.

Eligible Homeowner Rehabilitation Costs

Under HOME, both the actual cost of rehabilitating the housing and related soft costs are eligible. The Department may also provide HOME funds for general administrative expenses associated with the grant.

Hard Costs

- Meeting the rehabilitation standards.
- Meeting applicable codes, standards and ordinances.
- Essential improvements.
- Energy-related improvements.
- Accessibility for disabled persons.
- Repair or replacement of major housing systems.
- Incipient repairs and general property improvements of a non-luxury nature.
- Site improvements and utility connections.
- Lead-based paint hazard reduction.

Note: Lead hazard reduction costs are not counted as hard costs for the purposes of determining the level of assistance under 24 CFR Part 35 (the Lead Safe Housing Rule).

Soft Costs

- Financing fees.
- Credit reports.
- Title binders and insurance.
- Recordation fees, transaction taxes.
- Legal and accounting fees.
- Appraisals.
- Architectural/engineering fees, including specifications and job progress inspections.

Other Costs

Refinancing of secured existing debt if the housing is owner-occupied and refinancing allows the overall costs of borrower to be reduced and the housing is made more affordable.

Refinancing existing secured debt is an eligible cost if:

- The housing is owner-occupied.
- HOME funds are loaned for rehabilitation.
- Refinancing allows the borrower's overall housing costs to be reduced and the housing is made more affordable.

Example: Mr. and Mrs. Brown are seeking HOME funds to rehabilitate their home. They have an outstanding principal balance on their first mortgage of \$40,000, at 10% interest, with a monthly payment of \$386. The cost of rehabilitation is \$15,000. The grantee is offering the rehabilitation loan at 3% for a 20-year term, with a monthly cost of \$83.19. The monthly payments for both loans total \$469.20.

Because the Browns are on a fixed income, the increased mortgage cost would create a financial burden, requiring them to pay well above 30% of their monthly income for their housing. Refinancing the first mortgage along with the rehabilitation costs using HOME funds would allow them to finance the total \$55,000 debt at 3% interest for 20 years. This results in a monthly cost of \$305.03, a savings of \$164.00 per month, making the rehabilitation possible for the Browns and substantially lowering their monthly housing-related expenses.

Refinancing eligible owner-occupants' secured debt has several implications:

- Refinancing makes overall housing costs, including rehabilitation costs, affordable to the owner.
- Refinancing will reduce the amount of funds available to other applicants, thus reducing the number of families that can be assisted.

CHDOs (Community Housing Development Organizations)

Homeowner rehabilitation is not an eligible CHDO set-aside activity. CHDOs, like other non-profit agencies, may act as a subrecipient.

Eligible Property Types

To be eligible for HOME assistance, a property must be:

- Occupied by an income-eligible homeowner
- The owner's principal residence.

The following property types may be included under the program:

- Traditional single-family housing that is owned fee simple (this housing may contain one to four dwelling units).
- A condominium unit.
- A manufactured home.

At the time of project completion, the manufactured housing must be connected to permanent utility hook-ups. The manufactured housing must be located on land that is owned by the manufactured housing unit owner.

The Nebraska Affordable Housing Program considers a Manufactured Home to be a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, and is taxed as real property.

The Nebraska Affordable Housing Program considers a Mobile Home to be a housing unit constructed off-site that does not meet the definition of a Manufactured Home.

If HOME funds are used to assist the rental units in a two-to-four-unit property, the HOME rental requirements apply --including provisions regarding tenant occupancy, initial rent levels and long-term affordability.

If HOME funds are used to rehabilitate only the owner-occupied unit in a two-to-four-unit property, the rental housing rules do not apply.

Example: A four-unit owner-occupied property is being rehabilitated. HOME funds are used to upgrade the owner's unit, but CDBG funds are used to upgrade the other units. Therefore, the HOME rental housing rules do not apply.

Maximum Property Value

To use HOME funds, the value of the HOME assisted property *after rehabilitation* must not exceed 95 percent of the median purchase price for the area, as published by HUD. The figures published by FHA for its 203(b) program had been used for this number; however, with the passing of HERA and the Economic Stimulus Act, these numbers now exceed those limits permissible under the HOME statute. In early February 2008, FHA issued Section 203(b) mortgage limits based upon the methodology that existed before the Economic Stimulus Act and HERA became law. Grantees may continue to use these February 2008 Section 203(b) mortgage limits as the purchase price or after-rehabilitation value limit for their homeownership activities, or may adopt the actual 95 percent of median sales price for their area. A link to the current limits is provided at the Department's website.

