



**Commission on
Homelessness and Housing**
for Volusia and Flagler Counties

Commission on Homelessness & Housing

FL-504

ESG-CV Written Standards

Addendum

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I. **Preface: CARES Act ESG-CV HUD Waivers and HUD Notice CPD-20-08**

CARES Act ESG-CV HUD Waivers

President Trump signed the CARES Act on March 27, 2020, to help the Nation respond to the coronavirus outbreak. The CARES Act made available an additional \$4 billion in ESG-CV funds to supplement the Fiscal Year (FY) 2020 ESG-CV funding provided under the Further Consolidated Appropriations Act, 2020 (Public Law 116-94). Of this amount, the Department is immediately allocating \$1 billion for ESG-CV grants based on the FY 2020 ESG-CV formula. The funds may be used to cover or reimburse allowable costs incurred by a State or locality before the award of funding (including prior to the signing of the CARES Act) to prevent, prepare for, and respond to COVID-19;

- The funds are not subject to the spending cap on emergency shelter and outreach under 24 CFR 576.100(b)(1);
- Up to 10 percent of funds may be used for administrative costs, as opposed to 7.5 percent as provided by 24 CFR 576.108(a);
- The funds are exempt from the ESG-CV match requirements, including 24 CFR 576.201;
- The funds may be used to provide homelessness prevention assistance (as authorized under 24 CFR 576.103 or subsequent HUD notices) to any individual or family who does not have income higher than HUD's Very Low-Income Limit for the area and meets the criteria in paragraphs (1)(ii) and (1)(iii) of the "at risk of homelessness" definition in 24 CFR 576.3;
- That subrecipients may deviate from applicable procurement standards when using these funds to procure goods and services to prevent, prepare for, and respond to coronavirus, notwithstanding 24 CFR 576.407(f) and 2 CFR 200.317-200.326; vulnerable homeless populations, individuals and families experiencing homelessness must not be required to receive treatment or perform any other prerequisite activities as a condition for receiving shelter, housing, or other services for which these funds are used, notwithstanding 24 CFR 576.401(e).

On April 2, 2020, with special Emergency Solutions Grants (ESG-CV) Program funds, HUD allocated the amount of \$20,384,797 to the State of Florida for ESG-CV non-entitlement implementation, as authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136. These special ESG-CV funds are to be used to prevent, prepare for, and respond to the coronavirus pandemic (COVID-19) among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19. Subsequently, the state of Florida via the Department of Children and Families (DCF) allocated \$962,210 to the FL-504 CoC for Round 1 ESG -CV implementation with Round 2 pending.

The Act authorizes the Secretary to grant waivers of and specify alternative requirements for statutes and regulations the Secretary administers in connection with the use of ESG-CV funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). These waivers and alternative requirements can be issued when necessary to expedite and facilitate the use of funds to prevent, prepare for, and respond to coronavirus. In accordance with 24 CFR 5.110, HUD made a determination of good cause and subject to statutory limitations, waived regulatory provisions. Additional regulatory waiver authority is provided in 24 CFR 91.600. These regulatory provisions provide HUD the authority to make waiver determinations for the ESG-CV, COC, and HOPWA Programs and consolidated planning requirements for all CPD formula programs.

A memorandum was later submitted by John Gibbs, Assistant Secretary, Acting, providing additional flexibility to communities to prevent the spread of COVID-19 and better assist individuals and families, including those experiencing homelessness infected with COVID-19 or economically impacted by the virus. The regulatory requirements associated with the ESG-CV HMIS, Homelessness Prevention and Rapid Re-housing programs to prevent the spread of COVID-19 as listed below.

*DCF officially requested all ESG-CV waivers for all state of Florida recipients for CARES Act funding to go in effect at signing of the ESG-CV contracts.

Waivers for HUD CARES Act HMIS, Homelessness Prevention and Rapid Re-housing: See Addendum A and Addendum B: **Waiver dates are subject to extension based on memorandums from HUD**

HMIS Lead Activities

Requirement: ESG-CV funds may be used to pay the costs of managing and operating the HMIS, provided that the ESG-CV recipient is the HMIS Lead. Citation: 24 CFR 576.107(a)(2)

Explanation: To enable ESG-CV-funded projects to participate in HMIS as required by section 416(f) of the McKinney-Vento Homeless Assistance Act, 24 CFR 576.107(a)(2) authorizes the use of ESG-CV funds for managing and operating the HMIS (e.g., hosting and maintaining HMIS software or data, upgrading, customizing, and enhancing the HMIS), only where the ESG-CV recipient is the HMIS Lead, as designated by the CoC.

Justification: Waiving the rule as specified below would allow more recipients to use ESG-CV funding to upgrade or enhance the HMIS as needed to incorporate ESG-CV program data related to COVID-19.

Applicability: The condition that the recipient must be the HMIS Lead to pay costs under 24 CFR 576.102(a)(2) is waived to the extent necessary to allow any recipient to use ESG-CV funds to pay costs of upgrading or enhancing its local HMIS to incorporate data on ESG-CV Program participants and ESG-CV activities related to COVID-19. This waiver is in effect for 6-months beginning on the date of this memorandum.

Re-evaluations for Homelessness Prevention Assistance

Requirement: Homelessness prevention assistance is subject to re-evaluation of each program participant's eligibility need for assistance not less than once every 3 months.

Citation: 24 CFR 576.401(b) Explanation: The ESG-CV regulations at 24 CFR 576.401(b) requires recipients or subrecipients providing homelessness prevention assistance to re-evaluate the program participant's eligibility, and the types and amounts of assistance the program participant needs not less than once every 3 months.

Justification: Waiving re-evaluation requirement for homelessness prevention assistance as specified below is necessary to help program participants remain stable in housing during the economic uncertainty caused by COVID-19.

Applicability: The required frequency of re-evaluations for homelessness prevention assistance under section 576.401(b) is waived for up to 2-years beginning on the date of this memorandum, so long as the recipient or subrecipient conducts the required re-evaluations not less than once every 6 months.

Housing Stability Case Management

Requirement: Program participants receiving homelessness prevention or rapid re-housing assistance must meet with a case manager not less than once per month, unless certain statutory prohibitions apply. Citation: 24 CFR 576.401(e)

Explanation: Under 24 CFR 576.401(e), the recipients or subrecipients must require program participants to meet with a case manager not less than once per month to assist them in ensuring long-term housing stability, unless the Violence Against Women Act of 1994 or Family Violence Prevention and Services Act prohibits the recipient or subrecipient from making its shelter or housing conditional on the participant's acceptance of services.

Justification: Recipients are reporting limited staff capacity as staff members are home for a variety of reasons related to COVID-19 (e.g., quarantining, children home from school, working elsewhere in the community to manage the COVID-19 response). In addition, not all program participants have capacity to meet via phone or internet. Waiving the monthly case management requirement as specified below will allow recipients to provide case management on an as needed basis and reduce the possible spread and harm of COVID-19.

Applicability: This waiver is in effect for two months beginning on the date of this memorandum.

Restriction of Rental Assistance to Units with Rent at or Below FMR

Requirement: Restriction of rental assistance to units with rent at or below FMR.
Citation: 24 CFR 576.106(d)(1)

Explanation: Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR Part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

Justification: Quickly moving people into permanent housing is especially critical in preventing the spread of COVID-19. Waiving the limit on rental assistance to rents that are equal to or less than the FMR, established by HUD, will assist recipients and subrecipients in more quickly locating additional units to house individuals and families experiencing homelessness.

Applicability: The FMR restriction is waived for any individual or family receiving Rapid Re-housing or Homelessness Prevention assistance who executes a lease for a unit during the 6-month period beginning on the date of this memorandum. The ESG-CV recipient or subrecipient must still ensure that the units in which ESG-CV assistance is provided to these individuals and families meet the rent reasonableness standard.

Homeless Definition - Temporary Stays in Institutions of 90 Days Less

Requirement: The definition of homeless in 24 CFR 576.2 includes under paragraph (1)(iii) an individual who is exiting an institution where he or she resided for 90 days or less and has resided in an emergency shelter or place not meant for human habitation immediately before entering that institution, which is an interpretation of §103(a)(4) of the McKinney-Vento Act which includes an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she *temporarily resided (emphasis added)*.

Citation: 24 CFR 576.2, definition of "homeless," (1)(iii)

Explanation: An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution are considered homeless per 24 CFR 576.2, definition of "homeless."

Justification: Recipients are reporting that program participants are residing in institutions for longer periods of time as a result of COVID-19 (e.g., longer time in jail due to a postponed court dates due to court closings or courts operating at reduced capacity and longer hospital stays when infected with COVID-19). Allowing someone who was residing in an emergency shelter or place not meant for human habitation prior to entering the institution to maintain their homeless status while residing in an institution for longer than 90 days is necessary to prevent the spread of COVID-19 by expanding housing options for people who were experiencing homelessness and institutionalized for longer than traditionally required due to COVID-19. This waiver is in effect for 6-months beginning on the date of this memorandum.

Applicability: An individual may qualify as homeless under paragraph (1)(iii) the homeless definition in 24 CFR 576.2 so long as he or she is exiting an institution where they resided for 120 days or less and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. This waiver is in effect until March 31, 2021.

Additionally, HUD Released NOTICE CPD 20-08, effective September 1, 2020.

Notice CPD 20-08: Waivers and Alternative Requirements for the Emergency Solutions Grants (ESG) Program Under the CARES Act

Notice CPD-20-08 announces the allocation formula, amounts, and requirements for the additional \$3.96 billion in funding provided for the Emergency Solutions Grants Program (ESG) under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). These ESG-CV funds must be used to prevent, prepare for, and respond to coronavirus, among individuals and families who are homeless or receiving homeless assistance and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts created by coronavirus. Requirements at 24 CFR Part 576 will apply to the use of these funds, unless otherwise provided by the alternative requirements and flexibilities established under the CARES Act, this Notice, or subsequent waivers, amendments, or replacements to this Notice.

The CARES Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these amounts, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment. The Notice describes when temporary emergency shelter is exempt from environmental review and outlines standards for temporary emergency shelter. Regulatory waiver authority is also provided by 24 CFR 5.110 and 91.600. For the reasons stated with each waiver or alternative requirement established in this Notice, HUD has determined that good cause exists for each waiver or alternative requirement and that the waiver or alternative is necessary to prevent, prepare for, and respond to coronavirus.

Except as otherwise stated in **Notice CPD 20-08**, waivers and alternative requirements shall be deemed to be effective as of the date a State or unit of local government began preparing for coronavirus, which HUD shall presume to be January 21, 2020 - the date the first confirmed case was reported in the United States. However, **each recipient must maintain adequate documentation to assure these waivers and alternative requirements are used only with respect to ESG or ESG-CV eligible activities the recipient or its subrecipients implemented to prevent, prepare for, and respond to coronavirus, including documentation demonstrating when their particular state or local government began preparing for coronavirus, such as notes on formal planning meetings or calls.** Certain alternative requirements established by this Notice that limit activities in comparison with the requirements in 24 CFR 576 and the CARES Act are not retroactive.

Overall Deadline for Expending First and Second Allocations:

All funds awarded to a recipient through the first and second allocations of ESG-CV funds must be expended for eligible activity costs by September 30, 2022. Establishing this standardized expenditure deadline for all recipients discourages recipients from delaying their expenditure deadline by delaying the execution of their grant agreements, thus making funds more quickly available to prevent, prepare for, and respond to coronavirus.

Match. As provided by the CARES Act, ESG-CV funds are not subject to the match.

Program Components and Eligible Activities. The requirements of 24 CFR Part 576 - Subpart B apply, except that:

1. *Emergency Shelter and Street Outreach cap.* As provided by the CARES Act, the cap established for street outreach and emergency shelter activities in section 576.100(b) does not apply. Recipients may expend as much of their funding on street outreach and emergency shelter activities as needed to prevent, prepare for, and respond to coronavirus among people experiencing homelessness including mitigating the impacts caused by coronavirus. HUD strongly encourages recipients to coordinate housing and services for those individuals with the Continuum of Care in their geographical region.

