

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.157 SUPPORTIVE HOUSING FOR THE ELDERLY (SECTION 202)****I. PROGRAM OBJECTIVES**

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

II. PROGRAM PROCEDURES**Prior to 1991 - Elderly and Disabled***Loans*

Prior to 1991 the Department of Housing and Urban Development (HUD) provided direct loans to finance the construction or rehabilitation of supportive housing for the elderly and disabled, including the cost of real property acquisition, conversion, demolition, relocation, and other related expenses.

Assistance

The project-based rental assistance is provided under Section 8 (not part of this CFDA 14.157) and is the calculation of project operating costs including debt servicing. Hence, the rental assistance includes payments to principal and interest on the direct loan. The Fair Market Rent (FMR) is used as an upper limit constraint on the amount of rental assistance. Generally, the rental assistance may not exceed FMR unless the project obtains HUD approval to apply a factor of up to 120 percent of gross rent.

The borrower receives assistance from HUD on vacant rental assistance units at a rate 80 percent of the contract rent under for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.650). For vacancies exceeding 60 days, the owner may apply for payment in an amount equal to the debt servicing principle and interest payments required to amortize that portion of the debt service attributable to the vacant unit (24 CFR section 891.650).

Subsequent to 1990 - Elderly Only*Capital Advances*

After 1990, under Pub. L. No. 101-625 (November 28, 1990), HUD capital advances replaced the direct loan method of funding project construction and the assistance to projects for the disabled were moved to CFDA 14.181 Supportive Housing for Persons with Disabilities (Section 811). The capital advances are awarded to non-profit organizations and are used to finance the construction or rehabilitation of supportive housing for the elderly, including the cost of real property acquisition, conversion, demolition, relocation, and other related expenses.

The owner-entity is required to put up a minimum capital investment under the capital advance program. This amount is one-half of one percent of the HUD-approved capital advance. The owner's investment may not exceed \$10,000, or \$25,000 if the owner has a national sponsor or co-sponsor (24 CFR section 891.145).

The amount of the capital advance approved by HUD may not exceed an appropriate development cost limit, determined by HUD. Owners incurring total development costs under this limit may retain 50 percent of this difference, which is required to be deposited into a reserve for replacement account. A 75 percent retention is allowed where the owner adds energy efficiency features (24 CFR section 891.140).

HUD holds a non-amortizing mortgage on the property under the terms of the Capital Advance. No repayment is required so long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low-income elderly persons for 40 years (24 CFR section 891.170). Failure to comply with the terms of the Capital Advance and HUD's business agreements may result in foreclosure under the mortgage.

Rental Assistance

The project-based rental assistance is provided under a Project Rental Assistance Contract (PRAC) and is calculated based on operating cost standards established by HUD (24 CFR section 891.150). The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)).

Tenants are generally required to pay rent, which is the highest of 30 percent of adjusted gross income, 10 percent of gross income, or the portion of welfare assistance designated to meet housing costs (42 USC 1437a).

The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of Operating Expense for a unit under PRAC (PRAC paragraph 2.4 b) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

Source of Governing Requirements

This program is authorized under Section 202 of the Housing Act of 1959, as amended, which is codified at 12 USC 1701q. Implementing regulations for this program are 24 CFR part 891, subparts A, B, and D.

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. The project shall provide the necessary services for the occupants, which may include, but not limited to, health, education, welfare, informational, recreational, homemaking, meals, counseling, and referral services (12 USC 1701q; 24 CFR sections 891.225 and 891.500).
2. Project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner.
3. Project facilities may not include infirmaries, nursing stations, or spaces for overnight care (24 CFR section 891.220).
4. Project must be modest in design and as such, the following are not to be funded with capital advance funds: individual unit balconies or decks, dishwashers, washers, dryers, trash compactors, swimming pools, saunas, and jacuzzis. Sponsors may include certain excess amenities but these must be paid for with other than capital advance funds. Associated operating costs must also be paid for by sources other than the project rental assistance contract (24 CFR section 891.120).

D. Davis-Bacon Act

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

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

Section 202 (CFDA 14.157) of the National Housing Act was designed to provide housing for the elderly and disabled (prior to 1991). Section 811 (CFDA 14.181) of the National Housing Act was created to provide separate funding for housing for persons with disabilities (subsequent to 1990).

To qualify as elderly, one or more members of the household must be 62 years of age or more at the time of initial occupancy (24 CFR section 891.205).

To qualify as disabled (prior to 1991 Section 202's), the household must consist of at least one person who is an adult (18 years or older) with a disability, two or more persons with disabilities living together, or a surviving household member under certain circumstances (42 USC 1437a(b)(3); 24 CFR section 891.505).

Very low-income eligibility applies to the elderly subsequent to 1990 and the owner is responsible to annually reexamine incomes for households occupying assisted units or residential space and make appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

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

L. Reporting

1. **Financial Reporting** - Not Applicable
2. **Performance Reporting**

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

Key Line Items –

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

- (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
- (3) D. Total number of Section 3 businesses receiving non-construction contracts

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Use of Project Funds

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

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

Suggested Audit Procedures

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

2. Replacement Reserve

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

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

Suggested Audit Procedures

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

3. Residual Receipts Account

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

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

Suggested Audit Procedures

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

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.169 HOUSING COUNSELING ASSISTANCE PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

This program has two distinct components: (1) HUD-approval and (2) housing counseling grants. To participate in the program, organizations must first be approved by HUD as counseling agencies. Approval entails meeting various requirements relating to experience and capacity. Currently there are approximately 730 approved local housing counseling agencies (LHCAs), which have 580 branch offices. Additionally, there are 23 HUD-approved national and regional intermediaries with approximately 450 affiliates and 100 branches. Approved agencies use HUD's approval to receive referrals and market their services. Approved agencies are provided training (depending on available resources), and are eligible to apply for a housing counseling grant. The application and approval process is provided on HUD's website at <http://www.hud.gov/offices/hsg/sfh/hcc/hccprof13.cfm>.

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

Source of Governing Requirements

HUD's Housing Counseling Assistance Program is authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 USC 1701x). There are no regulations governing this program.

Availability of Other Program Information

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

The NOFA published on March 8, 2006 (71 FR 11800 – 11813) contains detailed information regarding the activities for which grantees and sub-grantees can be reimbursed. Section 106 of the Housing and Urban Development Act of 1968 (12 USC 1701x) also addresses allowable and unallowable activities. Only the following activities generally are allowed under the statute:

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

J. Program Income

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

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable**3. Special Reporting** - Not Applicable

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

The objectives of Supportive Housing for Persons with Disabilities are to: (1) provide Federal capital advances under Section 811 of the National Affordable Housing Act (NAHA) for development of housing projects serving persons with disabilities; and (2) provide tenant-based rental assistance to low income persons with disabilities for payment of housing on the private market.

II. PROGRAM PROCEDURES**Capital Advances**

After 1990, under Pub. L. No. 101-625 (November 28, 1990), Department of Housing and Urban Development (HUD) capital advances replaced the direct loan method of funding project construction under the Section 202 of the National Housing Act (NHA) (12 USC 1702 *et seq.*). Section 811 of NAHA was created as a separate program for the development of housing for persons with disabilities. Capital advances are awarded to non-profit organizations and are used to finance the construction or rehabilitation of supportive housing for persons with disabilities (24 CFR section 891.300).

HUD holds a non-amortizing mortgage on the property under the terms of the Capital Advance. No repayment is required so long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low-income persons with disabilities for at least 40 years (24 CFR section 891.170). Failure to comply with the terms of the Capital Advance and HUD's business agreements may result in foreclosure under the mortgage.

Rental Assistance

Project rental assistance is used to cover the difference between the HUD-approved operating costs of the project and the tenants' contributions toward rent (24 CFR section 891.410).

Project rental assistance is provided under a Project Rental Assistance Contract (PRAC) and is calculated based on operating cost standards established by HUD (24 CFR section 891.150). The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)).

Tenants are generally required to pay rent in accordance with the Housing Assistance Payment Contract.

The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of Operating Expense for a unit under PRAC (PRAC paragraph 2.4b) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

Source of Governing Requirements

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. Project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner (24 CFR section 891.400(e)).
2. Project facilities may not include infirmaries, nursing stations, spaces dedicated to the delivery of medical treatment or physical therapy, padded rooms, or space for respite care or sheltered workshops, even if paid for from sources other than the HUD capital advance. Except for office space used by the owner exclusively for the administration of the project, project facilities may not include office space. (24 CFR section 891.315).
3. Project must be modest in design and, as such, the following are not to be funded with capital advance funds; individual unit balconies or decks, dishwashers, washers, dryers, trash compactors, swimming pools, saunas, or jacuzzis. Sponsors may include certain excess amenities but these must be paid for with other than capital advance funds. Associated operating costs must also be paid for by sources other than the project rental assistance contract (24 CFR section 891.120).

D. Davis-Bacon Act

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

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

Section 202 (CFDA 14.157) of the National Housing Act was designed to provide housing for the elderly and disabled (prior to 1991). Section 811 (CFDA 14.181) of the National Housing Act was created to provide separate funding for housing for persons with disabilities (subsequent to 1990) (42 USC 8013).

To qualify as disabled (prior to 1991 Section 202), the household must consist of at least one person who is an adult (18 years or older) with a disability, two or more persons with disabilities living together, or a surviving household member under certain circumstances (42 USC 1437a(b)(3); 24 CFR section 891.505).

Very low-income eligibility applies to persons with disabilities subsequent to 1990 and the owner is responsible to annually reexamine incomes for households occupying assisted units or residential space and make appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

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

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

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts

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

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Use of Project Funds

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

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

Suggested Audit Procedures

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

2. Replacement Reserve

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

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

Suggested Audit Procedures

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

3. Residual Receipts Account

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

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

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in a federally insured depository.
- b. Ascertain if the required annual deposit was made within 90 days following year-end.

- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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

I. PROGRAM OBJECTIVES

The objective of the Section 8 rental assistance programs is to help eligible low-income families or individuals obtain decent, safe, and sanitary housing through a system of rental subsidies (24 CFR sections 880.101, 881.101, 882.401, 882.801, 883.101, 884.101, 886.101, and 886.301).

II. PROGRAM PROCEDURES

Under this project-based cluster, the rental subsidy is tied to a specific unit and when a family moves from the unit, it has no right to continued assistance.

Certain project-based programs are administered by State, local, or other governmental entities qualifying as Public Housing Agencies (PHAs). The Department of Housing and Urban Development (HUD) enters into annual contributions contracts with PHAs which enter into Housing Assistance Payments (HAP) contracts with private owners. The owners rent housing to eligible low-income families who typically pay rent which is the highest of 30 percent of adjusted gross income, 10 percent of gross income, or the portion of welfare assistance designated to meet housing costs. The remaining portion of the rent for the unit is paid to the owner by the PHA or HUD through the HAP contract. The PHA is then reimbursed by HUD through the annual contributions contract. HUD also provides funds for PHA administration of the Section 8 programs.

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

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

Mod Rehab program assistance is considered a project-based subsidy because the assistance is tied to specific units under an assistance contract with the owner for a specified term. A family that moves from a unit with project-based assistance does not have any right to continued assistance.

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

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

Source of Governing Requirements

These programs (other than the Mod Rehab SRO program) are authorized by the U.S. Housing Act of 1937, as amended (42 USC 1437a, c, and f; 42 USC 3535(d); 42 USC 12701; and 42 USC 13611 through 13619). Implementing regulations are 24 CFR parts 880 through 884 and 24 CFR part 886. The Moderate Rehabilitation SRO program is authorized under section 441 of the McKinney-Vento Homeless Assistance Act, 42 USC 11401, and is subject to program regulations at 24 CFR part 882, subpart H.