To establish project eligibility, after-rehabilitation value must be established prior to any work being performed. The after-rehabilitation value may be established by one or more of the following methods:

- Estimates of value by the grantee may be used. Client files must contain the estimate of value and document the basis for the value estimates.
- Appraisals prepared by a licensed fee appraiser may be used. Client files must document the appraised value and the appraisal approach used.
- Tax assessments for a comparable property located in the same neighborhood may be used to establish the after-rehabilitation value *if* the assessment is current and accurately reflects market value *after* rehabilitation.

Property Standards

Properties that are rehabilitated with HOME funds must meet the following standards:

- The Department's Minimum Standards for Rehabilitation (found on the Department's website: <http://neded.org>).
- Local Code Requirements, or one of the following national model codes:
 - Uniform Building Code (ICBO)
 - National Building Code (BOCA)
 - Standard Building Code (SBCCI)
 - Council of American Building Officials one-or two-family code (CABO)
 - Minimum Property Standards at 24 CFR 200.925 or 200.926 (FHA)

- Handicapped accessibility requirements, where applicable.

The Department generally requires manufactured housing units to have permanent utility hook-ups or permanent foundations to be eligible for rehabilitation with HOME funds.

The Nebraska Affordable Housing Program considers a Manufactured Home to be a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, and is taxed as real property.

The Nebraska Affordable Housing Program considers a Mobile Home to be a housing unit constructed off-site that does not meet the definition of a Manufactured Home.

The Applicant/Beneficiary

To be eligible for HOME funds, the homeowner must:

- Be low-income; that is, with an annual (gross) income that does not exceed 80% of median for the area
- Occupy the property as a principal residence.

Income Eligibility Requirements

The Department requires grantees to use the Annual (Gross) Income definition found at 24 CFR Part 5.609 (also referred to as the Section 8 method) to determine applicant income eligibility. Eligibility is based on anticipated income during the next 12 months. A detailed explanation of the Annual (Gross) Income definition can also be found in the “Technical Guide for Determining Income and Allowances for the HOME Program” on pages 11-34.

The HOME Program allows grantees to use two forms of verification for the Annual (Gross) Income basis of determining income eligibility. These forms are third party verification and review of source documents.

Third Party Verification

Third Party Verification is the preferred method of verification in most instances, because a review of documents often does not provide needed information. For example, an employed applicant’s pay stubs may not provide sufficient information about the average number of hours worked, overtime, tips, bonuses and anticipated raises.

Under third party verification, a third party (e.g. employer, Social Security Administration, or public assistance agency) is contacted to provide information. Written requests and responses are preferred. However, to clarify or complete missing information on a written response, conversations with a third party are acceptable if documented through a memorandum to the file that documents the contact person, information conveyed and date of call.

To conduct third party verifications, a grantee must obtain a written release from the household that authorizes the third party to release required information.

Some third party providers may, however, be unwilling, unable or charge a fee to provide the needed information in a timely manner. In such cases, the grantee should attempt to find suitable source documentation without the third-party verification – for example, bank statements.

Review of Documents

Source documents provided by the applicant may be more appropriate for certain types of income such as persons that are self-employed, and can be used as an alternative to the third party verification method. Source documents, such as wage statements, interest statements, unemployment compensation statements and income tax returns, etc. are reviewed to determine annual (gross) income.

Calculating Annual (Gross) Income

The Part 5 definition of annual income “inclusions” – types of income to be counted and “exclusions” – types of income that are not considered (income of minors, etc.) comes directly from 24 CFR PART 5.609.

Timing of Income Determinations

Income determinations must be completed before HOME assistance is provided. Income need not be reexamined at the time HOME assistance is actually provided unless more than six months has elapsed since the initial determination.

Ownership Requirements

Ownership of property assisted with HOME funds must be documented. A family or individual is considered to own the property if that family or person:

- Has fee simple title to the property; or
- Maintains a 99-year leasehold interest in the property; or
- Owns a condominium; or
- Maintains an equivalent form of ownership approved by the Department and HUD.

Loan documents or other forms of written agreement between the purchaser and the grantee must incorporate the requirement that the owner occupies the property as their principal residence.

Other Federal Requirements

Attachment 2 identifies the other federal requirements that must be followed when HOME is used for rehabilitation of homeowner properties. This exhibit is meant to serve as a checklist only.

HUD's new consolidated Federal lead-based paint regulation took effect September 15, 2000. This regulation makes several important changes in the requirements for federal community development programs that fund housing.