2. *Pre-Award Costs.* To account for the urgent activities and costs ESG recipients and subrecipients have undertaken to prevent, prepare for, and respond to coronavirus, the recipient is authorized to use ESG-CV funds to cover or reimburse costs incurred before the period of performance provided that the cost to be covered or reimbursed would be otherwise allowable under the flexibilities and requirements established for ESG-CV funds and was incurred by a recipient or subrecipient on or after January 21, 2020 to prevent, prepare for, and respond to coronavirus. In addition, where this Notice limits activities in comparison with 24 CFR Part 576 (e.g., the maximum rental assistance per program participant in Section III.E.5.b.(i)@ of Notice CPD-20-08), a recipient may cover or reimburse costs incurred before the

period of performance, provided that the cost to be covered or reimbursed would be otherwise allowable under 24 CFR Part 576 and either:

- (a) The costs were incurred prior to the publication of this Notice; or
 - (b) For costs not incurred prior to the publication of this Notice, the recipient has included the activities in its substantial amendment or action plan for ESG-CV funds, which has been submitted to HUD and not disapproved prior to the publication of this Notice.
- a) An environmental review, as applicable, must be completed and a Request for Release of Funds must be approved in accordance with 24 CFR Part 58 and Section III.E.6 of this Notice, prior to a commitment to cover or reimburse with ESG funds. Environmental reviews and applicable waivers under the CARES Act shall be done in accordance with the **HUD CPD Notice 20-07**.

3. *Additional Eligible Activities*. In addition to the eligible activities listed in 24 CFR 576 - Subpart B, funds may be used for the following activities:

a. *Temporary emergency shelters*. As permitted by the CARES Act, ESG-CV funds may be used to pay for temporary emergency shelters for individuals and families experiencing homelessness in order to prevent, prepare for, and respond to coronavirus.

(i) Eligible costs include:

- (a) Leasing existing real property or temporary structures to be used as temporary emergency shelters;
- (b) Acquisition of real property (e.g., hotels, ancillary structures, parking lots). The total amount of ESG-CV funds used for acquisition must not exceed \$2.5 million per real property;
- (c) Renovation (including major rehabilitation and conversion) of real property (e.g., hotels) into temporary emergency shelters. Eligible costs include labor, tools, and other costs for renovation;
- (d) Shelter operations costs including the costs of maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, supplies necessary for the operation of the temporary emergency shelter;
- (e) Services, including essential services under 24 CFR 576.102(a)(1), housing search and placement services under 24 CFR 576.105(b)(1), and housing search and counseling services as provided under 24 CFR 578.53(e)(8); except as otherwise stated in this Notice or 24 CFR part 576.408; and,
- (f) Other shelter costs HUD pre-approves in writing.

(ii) Requirements:

- (a) As permitted by the CARES Act, the use of funds for these shelters will not be subject to the habitability standards under section 417(c) of the McKinney-Vento Act, shelter standards at 24 CFR 576.403(b), or the environmental review requirements that otherwise apply to the use of ESG funds if

the shelters have been determined by State or local health officials to be necessary to prevent, prepare for, and respond to coronavirus. Recipients and subrecipients must still comply with nondiscrimination and applicable accessibility requirements, including requirements under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, the Fair Housing Act, and their implementing regulations. See also 24 CFR 576.407(a);

(b) These temporary emergency shelters shall not be subject to the minimum periods of use required by section 416(c)(1) of the McKinney-Vento Act and 24 CFR 576.102(c) and shall be considered as excluded by law from any certifications recipients submit pursuant to 24 CFR 91.225(c)(1) through (c)(4) or 91.325(c)(4)(i) through (c)(4)(iv); however, if funds were used for acquisition or renovation (including conversion or major rehabilitation), the property's use and disposition will be subject to the real property requirements in 2 CFR 200.311;

(c) In general, funds may be used to support temporary emergency shelters to prevent, prepare for, and respond to coronavirus until January 31, 2022. This January 31, 2022 limit will ensure that ESG-CV funds are available to serve more individuals and families with assistance to prevent, prepare for, and respond to coronavirus. However, upon written request by the recipient, HUD may grant an exception to the January 31, 2022 limit, if the recipient demonstrates:

(i) Why additional funding for a longer period of time is necessary and what planned activities the recipient will forgo to continue funding the temporary emergency shelter;

(ii) The number of additional months the recipient will fund the temporary emergency shelter; and

(iii) The plan for connecting program participants to permanent housing when the temporary emergency shelter is no longer funded;

(d) In addition to the records required at 24 CFR 576.500, the recipient must retain documentation that the property or structure or portion of a structure used as temporary emergency shelter met the definition of temporary emergency shelter during the time it was so used. For example, a recipient could document that the property is typically a hotel and is only being used as an emergency shelter for the period of time that public health officials determine special measures are needed to prevent the spread of coronavirus;

(e) Whether or not services are provided as part of temporary emergency shelter, the recipient or subrecipient must assure that for each program participant receiving shelter, the individual or family's service needs are evaluated as required by 24 CFR 576.401(a) and appropriate services are made available as needed in accordance with 24 CFR 576.401(d)), and a program participant in temporary emergency shelter shall be eligible to receive essential services from the recipient or subrecipients other than the program participant's shelter provider;

(f) A temporary emergency shelter may provide space for program participants to receive services consistent with 24 CFR 576.401(d) even if the services are not ESG-funded or not funded as part of the shelter project;

(g) Program participants cannot be required to sign leases or occupancy agreements, receive treatment, or perform any other prerequisite activities as a condition for staying in any shelter or receiving services; and

(h) In all other respects, the funding and operation of temporary emergency shelters must comply with the ESG-CV requirements for emergency shelters under this Notice and 24 CFR part 576.

c. *Training.* As permitted by the CARES Act, ESG-CV funds may be used for training on infectious disease prevention and mitigation for staff working directly to prevent, prepare for, and respond to coronavirus among persons who are homeless or at risk of homelessness and the use of funding shall not be considered administrative costs for purposes of the 10 percent cap. In addition, the limitations on eligible activities provided in section 415(a) of the McKinney-Vento Homeless Assistance Act and 24 CFR part 576, subpart B are waived and alternative requirements are established to the extent necessary to authorize ESG-CV funds to be used for training on infectious disease prevention and mitigation for homeless assistance providers, including those who do not receive funding through the CARES Act, to help them best prevent, prepare for, and respond to coronavirus among persons who are homeless or at risk of homelessness. These training costs are eligible as a standalone activity and are not to be charged to an activity under 24 CFR 576.101 to 24 CFR 576.109.

d. *Hazard Pay.* As permitted by the CARES Act, funds may be used to pay hazard pay for recipient or subrecipient-staff working directly to prevent, prepare for, and respond to coronavirus among persons who are homeless or at risk of homelessness. Examples of recipient or subrecipient staff working directly in support of coronavirus response include emergency shelter intake staff, street outreach teams, emergency shelter maintenance staff, emergency shelter security staff, staff providing essential services (e.g., outpatient health or mental health, housing navigators), and staff in proximity to persons with coronavirus or working in locations with a high likelihood of contracting coronavirus.

e. *Handwashing Stations and Portable Bathrooms.* The limitations on eligible activities provided in section 415(a) of the McKinney-Vento Homeless Assistance Act and 24 CFR part 576, subpart B are waived, and alternative requirements are established to the extent necessary to authorize ESG-CV funds to be used under 24 CFR 576.101

(a) for installing and maintaining handwashing stations and bathrooms (e.g., porta potties) in outdoor locations for people experiencing unsheltered homelessness. Allowing ESG-CV funds to pay for the costs of handwashing stations and bathroom facilities will help prevent the spread of coronavirus by providing people living in unsheltered locations regular access to bathrooms and the ability to wash their hands.

f. *Landlord Incentives.* The limitations on eligible activities under section 415(a) of the McKinney Vento Act and 24 CFR 576.105 are waived and alternative requirements are established to the extent necessary to authorize ESG-CV funds to be used under 24 CFR 576.105 to add the eligible cost of paying for landlord incentives as reasonable and necessary to obtain housing for individuals and families experiencing homelessness and at risk of homelessness. However, a recipient may not use ESG-CV funds to pay the landlord incentives set forth below in an amount that exceeds three times the rent charged for the unit. Waiving the limitation on eligible costs under housing relocation and stabilization services to pay for the costs of landlord incentives will increase the number of housing units available to people experiencing homelessness or at risk of homelessness, especially in tight rental markets and obtaining and maintaining housing is critical to preventing the spread of coronavirus and helping mitigate the economic impact of the crisis. The limitation to three times the rent charged for each unit ensures enough ESG-CV funds remain available to provide other eligible activities necessary to prevent the spread of coronavirus. Eligible landlord incentive costs include:

(i) Signing bonuses equal to up to 2 months of rent;

(ii) Security deposits equal to up to 3 months of rent;

(iii) Paying the cost to repair damages incurred by the program participant not covered by the security deposit or that are incurred while the program participant is still residing in the unit; and,

(iv) Paying the costs of extra cleaning or maintenance of a program participant's unit or appliances

g. Volunteer Incentives. The limitations on eligible activities provided in section 415(a) of the McKinney-Vento Homeless Assistance Act and 24 CFR part 576, subpart B are waived and alternative requirements are established to the extent necessary to authorize ESG-CV funds to be used under 24 CFR 576.101(a), 24 CFR 576.102(a)(1), and 24 CFR 576.105(b) for cost of providing reasonable incentives to volunteers (e.g., cash or gift cards) who have been and are currently helping to provide necessary street outreach, emergency shelter, essential services, and housing relocation and stabilization services during the coronavirus outbreak. Waiving this requirement to allow the payment of reasonable costs of volunteer incentives will increase the number of people available to provide the needed services and connections to housing to individuals and families experiencing homelessness to prevent the spread of coronavirus.

a. Emergency Shelters. The requirements at 24 CFR 576.102 apply, except funds may be used only for the costs of providing emergency shelter during the period beginning on the date the recipient or subrecipient began preventing, preparing for, and responding to coronavirus and ending on January 31, 2022, and only for those costs that are necessary to prevent, prepare for, and respond to coronavirus. This alternative requirement will ensure that ESG-CV funds are used efficiently to provide more individuals and families with assistance needed to prevent, prepare for, and respond to coronavirus.

b. Short-Term and Medium-Term Rental Assistance.

(i) 24 CFR 576.106(a)(2), where medium-rent is defined as "for more than 3 months but not more than 24 months of rent is waived, and an alternative requirement is established where medium-term is established as for more than 3 months but not more than 12 months. This alternative requirement will allow more households to receive rapid re-housing and homelessness prevention assistance, which is necessary to prevent, prepare for, and respond to coronavirus.