Availability of Other Program Information

HUD maintains a page on its web site (<http://www.hud.gov/funds/index.cfm>) that provides general information about these programs.

III. COMPLIANCE REQUIREMENTS

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

E. Eligibility

1. Eligibility for Individuals

- a. The PHA or owner, as applicable, must:
 - (1) Verify the eligibility of applicants by: (a) obtaining signed applications that contain the information needed to determine eligibility (including designation as elderly, disabled, or homeless, if applicable), income, rent, and order of selection; (b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties; (c) documenting inspections and tenant certifications, as appropriate; and, (d) determining that tenant income did not exceed the maximum limit set by HUD for the PHA's jurisdiction, as shown in HUD's published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937. For the Mod Rehab SRO program, eligible individuals must be homeless upon entry into the program. (24 CFR sections 880.603, 881.601, 882.514, 882.808, 833.701, 884.214, 886.119, and 886.318)
 - (2) Determine the total tenant rent payment in accordance with 24 CFR section 5.613.
 - (3) Select participants from the waiting list in accordance with the admission policies in its administrative plan and maintain documentation which shows that, at the time of admission, the family actually met the preference criteria that determined the family's place on the waiting list. For the Mod Rehab SRO program, eligible individuals may be referred to the PHA for eligibility determination as a result of the owner's/sponsor's outreach or through the PHA waiting list. (24 CFR sections 880.603, 881.601, 882.514, 882.808(b)(2), 883.701, 884.214, and 886 subparts A and C)
 - (4) Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR sections 5.617, 880.603, 881.601, 882.515, 884.218, 886.124, and 886.324).

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

3. Eligibility for Subrecipients - Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. In lieu of the standard reports, the following reports are required on Section 8 project-based programs involving PHA/private-owners and HUD/PHA owners.
 - (1) HUD-52663, *Requisition for Partial Payment of Annual Contributions (OMB No. 2577-0169)* - submitted quarterly.
 - (2) HUD-52681, *Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169)* - submitted annually.

2. Performance Reporting - Not Applicable

3. Special Reporting

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

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

- (1) Line 2a - *Type of Action*
- (2) Line 2b - *Effective Date of Action*
- (3) Line 3b, 3c - *Names*
- (4) Line 3e - *Date of Birth*

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

Key Line Items:

- (1) Line 4 – *Non-homeless persons*
- (2) Line 6b – *Chronically homeless persons*
- (3) Line 10 – *Prior Living Situation*
- (4) Line 11 – *Amount and Source of Monthly Income at Entry and at Exit*
- (5) Line 12a,b – *Length of Stay in Program*
- (6) Line 14 - *Destination*

N. Special Tests and Provisions

1. Contract Rent Adjustments

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

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

Suggested Audit Procedures

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

2. Tenant Utility Allowances

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

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

Suggested Audit Procedures

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

3. Housing Quality Standards

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

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

Suggested Audit Procedures

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

4. Vacant Units

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

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

Suggested Audit Procedures

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

5. Replacement Reserve

Compliance Requirement - The owner shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. All disbursements from the reserve must be as approved or directed by HUD or the State Agency for 24 CFR part 883 projects, as applicable. An amount as required by HUD or the State Agency for 24 CFR part 883 projects, as applicable, shall be deposited monthly

in the reserve fund in accordance with the Regulatory Agreement or HAP contract (24 CFR sections 880.601, 880.602, 881.601 and 883.701).

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

Suggested Audit Procedures

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

6. Residual Receipts Account

Compliance Requirement - Any project funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited with the mortgagee or other HUD-approved depository in an interest bearing account. For projects under 24 CFR part 883, the funds must be deposited with the State Agency or other Agency-approved depository in an interest bearing account. Withdrawals from this account may be made only for project purposes and with the approval of HUD or the State Agency for 24 CFR part 883 projects, as applicable (24 CFR sections 880.601, 881.601, and 883.701).

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

Suggested Audit Procedures

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

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.218 COMMUNITY DEVELOPMENT BLOCK GRANTS/ENTITLEMENT GRANTS

I. PROGRAM OBJECTIVES

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

The Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008) provided funds for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA provides otherwise, the grants are to be considered CDBG funds. The grant program under Title III is referred to as the Neighborhood Stabilization Program (NSP).

II. PROGRAM PROCEDURES

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

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

Source of Governing Requirements

These programs are authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301). Implementing regulations are located at 24 CFR part 570.

The NSP is authorized by Title III of Division B of HERA. HUD published a "Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act, 2008," (NSP Notice) that advises the public of the allocation formula, allocation amounts, the list of grantees, alternative

requirements, and the waivers of regulations provided to grantees (October 6, 2008, *Federal Register*, 73 FR 58330-58349).

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. All activities undertaken must meet one of three national objectives of the CDBG Entitlement Grants program, i.e., benefit low- and moderate-income persons, prevent or eliminate slums or blight, or meet community development needs having a particular urgency (24 CFR sections 570.200 and 570.208).
2. CDBG Entitlement Grants funds are to be used for the following activities: (a) the acquisition of real property; (b) the acquisition, construction, reconstruction, rehabilitation or installation of public works, facilities and sites, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons; (c) clearance, demolition, and removal of buildings and improvements; (d) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (e) disposition of real property acquired under this program; (f) provision of public services (subject to limitations contained in the CDBG regulations); (g) payment of the non-Federal share for another grant program for activities that are otherwise eligible; (h) interim assistance where immediate action is needed prior to permanent improvements or to alleviate emergency conditions threatening public health and safety; (i) payment to complete a Title 1 Federal Urban Renewal project; (j) relocation assistance; (k) planning activities; (l) administrative costs; (m) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (n) assistance to community-based development organizations; (o) activities related to privately-owned utilities; (p) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (q) construction of housing assisted under Section 17 of the United States Housing Act of 1937; (r) reconstruction of properties; (s) direct homeownership assistance to low and moderate income households to facilitate and expand homeownership; (t) technical assistance to public or private entities for capacity building (exempt from the planning/administration cap); (u) housing services related to HOME-funded activities; (v) assistance to institutions of higher education to carry out eligible activities; (w) assistance to public and private entities (including for-profits) to assist micro-enterprises; (x) payment for repairs and operating expenses for acquired “in Rem” properties; (y) residential rehabilitation, including code enforcement in deteriorated or deteriorating areas, lead-based paint hazard evaluation, and removal; and (z) construction or improvement of tornado-safe shelters for residents of

manufactured housing and provision of assistance to non-profit and for-profit entities for such construction or improvement (42 USC 5305(a); 24 CFR sections 570.200 through 570.207).

3. Each float-funded activity must meet all of the same requirements that apply to CDBG-assisted activities generally (24 CFR section 570.301).
4. Entitlement grantees may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, (42 USC 5308). The guaranteed loan funds are to be used only for the following activities:
 - (a) acquisition of real property; (b) housing rehabilitation; (c) rehabilitation of publicly owned real property; (d) eligible CDBG economic development activities; (e) relocation payments, (f) clearance, demolition, and removal; (g) payment of interest on Section 108 guaranteed obligations; (h) payment of issuance and other costs associated with private sector financing under this subpart; (i) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes; (j) construction of housing by non-profit organizations for home ownership under Section 17(d) of the U.S. Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987; (k) debt service reserve; (l) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements which serve “colonias” (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992); and (m) acquisition, construction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements, and public utilities (24 CFR sections 570.700 through 570.710).
5. All the activities that a grantee undertakes during its CDBG program year must be identified in an action plan or an amended action plan (24 CFR sections 91.220 and 570.301). Plan amendment is only required to reflect significant changes in activities or funding decisions for these years (24 CFR section 91.235).
6. CDBG funding can only be used for special economic development projects that meet the criteria in 24 CFR section 570.203. Grantees must have data to support that assistance provided to carry out special economic development projects is appropriate by meeting the public benefit standards for job creation and provision of goods and services described in 24 CFR section 570.209.
7. When CDBG funds are used to finance rehabilitation, the rehabilitation is to be limited to privately owned buildings and improvements for residential purposes, low income public housing and other publicly owned residential buildings and improvements, publicly or privately owned commercial or industrial buildings, structures, or other real property, equipment, and improvements under certain circumstances, as well as manufactured housing when it constitutes part of the community’s permanent housing stock (24 CFR sections 570.202 and 570.203).

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

Section II, H, Eligibility and Allowable Costs, of NSP Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP Notice, 73 FR 58337-58338).

D. Davis-Bacon Act

The requirements of the Davis-Bacon Act apply to the rehabilitation of residential property only if such property contains 8 or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310; 24 CFR section 570.603).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort - Not Applicable

3. Earmarking

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

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

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

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

- c. The amount of CDBG funds obligated during the program year for public services must not exceed 15 percent of the grant amount received for that year plus 15 percent of the program income it received during the preceding program year, except that a non-Federal entity that obligated more CDBG funds for public services than 15 percent of its grant funded from Federal Fiscal Years 1982 or 1983 appropriations (excluding program income and any assistance received pursuant to Pub. L. No. 98-8) may obligate more CDBG funds than 15 percent as long as the amount obligated in any program year does not exceed 15 percent of the program income it received during the preceding program year plus the percentage or amount obligated in Federal Fiscal Year 1982 or 1983, whichever method of calculation yields the higher amount (24 CFR section 570.201(e)).
- d. At least 25 percent of NSP funds shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income (Section 2301(f)(3)(A)(ii) of HERA).

J. Program Income

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

NSP activity that generated the program income and on the date the income is received (Section 2301(d)(4) of HERA).

- a. Any revenue from the sale, rental, redevelopment, rehabilitation or any other eligible use of NSP funds is to be provided to and used by the unit of local general government. This provision includes revenue received by a private individual or other entity that is not a subrecipient (Section 2301(d)(4) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).
- b. Program income which is generated by NSP activities carried out pursuant to Sections 2301(c)(3) of HERA may be retained by the unit of local government if it is treated as additional CDBG funds and used in accordance with the requirements of section 2301 (Sections 2301(c)(3) of HERA; Section II.N. of NSP Notice 73 FR 58340-58341).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable
- e. *Integrated Disbursement and Information System (IDIS) (OMB No. 2506-0077)* - Grantees may include reports generated by IDIS as part of their annual performance and evaluation report that must be submitted for the CDBG Entitlement Program 90 days after the end of a grantee's program year. Auditors are only expected to test information extracted from IDIS in the following system-generated reports:
 - (1) C04PR03 - Activity Summary Report
 - (2) C04PR26 - CDBG Financial Summary

2. Performance Reporting

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

Key Line Items –

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

3. Special Reporting - Not Applicable**M. Subrecipient Monitoring**

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

N. Special Tests and Provisions**1. Citizen Participation**

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

HERA provided for supersession of the citizen participation requirement to expedite the distribution of NSP grant funds and to provide for expedited citizen participation. The

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

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

Suggested Audit Procedures

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

2. Required Certifications and HUD Approvals

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

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

Suggested Audit Procedures

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

3. Environmental Reviews

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

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

Suggested Audit Procedures

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

4. Rehabilitation

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

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

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

Suggested Audit Procedures

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

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.228 COMMUNITY DEVELOPMENT BLOCK GRANTS/STATE'S PROGRAM AND NON-ENTITLEMENT GRANTS IN HAWAII (State-Administered Small Cities Program)

I. PROGRAM OBJECTIVES

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

The Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. No. 110-289, July 30, 2008) provided funds for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA provides otherwise, the grants are to be considered CDBG funds. The grant program under Title III is referred to as the Neighborhood Stabilization Program (NSP).