Implementing a Homeowner Rehabilitation Program

Suggested Reading: *HOME Program Rehabilitation Tune-up Kit & Good Habits of a Highly Effective Rehabilitation Manager* –Publications of the U.S. Department of Housing & Urban Development (HUD). Contact HUD or the Department to obtain either publication.

Program Guidelines

Formulate program guidelines regarding the type of financial assistance, program recipients, rehabilitation standards, advisory committees (if any), and operational procedures.

Detailed written eligibility criteria and property rehabilitation standards must be developed to guide program operation. The grantee must adopt standards and guidelines for rehabilitation before the Department will issue a release of funds for this grant.

Homeowner Rehabilitation Program Guidelines must contain the following information:

- Clearly defined Application Process
 - Applicant eligibility, including income eligibility. Persons assisted with HOME funds must have incomes at or below 80% of the area median income. The Annual (Gross) Income definition found at 24 CFR 5.609 must be included in the guidelines.
 - Formal notification of selection and non-selection.
 - Application acceptance dates.
 - Application review process.
- Priority Ranking System for selection, if applicable, must not contain discriminatory criteria.
- Conflict of Interest Clause.
- Grievance Procedures.
- Process for Amending Program Guidelines, including language that amendments must be approved by the Department Program Representative.
- Types of assistance provided, including HOME funds and other sources such as employer contributions in an employer assisted housing program.
- Amounts of assistance allowed, including HOME funds and other sources such as employer contributions in an employer assisted housing program.
- Eligible Properties, including the geographic boundaries where the properties must be located.
- Determination of homeownership, including the acceptable forms of proof of homeownership by the occupant.
- Determination of infeasibility, including the criteria used to determine that a home is infeasible to rehabilitate and the plan, if any, to provide alternative assistance to the homeowner, such as replacement housing.
- Affordability Period, if the program requires, the home is occupied as principle residence for a minimum time period.

- Methods for ensuring the affordability period and principle residence requirement, if applicable, must include 1) program-wide recapture provisions; and 2) legal instruments to be used.
- Relocation policy, if applicable
- Rehabilitation process, including who will conduct work write-ups, how contractors will be procured, and the process for compliance with LBP requirements. All programs must comply with HUD's lead-based paint regulation requirements.
- Return beneficiaries, including policies on whether homeowners that have received rehabilitation assistance in previous years can receive additional assistance and any parameters related to this policy.
- The maximum after-rehab value cannot exceed the 95% of the median sales price for the area or the pre-stimulus 2008 Section 203(b) Single Family Mortgage Limit. State the limit for the counties you are serving. Also, state what the after-rehab value maximum will be for your program.
- The Nebraska Affordable Housing Program financial assistance to the unit provided to the homeowner cannot exceed the Maximum per unit NAHP Subsidy.
- The Fair Housing Act must be complied with.
- The Department's Minimum Standards for Rehabilitation.
- If the rehabilitation program includes replacement housing for homes that are infeasible to rehabilitate, newly constructed housing must meet or exceed the 2003 International Energy Conservation Code and the Nebraska Energy Office must approve building specifications.

Remember that there is no model that is perfect for all grantees. How the grantee resolves each of the above issues should reflect local conditions and needs. The grantee should contact the Department and communities in the area to determine the kinds of programs that have worked well. Many of the developed procedures or processes may be transferable. These guidelines would be available at no cost since they were originally developed through the HOME program.

Designing a Program

Become familiar with commonly accepted rehab practices and procedures and the applicable laws, regulations and administrative requirements governing HOME-assisted housing rehabilitation.

It is generally agreed that housing rehabilitation (rehab) is one of the most complex activities eligible for HOME funding. In order to successfully design and implement a rehab program, it is essential to have a thorough understanding of sound rehab practices and the applicable laws and regulations that govern them.

It is of critical importance to understand the HUD regulation on controlling lead-based paint hazards in housing receiving federal-assistance (24 CFR Part 35). Subpart J of the regulation provides guidance on meeting lead-based paint requirements for rehabilitation assistance programs.

Common Deficiencies:

- Unfamiliarity with accepted rehab practices and procedures.
- Unfamiliarity with applicable laws and regulations.
- Unfamiliarity with lead-based paint requirements.
- Inability to expend funds within the contract period due to lack of qualified and interested contractors.

Maximum Amounts

In addition to deciding whether to go with either a grant or loan program, or a mix, the grantee must specify the maximum amount of assistance to be made available to any applicant. There are several factors to take into consideration:

- What is the general condition of the housing to be rehabilitated?
- What standards of rehabilitation will be adopted?
- How much money is needed to bring the target housing up to the proposed rehab standards?