(ii) The requirement at 24 CFR 576.106(d) that prohibits rental assistance where the rent for the unit exceeds the Fair Market Rent established by HUD, as provided under 24 CFR Part 888, is waived so long as the rent complies with HUD's standards of rent reasonableness, as established under 24 CFR 982.507. Waiving this requirement will allow recipients to help program participants move quickly into housing or retain their existing housing, which is especially critical at reducing the spread of coronavirus and responding to coronavirus. This waiver provides additional flexibility beyond the waiver made available to the ESG Program on March 31, 2020 and extended to ESG-CV funds on May 22, 2020 by permitting ESG recipients to provide rental assistance for program participants, whose current rent exceeds FMR and by allowing recipients to use this waiver as needed throughout the period they are providing rental assistance to prevent, prepare for, and respond to coronavirus.

c. Administrative Costs. As permitted by the CARES Act, a recipient may use up to 10 percent of its total ESG-CV grant for administrative costs specified in 24 CFR 576.108.

d. No Cap for Emergency Shelter and Street Outreach Activities. As permitted in the CARES Act, ESG-CV funds may be used for emergency shelter and street outreach activities without regard to the spending

cap established by section 415(b) of the McKinney-Vento Act and 24 CFR Part 576.100(b). The same flexibility applies to using ESG-CV funds to establish and operate temporary emergency shelters.

e. *Hotel/Motel Costs.* As permitted under 24 CFR 576.102(a)(3), eligible costs include a hotel or motel voucher for homeless individuals and families where no appropriate emergency shelter is available. Additionally, the limitations on eligible activities provided in section 415(a) of the McKinney-Vento Act and 24 CFR part 576, subpart B are waived and alternative requirements are established to the extent necessary to authorize ESG-CV funds to be used for the following hotel or motel costs for individuals and families experiencing homelessness, receiving rapid re-housing assistance under the Continuum of Care (CoC) or ESG programs, receiving homelessness prevention under the ESG program, or residing in permanent supportive housing: The recipient or subrecipient may pay for a hotel or motel room directly or through a hotel or motel voucher. Additionally, funds can be used to pay for cleaning of hotel and motel rooms used by program participants as well as to repair damages caused by program participants above normal wear and tear of the room. These flexibilities are provided to allow recipients to secure hotel and motel rooms more quickly to be available when needed to prevent the spread of coronavirus (for example, when a program participant needs to isolate to keep from spreading the virus to other shelter occupants or household members).

f. *Helping current ESG program participants maintain housing.* In order to ensure current program participants receiving homelessness prevention and rapid re-housing assistance do not lose their housing during the coronavirus public health crisis and the subsequent economic downturn caused by the crisis, the requirements in 24 CFR 576.105(c) and 576.106(a) are waived and alternative requirements are established as follows:

(i) The requirement at 24 CFR 576.105(c) limiting the total period of time for which any program participant may receive the services under paragraph (b) to 24 months during any 3-year period is waived solely for those program participants who reach their 24-month maximum assistance during the period beginning on the presumed start of this crisis, January 21, 2020 - the date the first confirmed case was reported in the United States, and ending 6 months from the date of publication of this Notice, provided that the services are only extended for these program participants for up to a maximum of an additional 6 months; and

(ii) The requirement at 24 CFR 576.106(a) limiting the total number of months a program participant can receive rental assistance to 24 months in a 3-year period is waived solely for those program participants who reach their 24-month maximum during the period beginning on the presumed start of this crisis, January 21, 2020 - the date the first confirmed case was reported in the United States, and ending 6 months from the date of publication of this Notice, provided that the rental assistance is only extended for these program participants for up to a maximum of an additional 6 months.

g. *HMIS Lead Activities.* The limitations on eligible activities provided in section 415(a) of the McKinney-Vento Act and 24 CFR Part 576, subpart B are waived to the extent necessary to authorize ESG funds to be used under 24 CFR 576.107 to pay for HMIS costs beyond where they are related to collecting data on ESG program participants and ESG program activities to the extent they are necessary to help the geographic area prevent, prepare for, and respond to coronavirus. Additionally, 24 CFR 576.107 that limits recipients to paying for the costs at 24 CFR 576.107(b) is waived to allow recipients that are not the HMIS Lead, as designated by the Continuum of Care, to pay for costs at 24 CFR 576.107(b), either directly or by sub-granting to the HMIS Lead if the HMIS Lead is an eligible

subrecipient to the extent that the HMIS costs are necessary to help the geographic area prevent, prepare for, and respond to coronavirus. This waiver and these alternative requirements provide additional flexibility beyond the waiver made available to the ESG Program on March 31, 2020 and extended to ESG-CV funds on May 22, 2020 by permitting ESG recipients who are not also HMIS Leads to pay for the costs eligible at 24 CFR 576.107(b) and lifting the 6-month limit on the waiver so that this flexibility applies throughout the period the recipient or subrecipient uses funds to prevent, prepare for, and respond to coronavirus. Additionally, this waiver provides additional flexibility for ESG funds to be used on HMIS costs even when they are not related to ESG program participants or ESG activities when necessary to collect and report better data about the impact of coronavirus across the community. These flexibilities will allow communities to collect data that is necessary to coordinate and report on activities to prevent, prepare for, and respond to coronavirus among individuals and families experiencing homelessness, at risk of homelessness, and receiving homeless assistance.

h. *Legal Services.* Legal services established in 24 CFR 576.102(a)(1)(vi) and 24 CFR 576.105(b)(4) are limited to those services necessary to help program participants obtain housing or keep a program participant from losing housing where they currently reside.

II. DEFINITIONS

At risk of homelessness:

- (1) An individual or family who:
 - (i) Has an annual income below 50 percent of median family income for the area, as determined by HUD;
 - (ii) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the ‘homeless’ definition in this section; and
 - (iii) Meets one of the following conditions:
 - (A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - (B) Is living in the home of another because of economic hardship;
 - (C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
 - (D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
 - (E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
 - (F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - (G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the subrecipient’s approved consolidated plan;
- (2) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C.5732a(3)), section 637(11)

of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C.254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C.2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C.1786(b)(15)); or

- (3) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

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

(a) **Consultation with Continuums of Care.** The subrecipient must consult with each Continuum of Care that serves the subrecipient’s State in determining how to allocate ESG-CV funds each program year; developing the performance standards for, and evaluating the outcomes of, projects and activities assisted by ESG-CV funds; and developing funding, policies, and procedures for the administration and operation of the HMIS.

Coronavirus means SARS-COV-2 or another coronavirus with pandemic potential, as defined by section 23005 of the CARES Act.

Emergency shelter means any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and which does not require occupants to sign leases or occupancy agreements. Any project funded as an emergency shelter under a Fiscal Year 2010 Emergency Shelter grant may continue to be funded under ESG-CV.

ESG means, unless otherwise specified, the Emergency Solutions Grants Program whether funded through annual fiscal year (FY) appropriations or CARES Act funding. For example, a program participant assisted using only FY2020 ESG funding and a program participant assisted using only ESG-CV funding are both ESG program participants.

ESG-CV means the Emergency Solutions Grants Program as funded by the CARES Act and governed by requirements HUD establishes in accordance with that Act. ESG-CV funds do not include annual ESG funds (e.g., FY 2020 ESG grant funds), although annual ESG funds may be used in accordance with the requirements established for purposes of ESG-CV funds as further described in Section IV of this Notice.

Homeless:

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
 - (iii) An individual who is exiting an institution where he or she resided for 120 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
- (i) The primary nighttime residence will be lost within 21 days of the date of application for homeless assistance;
 - (ii) No subsequent residence has been identified; and
 - (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 - (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- (4) Any individual or family who:
- (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
 - (ii) Has no other residence; and
 - (iii) Lacks the resources or support networks, e.g., family, friends, faith based or other social networks, to obtain other permanent housing.

Chronically homeless:

An individual or family that:

- (i) Is homeless and resides in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - (ii) Has been homeless and residing in a place for at least one year or on at least four separate occasions in the last 3 years;
 - (iii) That the individual or family has a head of household with a diagnosable substance use disorder, serious mental illness, developmental disability, post-traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability.
- (1) An individual who has been living in an institutional care facility if the individual has been living in the facility for fewer than 90 days and has been living in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately before entering the institutional care facility. The individual also must have been living as described above continuously for at least 12 months, or on at least four separate occasions in the last 3 years where the combined occasions total a length of time of at least 12 months. Each period separating the occasions must include at least 7 nights of living in a situation other than a place not meant for human habitation, in an emergency shelter, or in a safe haven.
- (2) **Chronically homeless families;** are families with adult heads of households who meet the definition of chronically homeless individual. If there is no adult in the family, the family would still be considered chronically homeless if the minor head of household meets all the criteria of a chronically homeless individual. A chronically homeless family includes those whose composition has fluctuated while the head of household had been homeless.

Homeless Management Information System (HMIS) means the information system designated by the Continuum of Care to comply with the HUD’s data collection, management, and reporting standards and used to collect participant level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness.

Live-in aide is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who is determined to be essential to the care and well-being of the persons, is not obligated for the support of the persons, and would not be living in the unit except to provide the necessary supportive services. (24 CFR 5.403)

Local government and unit of general purpose local government mean a “unit of general purpose local government, as defined in 24 CFR 576.2 (i.e., any city, county, town, township, parish, village, or other general purpose political subdivision of a State) and, as established by section 100261(1) of the Moving Ahead for Progress in the 21st Century Act (MAP-21 Act), Public Law 112-141, includes:

- (i) an instrumentality of a unit of general purpose local government, provided that the instrumentality is not a public housing agency, is established pursuant to legislation, and is designated by the chief executive of the general purpose local government to act on that government’s behalf with regard to activities funded under title IV of the McKinney-Vento Homeless Assistance Act; and (ii) a combination of general purpose local governments, such as an association of governments that is recognized by HUD.

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

Private nonprofit organization means a private nonprofit organization that is a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 and which is exempt from

taxation under subtitle A of the Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance. A private nonprofit organization does not include a governmental organization, such as a public housing agency or housing finance agency.

Prevent coronavirus means an activity designed to prevent the initial or further spread of the virus to people experiencing homelessness, people at risk of homelessness, recipient or subrecipient staff, or other shelter or housing residents. This includes providing Personal Protective Equipment to staff and program participants, paying for non-congregate shelter options such as hotels and motels, paying for handwashing stations and portable toilets for use by people living in unsheltered situations, and providing rapid re-housing or homelessness prevention assistance to individuals and families who are homeless or at risk of homelessness (as applicable) to reduce their risk of contracting or further spreading the virus.

Prepare for coronavirus means an activity carried out by a recipient or subrecipient prior to or during a coronavirus outbreak in their jurisdiction to plan to keep people healthy and reduce the risk of exposure to coronavirus and avoid or slow the spread of disease. This includes updating written standards to prioritize people at severe risk of contracting coronavirus for shelter and housing consistent with fair housing and nondiscrimination requirements, adapting coordinated entry policies and procedures to account for social distancing measures or increased demand, developing a strategy and recruiting landlords to provide housing to people experiencing homelessness or at risk of homelessness, training homeless providers on infectious disease prevention and mitigation, and implementing a non-congregate shelter strategy to reduce the spread of coronavirus.

Program income shall have the meaning provided in 2 CFR 200.80. Also, refer to 2 CFR 200.307.

Program participant means an individual or family who is assisted under the ESG-CV program.

Program year means the consolidated program year established by the State under 24 CFR part 91. The State defined program year begins July 1 and ends on June 30 of the following year.

Request for reimbursement (RFR) is the document a subrecipient must complete and submit to HUD FL-504 for payment. Supporting documents of expenditures must be attached to the RFR and submitted for processing. Incomplete RFRs will result in a delay of payment. Only complete RFRs will be paid.

Respond to coronavirus means an activity carried out once coronavirus has spread to people experiencing homelessness, provider staff, or once individuals and families lose or are at risk of losing their housing as a result of the economic downturn caused by coronavirus. This includes transporting individuals and families experiencing homelessness to medical appointments, paying for shelter to isolate individuals who have contracted coronavirus from other program participants and people experiencing homelessness, providing rental assistance to those who are at risk of losing their housing, have already become homeless, or continue to experience homelessness due to the economic downturn caused by coronavirus, and providing hazard pay to recipient or subrecipient staff who put their own health at risk to continue to provide necessary services to individuals and families experiencing and risk of homelessness.

State means each of the several States and the Commonwealth of Puerto Rico. The State is also a recipient that is approved by HUD to assume financial responsibility and enter into a grant agreement with HUD to administer assistance under this part.

Subrecipient means a unit of general purpose local government or private nonprofit organization to which the State makes available ESG-CV funds.

Temporary Emergency Shelter means any structure or portion of a structure, which is used for a limited period of time because of a crisis, such as a natural disaster or public health emergency, to provide shelter for individuals and families displaced from their normal place of residence or sheltered or unsheltered locations. Examples of temporary emergency shelters include:

(i) an overnight, daytime, or 24-hour shelter in which program participants are only provided a safe place to sleep, rest, bathe, and eat;

(ii) a shelter where one or more services are made available on-site, whether by shelter staff or contractors or through a memorandum of understanding with another subrecipient or service provider; and

(iii) a shelter designed to facilitate the movement of homeless individuals and families into permanent housing within a fixed period of time (e.g., within 12 months) and employs or contracts with one or more case managers or service providers to provide services as specified under sections III.E.3.a.(i)(e) and III.E.3.a.(ii)(e) through (h).