II. PROGRAM PROCEDURES

Funds are provided, according to a statutory formula, to those States that elect to administer their CDBG non-entitlement funds. The States, in turn, distribute the funds to small units of general local government (subrecipients) that do not qualify for grants under the CDBG Entitlement Program. The non-entitlement counties in Hawaii are handled differently than Entitlement grantees in the following ways: (1) their funding comes from Section 106(d) of the Housing and Community Development Act of 1974, as amended (42 USC 5306(d)); (2) funds are distributed using the formula contained in 24 CFR section 570.429(c); reallocations due to grant reductions, or funds not applied for, go to the other non-entitlement counties in Hawaii on a pro rata basis (24 CFR section 570.429(d)); (3) non-entitlement counties are not eligible to use the exception criteria in 24 CFR section 570.208(a)(1)(ii); and (4) 24 CFR section 570.307 (Urban Counties) and 24 CFR section 570.308 (Joint Requests) would not apply to non-entitlement counties in Hawaii. Except for these differences, non-entitlement counties in Hawaii should follow the requirements of CDBG Entitlement Grants (CFDA 14.218).

In addition to Federal statutory requirements, each State has the authority to issue rules consistent with Federal statutes and regulations. The State rules should be reviewed before beginning the audit (24 CFR sections 570.480 and 570.481).

The NSP grant is a special CDBG allocation to address the problem of abandoned and foreclosed homes. The HERA established the need, targets the geographic areas, and limits the eligible uses of NSP funds. A State choosing to carry out an activity directly must apply the requirements of 24 CFR section 570.208(a) to determine whether the activity has met the low-, moderate-, and

middle-income national objective and must maintain the documentation required at 24 CFR section 570.506 to demonstrate compliance to HUD.

Source of Governing Requirements

This program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301). Implementing regulations may be found at 24 CFR part 570, subpart I.

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. Section 105(a) of the Housing and Community Development Act of 1974 lists the activities eligible under the CDBG State’s Program (State administered small cities program) which include: (a) the acquisition of real property; (b) the acquisition, construction, reconstruction, or installation of public works, facilities and site, or other improvements, including those that promote energy efficiency; (c) code enforcement in deteriorated or deteriorating areas; (d) clearance, demolition, reconstruction, rehabilitation, and removal of buildings and improvements; (e) removal of architectural barriers that restrict accessibility of elderly or severely disabled persons; (f) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (g) disposition of real property acquired under this program; (h) provision of public services (subject to limitations contained in the CDBG regulations); (i) payment of the non-Federal share for another grant program that is part of the assisted activities; (j) payment to complete a Title 1 Federal Urban Renewal project; (k) relocation assistance; (l) planning activities; (m) administrative costs; (n) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (o) assistance to neighborhood-based non-profit organizations, local development corporations, non-profit organizations serving the development needs of communities in non-entitlement areas to carry out a neighborhood revitalization or community economic development or energy conservation project; (p) activities related to development of energy use

- strategies; (q) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (r) rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937; (s) technical assistance to public or private entities for capacity building (exempt from the planning/administration cap); (t) housing services related to HOME-funded activities; (u) assistance to institutions of higher education to carry out eligible activities; (v) assistance to public and private entities (including for-profits) to assist micro-enterprises; (w) payment for repairs and operating expenses for acquired “in Rem” properties; (x) direct home ownership assistance to facilitate and expand home ownership among persons of low- and moderate-income; (y) lead-based paint hazard evaluation, and removal; and (z) construction or improvement of tornado-safe shelters for residents of manufactured housing and provision of assistance to non-profit and for-profit entities for such construction or improvement (42 USC 5305; 24 CFR section 570.482(a)).
2. Each activity that the State funds must either benefit low- and moderate-income families; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available. The State must retain documentation justifying its certifications (24 CFR sections 570.483 and 570.490).
 3. Non-entitlement local government grant recipients (subrecipients) may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974. Guaranteed loan funds may be used only for the following activities: (a) acquisition of real property; (b) housing rehabilitation; (c) rehabilitation of publicly owned real property; (d) eligible CDBG economic development activity; (e) relocation payments, (f) clearance, demolition, and removal; (g) payment of interest on Section 108 guaranteed obligations; (h) payment of issuance and other costs associated with private-sector financing under this subpart; (i) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes; (j) construction of housing by non-profit organizations for homeownership under Section 17(d) of the U.S. Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987; (k) debt service reserve; (l) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements that serve “colonias” (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992); and (m) acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), public streets, sidewalks, and other site improvements and public utilities (24 CFR sections 570.700 through 570.710).

4. For NSP fund, HERA requirements have superseded some CDBG requirements to allow for eligible uses in Section 2301(c)(3) of HERA. The NSP categories and CDBG entitlement regulations are listed in Section II.H.3.a of NSP Notice, 73 FR 58338. The NSP eligible uses are to:
 - Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties.
 - Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon for later sale, rent or redevelopment.
 - Establish land banks for homes that have been foreclosed upon.
 - Demolish blighted structures.
 - Redevelop demolished or vacant properties.
5. For NSP funds, NSP requirements supersede existing CDBG requirements (See III.A.1, above) to permit the use of only the low- and moderate-income national objective for NSP-assisted activities. A NSP activity may not qualify using the “prevent or eliminate slums and blight” or “address urgent community development needs” national objectives. The HERA redefines and supersedes the definition of “low- and moderate-income,” effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program (Section III.E. of NSP Notice, 73 FR 58335-58336). HUD will refer to this new income group as “middle income” and maintain the regular CDBG definitions of “low-income” and “moderate-income” currently in use (Section 2301(f)(3)(A) of HERA).
6. For purposes of NSP only, an activity may meet the HERA established low- and moderate-income national objective if the assisted activity: (1) provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income; (2) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income; or (3) serves a limited clientele whose incomes are at or below 120 percent of area median income. (Section 2301(f)(3)(A) of HERA; Section II.E. of NSP Notice, 73 FR 58335-58336).
7. Eligible uses of NSP funds authorized by HERA are: (a) establishing financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties; (b) purchasing and rehabilitating homes and residential properties abandoned or foreclosed; (c) establishing land banks for foreclosed homes; (d) demolishing blighted structures; and (e) redeveloping demolished or vacant properties. The NSP Notice lists the CDBG-eligible activities HUD has determined best correlate to these specific NSP-eligible uses. Grantees must receive written HUD approval to undertake activities other than those listed in

Section II, H, Eligibility and Allowable Costs, of the NSP Notice (Section 2301(c)(3) of HERA; Section II.H. of NSP Notice, 73 FR 58337-58338).

D. Davis-Bacon Act

The requirements of the Davis-Bacon Act apply to the rehabilitation of residential property only if such property contains eight or more units. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work (42 USC 5310).

G. Matching, Level of Effort, Earmarking

1. Matching

States are required to match the funds used for State administrative costs beyond the first \$100,000 on a one-to-one basis, as further described under III.G.3.b, “Matching Level of Effort, Earmarking - Earmarking” (24 CFR section 570.489(a)(1)).

This requirement does not apply to NSP funds (Section 2301(e)(2) of HERA; see Section II.N. of NSP Notice, 73 FR 58337).

2. Level of Effort - Not Applicable

3. Earmarking

- a. The Housing and Community Development Act of 1974 requires the State to certify that the aggregate use of the CDBG funds it receives, over a period specified by the State not to exceed three years, shall principally benefit low- and moderate-income persons. This requirement means that not less than 70 percent of the funds must be used in this manner (24 CFR section 570.484 and 42 USC 5304(b)(3)).

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

- b. The State may use up to \$100,000 of its grant funds for administrative purposes. In addition to this amount, up to three percent of the grant may be expended at the State level for administrative costs, provided such funds are matched from State resources on a one-to-one basis. Further, States may use three percent of program income collected, regardless of

whether at the State or local government level, for administrative costs. All administrative funds, including the State matching funds, which may be in-kind contributions, must be used to carry out the State's responsibilities. The State may use up to three percent of its grant funds to provide technical assistance to local governments and non-profit program recipients. The State may use no more than the aggregate of three percent of its grant funds for administrative purposes or technical assistance (24 CFR section 570.489(a)(1) and 42 USC 5306(d)).

- c. For planning and administrative costs, the combined expenditures of the State and units of general local governments may not exceed 20 percent of the State's total allocation plus 20 percent of any program income for any given year. Within this Statewide limit, a State may fund grants to local governments consisting entirely of planning activities (24 CFR section 570.489(a)(3)).

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

- d. The amount of CDBG funds used for public services must not exceed 15 percent of the grant amount received for that year plus 15 percent of the program income attributed to the year. The 15 percent public-services cap applies to each year's allocation of nonentitlement funds for the State. Individual grants to units of general local government are not subject to the public-services cap. Within this Statewide cap, a State may fund grants to local governments consisting entirely of public service activities (42 USC 5305(a)(8)).
- e. Under Section 916 of the National Affordable Housing Act of 1990 (NAHA) (Pub L. No. 101-625; 42 USC 5306 note), the States of Arizona, California, New Mexico, and Texas are required to set aside a portion of their State CDBG funds for use in colonias. The Secretary of HUD annually determines the percentage of each state's allocation (up to 10 percent) required to be set aside for this purpose. Entitlement communities in metropolitan areas of less than one million in population are eligible to receive CDBG funding from the colonias set aside in these States (42 USC 5306 note).
- f. At least 25 percent of NSP funds shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential

properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income (Section 2301(f)(3)(A)(ii) of HERA).

J. Program Income

1. Program income does not include income received in a single program year by a unit of general local government and its subrecipients if the total amount of such income does not exceed \$25,000 (24 CFR section 570.489(e)(2)(i))
2. NSP revenue received by a unit of general local government or subrecipient that is directly generated from the use of CDBG funds (which include NSP grant funds) constitutes CDBG program income. The CDBG definition of program income shall be applied to amounts received by units of local government and subrecipients (24 CFR section 570.500; Section II.N. of NSP Notice, 73 FR 58340-58341). However, HERA imposes limitations and requirements that necessitate an alternative requirement to govern the use of program income generated by NSP activities. The limitations and requirements are based on the NSP activity that generated the program income and on the date the income is received (Section 2301(d)(4) of HERA).
 - a. Any revenue from the sale, rental, redevelopment, rehabilitation or any other eligible use of NSP funds is to be provided to and used by the unit of local general government. This provision includes revenue received by a private individual or other entity that is not a subrecipient (Section 2301(d)(4) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).
 - b. Program income generated by NSP activities carried out pursuant to Sections 2301(c)(3) of HERA may be retained by the unit of local government if it is treated as additional CDBG funds and used in accordance with the requirements of Section 2301 (Sections 2301(c)(3) of HERA; Section II.N. of NSP Notice, 73 FR 58340-58341).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

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

2. Performance Reporting

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

Key Line Items –

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

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Environmental Oversight

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

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

Suggested Audit Procedures

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

2. Environmental Reviews

Compliance Requirement - Projects must have an environmental review unless they meet criteria specified in the regulations that would exclude them from RROF and environmental certification requirements. States that directly implement NSP activities are considered recipients and must assume environmental review responsibilities for the State's activities and those of any non-governmental entity that participates in the project. States that directly implement activities must submit the Request for Release of Funds (RROF) and the certifications to HUD for approval (24 CFR sections 58.4(b)(1), 58.34 and 58.35).