If the housing to be rehabbed is badly deteriorated, a small maximum grant amount (for example, \$5,000) will probably not be sufficient to bring the property up to the Department's Minimum Standards for Rehabilitation located on the Department's website. Most communities with badly deteriorated target housing have found a \$10,000 - \$12,000 maximum insufficient to meet these standards. On the other hand, if the housing is only mildly deteriorated a modest grant/loan maximum may be appropriate. Have a contractor or building inspector actually estimate needed repairs on a couple of typical units. Use these estimates as the basis for setting grant/loan limits. Also, be sure to specify a procedure which will allow the limits to be changed over time, as needed.

Eligible Applicants

The written program guidelines must also delineate applicant eligibility. The guidelines should include provisions barring conflict of interest to the extent feasible. This is extremely important. A rehab program provides direct benefits to individuals. A rehab program is therefore subject to political pressures, cronyism, and nepotism.

In addition, the guidelines must specify income limits that are in compliance with HUD's definition of low and moderate income households. The Department specifies that applicants' gross income be computed as defined in 24 CFR Part 5.609.

Eligible Property

The guidelines should also identify the geographic eligibility criteria pertaining to the target area(s). If rehab is only eligible within the designated target area(s), the guidelines should say so and describe the area(s). The Department may permit spot rehab outside the target area(s) for the benefit of low to moderate income families or to eliminate specific conditions detrimental to public health and safety.

However, Spot rehab can open a program to substantial pressure to spread the benefits around and this undermines the potential for private activity stimulated by concentration of resources.

On the other hand a program can find itself unable to assist households in acute need who live outside target areas. It is recommended that provisions be made for spot rehab and that the guidelines explicitly describe the conditions under which it will be made available.

If a property is located within a HUD designated area of flood hazard and the grantee proposes a substantial repair, then it is required that flood insurance be purchased by the time of completion of the rehab. The cost of the insurance is an eligible HOME activity.

Length of ownership is also a factor some grantees may want to consider. If a high vacancy rate is a problem, the program may only require that the unit become occupied at the completion of the rehab. This way new owners may be enticed into the community to buy vacant, but fixable units. As long as they are otherwise qualified, there is no reason that a new owner cannot participate.

Eligible Improvements and Rehab Standards

The guidelines must also specify the standards that properties must meet after rehab. Housing must meet the Department's Minimum Standards for Rehabilitation and local codes. If no local codes exist, it must meet one of the HOME-recognized national model codes. Assisted housing must also comply with lead-based paint hazard elimination standards.

Any improvement needed to bring a unit up to the required standards should be specified as an eligible improvement. It is recommended that the grantee consider making energy conservation improvements a priority. Energy conservation standards must be included in standards that are adopted for housing rehab. Many grantees include exterior painting or siding as eligible improvements since the work is immediately noticeable and can have a significant "bandwagon" effect on rehab in the neighborhood. It is not recommended that general property improvement—carports, patios, decks, etc.—be eligible for grant funding. For a loan, the grantee may want to allow such improvements but limit their cost to a low percentage of the total loan.

Contracting Requirements

The homeowner is to authorize the contract for rehab services. Because the grantee remains responsible for monitoring contractor compliance with federal standards, financial management, and other program requirements you probably will want a three-party contract to afford the grantee greater visibility in the process.

The guidelines should specify contracting procedures and any other procedures which govern the conduct of work, such as those relating to change orders, dispute resolution, and acceptance of work. Regarding the latter, the grantee should assume final authority for sign-off on completion of work, if the homeowner has not borrowed the HOME funds.

Applicant Selection

Since demand for rehab assistance typically outstrips the resources available, a grantee must establish procedures for selecting recipients and include them in the program guidelines.

A priority rating system combined with staggered review and award periods will allow the grantee to meet such demand in an equitable fashion. A priority rating system means that each

application is assigned points and ranked on the basis of such household characteristics as income and housing condition. In addition elderly and/or disabled applicants may receive priority points. A rating system must be carefully thought out to assure that the criterion used does not have the effect of discriminating against racial minorities or women. For example, credit worthiness criteria could easily discriminate against female-headed households. The grantee may want to differentiate rating guides for grant versus loan assistance.

Development of the priority rating system is something for which citizen board or resident representative input can be appropriately requested. The actual selection, however, should be a staff responsibility. It should not be done by a citizen board. Information on applicants is confidential and should remain so.