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

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

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

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

III. PROGRAM DESCRIPTION

Purpose

The ESG-CV program is authorized by subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371–11378) as amended by the CARES Act. The program authorizes the Department of Housing and Urban Development (HUD) to make grants to States, units of general purpose local government, and territories for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain expenses related to operating emergency shelters, for essential services related to emergency shelters and street outreach for the homeless, and for homelessness prevention and rapid re-housing assistance. (24 CFR 576.1)

The purpose of these standards is to provide guidance to Subgrantees of the ESG-CV Program. Every effort has been made to ensure the accuracy of the material in these standards. If any discrepancy exists between the language in this manual and in any applicable statute, regulation, or policy issuance, please contact HUD FL-504 for clarification. These standards establish general and uniform standards for

grant compliance. These standards, in conjunction with each grant application, grant agreement, budget and/or all relevant federal and state statutes and regulations will apply to the ESG-CV Program.

All Subrecipients are required to adhere to the guidance set forth in these standards in conjunction with all federal, state, and local regulations as it relates to the ESG-CV Program and executed grant agreement. Subrecipients shall also refer to the Uniform Administrative Requirements, Cost and Audit Requirements for Federal Awards, which is codified at 2 CFR Part 200. These standards become effective September 1, 2020.

Method of Distribution/Available Funding

The Florida Department of Children and families (DCF) will administer the ESG-CV program as an amendment to the current Unified Homelessness Grant/ESG component with the Volusia Flagler county Coalition for the Homeless/ the FL-504 CoC to prevent, prepare for, and respond to the coronavirus pandemic (COVID-19) among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19. While still providing support for emergency shelters and services to the homeless, the new ESG-CV program focuses more funding on preventing initial and recurrent homelessness, shortening the duration of homelessness, assisting in the transition from homelessness to independent living, and providing outreach, needs assessment and other services for the homeless.

Eligible Entities & Allocation of Local Funding

1. ESG-CV Non-Entitlement: state/DCF ESG-CV

In the event of a public health emergency, such as an outbreak of the coronavirus, the COHH will suspend its local competitive award process and directly allocate newly allocated ESG/CoC or other Federal, State and/or local funding to existing subrecipients that have the capacity to take on additional work and/or new agencies that can be responsive during a public health outbreak or other disaster.

- The Commission on Homelessness and Housing for Volusia Flagler (COHH) will have the flexibility to temporarily suspend traditional allocation processes, such as time-consuming competitive award processes. Funding flexibility affords recipients the ability to directly award funds to subrecipients through subrecipient agreements as authorized by COHH Executive Committee.
- Funds may be directed to the geographic area(s) where it is most needed and will have the greatest impact. Example: funding street outreach activities in specific encampment locations impacted by hurricane flooding or outbreak of COVID-19.
- Funding distribution will follow a streamlined process: Minimize the administrative burden to the extent possible, accounting for the limitations impacted areas and organizations may have for burdensome application requirements. Example: Subrecipient agencies may be allowed to facilitate new components such as street outreach where they had previously not contracted for this activity.
- The CoC Collaborative Applicant/Lead Agency will provide guidance to agencies on waivers that may be approved by HUD that will directly impact the facilitation of disaster relief grant funding to expedite the process.

- COHH will consider HUD priorities and apply them to the local landscape and need when determining allocations of disaster relief funding:
 - The CoC Collaborative Applicant/Lead Agency will provide the most recent HUD guidelines and priorities for funding as applicable to the disaster that is generating the additional funding.
- Note: Individuals experiencing homelessness are at greater risk of exposure to a variety of infectious diseases including influenza and coronavirus. Effective sanitation measures can reduce the spread of infectious disease for people who are unsheltered or living in emergency shelters. ESG Program recipients may use ESG Street Outreach and Emergency Shelter funds for essential supplies and services to reduce the spread of infectious disease in their programs.
- The CoC Collaborative Applicant/Lead Agency will thoughtfully analyze the ability of current subrecipients to administer the disaster funding in a timely, organized, and efficient manner (based on current past performance).
- The CoC Collaborative Applicant/Lead Agency may also consider new applicants in underserved areas who have met all obligations and criteria outlined in the most recent Letter of intent for COC and DCF funding.
- The CoC Collaborative Applicant/Lead Agency will ensure that all agencies awarded funding through newly allocated disaster relief funding provide services in accordance with the contractual guidelines as outlined by the funding source: ESG/CoC, other Federal, state and/or local contracts.

2. ESG-CV Entitlement: Volusia County

All public and private non-profit organizations (that provide services to the homeless and those at-risk of becoming homeless) are eligible to apply for ESG-CV funds through Volusia County. One application per organization should be submitted to Volusia County for consideration. Private non-profit organizations must be certified as a 501(c) organization and be registered in Florida Division of Corporations.

Applications for ESG-CV program funds must be prepared in accordance with the instructions provided in the Request for Applications (RFA) and in conjunction with requirements set forth by Volusia County. The contents of the application should be concise and objective. When statistics are cited, the source of the data must be completely referenced.

Prohibition of Discharge Planning

Pursuant to the McKinney-Vento Act, to the maximum extent practicable, persons discharged from publicly funded institutions or systems of care should not be discharged into homelessness, including the streets, shelter, or to HUD McKinney-Vento funded homeless projects. ESG-CV-funded shelters are prohibited from assisting with the discharge of a person(s) from any system of care (i.e., prisons, jails, hospitals, substance abuse treatment centers, foster care) that will immediately result in homelessness.

Prohibition Against Involuntary Family Separation

The age of a child under age 18 must not be used as a basis for denying a family's admission to an emergency shelter that receives ESG-CV funding or services and provides shelter to families with children under age 18. All ESG-CV-funded shelters that either provide shelter to families or women and their children must do so regardless of the age of the child. The family unit must be accepted, inclusive of children under the age of 18.

Prohibition Against Program Income

ESG-CV subrecipients are prohibited from keeping program income and using the funds for other uses not related to the ESG-CV program. The State requires that all program income earned in a program year must be properly documented and recorded and reported to the State. Subrecipients may use program income as match in the program year the program income was earned. Supporting documents of the program income earned must be submitted to the State as part of the RFR package.

Matching Requirement has been waived for the CARES Act

Provision of Supportive Services

Although HUD strongly encourages the use of supportive services when necessary, as required by the CARES Act, individuals and families experiencing homelessness must not be required to receive treatment or perform any other prerequisite activities as a condition for receiving shelter, rental assistance, or other services provided with ESG-CV funds.

Means of Carrying Out Grant Activities

Subrecipients can only carry out all eligible activities through their employees, procurement contracts, or sub-grants to private nonprofit organizations.

A subrecipient of the FL-504 CoC is not allowed to sub-grant ESG-CV funds.

Obligation, Expenditure, and Payment Requirements

Obligation of funds

All projects must begin within one (1) months of the date HUD FL-504 makes the funds available to the applicant. If the program has not started within two (2) months of the award date, without written and justifiable cause, HUD FL-504 reserves the right to rescind the grant award. In addition, subrecipients must provide the HUD FL-504 with written notification of closure within fifteen (15) days prior to actual closure. The state reserves the right to recapture ESG-CV funds under the following circumstances:

1. Those who do not meet the performance requirements outlined in the approved project.
2. Those who are unable to comply with the regulatory deadlines on obligation and disbursement as outlined at 24 CFR Part 576.55(a) (2); and
3. Those who otherwise, without appropriate justification, have failed to implement the project as set forth in their Amended Grant agreement.

Applicants are required to submit a budget for expenditures for eligible ESG-CV activities.

Expenditures

The grant period for ESG-CV projects is one year; effective on the 1st day of the month that the state makes funds available to the subgrantee. DCF ESG-CV round 1 funds must be expended in accordance with contractual requirements. All subrecipients are required to submit a request for reimbursement monthly. All of the subrecipient's grant must be expended for eligible activity costs by the end of the grant agreement (refer to the grant agreement for the specific date). For the purposes of this paragraph, expenditure means either an actual cash disbursement for a direct charge for a good or service or an indirect cost or the accrual of a direct charge for a good or service or an indirect cost.

Payments to subrecipients.

Disbursement of funds will follow a cost reimbursement procedure and will be for actual funds expended. The grant period will begin (approximately) July 1, and end June 30, of the following year. Request for reimbursement (RFR) must include the following:

- Correctly completed RFR forms.
- Copies of invoices and evidence of payment for the eligible costs for which reimbursement is being sought.
- Evidence of payment can include canceled check copies and/or bank statements. The general ledger is not considered evidence of payment for ESG-CV expenditures. Additionally, when bank statements are submitted as evidence of payment, there should be sufficient notation of which items are relevant to the request.
- When participant services cost are requested i.e., financial assistance for rent, the subrecipient must provide a copy of the applicable documents from the participant files to support the eligible expenditures.
- Subrecipients are required to submit a data completeness report (DCR) with each RFR so that program participation and data can be monitored throughout the duration of the program year.

Subrecipients are required to submit the final request for reimbursement and support documentation to HUD FL-504 by the close of the business day July 15, of that program year. The expenditures must not exceed the program period identified in contractual obligations.

Reallocation

The State reserves the right to reallocate ESG-CV program funds as provided for in the federal regulations governing the program in order to ensure that the funds provide the maximum benefit to Florida's homeless population. Funding (grant award) reallocations will be made based on the state's determination of the best use of available funds. The state will consider the amount of available funds, subrecipient programmatic performance, subrecipient expenditure levels, and strategic programmatic needs in reallocating available funds.

Duplication of Benefits

42 USC § 5155 (a) General prohibition

The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

The FL-504 CoC will require a self-certification from each household provided with assistance under the ESG-CV program (where applicable) that they have not received funding or assistance and that they will not seek out assistance for the same services during the time frames that they are receiving assistance under the ESG-CV program(s).

Agencies providing services will practice due diligence in tracking clients in HMIS to further ensure that no households are receiving the same services or assistance from duplicate sources.

IV. ESG-CV COMPONENTS

Subrecipients will use ESG-CV funds for five program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS. The five program components and the eligible activities that will be funded under each are set forth in 24 CFR 576.101 through 576.107.

Subject to the cost principles in the HUD FL-504 Fiscal Guidance and Procedural Manual and other requirements in this part, employee compensation and other overhead costs directly related to carrying out street outreach, emergency shelter, homelessness prevention, rapid re-housing, and HMIS that are directly related to the preparing for, preventing and responding to the Spread of the Coronavirus are eligible costs of those program components. These costs are not administrative costs.

Eligible Costs to Support Infectious Disease Preparedness Supplies

Emergency Shelter Program participant needs such as:

Cleaning supplies- bleach, disinfectant wipes, scrubbers, mops, bed linens, towels, hand sanitizer, soap, tissue packets

Protective equipment- masks, disposable gloves

Furnishings- Cots, room dividers

Equipment- Washers, dryers, portable handwashing stations

Transportation- Train or bus tokens, taxi or rideshare for program participant travel to and from medical care

Street Outreach eligible costs such as:

Engagement- Urgent physical needs

Hand sanitizer, soap, tissue packets, masks

Engagement- Equipping staff

Masks, disposable gloves, hand sanitizer, other personal protective equipment

Case management – Referrals

Coordinating medical care

Transportation

Train or bus tokens, taxi or rideshare for program participant travel to and from medical care
Hazard Pay per Notice CPD-20-08

COVID-19 Training

Hiring additional staff and or engaging outside resources to provide training and support related to infectious disease preparedness, prevention of the spread of and responding to the coronavirus.

Note: Agencies must be sure to provide staff with training about precautions they can take to stay healthy, stop the spread of germs, and to stay home if they are feeling sick.

Street Outreach Component (24 CFR 576.101) (see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

Note: Agencies must be sure to provide staff with training about precautions they can take to stay healthy, stop the spread of germs, and to stay home if they are feeling sick.