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

Suggested Audit Procedures

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

3. Citizen Participation

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

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

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

Suggested Audit Procedures

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

4. Rehabilitation Using NSP Funds

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

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

Suggested Audit Procedures

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

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.231 EMERGENCY SHELTER GRANTS PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

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

G. Matching, Level of Effort, Earmarking

1. Matching

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

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

2.2 Level of Effort - *Supplement Not Supplant*

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

3. Earmarking

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

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable
- e. *Integrated Disbursement and Information System (IDIS) (OMB No. 2506-0077)* - The following reports generated by IDIS are used by grantees and HUD for financial reporting on the ESG Program:
 - (1) C04PR02 - List of Activities by Program Year and Project (ESG Projects Only).
 - (2) C04PR19 - ESG Statistics for Projects as of Grant Year

Key Line Item: Dollars funded from ESG Grants

2. Performance Reporting

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

Key Line Items –

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

- (2) B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
- (3) D. Total number of Section 3 businesses receiving non-construction contracts

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Maintenance as Homeless Shelters

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

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

Suggested Audit Procedures

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

2. Funding

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

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

Suggested Audit Procedures

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

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.235 SUPPORTIVE HOUSING PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

Source of Governing Requirements

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

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

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

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

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

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

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

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

2.2 Level of Effort - *Supplement Not Supplant*

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

3. Earmarking

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

J. Program Income

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

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HUD-40118, *Annual Progress Report (OMB No. 2506-0145)* - This report is due from each grantee 90 days after the end of each operating year.

Separate reports are required for each grant received (24 CFR section 583.300 (g)).

The auditor is expected to test the financial data in:

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

2. Performance Reporting

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

Key Line Items –

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

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

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Reasonable Rental Rates

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

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

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

Suggested Audit Procedures

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

2. Use of Property

Compliance Requirement - All non-Federal entities receiving assistance for acquisition, rehabilitation, or new construction must agree to operate the supportive housing or provide supportive services for a term of at least 20 years from the date of initial occupancy or the date of initial service provision. If HUD determines that a project is no longer needed for use as supportive housing or to provide supportive services and approves the use of the project for the direct benefit of low-income persons pursuant to a

request for such use by the non-Federal entity operating the project, HUD may authorize the non-Federal entity to convert the project to such use (24 CFR section 583.305).

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

Suggested Audit Procedures

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.238 SHELTER PLUS CARE

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

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

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

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

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

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

D. Davis-Bacon Act

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

E. Eligibility

1. Eligibility for Individuals

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

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

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

G. Matching, Level of Effort, Earmarking

1. Matching

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

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

2.2 Level of Effort - *Supplement Not Supplant*

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

3. Earmarking

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

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

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

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

2. **Performance Reporting** – Not Applicable
3. **Special Reporting** - Not Applicable

N. **Special Tests and Provisions**

1. **Rent Reasonableness**

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

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

Suggested Audit Procedures

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

2. **Housing Quality Standards**

Compliance Requirement - Housing assisted under the Shelter Plus Care Program must meet applicable housing quality standards under 24 CFR section 582.305 (a) and, for the SRO component, under 24 CFR section 882.803(b). Before any assistance is provided on behalf of a participant, the non-Federal entity, or another entity acting on behalf of the non-Federal entity (other than the owner of the housing), must physically inspect each unit to assure that the unit meets housing quality standards. Non-Federal entities must also inspect all units annually during the grant period to ensure that units continue to meet housing quality standards (24 CFR section 582.305(a)).

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

Suggested Audit Procedures

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

3. Project-Based Rental Assistance

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

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

Suggested Audit Procedures

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.239 HOME INVESTMENT PARTNERSHIPS PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

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

Source of Governing Requirements

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

Availability of Other Program Information

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

Affordable Housing:

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

HOME Program:

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

HOME Statute:

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

HOME Rule:

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

HOME Publications:

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

Community Connections:

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

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

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

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

D. Davis-Bacon Act

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

E. Eligibility

1. Eligibility for Individuals

- a. The HOME Program has income targeting requirements. Only low-income or very low-income persons, as defined in 24 CFR section 92.2,

can receive housing assistance (24 CFR section 92.1). Therefore, the participating jurisdiction must determine if each family is income eligible by determining the family's annual income, as provided for in 24 CFR section 92.203. Participating jurisdictions must maintain records for each family assisted (24 CFR section 92.508).

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

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

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Each participating jurisdiction must provide eligible matching contributions of 25 percent of HOME funds drawn down during the fiscal year. The match must be provided by the end of the fiscal year. Some participating jurisdictions are eligible for a reduction in the required match based upon meeting standards of distress. The jurisdictions which are eligible for the reduction are identified by a notice published in the *Federal Register*, or a notice issued by HUD. Jurisdictions may also receive reductions if they are in Presidentially declared disaster areas. Participating jurisdictions are required to maintain records,

including individual project records and a running log, demonstrating compliance with the matching requirements, including the type and amount of contributions by project. Matching information is provided on the *HOME Match Report* (HUD-40107-A) (24 CFR sections 92.218 through 92.220, 92.222, and 92.508).

2. Level of Effort - Not Applicable

3. Earmarking

- a. Each participating jurisdiction must invest HOME funds made available during a fiscal year so that, with respect to tenant-based rental assistance and rental units not less than 90 percent of (1) the families receiving assistance are families whose annual income do not exceed 60 percent of the median family income for the area, as determined and made available by HUD, with adjustments for smaller and larger families at the time of occupancy or at the time funds are invested, whichever is later, or (2) the dwelling units assisted with such funds are occupied by families having such incomes (24 CFR section 92.216).
- b. Each participating jurisdiction must invest HOME funds made available during a fiscal year so that with respect to homeownership assistance, 100 percent of these funds are invested in dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later (24 CFR section 92.217).
- c. Each participating jurisdiction must invest at least 15 percent of each year's HOME allocation in projects which are owned, developed, or sponsored by special non-profit organizations called CHDOs. If, during the first 24 months of its participation in the HOME Program, a participating jurisdiction cannot identify a sufficient number of capable CHDOs, then up to 20 percent of the minimum set-aside (but not more than \$150,000 during the 24-month period) may be made available to develop the capacity of CHDOs in the jurisdiction (24 CFR section 92.300).
- d. A participating jurisdiction may expend for its HOME administrative and planning costs an amount of HOME funds that is not more than ten percent of the fiscal year HOME basic formula allocation plus any funds received in accordance with 24 CFR section 92.102(b) to meet or exceed threshold requirements that fiscal year. A participating jurisdiction may also use up to ten percent of any return of the HOME investment, as defined in 24 CFR section 92.503, calculated at the time of deposit in its HOME account, for administrative and planning costs (24 CFR section 92.207).

L. Reporting**1. Financial Reporting - Not Applicable****2. Performance Reporting**

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

Key Line Items –

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

M. Subrecipient Monitoring

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

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

N. Special Tests and Provisions

1. Maximum Per Unit Subsidy

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

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

Suggested Audit Procedures

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

2. Drawdowns of HOME Funds

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

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

Suggested Audit Procedures

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

3. Housing Quality Standards

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

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

Suggested Audit Procedures

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

IV. OTHER INFORMATION***Improper Payments***

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

Hurricanes Katrina and Rita

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.241 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

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

Source of Governing Requirements

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

Availability of Other Program Information

For additional information that may be helpful to auditors in understanding the HOPWA program, refer to the HOPWA program website on the Internet at <http://www.hud.gov/offices/cpd/aidshousing/index.cfm>.

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

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

E. Eligibility

1. Eligibility for Individuals

- a. A person eligible for assistance under this program means one with HIV or AIDS who is a low-income individual, as defined in 24 CFR section 574.3, and the person's family. The eligibility of those tenants who were admitted to the program should be determined by: (1) obtaining signed applications that contained all the information needed to determine eligibility, income, rent and order of selection; and (2) obtaining third-

party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information.

- b. Except for persons in short-term supportive housing, each person receiving rental assistance under the HOPWA Program must pay as rent the higher of: (1) 30 percent of the family's monthly adjusted gross income; (2) 10 percent of the family's monthly gross income; or (3) the portion of the payments that is designated if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs (24 CFR section 574.310).
- c. If grant funds are used to provide rental assistance, the amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between the lower of the rent standard or reasonable rent for the unit and the resident's rent payment calculated in accordance with 24 CFR section 574.310 (24 CFR section 574.320). Allowable assistance can be determined by telephone surveys, site visits after telephoning, or more extensive market surveys of available rental units to assess the reasonableness of rents being charged.
- d. A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six-month period. Rent, mortgage, and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling may not be provided to such an individual for costs accruing over a period of more than 21 weeks in any 52-week period. Further a short-term supported facility may not provide shelter or housing at any single time for more than 50 families or individuals (24 CFR section 574.330).

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

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

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

2.2 Level of Effort - *Supplement Not Supplant*

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

3. Earmarking

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

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HUD-40110-C, *Annual Progress Report*, and HUD-40110-D, *Consolidated Annual Performance and Evaluation Report (CAPER) (OMB No. 2506-0133)* - Both reports are due from each grantee within 90 days after the close of its program year. Separate reports are required for formula and competitive grants. Reports contain three basic parts. The auditor is only expected to test the financial data which is found in Part 3, Summary Overview of Grant Activities, of the Annual Progress Report and in Part 3, Accomplishment Data, of CAPER (24 CFR section 574.520 and 24 CFR part 91).

2. Performance Reporting

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

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents
- d. Part II, Contracts Awarded, 1. Construction Contracts

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

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Maintenance of Structures

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

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

Suggested Audit Procedures

- a. Identify the buildings or structures assisted with HOPWA funds and verify their use.

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

2. Housing Quality Standards

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

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

Suggested Audit Procedures

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

3. Community Residences

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

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

Suggested Audit Procedures

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.850 PUBLIC AND INDIAN HOUSING

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

Public Housing

Annual contributions are made to PHAs for debt service payments for commitments approved on or prior to September 30, 1986, or direct funding of capital costs (grants) is provided to PHAs for commitments approved after September 30, 1986. In addition, operating subsidy funds are available to achieve and maintain adequate operating and maintenance service and reserve funds.

Emphasis is on housing type (i.e., acquisition with or without rehabilitation versus new construction) and household type (i.e., large family). Funds may also be used for the major reconstruction of obsolete existing public housing projects.

PHAs established in accordance with State law are eligible. The proposed program must be approved by the local governing body. Pursuant to the Native American Housing Assistance and Self Determination Act of 1996, Indian Housing Authorities (IHAs) are no longer eligible for funding under the U.S. Housing Act of 1937 or the Indian Housing Act.

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

Operating Fund

Operating Fund requirements are contained in 24 CFR part 990, The Public Housing Operating Fund Program, as revised on September 19, 2005 and October 24, 2005. Guidance on financial management and reporting requirements for public housing authorities under 24 CFR part 990 was published in Notice PIH 2007-9 (April 10, 2007), which included guidance in a Supplement to the Financial Management Handbook, Department of Housing and Urban Development (HUD) Handbook 7475.1, Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule. For fiscal years beginning July 1, 2007 and later, PHAs will be required to manage properties according to an Asset Management Model, consistent with the management norms in the broader multi-family management industry. PHAs

also must implement project-based management, budgeting, and accounting, which are essential components of asset management.

Under asset management rules, PHAs will be required to provide project-specific data through the Financial Data Schedule (FDS). In order to accommodate project-based accounting, the FDS is being updated to meet these needs. The depiction of the proposed FDS is available on the asset management web site and will be effective for submissions with a fiscal year end of June 30, 2008 and beyond. Due to the addition of many new asset management line items, a five-digit numbering system will be used in the Revenue & Expense portion of the FDS.

PHAs that own and operate 250 or more dwelling rental units must establish a central office cost center (COCC) to account for non-project specific costs. The COCC must charge each project using a fee-for-service approach. Each project shall be charged for the actual services received and only to the extent that such amounts are reasonable. Fee reasonableness will be monitored as a compliance requirement after the first year of asset management. The asset management fee and transfers of funds between projects (project fungibility) will be limited to the restrictions made on excess cash. Excess cash will also be monitored as a compliance requirement after the first year of asset management.