Operating Procedures

The guidelines should specify such other issues as complaint procedures, responsibilities of the recipient, infeasible rehabs, relocation policies in the event of the need for temporary relocation, and so forth. Complaints are a given with rehab programs. It is important to distinguish between the rational and the irrational. The best prevention is to conduct frequent on-site inspections of the work, and stop the work when there are problems. Also make sure that the recipients are well-informed about the contract work, have signed-off on the work write-up, and have a copy of the program guidelines. The complaint procedure itself should include written responses from city representatives and an appeal procedure.

The guidelines should be developed by staff, with input from citizens and elected officials. They should always include a clause describing the process by which they can be changed.

They should be adopted by resolution. They should be written in plain language and be available to all potential applicants. And changes to the guidelines must also be approved by the Department. They should also be followed as written.

Common Deficiencies:

- Guidelines are not written.
- Guidelines lack conflict of interest provisions.
- Guidelines lack housing alternatives for infeasible rehab.
- Priority Rating Guides included but not used.
- Lack of prompt response to homeowner/contractor complaints.
- Exceeding per-unit maximum assistance amounts allowed under the program guidelines with out Department approval.

Supporting Materials

The Department's Minimum Standards for Rehabilitation located on the Department's website: <http://neded.org>.

Staffing

In staffing a rehab program, it is helpful to understand the specific skills that will be needed.

First, there is a need for a person who can deal with applicants, process paper, and manage the program. Someone must talk to applicants, visit their homes to complete family surveys, and keep track of the rehab program and process.

Second, there is a need for a person with experience and knowledge in the areas of home construction, local codes, inspection (building, electrical and plumbing), and cost estimating. These skills are found in experienced contractors, building inspectors, and architects familiar with rehab.

For small rehab programs, it may not be feasible to hire full-time staff. The grantee may be able to locate people to assist on a contract basis. The grantee might also consider a cooperative arrangement with nearby communities or a regional agency to pool resources and share staff. Special arrangements utilizing the staff of larger city programs may also be worked out.

The quality and success of a rehab program depends on the abilities and experiences of the people implementing the program. Every effort should be made to hire qualified staff.

Lead-based paint requirements necessitate using people with the proper qualifications to do specific functions of the rehab project.

Common Deficiencies

- Inadequate number of staff.
- Unqualified staff.
- Lack of adequate administrative budget for rehab.
- Lack of budget for staff training and development.

Marketing

Inform target area residents about the program, conduct family surveys, distribute information on lead-based paint and make preliminary determination of eligibility.

The grantee must inform property owners of the availability of rehab assistance. Generally, grantees have found that very little information solicits a large number of persons interested in rehab grants while a greater “sales” effort is necessary to obtain eligible loan applicants. Since the grantee has designated one or more target areas in the application, they should direct their efforts to reaching that population. The program should be well-publicized, and thoroughly explained to all interested individuals to allow for equal opportunity to all potential eligible beneficiaries.

All interested applicants should be screened first for eligibility under income and other criteria as specified in the guidelines. Although the cost of improvements is also a critical factor, a preliminary eligibility review can spare substantial costs of inspections and work write-ups for ineligible applicants. The information needed to determine basic eligibility can be obtained through a household survey guide that solicits information on income, family composition, place of employment, tenure, and so forth. Usually, the rehab officer will conduct the interview. The grantee must verify ownership, income, and employment. Verification should be done carefully

and sensitively since many people do not wish others to know they have applied for assistance. The information solicited is confidential and should be treated as such.

All applicants are to be informed of the hazards of lead based paint. This information should be distributed to everyone even if they don't qualify.

Common Deficiencies:

- Solicitation of recipients is left to chance.
- Preliminary assessments of eligibility are not conducted.
- Income, employment, and ownership are not verified.

Files

Maintain documentation that rehab is being carried out in conformance with applicable laws, regulations and sound rehab practices.

A separate file must be maintained for each rehab applicant with all of the documentation. Unsuccessful as well as successful applications must be kept. A file checklist should be kept in each applicant file to assure the same required documentation is collected for all applicants.

Note: good resources for establishing files for a rehabilitation program are the homeowner rehabilitation checklists located in Chapter 15 – Monitoring.

Common Deficiencies

- Inadequate documentation, forms not signed by all parties.
- No documentation from the State Historical Preservation Office (an environmental review requirement).

Rehabilitation Preparation

Screen applicants for those whose homes can be brought up to established standards within the grant amount, and select which applicants shall receive the grants/loans.

An inspection of the property should be conducted to determine the type and cost of work necessary to bring the property into compliance with the established property rehab standard. This is termed a work write-up or deficiency list. The work write-up should be designed so that it can form the basis of bid specifications if a loan or grant is made. The work write-up should specify all the work that must be done to bring the building to the standards required, including the elimination of lead-based paint hazards.