Subject to the expenditure limit in 24 CFR 576.100(b), ESG-CV funds will be used for costs of providing essential services necessary to prepare for, prevent and respond to the spread of COVID-19 by reaching out to unsheltered homeless people; connect them with emergency shelter, housing, or critical services; and provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. For the purposes of this section, the term “unsheltered homeless people” means individuals and families who qualify as homeless under 24 CFR 576.2 (1)(i). The eligible costs and requirements for essential services of this component consist of:

- 1) Engagement. The costs of activities to locate, identify, and build relationships with unsheltered homeless people and engage them for the purpose of providing immediate support, intervention, and connections with homeless assistance programs and/or mainstream social services and housing programs. These activities consist of making an initial assessment of needs and eligibility; providing crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; and actively connecting and providing information and referrals to programs targeted to homeless people and mainstream social services and housing programs, including emergency shelter, transitional housing, community-based services, permanent supportive housing, and rapid re-housing programs. Eligible costs include the cell phone costs of outreach workers during the performance of these activities.
- 2) Case management. The cost of assessing housing and service needs, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant. Eligible services and activities are as follows: using the centralized or coordinated assessment system as required under 24 CFR 576.400(d); conducting the initial evaluation required under 24 CFR 576.401(a), including verifying and documenting eligibility; counseling; developing, securing and coordinating services; obtaining Federal, State, and local benefits; monitoring and evaluating program participant progress; providing information and referrals to other providers; and developing an individualized housing and service plan, including planning a path to permanent housing stability.
- 3) Emergency health services.

- Eligible costs are for the direct outpatient treatment of medical conditions and are provided by licensed medical professionals operating in community-based settings, including streets, parks, and other places where unsheltered homeless people are living.
 - ESG-CV funds may be used only for these services to the extent that other appropriate health services are inaccessible or unavailable within the area.
 - Eligible treatment consists of assessing a program participant's health problems and developing a treatment plan; assisting program participants to understand their health needs; providing directly or assisting program participants to obtain appropriate emergency medical treatment; and providing medication and follow-up services.
- 4) Emergency mental health services.
- Eligible costs are the direct outpatient treatment by licensed professionals of mental health conditions operating in community-based settings, including streets, parks, and other places where unsheltered people are living.
 - ESG-CV funds may be used only for these services to the extent that other appropriate mental health services are inaccessible or unavailable within the community.
 - Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or circumstances.
 - Eligible treatment consists of crisis interventions, the prescription of psychotropic medications, explanation about the use and management of medications, and combinations of therapeutic approaches to address multiple problems.
- 5) Transportation.
- The transportation costs of travel by outreach workers, social workers, medical professionals, or other service providers are eligible, provided that this travel takes place during the provision of services eligible under this section. The costs of transporting unsheltered people to emergency shelters or other service facilities are also eligible. These costs include the following:
- The cost of a program participant's travel on public transportation;
 - If service workers use their own vehicles, mileage allowance for service workers to visit program participants;
 - The cost of leasing a vehicle for the subrecipient in which staff transports program participants and/or staff serving program participants, and the cost of gas, insurance, taxes and maintenance for the vehicle; and
 - The travel costs of subrecipient staff to accompany or assist program participants to use public transportation.
- 6) Services for special populations.
- ESG-CV funds may be used to provide services for homeless youth, victim services, and services for people living with HIV/AIDS, so long as the costs of providing these services are eligible under paragraphs (a)(1) through (a)(5) of this section. The term victim services mean services that assist program participants who are victims of domestic violence, dating violence, sexual assault, or stalking, including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

All subrecipients of ESG-CV funds must provide services to homeless individuals and families for at least the period during which ESG-CV funds are provided.

If the subrecipient is a unit of general-purpose local government, its ESG-CV funds cannot be used to replace funds the local government provided for street outreach and emergency shelter services during the immediately preceding 12-month period, unless HUD determines that the unit of general purpose local government is in a severe financial deficit.

Emergency Shelter Component (24 CFR 576.102): In accordance with HUD Notice CPD 20-08, Emergency Shelter Activities can be provided only until January 31, 2022.

Note: Agencies must be sure to provide staff and program participants with training about precautions they can take to stay healthy, stop the spread of germs, and to stay home if they are feeling sick.

Screening: Because test kits are limited, shelters should screen shelter residents for COVID-19 symptoms (i.e., cough, fever, shortness of breath) at intake.

Adjusting Operations: When people exhibiting symptoms of COVID-19 remain in shelter, shelters should enforce the following protocols to reduce the risk of disease spread:

- Contact the Health department for testing protocols and procedures
- Shelter staff should separate residents into different areas of the shelter, if possible, based on whether they are showing symptoms of COVID-19 or not (see CDC's *Interim Guidance for Homeless Shelters*)
- Placing masks on people with coughing symptoms;
- Encouraging frequent hand washing, cough etiquette, maintaining recommended social distancing, and reporting new or worsening symptoms to shelter staff;
- Implementing an intensive cleaning schedule;
- Taking regular stock of supplies: cleaning products, gloves, hand sanitizer, soap, and facemasks;
- If your shelter is running out of essential supplies, immediately inform your CoC leadership and public health partners so that they help you identify resources prior to closing your program; Someone who presents at a shelter with respiratory symptoms (e.g., cough) should not be turned away solely because of their health symptoms.
- Invite in healthcare partners, such as county public healthcare and Healthcare for the Homeless providers, to provide regular clinic hours or wellness checks.

Preventative precautionary measures should be in place regardless of whether there is anyone who has identified potential exposure. With COVID-19, it is possible that residents or staff have been exposed or are carrying the virus without showing any symptoms.

If a program has reason to believe someone who has been in shelter has been exposed to the virus, without disclosing ANY identifying information about the individual (that includes gender, age, whether staff or participant), the program could make an announcement, such as, "We have reason to believe that there may have been exposure to [name infectious disease] in our facility. Here are the measures we are taking." (This is similar to what schools do when they send a letter home indicating "A person in your child's school has [whooping cough, lice, measles, etc.]. Please watch for these symptoms and contact your doctor.")

Follow all general guidelines about “social distancing” and other prevention strategies (e.g., hand washing, etc.) that have been issued by public health authorities.

Subject to the expenditure limit in 24 CFR 576.100(b), ESG-CV funds will be used to prepare for, prevent and respond to the spread of COVID-19 by assisting with costs of providing essential services to homeless families and individuals in emergency shelters, renovating buildings to be used as emergency shelter for homeless families and individuals, and operating emergency shelters. ESG-CV funds will be used to provide essential services to individuals and families who are in an emergency shelter, as follows:

- 1) Case management. The cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant is eligible. Component services and activities consist of:
 - a) Using the centralized or coordinated assessment system as required under 24 CFR 576.400(d);
 - b) Conducting the initial evaluation required under 24 CFR 576.401(a), including verifying and documenting eligibility.
 - c) Counseling.
 - d) Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;
 - e) Monitoring and evaluating program participant progress.
 - f) Providing information and referrals to other providers.
 - g) Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking; and
 - h) Developing an individualized housing and service plan, including planning a path to permanent housing stability.
 - i) Hazard Pay per Notice CPD-20-08.
- 2) Childcare. The costs of childcare for program participants, including providing meals and snacks, and comprehensive and coordinated sets of appropriate developmental activities, are eligible. The children must be under the age of 13 unless they are disabled. Disabled children must be under the age of 18. The child-care center must be licensed by the State in which it operates in order for its costs to be eligible.
- 3) Education services. When necessary for the program participant to obtain and maintain housing, the costs of improving knowledge and basic educational skills are eligible. Services include instruction or training in consumer education, health education, substance abuse prevention, literacy, English as a Second Language, and General Educational Development (GED). Component services or activities are screening, assessment and testing; individual or group instruction; tutoring; provision of books, supplies and instructional material; counseling; and referral to community resources.
- 4) Employment assistance and job training. The costs of employment assistance and job training programs are eligible, including classroom, online, and/or computer instruction; on-the-job instruction; and services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is an eligible cost. Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates. Services that assist individuals in securing employment consist of employment screening, assessment, or testing; structured job skills and job-seeking skills;

special training and tutoring, including literacy training and prevocational training; books and instructional material; counseling or job coaching; and referral to community resources.

- 5) Outpatient health services. Eligible costs are for the direct outpatient treatment of medical conditions and are provided by licensed medical professionals. ESG-CV funds may be used only for these services to the extent that other appropriate health services are unavailable within the community. Eligible treatment consists of assessing a program participant's health problems and developing a treatment plan; assisting program participants to understand their health needs; providing directly or assisting program participants to obtain appropriate medical treatment, preventive medical care, and health maintenance services, including emergency medical services; providing medication and follow-up services; and providing preventive and non-cosmetic dental care.
- 6) Legal services.
 - a) Eligible costs are the hourly fees for legal advice and representation by attorneys licensed and in good standing with the bar association of the State in which the services are provided, and by person(s) under the supervision of the licensed attorney, regarding matters that interfere with the program participant's ability to obtain and retain housing.
 - b) ESG-CV funds will be used only for these services to the extent that other appropriate legal services are unavailable or inaccessible within the community.
 - c) Eligible subject matters are child support, guardianship, paternity, emancipation, and legal separation, orders of protection and other civil remedies for victims of domestic violence, dating violence, sexual assault, and stalking, appeal of veterans and public benefit claim denials, and the resolution of outstanding criminal warrants.
 - d) Component services or activities may include participant intake, preparation of cases for trial, provision of legal advice, representation at hearings, and counseling.
 - e) Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's employees' salaries and other costs necessary to perform the services.
 - f) Legal services for immigration and citizenship matters and issues relating to mortgages are ineligible costs. Retainer fee arrangements and contingency fee arrangements are ineligible costs.
- 7) Life skills training. The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, substance use, and homelessness are eligible costs. These services must be necessary to assist the program participant to function independently in the community. Component life skills training are budgeting resources, managing money, managing a household, resolving conflict, shopping for food and needed items, improving nutrition, using public transportation, and parenting.
- 8) Mental health services.
 - a) Eligible costs are the direct outpatient treatment by licensed professionals of mental health conditions.
 - b) ESG-CV funds will only be used for these services to the extent that other appropriate mental health services are unavailable or inaccessible within the community.

- c) Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or circumstances. Problem areas include family and marital relationships, parent-child problems, or symptom management.
 - d) Eligible treatment consists of crisis interventions; individual, family, or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.
- 9) Substance abuse treatment services.
- a) Eligible substance abuse treatment services are designed to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors and are provided by licensed or certified professionals.
 - b) ESG-CV funds will only be used for these services to the extent that other appropriate substance abuse treatment services are unavailable or inaccessible within the community.
 - c) Eligible treatment consists of participant intake and assessment, and outpatient treatment for up to 30 days. Group and individual counseling and drug testing are eligible costs. Inpatient detoxification and other inpatient drug or alcohol treatment are not eligible costs.

10) Transportation.

Eligible costs consist of the transportation costs of a program participant's travel to and from medical care, employment, childcare, or other eligible essential services facilities. These costs include the following:

- a) The cost of a program participant's travel on public transportation.
- b) If service workers use their own vehicles, mileage allowance for service workers to visit program participants.
- c) The cost of leasing a vehicle for the subrecipient in which staff transports program participants and/or staff serving program participants, and the cost of gas, insurance, taxes, and maintenance for the vehicle; and
- d) The travel costs of subrecipient staff to accompany or assist program participants to use public transportation.

11) Services for special populations.

ESG-CV funds may be used to provide services for homeless youth, victim services, and services for people living with HIV/AIDS, so long as the costs of providing these services are eligible under paragraphs (a)(1)(i) through(a)(1)(x) of this section. The term victim services mean services that assist program participants who are victims of domestic violence, dating violence, sexual assault, or stalking, including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

A DV Emergency Shelter or other program receiving Violence Against Women Act (VAWA), Victims of Crime Act (VOCA), or Family Violence Prevention and Services Act (FVPSA) funds CANNOT disclose survivors' personally identifying information, unless mandated to do so by a statute or court order.

If there is a state statute requiring that a COVID-19 (or any other identified infectious disease) report be made to the U.S. Centers for Disease Control and Prevention (CDC) or a state or local health department, then that report should be made in accordance with the law.

- As with other types of legally mandated reports, the program should make reasonable efforts to have the survivor make the report; if the survivor chooses not to make the report, the program should communicate with the survivor that the program staff will have to make the report, and help the survivor prepare or plan for that, as necessary.

Remind staff that there will be absolutely NO disclosure of anyone’s health status outside of a legal mandate.

Referrals to housing for Domestic Abuse Survivors in DV shelters will be made outside of Coordinated Entry utilizing the FL-504 CoC Domestic Violence Housing Navigator.