The assistance made available from the Operating Fund is determined by a formula used to calculate the amount of operating subsidy for each PHA. The operating subsidy is equal to the project's Project Expense Level (PEL) plus the Utilities Expense Level (UEL), multiplied by Eligible Unit Months (EUM), plus other formula expenses (add-ons), minus formula income. The methodology and procedures for this calculation are found in 24 CFR part 990.

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

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

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

Performance Reporting

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

Financial Reporting

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

Source of Governing Requirements

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

Availability of Other Program Information

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

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

HUD’s Office of Public and Indian Housing maintains a web site (<http://www.hud.gov/offices/pih/programs/ph/am/>) that provides general information and updates on asset management. This web site also has information on relevant HUD notices and the Supplement to Handbook 7475.1, which was published in Notice PIH 2007-9 (April 10, 2007).

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. *Chargeable Fees under the Fee-for-Service Approach*

- a. The PHA may charge each project an asset management fee that may be used to fund operations of the central office (24 CFR section 990.280(b)(5)(ii)).
- b. In addition to project-specific records, PHAs may establish COCCs to account for non-project specific costs (e.g. human resources, Executive Director's office, etc). Those costs shall be funded from the property-management fees received from each property, and from the asset management fees to the extent these are available (24 CFR section 990.280 (c)).
- c. If a PHA chooses to centralize functions under asset management, it must charge each project using a fee-for-service approach. Each project shall be charged for the actual services received and only to the extent that such amounts are reasonable (24 CFR section 990.280 (d)).
- d. PHAs that own and operate 250 or more dwelling rental units under Title I of the 1937 Act, including units managed by a third-party entity (for example, a resident management corporation) but excluding section 8 units, are required to operate using an asset management model consistent with subpart H of 24 CFR part 990 (24 CFR section 990.260(a)). For CYs 2008 and 2009, PHAs that own and operate 400 or fewer public housing units may elect to be exempt from any asset management requirement imposed by HUD in connection with the operating fund rule, provided that an agency seeking a discontinuance of a reduction of subsidy under the operating fund formula shall not be exempt from asset management requirements (Section 225 of Title II of the HUD portion of the Consolidated Appropriations Act, 2008 (Pub. L. No. 110-161)).
- e. For PHAs with greater than 250 units and/or PHAs using asset management, HUD has established the following as the fees the COCC can charge projects or programs (See Section 7.1 to the Supplement to HUD Handbook 7475.1):
 - (1) Property (project) management fee;
 - (2) Bookkeeping fees;
 - (3) Fees for centrally provided direct services (front-line expenses);
 - (4) Asset management fees;
 - (5) Capital Fund Program management fees; and
 - (6) Management fees for other programs.

2. *Uses of Excess Cash*

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

- a. Excess cash may be used for the following purposes:
 - (1) Retention for future use;
 - (2) Transfer to other projects;
 - (3) Payment of an asset management fee to the COCC; and
 - (4) Other HUD-approved eligible purposes, including, but not limited to--
 - (a) Financing costs for the development of new units (to the extent allowed under program requirements),
 - (b) Costs of pursuing PHA-wide lawsuits and addressing legal issues incurred prior to asset management that cannot be charged to specific projects or other programs with any degree of accuracy or fairness, and
 - (c) Accrued pension liabilities, retirement benefits liabilities, and other "legacy costs" incurred prior to adoption of asset management (24 CFR section 990.280(b)(5)). (Also see Section 6.2 in the Supplement to HUD Handbook 7475.1.)

- b. Proceeds from asset disposals of an project – i.e., the sale of a project’s maintenance vehicle – are considered to be assets of the projects and not of the COCC. With HUD approval, certain proceeds may be transferred to the COCC but may still be governed by other restrictions (24 CFR section 990.280(b)(5)). (Also see Section 6.3 in the Supplement to HUD Handbook 7475.1.)
- c. Excess cash cannot be used for loans or transfers to the COCC except through payment of asset management fees.

3. *Uses of Operating Funds*

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

E. Eligibility

1. Eligibility for Individuals

Most PHAs devise their own application forms that are filled out by the PHA staff during an interview with the tenant. The head of household signs: (a) a certification that the information provided to the PHA is correct; (b) one or more release forms to allow the PHA to get information from third parties; (c) a federally prescribed general release form for employment information; and (d) a privacy notice. Under some circumstances, other members of the family may be required to sign these forms (24 CFR sections 5.212, 5.230, and 5.601 through 5.615).

The PHA must do the following:

- a. As a condition of admission or continued occupancy, require the tenant and other family members to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 960.259).
- b. For both family income examinations and reexaminations, obtain and document in the family file third-party verification of: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income-based rent (24 CFR section 960.259).
- c. Determine income eligibility and calculate the tenant's rent payment using the documentation from third-party verification in accordance with 24 CFR part 5, subpart F (24 CFR sections 5.601 *et seq.*, and 24 CFR sections 960.253, 960.255, and 960.259).
- d. Select tenants from the public housing waiting list (see III.N.1, "Special Tests and Provisions - Public Housing Waiting List") (24 CFR sections 960.206 and 960.208).
- e. Reexamine family income and composition at least once every 12 months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third-party verification (24 CFR sections 960.253, 960.257, and 960.259).

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

3. Eligibility for Subrecipients - Not Applicable.

J. Program Income

For PHAs that convert to asset management (required of PHAs with 250 or more units), any internal fees that the PHA charges to projects or programs (property management fees, asset management fees, etc.) are not considered program income for purposes of 24 CFR part 85 and OMB Circular A-87, provided that the fees charged are reasonable under the criteria established by HUD; however, other State and local restrictions still may apply. Consequently, any reasonable fees earned by the PHA/COCC will be treated as local revenue subject only to the controls and limitations imposed by the PHA's management, Board, or other authorized governing body (24 CFR 85.25; Section 7.2 in the Supplement to HUD Handbook 7475.1).

L. Reporting**1. Financial Reporting - Not Applicable****2. Performance Reporting**

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

Key Line Items –

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

3. Special Reporting

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

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

- (1) Line 2a - *Type of Action*
- (2) Line 2b - *Effective Date of Action*
- (3) Line 3b, 3c - *Names*
- (4) Line 3e - *Date of Birth*
- (5) Line 3n - *Social Security Numbers*
- (6) Line 5a - *Unit Address*
- (7) Line 5h, 5i - *Unit Inspection Dates*
- (8) Line 7i - *Total Annual Income*
- (9) Line 13h - *Contract Rent to Owner*
- (10) Line 13k or 13x - *Tenant Rent*
- (11) Lines 2k and 17a - *Family's Participation in the Family Self Sufficiency (FSS) Program*
- (12) Line 17k(2) - *FSS Account Balance*

- b. HUD-52723, *Operating Fund Calculation of Operating Subsidy (OMB No. 2577-0029)* - This form is prepared and submitted on a calendar-year basis and is used by HUD to calculate funding for the upcoming calendar year. The form's data is based on historical information. The auditor is not expected to audit the column headed "HUD Modifications (PUM)."

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

- (1) Section 2, Line 15 - *Total Unit Months*
- (2) Section 3, Part A, Line 4 - *PEL*
- (3) Section 3, Part A, Line 6 - *UEL*

- (4) Section 3, Part A, Line 16 – *Total Add-Ons*
- (5) Section 3, Part B, Line 4 – *Total Formula Income*
- c. HUD 52722, *Operating Fund Calculation of Allowable Utilities Expense Level (OMB No. 2577-0029)*
 - Key Line Items* - The following line item contains critical information:
 - (1) Line 1, *Actual consumption (12-month period 7/1/_ to 6/30/_)*
 - (2) Line 15, *Payable Consumption*
 - (3) Line 26, *Utilities Expense Level - PUM*

N. Special Tests and Provisions

1. Public Housing Waiting List

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

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

Suggested Audit Procedures

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

2. Tenant Participation Funds

Compliance Requirement – When tenant participation funds are provided to a PHA, the PHA must provide those funds to duly elected resident councils. Funding provided by a PHA to a duly elected resident council may be made only under a written agreement between the PHA and the resident council that includes a resident council budget. PHAs are permitted to fund \$25 per unit per year for units represented by duly elected resident councils for resident services. Of this \$25, \$15 per unit per year is provided to fund tenant participation activities. The agreement must require the local resident council to

account to the PHA for the use of the funds and permit the PHA to inspect and audit the resident council's financial records related to the agreement (24 CFR section 964.150).

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

Suggested Audit Procedures

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

3. Project-Based Budgeting and Accounting

Compliance Requirement – PHAs implementing asset management shall develop and maintain a system of budgeting and accounting for each project in a manner that allows for analysis of actual revenues and expenses associated with each property (24 CFR section 990.280(a)).

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

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

Suggested Audit Procedures

- a. Obtain the PHA's budget and determine if it is project-based.
- b. Review FDS and determine whether each project has its own column on the FDS.

4. Classification of Costs

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

Audit Objective – Determine whether project support costs were properly classified as fee expense or front-line expense.

Suggested Audit Procedures

- a. Select a sample of costs charged to the projects and review the classification as either a front-line expense or a fee expense.
- b. For any costs selected that contain elements of both front-line expenses and fee expenses, review the documentation of the PHA for the rationale used for the assignment.

5. Balance Sheet Allocations

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

Audit Objective – Determine if PHAs have apportioned their assets, liabilities, and equity.

Suggested Audit Procedures

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

6. Operating Subsidy Calculation

Compliance Requirement – PHAs must prepare a separate form HUD-52722, *Operating Fund Calculation of Allowable Utilities Expense Level (OMB No. 2577-0029)*, for each of their projects. Operating expenses must be calculated on a project-specific basis, and the calculation must exclude any utility consumption for the COCC (24 CFR section 990.280(b)(4)).

Audit Objective – Determine whether UELs calculation excludes consumption for the COCC.

Suggested Audit Procedures

- a. Review the calculation of Line 1 - *Actual Consumption*, Line 2 - *Rolling base year 1- actual consumption*, Line 3 - *Rolling base year 2- actual consumption*, Line 4 - *Rolling base year 3- actual consumption*, and Line 16 – *actual utility costs* in the HUD-52722.
- b. Verify that the consumption does not include any COCC consumption.

7. Fees Charged for Centralized Services

Compliance Requirement – In the case where a PHA chooses to centralize functions that directly support a project (e.g., central maintenance), it must charge each project using a fee-for-service approach. Each project must be charged for the actual services received and only to the extent that such amounts are reasonable. Guidance on fee reasonableness for centralized service fees is provided in Section 7.10 in the Supplement to HUD Handbook 7475.1 (24 CFR section 990.280(d)).

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

Suggested Audit Procedures –

- a. Select a sample of fees charged by the COCC to a project for centralized services for maintenance and inspections.
- b. Verify whether the fees are reasonable.

8. Asset Management Fee

Compliance Requirement – The COCC may charge a reasonable asset management fee to projects to fund the operations of the central office. HUD will generally consider an asset management fee charged to each project of \$10 per unit month (PUM) as reasonable. Guidance on reasonableness standards for asset management fees is provided in Sections 7.4 and 7.6 in the Supplement to HUD Handbook 7475.1 (24 CFR section 990.280(b)(5)(ii)).

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

Suggested Audit Procedures –

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

9. Management Fees

Compliance Requirement – The COCC may charge reasonable management fees. Management fees may include property management fees, program management fees, and bookkeeping fees. Fee reasonableness standards for the property management fee and bookkeeping fee are provided in Sections 7.4 and 7.5 in the Supplement to HUD Handbook 7475.1 (24 CFR section 990.280(b)(4)).

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

Suggested Audit Procedures

- a. Select a sample of property management fees and bookkeeping fees charged by the COCC and determine if the fees comply with fee reasonable guidelines set by HUD.
- b. For any fees that do not meet the reasonableness guidelines, review the documentation maintained by the PHA to determine if the fees are reasonable.