A deficiency list identifies all items to be repaired, but leaves the repair method up to the contractor. In both cases a technical specification manual or code book should be referenced for specific and acceptable construction method.

Some grantees with experienced staff have blank forms the inspector fills in as she/he goes along. Grantees with inexperienced staff have sometimes adopted very detailed check-off forms. The inspector checks for each one and specifies action needed to remedy the problem. It is better

to err on the side of caution. If local codes exist, the city inspector should certify by signature to the work write-up that the specified repairs will be adequate to bring the unit up to code.

Computerized write-ups are also used by some rehab specialists. The software is easy to use but would require access to a personal computer and printer.

Once the work write-up has been prepared, the cost of the work has to be estimated. The cost estimate is necessary to know whether or not the work can be done within the grant/loan limits, and, for a loan, is within the owner's ability to repay. The person doing cost estimates should be familiar with the going rates for materials and labor in the area and be able to estimate accurately the time required to complete each task.

Although there is no substitute for experience, if staff is inexperienced, they should talk with building supply people, contractors, and other communities and non-profits in order to increase their knowledge of local costs. Cost estimation is important because if your estimates are low, contractors will not bid the job within grant/loan limits, or they will and will then attempt to get change orders. Good, reliable cost estimates are critical.

Some grantees allow property owners to perform some of the required improvements themselves. Self-help can increase the resources available to bring the house up to rehab standards. If self-help is to be allowed, the grantee must assume responsibility for judging that the property owner possesses sufficient skill to perform agreed-upon improvements and must inspect the work for quality of workmanship and timely completion.

With the work write-up and cost estimate in hand, eligible applicants are rated according to the adopted priority rating guides. A rating sheet should be prepared for each applicant and placed in the file, permitting the grantee to explain to each applicant, if requested, the basis upon which they were selected or denied.

The grantee should write a letter to each applicant as to the results of the review process, indicating next steps for successful applicants and informing unsuccessful applicants that their application will be automatically reconsidered during the next review period.

Caution: Title IV of the Lead-Based Paint Poisoning Prevention Act and regulations at 24 C.F.R. Part 35 provide specific circumstances in which additional procedures and trained professionals are required in order to ensure there are no lead-based paint hazards remaining after or created by the rehab activity.

Common Deficiencies

- Work write-ups are insufficiently detailed or do not reference a technical specification.
- Cost estimates are not based on current costs.
- Selection procedure is informal and undocumented.
- Selection of applicants whose homes cannot be brought up to required standards within the maximum loan/grant amount.
- Non-selected applicants not formally notified of non-selection.

Rehabilitation Work

The lack of availability of interested and/or qualified contractors has been a major impediment for some grantees to implement a rehab program. Depending on the level of construction activity in the area, home building and remodeling contractors may not be interested in relatively small jobs for repairing homes in poor condition.

The grantee staff should try to identify possible contractors and attempt to interest them in program participation. The yellow pages of the telephone book, the Chamber of Commerce, conversations with construction materials suppliers, and word of mouth are all information resources to aid in developing a bidders list.

In order to promote the participation of small contractors, try to eliminate procedural barriers. Bonding requirements for small contractors can be prohibitive. Grantees should demand the minimum bonding and insurance required by federal and local law.

Technical assistance approaches some grantees have adopted are: financial management assistance to small contractors; talking to local suppliers to assure them of payment for any credit extended to rehab contractors for HOME funded jobs, guaranteed through two party checks, if necessary; talking to local financial institutions to encourage them to extend lines of credit. In order to expedite payment to small contractors, who often have cash flow problems, discuss with them the drawdown process and set specific procedures for providing ample notice for payment.

The pool of qualified contractors has been further limited by the additional requirements of the lead-based paint regulations associated with construction worker qualifications for rehab in pre-1978 housing.

Rehab Contract

The contract for rehab must include the language and requirements specified in applicable federal, state, and local laws binding the program. Davis-Bacon and other Labor Standards provisions do not apply unless the rehab to be undertaken in the contract is for twelve or more units. However, the payment of overtime is a law by which rehab contractors must abide.

Grantees should also consider including provisions in rehab contracts which require the contractor to obtain and pay for all necessary permits and licenses; perform all work in conformance with local codes and requirements whether or not covered by the specification and drawings; keep the premises clean and orderly during repairs and remove all debris at the completion of work; obtain written consent for changes to the specifications; not assign the contract without written consent; and warrant the work for one year from final acceptance. In order to be a complete contract document, the applicable HOME and local terms and conditions must be included.