12) Renovation. Eligible costs include labor, materials, tools, and other costs for renovation (including major rehabilitation of an emergency shelter or conversion of a building into an emergency shelter). The emergency shelter must be owned by a government entity or private nonprofit organization. Environmental reviews and applicable waivers under the CARES Act shall be done in accordance with the HUD CPD Notice 20-07.

13) Shelter operations. Eligible costs are the costs of general maintenance (including minor or routine repairs, fix and maintain machines, mechanical equipment, and buildings; paint, minor repairs to flooring, and work on plumbing, electrical, and air-conditioning and heating systems.), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies necessary for the operation of the emergency shelter. Where no appropriate emergency shelter is available for a homeless family or individual, eligible costs will also include a hotel or motel voucher for that family or individual.

Hotel/Motel Costs. As permitted under 24 CFR 576.102(a)(3), eligible costs include a hotel or motel voucher for homeless individuals and families where no appropriate emergency shelter is available. Additionally, the limitations on eligible activities provided in section 415(a) of the McKinney-Vento Act and 24 CFR part 576, subpart B are waived and alternative requirements are established to the extent necessary to authorize ESG-CV funds to be used for the following hotel or motel costs for individuals and families experiencing homelessness, receiving rapid re-housing assistance under the Continuum of Care (CoC) or ESG programs, receiving homelessness prevention under the ESG program, or residing in permanent supportive housing: The recipient or subrecipient may pay for a hotel or motel room directly or through a hotel or motel voucher. Additionally, funds can be used to pay for cleaning of hotel and motel rooms used by program participants as well as to repair damages caused by program participants above normal wear and tear of the room.

COVID-19 Non- Congregate (Hotel/Motel) Guidelines

- I. COVID -19 Impacted homeless households who are identified by outreach, health department, or hospitals will be referred to non-congregate shelter through coordinated Entry
- II. Coordinated Entry System Manager or designee will refer individuals to available non-congregate shelters based on the following criteria:
 1. Individuals who are confirmed to be COVID-19 positive who do not need to be hospitalized.
 2. Individuals who are high risk with manageable symptoms and awaiting test result.
 3. Individuals who are high risk without symptoms and are awaiting test results.
 4. Individuals / Households that are prioritized according to the FL-504 COVID-19 Coordinated Entry Policy guidelines.

- III. Outreach or Hospitals will arrange for transportation to the identified hotel/motel for emergency shelter stay or quarantine if required.
- IV. Facilitating non-congregate shelter agency staff will assist with intake into identified hotel/motel and enter client into HMIS.
- V. Facilitating non-congregate shelter agency staff will conduct scheduled monitoring of non-congregate shelter guests and assist with food distribution.
- VI. Person(s) infected with Covid-19 or suspected of infection will be asked to comply with CDC quarantine guidelines.

Quarantined/Self-Isolated Person(s):

- Will stay in the assigned “sick room” and away from other people. Use only the bathroom attached to your room.
- Will not allow other individuals outside of attending staff into the room for the duration of the quarantine period.
- Will refrain from using illegal substances while under quarantine.
- Keep clean, wash your hands often, shower and clean all areas frequently.
- Monitor conditions for stability or deterioration.
- Inform Health Department /Non-congregate site management of worsening conditions which require hospitalization.
- Infected person(s) will be transferred by ambulance to the hospital for treatment.

VII. How to discontinue Quarantine

People **with COVID-19 who have quarantined (non-congregate isolation)** can stop isolation under the following conditions:

- **If the person will not have a test** to determine if he/she is still contagious, the person can leave after these three things have happened:
 - No fever for at least 72 hours (that is three full days of no fever without the use of medicine that reduces fevers) as monitored/confirmed by Site Staff
AND
 - other symptoms have improved (for example, when cough or shortness of breath have improved)
AND
 - at least 7 days have passed since symptoms first appeared.
- **If the person has been tested** to determine if he/she is still contagious, can leave after these three things have happened:
 - No longer have a fever (without the use of medicine that reduces fevers)
AND
 - other symptoms have improved (for example, when your cough or shortness of breath have improved)
AND
 - received two negative tests in a row, 24 hours apart.

- VIII. Those households that are admitted to non-congregate shelter will be referred to RRH and assigned a housing locator through Coordinated Entry.
- IX. Outreach staff will continue to provide case management services as necessary to facilitate a warm hand-off to the agency providing the RRH services.
- X. Anticipated length of stay will be from 7-15 days with extended stays as determined by need for isolation, housing location and availability of housing.

14) Assistance required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Eligible costs are the costs of providing URA assistance under 24 CFR 576.408, including relocation payments and other assistance to persons displaced by a project assisted with ESG-CV funds. Persons that receive URA assistance are not considered “program participants” for the purposes of this part, and relocation payments and other URA assistance are not considered “rental assistance” or “housing relocation and stabilization services” for the purposes of this part.

Each building renovated with ESG-CV funds must be maintained as a shelter for homeless individuals and families for not less than a period of 3 or 10 years, depending on the type of renovation and the value of the building. The “value of the building” is the reasonable monetary value assigned to the building, such as the value assigned by an independent real estate appraiser. The minimum use period must begin on the date the building is first occupied by a homeless individual or family after the completed renovation. A minimum period of use of 10 years, required for major rehabilitation and conversion, must be enforced by a recorded deed or use restriction.

- a) *Major rehabilitation.* If the rehabilitation cost of an emergency shelter exceeds 75 percent of the value of the building before rehabilitation, the minimum period of use is 10 years.
- b) *Conversion.* If the cost to convert a building into an emergency shelter exceeds 75 percent of the value of the building after conversion, the minimum period of use is 10 years.
- c) *Renovation other than major rehabilitation or conversion.* In all other cases where ESG-CV funds are used for renovation, the minimum period of use is 3 years.

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

The maintenance of effort requirements under 24 CFR 576.101(c), which apply to the use of ESG-CV funds for essential services related to street outreach, also apply for the use of such funds for essential services related to emergency shelter.

Homelessness Prevention Component (24 CFR 576.103)

(see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

ESG-CV funds will be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance necessary to prepare for, prevent and respond to the spread of COVID-19 by preventing an individual or family from moving into an emergency shelter or another place described in paragraph (1) of the “homeless” definition in 24 CFR 576.2. This assistance, referred to as homelessness prevention, will be provided to individuals and families who meet the criteria under the “at risk of homelessness” definition, or who meet the criteria in the “homeless” definition at 24 CFR 576.2 and have an annual income below 50 percent of median family income for the area, as determined by HUD. The costs of homelessness prevention are only eligible to the extent that the assistance is necessary to help the program participant regain stability in the program participant’s current permanent housing or move into other permanent housing and achieve stability in that housing. Homelessness prevention must be provided in accordance with the housing relocation and stabilization services requirements in 24 CFR 576.105, the short-term and medium-term rental assistance requirements not to exceed 12 months per HUD Notice CPD 20-08 576.106, and the written standards and procedures established under 24 CFR 576.400.

In providing assistance the FL-504 CoC will consider the following factors when determining priority of prevention services:

COVID-19 PRIORITY FACTORS:

- Pregnant or breastfeeding women
- Individuals ages 55+
- Prior History of Homelessness
- One of the following pre-existing health conditions:
 - o **Chronic lung disease or moderate to severe asthma**
 - o **Serious heart conditions** (expected to be of long-continued and indefinite duration, and significantly inhibits ability of the individual to live independently)
 - o **Conditions that can cause a person to be immunocompromised**, including cancer treatment, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications.
 - o **Severe obesity** (body mass index [BMI] of 40 or higher)
 - o **Diabetes**
 - o **Chronic kidney disease and those who are undergoing dialysis**
 - o **Liver disease**

However, other households impacted by COVID-19 who are at immediate risk of homelessness will be determined eligible for prevention services provided they can demonstrate that:

- There are no appropriate subsequent housing options that have been identified
- This household lacks the financial resources to obtain immediate housing or remain in their current housing; and
- The household lacks the support networks needed to obtain immediate housing or remain in their current housing

Rapid Re-Housing Assistance Component (24 CFR 576.104)

(see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

ESG-CV funds will be used to prepare for, prevent and respond to the spread of COVID-19 by providing housing relocation and stabilization services and short- and/or medium-term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing. This assistance, referred to as rapid re-housing assistance, will be provided to program participants who meet the criteria under paragraph (1) of the “homeless” definition in 24 CFR 576.2 or who meet the criteria under paragraph (4) of the “homeless” definition and live in an emergency shelter or other place described in paragraph (1) of the “homeless” definition. The rapid re-housing assistance must be provided in accordance with the housing relocation and stabilization services requirements in 24 CFR 576.105, the short- and medium-term rental assistance requirements not to exceed 12 months per HUD Notice CPD 20-08, and the written standards and procedures established under 24 CFR 576.400.

Housing Relocation and Stabilization Services (24 CFR 576.105)

Note: This applies to both the Homelessness Prevention and Rapid Re-Housing Assistance Components of ESG-CV.

- (a) **Financial assistance costs.** Subject to the general conditions under 24 CFR 576.103 and 576.104, ESG-CV funds will be used to pay housing owners, utility companies, and other third parties for the following costs:
- (1) **Rental application fees.** ESG-CV funds will pay for the rental housing application fee that is charged by the owner to all applicants.
 - (2) **Eligible Landlord Incentive Costs** per HUD Notice CPD 20-08 include:
 - (i) Signing bonuses equal to up to 2 months of rent;
 - (ii) Security deposits equal to up to 3 months of rent;
 - (iii) Paying the cost to repair damages incurred by the program participant not covered by the security deposit or that are incurred while the program participant is still residing in the unit; and,
 - (iv) Paying the costs of extra cleaning or maintenance of a program participant’s unit or appliances.Note: the total of signing bonuses and security deposits cannot exceed three months’ worth of rent.
 - (3) **Security deposits.** ESG-CV funds will pay for a security deposit that is equal to no more than 3 months’ rent.
 - (4) **Last month’s rent.** If necessary, to obtain housing for a program participant, the last month’s rent can be paid from ESG-CV funds to the owner of that housing at the time the owner is paid the security deposit and the first month’s rent. This assistance must not exceed one month’s rent and must be included in calculating the program participant’s total rental assistance, which cannot exceed 12 months during any 3-year period. (Notice CPD-20-08)
 - (5) **Utility deposits.** ESG-CV funds will pay for a standard utility deposit required by the utility company for all customers for the utilities listed in paragraph (5) of this section.
 - (6) **Utility payments.** ESG-CV funds will pay for up to 12 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance will only be provided if the program participant or a member of the same household has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water, and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.

- (7) **Moving costs.** ESG-CV funds will pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance under paragraph (b) of this section and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.
- (b) **Services costs.** Subject to the general restrictions under 24 CFR 576.103 and 576.104, ESG-CV funds will be used to pay the costs of providing the following services:
- (1) **Housing search and placement.** Services or activities necessary to assist program participants in locating, obtaining, and retaining suitable permanent housing, include the following:
- (i) Assessment of housing barriers, needs, and preferences;
 - (ii) Development of an action plan for locating housing;
 - (iii) Housing search;
 - (iv) Outreach to and negotiation with owners;
 - (v) Assistance with submitting rental applications and understanding leases;
 - (vi) Assessment of housing for compliance with ESG-CV requirements for habitability, lead-based paint, and rent reasonableness;
 - (vii) Assistance with obtaining utilities and making moving arrangements; and
 - (viii) Tenant counseling
 - (ix) Hazard Pay per Notice CPD 20-08
- (2) **Housing stability case management.** ESG-CV funds will be used to pay cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a program participant who resides in permanent housing or to assist a program participant in overcoming immediate barriers to obtaining housing. This assistance cannot exceed 30 days during the period the program participant is seeking permanent housing and cannot exceed 24 months during the period the program participant is living in permanent housing. Component services and activities consist of:
- (A) Using the centralized or coordinated assessment system as required under 24 CFR 576.400(d), to evaluate individuals and families applying for or receiving homelessness prevention or rapid re-housing assistance;
 - (B) Conducting the initial evaluation required under 24 CFR 576.401(a), including verifying and documenting eligibility, for individuals and families applying for homelessness prevention or rapid re-housing assistance;
 - (C) Counseling;
 - (D) Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;
 - (E) Monitoring and evaluating program participant progress;
 - (F) Providing information and referrals to other providers;
 - (G) Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
 - (H) Conducting re-evaluations required under 24 CFR 576.401(b).
 - (I) Hazard Pay per Notice CPD 20-08
- (3) **Mediation.** ESG-CV funds will pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

- (4) **Legal services.** ESG-CV funds will pay for legal services, as set forth in 24 CFR 576.102(a)(1)(vi), except that the eligible subject matters also include landlord/tenant matters, and the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which the program participant currently resides.
 - (5) **Credit repair.** ESG-CV funds will pay for credit counseling and other services as necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.
- (c) **Maximum amounts and periods of assistance.** The subrecipient will set a maximum dollar amount that a program participant will receive for each type of financial assistance under paragraph (a) of this section. The subrecipient will also set a maximum period for which a program participant will receive any of the types of assistance or services under this section. However, except for housing stability case management, the total period for which any program participant will receive the services under paragraph (b) of this section must not exceed 12 months during any 3-year period. The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family.
- (d) **Use with other subsidies.** Financial assistance under paragraph (a) of this section cannot be provided to a program participant who is receiving the same type of assistance through other public sources or to a program participant who has been provided with replacement housing payments under the URA, during the period of time covered by the URA payments.