10. Funding Central Office with Capital Fund Program Funds

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

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

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

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

- a. PHAs with assets financed under the Capital Fund Finance Program (CFFP) and allocated to the COCC will record the associated debt at the COCC. (Unlike CFP, the CFFP is not a Federal financial assistance program. The CFFP was created to leverage external financing of capital investments using CFP money as a

guarantee. For instance, a PHA needs to repair its building at an estimated cost of \$500,000. CFP can provide an annual funding of \$100,000 to the PHA. Without outside financing, the PHA would not have enough cash to do the work until 5 years later. The PHA can borrow money from a local bank to make the investment now and promise to repay the bank with future CFP funds. By doing so the PHA enters into the CFFP.) Grant revenues related to payments for principal and interest related to these COCC assets may be recorded directly by the COCC from the program. CFP grants are allowed to service the debt service payments for this COCC debt. Payments from the CFP to pay off COCC debt service payments are not considered part of the CFP management fee (Guidance on this is provided in Section 5.9 in the Supplement to HUD Handbook 7475.1).

- b. The costs of developing or modernizing an existing annual contributions contract (ACC) non-dwelling structure under a 20-year Capital Fund Declaration of Trust (both COCC and Project Structure) are an eligible Capital Fund expenditure (Guidance on this is provided in Section 5.7 in the Supplement to HUD Handbook 7475.1).

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

Suggested Audit Procedures

- a. Ascertain if the Capital Fund is used to directly fund the central office other than through management fees. If not no further action is needed.
- b. If so, and if all the funds were used to pay CFFP debt or to develop or modernize an existing ACC structure, no further action is needed.
- c. If so, and the money is not used to for paying back CFFP debt or for developing or modernizing an existing ACC structure, verify that no fee revenue was reported under the COCC and all indirect costs were reported as Allocated Overhead in FDS line 91810.

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.862 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

I. PROGRAM OBJECTIVES

The primary objective of the Indian Community Development Block Grant (CDBG) program is the development of viable Indian and Alaskan Native communities, including decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. Indian CDBG assistance may not be used to reduce substantially the amount of local financial support for community development activities below the level of support prior to the availability of the assistance (24 CFR section 1003.2).

II. PROGRAM PROCEDURES

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

Source of Governing Requirements

Implementing regulations are published at 24 CFR part 1003.

Availability of Other Program Information

Additional information about the Indian CDBG program is available on the Internet at <http://www.hud.gov/offices/pih/ih/grants/icdbg.cfm>.

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

Indian CDBG funds (including program income generated by activities carried out with grant funds) may only be used for the following activities: (1) the acquisition of real property; (2) the acquisition, construction, reconstruction, or installation of public works, facilities, and site, or other improvements; (3) code enforcement in deteriorated or deteriorating areas; (4) clearance, demolition, removal, and rehabilitation of buildings and improvements; (5) special projects for removal of material and architectural barriers

that restrict accessibility by elderly and handicapped individuals; (6) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (7) disposition of real property acquired under this program; (8) provision of public services (subject to limitations contained in regulations and to certain HUD determinations); (9) payment of the non-Federal share for a grant program that is part of the assisted activities; (10) payment to complete a Title 1 Federal Urban Renewal project; (11) relocation assistance; (12) planning activities; (13) administrative costs; (14) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (15) assistance to community-based development organizations; (16) activities related to energy use; (17) assistance to private, for-profit business, when appropriate to carry out an economic development project; (18) substantial reconstruction of housing owned and occupied by low- and moderate-income persons (subject to certain HUD determinations); (19) direct assistance to facilitate and expand homeownership; (20) technical assistance to public or private entities for capacity building (exempt from planning/administration cap); (21) housing counseling and housing activity delivery costs under Indian CDBG and Indian HOME; (22) assistance to colleges and universities to carry out eligible activities; and (23) assistance to public and private entities (including for-profits) to assist micro-enterprises (24 CFR sections 1003.201 through 1003.206).

F. Equipment and Real Property Management

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

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**
 - a. To be eligible under the Indian CDBG program, a single-purpose grant activity must benefit low- and moderate-income persons. To meet this requirement, not less than 70 percent of the funds of each single-purpose grant must be used for activities that benefit low- and moderate-income persons under the criteria set forth in 24 CFR sections 1003.208(a), (b), (c), or (d). In determining the percentage of funds used for such activities, the provisions of 24 CFR section 1003.208(e)(4) apply.

- b. No more that 20 percent of the total grant plus program income received during a program year may be obligated during that year for activities that qualify as planning and administration pursuant to 24 CFR sections 1003.205 and 1003.206 (24 CFR section 1003.206). Technical assistance costs associated with developing the capacity to undertake a specific funded program activity are not considered administrative costs and are not included in the 20 percent limitation on planning and administration costs (24 CFR section 1003.206).
- c. Public service activities may comprise no more than 15 percent of the total grant award 24 CFR section 1003.201(e).

J. Program Income

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

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable

2. Performance Reporting

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

Key Line Items –

- a. 3. Dollar Amount of Award
- b. 8. Program Code
- c. Part I, Column C – Total Number of New Hires that are Sec. 3 Residents

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

3. Special Reporting - Not Applicable

M. Subrecipient Monitoring

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

N. Special Tests and Provisions

1. Environmental Assessments

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

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

Suggested Audit Procedures

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

2. Release of Funds

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

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

Suggested Audit Procedures

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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

I. PROGRAM OBJECTIVES

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

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

II. PROGRAM PROCEDURES

Notice of Funding Availability

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

Grant Agreement

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

Development and Mixed-Finance Development

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

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

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

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

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

Moving to Work Program

Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134, 110 Stat.1321-281 through 284) established the Public Housing/Section 8 Moving to Work Demonstration program (MTW). The MTW allows PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD. Where a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine any differences from the requirements identified in this program supplement.

Examples of the differences between the standard PHA requirements and those that may be set out in a PHA's MTW Agreement include the following:

- An MTW PHA may not be subject to the requirements of the Financial Assessment Sub System (FASS).

- All MTW PHAs are required by the terms of their MTW Agreement to use the annual MTW Plan and Report to provide information on their programs. Standard PHAs utilize the PHA Plan for reporting purposes.
- Federal funds received by a MTW PHA are generally considered to be fully fungible with the exception of HOPE VI funds (CFDA 14.866), Replacement Housing Funds (RHF) funds, and certain Capital Funds (CF) (CFDA 14.872). Federal funds received by a standard PHA are not fungible. “Fungible” means that the federal funds received by the MTW PHA may be used for any purpose permitted under the terms of the MTW Agreement. In addition, specific requirements governing the use of these funds are set out in the MTW Agreement.

No program-specific regulations have been published for the MTW. HUD posts guidance on the MTW program on the Internet at: (<http://www.hud.gov/offices/pih/programs/ph/mtw/>) which provides general information, policy guidance and a list of PHAs participating in the MTW program.

Source of Governing Requirements

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

Availability of Other Program Information

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. HOPE VI revitalization grant funds may be used to fund the revitalization of severely distressed public housing developments (42 USC 1437v(d)). Such activities include:
 - a. The demolition of severely distressed public housing developments or portions thereof (42 USC 1437v(d)(1)(C)),
 - b. Relocation costs for affected residents (42 USC 1437v(d)(1)(F) and (J)),
 - c. Disposition activities (42 USC 1437v(d)(1)(C))
 - d. Rehabilitation of existing public housing units and/or community facilities (42 USC 1437v(d)(1)(B)),
 - e. Development of new public housing units and community facilities (42 USC 1437v(d)(1)(I)),
 - f. Homeownership activities (42 USC 1437v(d)(1)(G)),
 - g. Acquisition and disposition activities (42 USC 1437v(d)(1)(B),(C) and (J)),
 - h. Economic development activities (42 USC 1437v(d)(1)(G)),
 - i. Leveraging of resources (42 USC 1437v(d)(1)(I)),
 - j. Necessary management improvements (42 USC 1437v(d)(1)(H)),
 - k. Administrative and consulting costs (42 USC 1437v(d)(1)(D) and (E)),and
 - l. Community and supportive services(42 USC 1437v(d)(1)(G)) .
2. HOPE VI demolition grant funds may be used to fund the demolition of dwelling units and non-dwelling structures, relocation of affected residents, site restoration, as appropriate, and reasonable administrative costs (42 USC 1437v(d)).
3. The components of mixed-finance development, other than public housing, may not be financed with public housing funds (42 USC 1437v(d)).

D. Davis-Bacon Act

HOPE VI projects developed in accordance with 24 CFR part 941 – Public Housing Development and 24 CFR part 968 – Public Housing Modernization that contain only public housing replacement units, and HOPE VI mixed-finance projects developed in accordance with 24 CFR part 941 subpart F – Public/Private Partnerships for the Mixed-Finance Development of Public Housing where the development entity has been procured by the PHA in accordance with 24 CFR part 85 are subject to the provisions of the Davis Bacon Act (42 USC1437j(a) and (b), 24 CFR sections 941.208 and 941.610(a)(8)(vi)).

G. Matching, Level of Effort, Earmarking**1. Matching**

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

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable****L. Reporting****1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Applicable
- e. *Financial Reports (OMB No. 2535-0107)* - Financial Assessment Subsystem, FASS-PHA. 24 CFR part 902 – Public Housing Assessment System (PHAS) Subpart C-Phase Indicator #2 Financial Condition requires the PHA to provide reports on an annual basis. The report requires an assessment on a PHA entity-wide basis, which allows for the oversight of all individual grants and subsidy programs and provides HUD access to any factors it determines are appropriate (42 USC 1437d(j)(1)(K). Financial reporting requirements in 24 CFR section 902.33(a)(2) provide that the information be “submitted electronically in the format prescribed by HUD using the Financial Data Schedule (FDS).” 24 CFR section 902.35, “Financial condition scoring and threshold,” establishes the procedures to be observed by the PHA.

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

- (1) Headings for HUD Programs and Business Activities
 - (a) HOPE VI (Revitalization of Severely Distressed Public Housing)
 - (b) Component Units (Non-Profit Entities)

- (2) Line Items
 - (a) FDS Line 125 - (Accounts Receivable – Misc)
 - (b) FDS Line 144 - (Inter-Program – Due From)
 - (c) FDS Line 171 - (Notes, Loans, & Mortgages Receivable – Non-current)
 - (d) FDS Line 172 - (Notes, Loans, & Mortgages Receivable – Non-current - Past Due)
 - (e) FDS Line 174 - (Other Assets)
 - (f) FDS Line 176 - (Investment in Joint Ventures)
 - (g) FDS Line 347 - (Inter-Program – Due To)
 - (h) FDS Line 348 - (Loan Liability – Current)
 - (i) FDS Line 355 - (Loan Liability – Non-Current)
 - (j) FDS Line 10010 - (Operating Transfer In)
 - (k) FDS Line 10020 - (Operating Transfer Out)
 - (l) FDS Line 10030 - (Operating Transfers From/To Primary Government)
 - (m) FDS Line 10093 – (Transfers Between Programs and Projects - In)
 - (n) FDS Line 10094 – (Transfers Between Programs and Projects - Out)

2. Performance Reporting

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

Key Line Items –

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

3. Special Reporting – Not Applicable

N. Special Tests and Provisions

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

Compliance Requirement – On an annual basis, the PHA must report on the financial condition of the PHA and on the transactions that the PHA is entering into with private and non-profit entities (24 CFR section 902.33). In the FASS-PHA Financial Assessment Sub System, the PHA transactions with non-profit and private development entities are

shown under the headings for HUD Programs and Business Activities for HOPE VI (Revitalization of Severely Distressed Housing) and the Component Units (Non-Profit Affiliates). Such transactions would be noted in the FDS Line items shown above in Section III.L.1.e(2). The FASS-PHA Financial Report is reviewed and approved or rejected by the REAC.