Contractor Selection

Requirements of the grantee concerning bidding are dictated by 24 CFR Part 85.36 (units of local government) and 24 CFR Part 84.44 (non-profits) and State Law. If the grantee is not directly contracting for the rehab, i.e. they approve the contract on a third party basis, competitive

bidding is not required. Homeowners should be given maximum preference with selecting their contractor.

Following award of the contract, the contract package should be executed by all parties. It is a good idea to have the homeowner sign the work write-up to reduce possible misunderstandings about the scope of work to be performed. Following any Right of Recission period, a Notice to Proceed must be issued to the contractor that must specify the time period within which the work should begin and when the work should be completed.

Many small contractors will want progress payments. However, these payments must be tied to inspection of the work. Progress payments should generally not total more than 80% of the work satisfactorily completed and cannot include the value of uninstalled material or equipment. Project milestones triggering progress payments should be specified in the contract.

Inspections

Systematic, thorough and frequent inspections are critical to successful housing rehab. Inspection should identify and remedy problems as early as practical. Payments are the primary leverage over contractors and should be withheld until faulty work is corrected. If serious deficiencies are identified through inspection, the grantee can terminate the contract, compute the cost of unsatisfactory work and escrow this money, and solicit another contractor to complete the job paying the original contractor from the escrow account only if sufficient funds remain for the new contractor to complete the work. The grantee should also recognize that its staff may have to intercede on behalf of the contractor with the property owner who may have unfounded complaints about the repairs.

When repairs are completed and a final invoice is received from the contractor certifying completion in accordance with the contract and warranty, the grantee must make a final inspection. If the work is satisfactory and complete, the job should be accepted. After the receipt of a release of liens and applicable warranties from the contractor, all subcontractors and suppliers, and the elapse of the requisite lien period, final payment can be made. The grantee should perform a follow-up visit to the property owner in roughly 60 days to determine the existence of any problems with the job. If problems have occurred, the grantee should assist the property owner to obtain corrective action according to the warranty. A second follow-up visit should be held prior to the expiration of the contractor's warranty period.

Common Deficiencies

- Failure to include required language in contract documents.
- Failure to control the use of change orders.
- Failure to perform thorough inspections.
- Failure to set specific procedures for pay requests.
- Failure to condition progress payments on inspection of "in-place" rehab work.
- Failure to assure release of liens.
- Failure to anticipate or promptly respond to complaints.
- Failure to require prompt corrective action by the contractor and to withhold payment in complaint cases.

- Failure to assist the property owner in receiving satisfaction under the warranty.

SUMMARY OF HOMEOWNER REHABILITATION RULES & HOW TO DOCUMENT

Eligible Participants

	Key HOME Requirement	Documentation
Owner Income	<p>Gross income \leq 80% of median income based on the upcoming 12 months.</p> <p>Gross income is defined by 24 CFR Part 5.</p>	<p>Completed application in the client file.</p> <p>Source documentation (wage statements, interest statements) in the client file.</p>
Owner Occupancy	<p>Applicant must occupy unit as his/her principal resident.</p>	<p>Client must sign a clause on the application form certifying that the property is the principal residence.</p>
Ownership of Property	<p>Applicant of property must have ownership of property through one of the following:</p> <ul style="list-style-type: none"> ● Fee simple title, ● 99-year leasehold interest ● Other form approved by the Department 	<p>Title check documentation in client file.</p> <p>Copy of deed or other approved ownership document in the client file.</p>

Eligible Property

	Key HOME Requirement	Documentation
Property Type	<p>Eligible property types include:</p> <ul style="list-style-type: none"> ● One-to-four unit property ● Condominium unit ● Manufactured housing 	If two-to-four units, indicate status of non-owner-occupied units and verify no HOME funds provided as assistance to these units.
Property Location	Property must be located in program area as designated in approved program guidelines.	Client application must contain address.
HOME Minimum & Maximum Subsidy	<p>A minimum of \$1,000 in HOME funds must be invested in each assisted unit.</p> <p>Assistance must not exceed NAHP subsidy limit on a unit by unit basis.</p>	Maintain records demonstrating that each unit assisted received at least \$1,000 in HOME assistance but not more than the maximum NAHP subsidy allowed.
Property Value	A unit's after-rehab value must not exceed the applicable pre-stimulus 203(b) limit or 95% median sales price limit.	Document unit's estimated after-rehab value and method for determining the estimate.
Property Standards	Property must meet the Department's Minimum Standards for Rehabilitation and applicable codes (local or one of the accepted national codes).	<p>Document local code or model code used.</p> <p>Maintain written rehab standards in program files.</p> <p>Include inspection report or certification by inspector in client file.</p> <p>Keep inspection checklist and work write-up in client file.</p>
Eligible Activities	Rehabilitation and reconstruction	Document all expenditures.