Short-term and medium-term rental assistance (24 CFR 576.106)

- (a) **General provisions.** Subject to the general conditions under 24 CFR 576.103 and 576.104, the subrecipient can provide a program participant with up to 24 months of rental assistance during any 3-year period. This assistance may be short-term rental assistance, medium-term rental assistance, payment of rental arrears, or any combination of this assistance. However, Notice CPD-20-08 redefines the medium term definition for ESG-CV assisted persons to mean:
- (1) Short-term rental assistance is assistance for up to 3 months of rent.
 - (2) Medium-term rental assistance is assistance for more than 3 months but not more than 12 months of rent. (Notice CPD-20-08)
 - (3) Payment of rental arrears consists of a one-time payment for up to 6 months of rent in arrears, including any late fees on those arrears.
 - (4) Rental assistance will be tenant-based or project-based, as set forth in paragraphs (h) and (i) of this section.
- (b) **Discretion to set caps and conditions.** Subject to the requirements of this section, the subrecipient will set a maximum amount or percentage of rental assistance that a program participant will receive a maximum number of months that a program participant will receive rental assistance, or a maximum number of times that a program participant will receive rental assistance. The subrecipient may also require program participants to share in the costs of rent.
- (c) **Use with other subsidies.** Except for a one-time payment of rental arrears on the tenant's portion of the rental payment, rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance or living in a housing unit receiving project-based rental assistance or operating assistance, through other public sources. Rental assistance may not be provided to a

program participant who has been provided with replacement housing payments under the URA during the period of time covered by the URA payments.

(d) **Rent restrictions. (see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)**

(1) Under Notice CPD-20-08, The requirement at 24 CFR 576.106(d) that prohibits rental assistance where the rent for the unit exceeds the Fair Market Rent established by HUD, as provided under 24 CFR Part 888, is waived so long as the rent complies with HUD's standards of rent reasonableness, as established under 24 CFR 982.507. Waiving this requirement will allow recipients to help program participants move quickly into housing or retain their existing housing, which is especially critical at reducing the spread of coronavirus and responding to coronavirus. This waiver provides additional flexibility beyond the waiver made available to the ESG Program on March 31, 2020 and extended to ESG-CV funds on May 22, 2020 by permitting ESG recipients to provide rental assistance for program participants, whose current rent exceeds FMR and by allowing recipients to use this waiver as needed throughout the period they are providing rental assistance to prevent, prepare for, and respond to coronavirus.

(2) For purposes of calculating rent under this section, the rent shall equal the sum of the total monthly rent for the unit, any fees required for occupancy under the lease (other than late fees and pet fees) and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.

(e) **Rental assistance agreement.** The subrecipient will make rental assistance payments only to an owner with whom the subrecipient has entered into a rental assistance agreement. The rental assistance agreement must set forth the terms under which rental assistance will be provided, including the requirements that apply under this section. The rental assistance agreement must provide that, during the term of the agreement, the owner must give the subrecipient a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant.

(f) **Late payments.** The subrecipient must make timely payments to each owner in accordance with the rental assistance agreement. The rental assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The subrecipient is solely responsible for paying late payment penalties that it incurs with non-ESG-CV funds.

(g) **Lease.** Each program participant receiving rental assistance must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the assistance is solely for rental arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. For program participants living in housing with project-based rental assistance under paragraph (i) of this section, the lease must have an initial term of one year.

(h) **Tenant-based rental assistance.**

- (1) A program participant who receives tenant-based rental assistance will select a housing unit in which to live and may move to another unit or building and continue to receive rental assistance, as long as the program participant continues to meet the program requirements.
 - (2) The subrecipient will require that all program participants live within a particular area for the period in which the rental assistance is provided.
 - (3) The rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if:
 - (i) The program participant moves out of the housing unit for which the program participant has a lease;
 - (ii) The lease terminates and is not renewed; or
 - (iii) The program participant becomes ineligible to receive ESG-CV rental assistance.
- (i) **Project-based rental assistance.** If the subrecipient identifies a permanent housing unit that meets ESG-CV requirements and becomes available before a program participant is identified to lease the unit, the subrecipient will enter into a rental assistance agreement with the owner to reserve the unit and subsidize its rent in accordance with the following requirements:
- (1) The rental assistance agreement may cover one or more permanent housing units in the same building. Each unit covered by the rental assistance agreement (“assisted unit”) can only be occupied by program participants, except as provided under paragraph (i)(4) of this section.
 - (2) The subrecipient may pay up to 100 percent of the first month’s rent, provided that a program participant signs a lease and moves into the unit before the end of the month for which the first month’s rent is paid. The rent paid before a program participant moves into the unit must not exceed the rent to be charged under the program participant’s lease and must be included when determining that program participant’s total rental assistance.
 - (3) The subrecipient may make monthly rental assistance payments only for each whole or partial month an assisted unit is leased to a program participant. When a program participant moves out of an assisted unit, the subrecipient may pay the next month’s rent, i.e., the first month’s rent for a new program participant, as provided in paragraph (i) (2) of this section.
 - (4) The program participant’s lease must not condition the term of occupancy to the provision of rental assistance payments. If the program participant is determined ineligible or reaches the maximum number of months over which rental assistance can be provided, the subrecipient must suspend or terminate the rental assistance payments for the unit. If the payments are suspended, the individual or family may remain in the assisted unit as permitted under the lease, and the subrecipient may resume payments if the individual or family again becomes eligible and needs further rental assistance. If the payments are terminated, the rental assistance may be transferred to another available unit in the same building, provided that the other unit meets all ESG-CV requirements.
 - (5) The rental assistance agreement must have an initial term of one year. When a new program participant moves into an assisted unit, the term of the rental assistance agreement may be extended to cover the initial term of the program participant’s lease. If the program participant’s lease is renewed, the rental assistance agreement may be renewed or extended, as needed, up to the maximum number of months for which the program participant remains eligible. However, under no circumstances may the subrecipient commit ESG-CV funds to be expended beyond the expenditure deadline in 24 CFR 576.203 or commit funds for a future ESG-CV grant before the grant is awarded.
- (j) **Changes in household composition.** The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family.

(a) **HMIS Component** (24 CFR 576.107)

(see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

(a) **Eligible costs.**

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

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

V. Program Requirements & Grant Administration

Indirect Costs (24 CFR 576.109)

HUD FL-504 requires that all applicants of ESG-CV funds state in the application whether it will charge indirect costs for the program year. ESG-CV funds will be used to pay indirect costs in accordance with 24 CFR part 200, subpart E. Indirect costs can be allocated to each eligible activity under 24 CFR 576.101 through 576.108, so long as that allocation is consistent with 24 CFR part 200, subpart E. The indirect costs charged to an activity subject to an expenditure limit under 24 CFR 576.100 must be added to the direct costs charged for that activity when determining the total costs subject to the expenditure limit.

The entity’s approved federally negotiated indirect cost rate agreement must be submitted to HUD FL-504. If an entity does not have an approved federally negotiated indirect cost rate agreement, the entity can elect to charge a de minimis rate of ten percent (10%) of modified total direct costs. The entity also has the option of negotiating an indirect cost rate, refer to 24 CFR 200, Appendix IV.

All subrecipients must refer to the HUD FL-504 Fiscal Guidance and Procedural Manual regarding the single audit requirements. If the entity is not required to obtain a single audit, the entity must submit its financial statements to HUD FL-504.

Area-wide systems coordination requirements (24 CFR 576.400)

(a) Coordination with other targeted homeless services. The subrecipient must coordinate and integrate, to the maximum extent practicable, ESG-CV-funded activities with other programs targeted to homeless people in the area covered by the Continuum of Care or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area. These programs include:

- (1) Shelter Plus Care Program (24 CFR part 582);
- (2) Supportive Housing Program (24 CFR part 583);
- (3) Section 8 Moderate Rehabilitation Program for Single Room Occupancy Program for Homeless Individuals (24 CFR part 882);
- (4) HUD—Veterans Affairs Supportive Housing (HUD—VASH) (division K, title II, Consolidated Appropriations Act, 2008, Pub. L. 110–161 (2007), 73 FR 25026 (May 6, 2008));
- (5) Education for Homeless Children and Youth Grants for State and Local Activities (title VII–B of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*));
- (6) Grants for the Benefit of Homeless Individuals (section 506 of the Public Health Services Act (42 U.S.C. 290aa–5));
- (7) Healthcare for the Homeless (42 CFR part 51c);
- (8) Programs for Runaway and Homeless Youth (Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*));
- (9) Projects for Assistance in Transition from Homelessness (part C of title V of the Public Health Service Act (42 U.S.C. 290cc–21 *et seq.*));

- (10) Services in Supportive Housing Grants (section 520A of the Public Health Service Act); Emergency Food and Shelter Program (title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 *et seq.*));
- (11) Transitional Housing Assistance Grants for Victims of Sexual Assault, Domestic Violence, Dating Violence, and Stalking Program (section 40299 of the Violent Crime Control and Law Enforcement Act (42 U.S.C. 13975));
- (12) (13) Homeless Veterans Reintegration Program (section 5(a)(1)) of the Homeless Veterans Comprehensive Assistance Act (38 U.S.C. 2021);
- (13) Domiciliary Care for Homeless Veterans Program (38 U.S.C. 2043);
- (14) VA Homeless Providers Grant and Per Diem Program (38 CFR part 61);
- (15) Health Care for Homeless Veterans Program (38 U.S.C. 2031);
- (16) Homeless Veterans Dental Program (38 U.S.C. 2062);
- (17) Supportive Services for Veteran Families Program (38 CFR part 62); and
- (18) Veteran Justice Outreach Initiative (38 U.S.C. 2031).

(b) **System and program coordination with mainstream resources.** The subrecipient must coordinate and integrate, to the maximum extent practicable, ESG-CV funded activities with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible. Examples of these programs include:

- (1) Public housing programs assisted under section 9 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g) (24 CFR parts 905, 968, and 990);
- (2) Housing programs receiving tenant-based or project-based assistance under section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f) (respectively 24 CFR parts 982 and 983);
- (3) Supportive Housing for Persons with Disabilities (Section 811) (24 CFR part 891);
- (4) HOME Investment Partnerships Program (24 CFR part 92);
- (5) Temporary Assistance for Needy Families (TANF) (45 CFR parts 260–265);
- (6) Health Center Program (42 CFR part 51c);
- (7) State Children’s Health Insurance Program (42 CFR part 457);
- (8) Head Start (45 CFR chapter XIII, subchapter B);
- (9) Mental Health and Substance Abuse Block Grants (45 CFR part 96); and
- (10) Services funded under the Workforce Investment Act (29 U.S.C. 2801 *et seq.*).