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

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

Suggested Audit Procedures

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

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.867 INDIAN HOUSING BLOCK GRANTS

I. PROGRAM OBJECTIVES

The primary objectives of the Indian Housing Block Grants (IHBG) program are: (1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families; (2) to coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members; and (3) to plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes (24 CFR section 1000.4).

II. PROGRAM PROCEDURES

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

Source of Governing Requirements

This program is authorized by NAHASDA, codified at 25 USC 4101 through 4212. Implementing regulations are in 24 CFR part 1000.

Availability of Other Program Information

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. The following activities to develop or to support affordable housing for rental or home ownership, or to provide housing services with respect to affordable housing are allowable:
 - a. *Indian Housing Assistance* - The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority, including such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing (25 USC 4132(1) and 4133(b)).
 - b. *Development* - The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities (25 USC 4132(2)).
 - c. *Housing Services* - The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or home-ownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section (25 USC 4132(3)).
 - d. *Housing Management Services* - The provision of management services for affordable housing, including preparation of work specifications; loan processing, inspections; tenant selection; management of tenant-based rental assistance; and management of affordable housing projects (25 USC 4132(4)).
 - e. *Crime Prevention and Safety Activities* - The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime (25 USC 4132(5)).
 - f. *Model Activities* - Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by the Secretary as appropriate for such purpose (25 USC 4132(6)).

2. Unless the conditions specified in 25 USC 4111(d) (regarding tax exemption for real and personal property taxes and user fees) are met, grants funds may not be used for affordable housing activities for rental or lease-purchase dwelling units developed:
 - a. Under the United States Housing Act of 1937 (42 USC 1437 *et seq.*), or
 - b. With amounts provided under 25 USC Chapter 43 that are owned by the recipient for the tribe.

D. Davis-Bacon Act

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

In general, NAHASDA provides that Davis-Bacon and HUD-determined rates shall not apply to a contract or agreement if the contract or agreement is otherwise covered by a law or regulation adopted by an Indian tribe that provides for the payment of not less than prevailing wages as determined by the tribe. This requires the Indian tribe to pass a tribal law or regulation and ensure that the law requires the payment of not less than those wage rates the tribe determines to be prevailing (Section 104(b) of NAHASDA; 25 USC 4114(b); 24 CFR section 1000.16)).

E. Eligibility

1. Eligibility for Individuals

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

- a. Low income Indian families on a reservation or Indian area (24 CFR section 1000.104(a)).
- b. A non-low income Indian family may receive housing assistance in accordance with 24 CFR section 1000.110, except that non-low income Indian families residing in housing assisted under the Housing Act of 1937 (42 USC 1437 *et seq.*) do not have to meet the requirements of 24 CFR section 1000.110 for continued occupancy (24 CFR section 1000.104(b)).
- c. A non-Indian family may receive housing assistance on a reservation or Indian area if the non-Indian family's housing needs cannot be reasonably met without such assistance, and the recipient determines that the presence of that family on the reservation or Indian area is essential to the well-

being of Indian families, except that non-Indian families residing in housing assisted under the Housing Act of 1937 do not have to meet these requirements for continued occupancy (24 CFR section 1000.104(c)).

Housing assistance for non-low income Indian families requires HUD approval only as required in 24 CFR sections 1000.108 and 1000.110. Assistance under section 201(b)(3) of NAHASDA for non-Indian families does not require HUD approval, but only requires that the recipient determine that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families and the non-Indian family's housing needs cannot be reasonably met without such assistance (24 CFR section 1000.106).

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

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**
 - a. Up to 10 percent of an annual grant may be used to provide housing assistance to families whose adjusted income (defined at 25 USC 4103(1)) falls within 80 to 100 percent of the median income (defined at 24 CFR section 1000.10). HUD approval is required to exceed this 10 percent cap or to provide assistance to families with incomes in excess of 100 percent of the median income (24 CFR section 1000.110(d)).
 - b. A recipient may use up to 20 percent of its annual grant for administration and planning. HUD approval must be obtained to exceed this percentage (24 CFR section 1000.238).

J. Program Income

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

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HUD-272-I, *Federal Cash Transactions Report (OMB No. 2577-0218)* Applicable

2. Performance Reporting

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

Key Line Items - The following items contain critical information:

- (1) Part I, Table I - Sources of Funds - column c.
 - (2) Part I, Table II – Uses of Funds - columns e through i.
 - (3) Part II, Table III – Inspection of Assisted Housing - columns c through g.
- b. HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons (OMB No. 2529-0043)* – For each IHBG that involves development, operating, or modernization assistance, the prime recipient must submit Form HUD 60002 (24 CFR sections 135.3(a), 135.5, and 135.90).

Key Line Items –

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

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

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Environmental Review

Compliance Requirement - Program regulations provide that a recipient (or beneficiary tribe, if the recipient is a TDHE) may assume responsibilities for environmental review and decision making under the requirements of 24 CFR part 58 or it may allow HUD to retain these responsibilities. If HUD retains the responsibilities, HUD will do reviews under the provisions of 24 CFR part 50 (24 CFR section 1000.20). A HUD environmental review must be completed for any activities not excluded before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds (24 CFR section 1000.20(a)).

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

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

Suggested Audit Procedures

Select a sample of projects for which expenditures were made and verify that:

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

2. Investment of IHBG Funds

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

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

Suggested Audit Procedures

If IHBG funds have been invested during the audit period:

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.871 SECTION 8 HOUSING CHOICE VOUCHERS****I. PROGRAM OBJECTIVES**

The Housing Choice Voucher Program (HCVP) provides rental assistance to help very low-income families afford decent, safe, and sanitary rental housing.

II. PROGRAM PROCEDURES

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

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

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

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

Under the HCVP, apart from the requirement that the rent must be reasonable in relation to rents charged for comparable units in the private unassisted market, there is generally no limit on the amount of rent that an owner may charge for a unit. However, at initial occupancy of any unit where the gross rent exceeds the payment standard, a family may not pay more than 40 percent of adjusted monthly income toward rent and utilities (24 CFR section 982.508).

The voucher subsidy is set based on the difference between the lower of the PHA's applicable payment standard for the family or the gross rent and the total tenant payment (generally 30 percent of the family's monthly adjusted income). This is the maximum amount of subsidy a family may receive regardless of the rent the owner charges for the unit (24 CFR part 982, subpart K).

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

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

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

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

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

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

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

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

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

Source of Governing Requirements

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

Availability of Other Program Information

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. PHAs may use HCVP funds only for HAPs to participating owners, and for administrative fees (24 CFR sections 982.151 and 982.152).
 - a. Unspent administrative fees accumulated after January 1, 2005 may be used only to support the HCVP. These funds are still considered to be administrative fee reserves, and are subject to all of the requirements applicable to administrative fee reserves including, but not limited to, those in 24 CFR section 982.155. These funds must be used for activities

- related to the provision of tenant-based rental assistance authorized under Section 8 of the United States Housing Act of 1937, including related development activities (Division I, Title II, Section (5) of Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 3296; see Section 5 of Notice PIH 2005-01).
- b. The 2005 Appropriations Act and subsequent Acts require that calendar year (CY) HAP funding to be used for CY HAP and later HAP expenses. PHAs are not allowed to use current year HAP to fund HAP liabilities associated with prior years (Division K, Title II of Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 2412; see Section 15 of Notice PIH 2008-15).
 - c. HAP funding can only be used to support the payment of HAP expenses. Transfers of HAP and administrative fees, even temporarily, to support another program or use are not allowed (see III.L.f(3), FDS Transfer Line Items).
2. PHAs are allowed to recover their indirect costs related to the HCVP through the use of a fee-for-service model in lieu of a cost allocation plan. In order for a PHA to use a fee-for-service model, the PHA must create a central office cost center (COCC) (24 CFR section 990.280(d)). (Also see Section 7.8 of Handbook 7475.1 and Section 2 of Notice PIH 2008-17). HUD has established the following as the fees the COCC can charge for the HCVP:
- a. HCV management fee, and
 - b. Bookkeeping fee.
- HUD is required to publish a notice in the *Federal Register* that reflects the amount that can be claimed by PHAs administering the program. As of September 6, 2006, HUD has determined that, for PHAs that elect to use a fee-for-service methodology for their HCVPs (as allowed under OMB Circular A-87), a management fee of up to 20 percent of the administrative fee or up to \$12 per unit month (PUM) per voucher leased, whichever is higher, is reasonable. PHAs also can charge the HCVP a bookkeeping fee of \$7.50 PUM (see 71 FR 52710, HUD Notice - Public Housing Operating Fund Program; Guidance on Implementation of Asset Management, September 6, 2006, Section VIII) (42 USC 1437f(q)(1)).
3. The 2005 Appropriations Act and subsequent Acts prohibit the use of appropriated funds by any PHA for “over-leasing.” Over-leasing occurs when a PHA has more unit months under a HAP contract for the CY than are available under its ACC baseline, even if the PHA has sufficient Budget Authority to support the additional unit months. Over-leasing is measured on a CY basis. If a PHA engages in over-leasing, it must identify other non-HAP sources to pay for the overleasing. In addition, the 2008 Appropriations Act and subsequent require

that administrative fees be based on actual leasing as of the first of the month (Division I, Title II, Section (5) of Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 3295; Division K, Title II, Section (1) of Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 2413; See Section 7 of Notice PIH 2005-01 and Section 6 of Notice PIH 2008-15). PHAs submit lease information via VMS. (See also III.L.e(1)(a) VMS Units Month Leased Lines).

E. Eligibility

1. Eligibility for Individuals

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

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

The PHA must do the following:

- a. As a condition of admission or continued occupancy, require the tenant and other family members to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 982.516).
- b. For both family income examinations and reexaminations, obtain and document in the family file third party verification of: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income-based rent (24 CFR section 982.516).
- c. Determine income eligibility and calculate the tenant's rent payment using the documentation from third party verification in accordance with 24 CFR part 5 subpart F (24 CFR section 5.601 *et seq.*) (24 CFR sections 982.201, 982.515, and 982.516).
- d. Select tenants from the HCVP waiting list (see III.N.1, "Special Tests and Provisions - Selection from the Waiting List") (24 CFR sections 982.202 through 982.207).
- e. Reexamine family income and composition at least once every 12 months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third party verification (24 CFR section 982.516).

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

3. Eligibility for Subrecipients - Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HUD-52681-B, *Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169)*. The PHA submits this form electronically to HUD via the VMS monthly on the same basis of accounting (full or modified) as the PHA prepares its annual financial submission to HUD through the FASS-PH system. Congress has instructed HUD to use VMS data to determine renewal funding levels. HUD also uses VMS data for other funding, monitoring, and SEMAP-related decisions. HUD relies on the audit of the key line items below to determine the reasonableness of the data submitted for the purposes of calculating funding under the program.

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

- (1) Unit Months Leased
- (2) HAP Expenses
- (3) All Specific Disaster Voucher Programs
- f. *Financial Reports (OMB No. 2535-0107)* - Financial Assessment Sub-system, FASS-PH. The Uniform Financial Reporting Standards (24 CFR section 5.801) require PHAs to submit timely GAAP-based unaudited and audited financial information electronically to HUD. The FASS-PH system is one of HUD's main monitoring and oversight systems for the HCVP.