DO OTHER FEDERAL REQUIREMENTS APPLY TO HOMEOWNER REHAB?

Non-Discrimination and Equal Access Rules

Fair Housing and Equal Opportunity – Yes, Must affirmatively further Fair Housing

Regulatory Citations & References:

- ❑ 92.202 and 92.250
- ❑ Title VI of Civil Rights Act of 1964 (42 U. S. C. 2000d et. seq.)
- ❑ Fair Housing Act (42 U. S. C. 3601-3620)
- ❑ Executive Order 11063 (amended by Executive Order 12259)
- ❑ Age Discrimination Act of 1975, as amended (42 U. S. C. 6101)
- ❑ 24 CFR 5.105(a)

Affirmative Marketing - Yes

Regulatory Citations & References:

- ❑ 92.351

Handicapped Accessibility – No (Note: Accessibility improvements are eligible costs)

Regulatory Citations & References:

- ❑ Section 504 of the Rehabilitation Act of 1973 (implemented at 24 CFR Part 8)
- ❑ For multi-family buildings only, 24 CFR 100.205 (implements Fair Housing Act)

Employment and Contracting Rules

Equal Opportunity Employment –Yes, small projects especially offer opportunities for minority and resident-contractors.

Regulatory Citations & References:

- ❑ Executive Order 11246 (implemented at 41 CFR Part 60)

Section 3 Economic Opportunity – Yes, if amount of assistance exceeds \$200,000 OR contract or subcontract exceeds \$100,000.

Regulatory Citations & References:

- ❑ Section 3 of the Housing and Urban Development Act of 1968 (implemented at 24 CFR Part 135)

Minority/Women Employment – Yes

Regulatory Citations & References:

- ❑ Executive Orders 11625, 12432 and 12138
- ❑ 24 CFR 85.36(e)

Davis-Bacon - No

Regulatory Citations & References:

- ❑ 92.354
- ❑ Davis-Bacon Act (40 U. S. C. 276a -276a-5)
- ❑ 24 CFR Part 70 (volunteers)
- ❑ Copeland Anti-Kickback Act (40 U. S. C. 276c)

Conflict of Interest –Yes

Regulatory Citations & References:

- ❑ 92.356
- ❑ 24 CFR 85.36
- ❑ 24 CFR 84.42

Debarred Contractors – Yes, check HUD's list of debarred contractors

Regulatory Citations & References:

- ❑ 24 CFR Part 5

Other Federal Requirements

Environmental Reviews –Yes, neighborhood reviews may facilitate targeted programs, but individual checklists still required for each project site. Special attention should be paid to flood insurance, noise and historic requirements.

Regulatory Citations & References:

- ❑ 92.352
- ❑ 24 CFR Part 58.35 a(4)
- ❑ National Environmental Policy Act (NEPA) of 1969

Flood Insurance – Yes, must obtain flood insurance if located in a FEMA designated 100-year flood plain. Community must be participating in FEMA's flood insurance program.

Regulatory Citations & References:

- ❑ Section 202 of the Flood Disaster Protection Act of 1973 (42 U. S. C. 4106)

Site and Neighborhood Standards - No

Regulatory Citations & References:

- ❑ 24 CFR 893.6(b)

Lead-Based Paint – Yes, for pre-1978 units. Notices to owners. Paint testing of surfaces to be disturbed. Risk assessment, if applicable, based on level of rehabilitation assistance. Appropriate lead-hazard reduction activity (based on level of rehabilitation assistance). Safe work practices and clearance. Provisions included in all contracts and subcontracts.

Regulatory Citations & References:

- ❑ 92.355
- ❑ Lead Based Paint Poisoning Prevention Act of 1971 (42 U. S. C. 4821 et. seq.)
- ❑ 24 CFR Part 35
- ❑ 982.401(j) (except paragraph 982.401(j)(1)(i))

Relocation – Yes, relocation is required for tenants are living in the other units. Relocation is **not** required for owner-occupied units unless lead hazard reduction activities require it.

Regulatory Citations & References:

- ❑ 92.353
- ❑ Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U. S. C. 4201-4655)
- ❑ 49 CFR Part 24
- ❑ 24 CFR Part 42 (subpart B)
- ❑ Section 104(d) "Barney Frank Amendments"