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

- (1) FDS Revenue Line Items: The accuracy of these revenue items should be reviewed in conjunction with the participant's annual budget authority, payment schedules, and other reports.
 - (a) FDS Line 70600-010 - (Housing Assistance Payments)
 - (b) FDS Line 70600-020 - (Ongoing Administrative Fees Earned)
 - (c) FDS Line 71100 - (Investment Income - Unrestricted)
 - (d) FDS Line 72000 - (Investment Income - Restricted)
- (2) FDS Expenditure Line Items: The accuracy of these expenditure items should be reviewed in conjunction with Chapter 7 of the Supplement to HUD Handbook 7475.1, revised April 2007, which provides HUD guidance on maximum fees allowed and associated fee expenses.
 - (a) FDS Line 91300 - (Management Fee)
 - (b) FDS Line 91310 - (Book-Keeping Fee)
- (3) FDS Transfer Line Items: The accuracy of these transfer items should be reviewed in conjunction with supporting documentation and/or HUD approvals. For FDS reporting, cash and investments in a cash pool or working capital account should be reported as such and not reflected as due to/ due from. Amounts reported on these FDS Lines could represent unallowable costs (see III.A.1.).
 - (a) FDS Line 144 - (Inter Program - Due From)
 - (b) FDS Line 10020 - (Operating Transfer Out)
 - (c) FDS Line 10030 - (Operating Transfers From/To Primary Government)
 - (d) FDS Line 10040 - (Operating Transfer From/To Component Unit)
 - (e) FDS Line 11040 - (Prior Period Adjustments, Equity Transfers, and Correction of Errors)
- (4) FDS Equity Line Items:
 - (a) FDS Line 11170 - (Administrative Fee Equity)

This line represents the administrative fee equity for the Section 8 HCVP only. Amounts reported in this line

should not be commingled with other voucher-related activities as outlined in Section 10 of PIH-Notice 2008-09. It is equal to the total administrative fee revenue minus total administrative expense. The balance of this account will be carried forward from year to year.

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

This line represents the HAP equity for the HCVP only. Amounts reported in this line should not be commingled with other voucher-related activities as outlined in PIH-Notice 2008-09. It is equal to total HAP revenue minus total HAP expense. Current CY appropriated HAP funding cannot be used to fund prior CY HAP deficits (see III.A.1(b)).

2. Performance Reporting

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

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

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

(6) Line 2c - *Number of Section 8 families with children who moved during the last completed PHA FY*

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

Key Line Items –

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

3. Special Reporting

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

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

- a. Line 2a - *Type of Action*
- b. Line 2b - *Effective Date of Action*
- c. Line 3b, 3c - *Names*
- d. Line 3e - *Date of Birth*
- e. Line 3n - *Social Security Numbers*
- f. Line 5a - *Unit Address*
- g. Line 5h, 5i - *Unit Inspection Dates*
- h. Line 7i - *Total Annual Income*
- i. Lines 2k and 17a - *Family's Participation in the Family Self Sufficiency (FSS) Program*
- j. Line 17k(2) - *FSS Account Balance*

N. Special Tests and Provisions

1. Selection from the Waiting List

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

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

Suggested Audit Procedures

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

admitted to the program in accordance with the PHA's applicant selection policies.

2. Reasonable Rent

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

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

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

Suggested Audit Procedures

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

3. Utility Allowance Schedule

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

Audit Objective - Determine whether the PHA has reviewed utility rate data within the last 12 months and has adjusted its utility allowance schedule if there has been a rate

change of 10 percent or more in a utility category or fuel type since the last time the utility allowance schedule was revised.

Suggested Audit Procedures

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

4. Housing Quality Standards Inspections

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

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

Suggested Audit Procedure

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

5. HQS Enforcement

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

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

Suggested Audit Procedures

- a. Select a sample of units with failed HQS inspections during the audit period from the PHA's logs or records of failed HQS inspections.
- b. Verify that the files document that the PHA required correction of any cited life threatening HQS deficiencies within 24 hours of the inspection and of all other HQS deficiencies within 30 calendar days of the inspection or within a PHA-approved extension.
- c. If the correction period has ended, verify that the files contain a unit inspection report or evidence of other verification documenting that any PHA-required repairs were completed.
- d. Where the file shows that the owner failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA properly stopped (abated) HAPs or terminated the HAP contract.
- e. Where the file shows that the family failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA took action to enforce the family obligations.

6. Housing Assistance Payment (HAP)

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

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

Suggested Audit Procedures

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

IV. OTHER INFORMATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.872 PUBLIC HOUSING CAPITAL FUND (CFP)

I. PROGRAM OBJECTIVES

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

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

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

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

II. PROGRAM PROCEDURES

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

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

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

overcommitted to payment of debt service to the detriment of the public housing stock/program, for the reasonableness of the terms of the transaction, and to mitigate risk of default.

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

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

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

HUD provides approval for specific activities through approving the PHA Plan, which includes the PHA's budget for CFP funds (24 CFR section 968.315). On an annual basis, the PHA also provides HUD with its Annual Statement Component 7 of the PHA Plan (*Form HUD-50075, OMB No. 2577-0226*) in accordance with 24 CFR section 968.325(e), which details the eligible activities to be funded with the current year's grant and the estimated costs. A PHA must have an approved 5-year plan to have access to Capital Funds. The funds are limited to a certain number of budget line items (BLIs) until HUD approves the annual Plan. Once HUD approves the annual Plan, it spreads Capital Funds to all of the appropriate BLIs in the Line of Credit Control System (LOCCS) in accordance with the information contained in the PHA Plan. The PHA can then drawdown funds as needed on a 3-day turnaround basis to pay for approved work activities.

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

statement is due 9 months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

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

Source of Governing Requirements

This program is authorized under 42 USC 1437g and 3535 (d). Implementing regulations are 24 CFR parts 905, 941, and 968 subparts A and B. In addition, the CFP is operated in conjunction with the PHA Plan process discussed at 24 CFR part 903.

Availability of Other Program Information

HUD posts guidance on the CFP to its Office of Capital Improvements Home Page (<http://www.hud.gov/offices/pih/programs/ph/capfund/index.cfm>) that provides grantees with information on timelines, budgets, financial instructions, and other program guidance. Specific requirements related to the CFFP can be found by clicking on the CFFP link on the left hand side of the Office of Capital Improvements Home Page. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) website at http://www.hud.gov/offices/react/products/fass/pha_doc.cfm and http://www.hud.gov/offices/react/library/lib_fapha.cfm.

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. For Capital Fund formula grants and grants from the set-aside for emergencies and natural disasters, allowed Capital Fund activities include the following: developing, financing, or modernizing public housing; vacancy reduction; deferred maintenance; replacement of obsolete utility systems and dwelling equipment; code compliance; management improvements; demolition and replacement; resident relocation; resident economic empowerment/economic self sufficiency; security; and homeownership (42 USC 1437g(d)).
2. For Capital Fund RHF grants, activities are limited to the development of replacement housing (24 CFR section 905.10(i)(5)(ii)).
3. The PHA may not incur any modernization cost in excess of the total HUD-approved PHA Plan which includes the project budget. Budget revisions may be approved by HUD for deviations from the originally approved modernization program. A PHA shall not incur any modernization cost on behalf of any

development that is not covered by its current approved 5-year PHA Plan (24 CFR section 968.225).

4. A PHA may charge up to a maximum of 10 percent of the annual Capital Fund grant as a management fee. A PHA using a fee-for-service system may charge a management fee of 10 percent, regardless of actual costs (Public Housing Operating Fund Program Guidance on Implementation of Asset Management, 71 FR 52710, September 6, 2006; 24 CFR section 968.112).

D. Davis-Bacon Act

Projects funded with Capital Funds that are developed in accordance with 24 CFR part 941 – Public Housing Development and/or modernized in accordance with 24 CFR part 968 – Public Housing Modernization that contain only public housing units and mixed-finance projects developed in accordance 24 CFR part 941 subpart F – Public/Private Partnerships for the Mixed-Finance Development of Public Housing are subject to the Davis-Bacon Act (42 U.S.C.1437j (a) and (b), 24 CFR section 941.208 and 24 CFR section 941.610 (a)(8)(vi)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* – Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement of Construction Programs* – Not Applicable
- d. SF-272, *Federal Cash Transactions Report* – Not Applicable
- e. Financial Reports (*OMB No. 2535-0107*) - Financial Assessment Sub-system, FASS-PHA. 24 CFR part 902 – Public Housing Assessment System (PHAS) Subpart C-Phase Indicator #2 Financial Condition requires the PHA to provide annual reports on a PHA-wide basis (42 USC 1437d (j)(1)(K)). Financial reporting requirements in 24 CFR section 902.33(a)(2) provide that the information be submitted electronically in the format prescribed by HUD using the Financial Data Schedule (FDS). Further 24 CFR section 902.35, “Financial condition scoring and threshold,” establishes the procedures to be observed by the PHA.

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

- (1) Headings for HUD Programs and Activities

- (a) Asset Management Property, or AMP (Low-Rent Public Housing and Capital Fund Programs)
- (b) Component Units (Non-Profit Entities)
- (2) Line Items
 - FDS Line 125 - (Accounts Receivable – Misc)
 - FDS Line 144 - (Inter-Program – Due From)
 - FDS Line 171 - (Notes, Loans, & Mortgages Receivable – Non-current)
 - FDS Line 172 - (Notes, Loans, & Mortgages Receivable – Non-current Past Due)
 - FDS Line 174 - (Other Assets)
 - FDS Line 176 - (Investment in Joint Ventures)
 - FDS Line 347 - (Inter-Program – Due To)
 - FDS Line 348 - (Loan Liability – Current)
 - FDS Line 355 - (Loan Liability – Non-Current)
 - FDS Line 10010 - (Operating Transfers – In)
 - FDS Line 10020 - (Operating Transfers – Out)
 - FDS Line 10030 - (Operating Transfers From/To Primary Government)
 - FDS Line 10093 - (Transfers Between Programs and Projects-In)
 - FDS Line 10094 - (Transfers Between Programs and Projects-Out)

2. Performance Reporting

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

Key Line Items –

- a. 3. Dollar Amount of Award

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

3. Special Reporting – Not Applicable

N. Special Tests and Provisions

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

Compliance Requirement – On an annual basis the PHA must report on the financial condition of the PHA and on the transactions that the PHA is entering into with private and nonprofit entities (FDS Line Items 125, 144, and 347) (24 CFR section 902.33). In the FASS-PHA Financial Assessment Sub System, the PHA transactions with non-profit and private development entities are shown under the headings for HUD Programs and Business Activities Asset Management Property, or AMP (Low-Rent and Capital Fund Programs) for the Capital Fund Program. Such transactions would be noted in the FDS Line items shown above in Section III.L.1.e.(2). The FASS-PHA Financial Report is reviewed and approved or rejected by the REAC.

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

reviewed and approved by the HUD Field Office in the region in which the PHA is located.

Audit Objective - Determine whether the expenditures set out in the FDS line items that indicate participation by non-profit and private development entities agree with the data reported in the PHA Plan.

Suggested Audit Procedures

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

2. Debt Secured to Public Housing Asset

Compliance Requirement – PHAs are only permitted to borrow funds secured to public housing assets (including real property, other PHA owned property purchased with Federal grant funds and CFP grant funds themselves) if they have obtained HUD's authorization prior to creating a security interest in public housing assets. This requirement does not prohibit a PHA from borrowing funds that are unsecured or that are not secured to public housing assets. In granting the required authorization, HUD will issue both an approval letter as well as a CFFP Annual Contributions Contract (ACC) Amendment (42 USC 1437z-2).

Audit Objective – Determine whether any debt incurred by the PHA that is secured to public housing assets is duly authorized by HUD.

Suggested Audit Procedures

- a. Review the PHAs balance sheet to determine if the PHA has incurred a debt.
- b. Examine the documentation that evidences the debt (loan /bond agreement, etc.) to determine if the debt is secured to public housing assets.
- c. If the debt is secured to public housing assets, verify that the PHA has the required HUD approval letter authorizing the debt.

IV. OTHER INFORMATION

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