Centralized or coordinated assessment. (see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

Once the Continuum of Care has developed a centralized assessment system or a coordinated assessment system in accordance with requirements to be established by HUD, each ESG-CV-funded program or project within the Continuum of Care’s area must use that assessment system. The subrecipient must work with the Continuum of Care to ensure the screening, assessment and referral of program participants are consistent with the written standards. A victim service provider may choose not to use the Continuum of Care’s centralized or coordinated assessment system.

Coordinated Entry Prioritization COVID-19

In order to quickly house homeless individuals who have been identified as high-risk for developing serious and life-threatening health complications from COVID-19, Coordinated Entry will prioritize individuals with priority factors, as outlined below, for all housing openings.

CoC/ESG Programs must fill openings using its current Coordinated Entry System.

PROCEDURE:

- Outreach/referring Agencies must notify Coordinated Entry staff of clients with priority factors.
 - Third-party verification of priority factors is preferred, but self-certification will be accepted for clients who cannot obtain third-party.
- Coordinated Entry staff will maintain list of eligible clients.
- Once the list of clients with priority factors has been identified, housing matches will be sent using the appropriate standing prioritization policy, based on which housing intervention has the available opening (RRH, PSH, TH, TH/RRH).
- Clients with multiple priority factors will be prioritized over fewer priority factors.

EXCEPTIONS:

- Chronically homeless clients with all required documentation will be prioritized first for PSH openings, followed by COVID-19 priority factors.
- Highest vulnerability score will be prioritized first for DV housing openings, followed by COVID-19 priority factors.

COVID-19 PRIORITY FACTORS:

- Pregnant or breastfeeding women
- Individuals ages 55+
- One of the following pre-existing health conditions:
 - **Chronic lung disease or moderate to severe asthma**
 - **Serious heart conditions** (expected to be of long-continued and indefinite duration, and significantly inhibits ability of the individual to live independently)
 - **Conditions that can cause a person to be immunocompromised**, including cancer treatment, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications.
 - **Severe obesity** (body mass index [BMI] of 40 or higher)
 - **Diabetes**
 - **Chronic kidney disease and those who are undergoing dialysis**
 - **Liver disease**

Housing First:

Providers of ESG-CV funds shall use the Housing First approach as outlined below. Any new projects funded by ESG-CV must use the Housing First approach:

Housing First Approach:

1. Shelter and/or Housing is not contingent on compliance with services
2. Shelter and/or Housing is not contingent on perceived bias or notions of success related to income/lack of or employment/ lack of.
3. RRH participants are provided with a standard lease or rental agreement. The lease agreement can only be terminated in accordance with the State of Florida Landlord and Tenant Act (Title VI, Chapter 82 Part II)
4. Participants are provided with services and supports to help maintain housing and prevent eviction.
5. There is no requirement for sobriety prior to being placed/offered housing and admission shall not be conditioned on credit or background checks.
6. Criminal backgrounds will be considered only to the extent necessary to protect safety and well-being.
7. Participants shall be given choice in their housing subject to program limitations.
8. Participants are not required to participate in services, but providers are required to persistently and consistently seek to engage participants.
9. Providers are encouraged to support staff in implementing Evidence Based Practices that support Housing First (Critical Time Intervention, Motivational Interviewing, Stages of Change).
10. Projects that are designated as Housing First shall be contractually obligated to follow these principles and will be subject to monitoring.
11. Payment for rental assistance shall only be made when there is a rental assistance agreement between the agency and the owner, which sets forth the terms under which rental assistance will be provided, including the prior requirements; a requirement that the owner provide the sub-recipient with a copy of any notice to vacate given to the participant or any complaint used to commence an eviction action; and the same payment due date, grace period and late payment penalty requirement as the participant's lease.
12. Payment of any late payment penalties incurred by the agency shall not be claimed for reimbursement.
13. Payment shall only be made when there is a legally binding, written agreement for the rental unit between the participant and the owner.
14. Payment shall only be made for units that have been inspected for HUD Housing Quality Standards and re-inspected no less frequently than annually. Rental assistance shall not be paid on behalf of any unit that does not meet Housing Quality Standards.
15. Recipients and subrecipients must comply with nondiscrimination and applicable accessibility requirements, including requirements under Section 504 of the Rehabilitation Act, the Fair Housing Act, the Americans with Disabilities Act, and their implementing regulations. See also 24 CFR 576.407(a). All other shelters and housing for which ESG-CV funds must meet the applicable standards in 24 CFR 576.403(b) and 576.403(c).

Written standards for providing ESG-CV assistance. The subrecipient must establish and consistently apply written standards for providing ESG-CV assistance. At a minimum these written standards must include:

- (i) Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under ESG-CV;
- (ii) Standards for targeting and providing essential services related to street outreach;

- (iii) Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG-CV, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, *e.g.*, victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;
- (iv) Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
- (v) Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers; other homeless assistance providers; and mainstream service and housing providers (see 24 CFR 576.400(b) and (c) for a list of programs with which ESG-CV-funded activities must be coordinated and integrated to the maximum extent practicable);
- (vi) Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance;
- (vii) Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention or rapid re-housing assistance;
- (viii) Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and
- (ix) Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance; or the maximum number of times the program participant may receive assistance.

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

Evaluation of Program Participant Eligibility and Needs (24 CFR 576.401)
(see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

Evaluations. The subrecipient must conduct an initial evaluation to determine the eligibility of each individual or family's eligibility for ESG-CV assistance and the amount and types of assistance the individual or family needs to regain stability in permanent housing. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements set forth under 24 CFR 576.400(d) and the written standards established under 24 CFR 576.400(e).

**Re-evaluations for homelessness prevention and rapid re-housing assistance
(see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)**

- (a) The required frequency of re-evaluations for homelessness prevention assistance under section 576.401(b) is waived for up to 2-years beginning on the date of this memorandum, so long as the recipient or subrecipient conducts the required re-evaluations not less than once every 6 months. (HUD ESG-CV Waiver)
- (1) At a minimum, each re-evaluation of eligibility must establish that:
 - (i) The program participant does not have an annual income that exceeds 50 percent of median family income for the area, as determined by HUD/CARES Act; and
 - (ii) The program participant lacks sufficient resources and support networks necessary to retain housing without ESG-CV assistance.
- (2) The subrecipient may require each program participant receiving homelessness prevention or rapid re-housing assistance to notify the subrecipient regarding changes in the program participant's income or other circumstances (e.g., changes in household composition) that affect the program participant's need for assistance under ESG-CV. When notified of a relevant change, the subrecipient must re-evaluate the program participant's eligibility and the amount and types of assistance the program participant needs.

Annual income. (see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

When determining the annual income of an individual or family, the must use the standard for calculating annual income under 24 CFR 5.609 as follows:

- a. Annual income means all amounts, monetary or not, which:
 - (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
 - (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
 - (3) Which are not specifically excluded in paragraph (c) of this section.
 - (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
- b. Annual income includes, but is not limited to:
 - (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
 - (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession can be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
 - (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a

- percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
 - (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);
 - (6) Welfare assistance payments.
 - (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
 - (A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
 - (B) Are not otherwise excluded under paragraph (c) of this section.
 - (ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
 - (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
 - (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
 - (8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).
 - (9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, financial assistance does not include loan proceeds for the purpose of determining income.
- c. Annual income does not include the following:
- (1) Income from employment of children (including foster children) under the age of 18 years;
 - (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
 - (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined at 24 CFR 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i-v)
 - i. Amounts received under training programs funded by HUD;
 - ii. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - iii. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;
 - iv. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services can include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident can receive more than one such stipend during the same period of time;
 - v. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
- (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- (11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- (12) Adoption assistance payments in excess of \$480 per adopted child;
- (13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
- (14) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
- (15) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- (16) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs

and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

- d. Annualization of income. If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the subrecipient believes that past income is the best available indicator of expected future income, the subrecipient can annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

Connecting program participants to mainstream and other resources. The subrecipient must assist each program participant, as needed, to obtain:

- (1) Appropriate supportive services, including assistance in obtaining permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and
- (2) Other Federal, State, local, and private assistance available to assist the program participant in obtaining housing stability, including:
 - (iii) Medicaid (42 CFR chapter IV, subchapter C);
 - (iv) Supplemental Nutrition Assistance Program (7 CFR parts 271–283);
 - (v) Women, Infants and Children (WIC) (7 CFR part 246);
 - (vi) Federal-State Unemployment Insurance Program (20 CFR parts 601–603, 606, 609, 614–617, 625, 640, 650);
 - (vii) Social Security Disability Insurance (SSDI) (20 CFR part 404);
 - (viii) Supplemental Security Income (SSI) (20 CFR part 416);
 - (ix) Child and Adult Care Food Program (42 U.S.C. 1766(t) (7 CFR part 226));
 - (x) Other assistance available under the programs listed in 24 CFR 576.400(c).

Housing stability case management. (see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

- (1) While providing homelessness prevention or rapid re-housing assistance to a program participant, the subrecipient must:
 - (i) HUD is making an across-the-board waiver of the ESG requirement in 24 CFR 576.401(e)(1) that housing stability case managers to meet not less than once per month with each program participant receiving homelessness prevention or rapid re-housing assistance. HUD is waiving this requirement for all program participants receiving ESG-CV assistance after qualifying as homeless, in order to be consistent with the CARES Act prohibition stated in section III.F.10. Additionally, HUD is waiving the requirement for all program participants receiving assistance after qualifying as at risk of homelessness, in order to prevent the spread of coronavirus and reduce the barriers to providing the homelessness prevention that is necessary to respond to coronavirus. This waiver provides additional regulatory relief beyond the waiver HUD made available on March 31, 2020 for annual ESG funds and extended on May 22, 2020 for annual ESG funds and ESG-CV funds, by lifting the 3-month limitation established May 22, 2020, and making the waiver of 24 CFR 576.401(e)(1) apply throughout the period the recipient or subrecipient uses funds to prevent, prepare for, and respond to coronavirus.
 - (ii) Develop a plan to assist the program participant to retain permanent housing after the ESG-CV assistance ends, taking into account all relevant considerations, such as the program participant’s current or expected income and expenses; other public or private assistance for which the program participant will be eligible and likely to receive; and the relative affordability of available housing in the area.

- (2) The subrecipient is exempt from the requirement under paragraph (e)(1)(i) of this section if the Violence Against Women Act of 1994 (42 U.S.C. 13701 *et seq.*) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*) prohibits that subrecipient from making its shelter or housing conditional on the participant's acceptance of services.

Terminating Assistance (24 CFR 576.402)

- (a) *In general*, If a program participant violates program requirements, the subrecipient can terminate the assistance in accordance with a formal process established by the subrecipient that recognizes the rights of individuals affected. The subrecipient must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases.
- (b) *Program participants receiving rental assistance or housing relocation and stabilization services*. To terminate rental assistance or housing relocation and stabilization services to a program participant, the required formal process, at a minimum, must consist of:
 - (1) Written notice to the program participant containing a clear statement of the reasons for termination;
 - (2) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
 - (3) Prompt written notice of the final decision to the program participant.
- (c) *Ability to provide further assistance*. Termination under this section does not bar the subrecipient from providing further assistance at a later date to the same family or individual.

Shelter and Housing Standards (24 CFR 576.403) (see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

Lead-based paint remediation and disclosure. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42U.S.C. 4851–4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG-CV program and all housing occupied by program participants.

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards
Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Participants must also receive a federally approved pamphlet on lead poisoning prevention.

Subrecipients must certify, to the best of their knowledge, that the information they have provided is true and accurate by ensuring that each participant endorses a lead-based paint disclosure form; and that the form is placed in each participant's file.

- (a) Minimum standards for emergency shelters. Any building for which ESG-CV funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any emergency shelter that receives assistance for shelter operations must also meet the following minimum safety, sanitation, and privacy standards. The subrecipient may also establish standards that exceed or add to these minimum standards.
- (1) *Structure and materials.* The shelter building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents. Any renovation (including major rehabilitation and conversion) carried out with ESG-CV assistance must use Energy Star and Water Sense products and appliances.
 - (2) *Access.* The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C. 3601 *et seq.*) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 *et seq.*) and 28 CFR part 35; where applicable.
 - (3) *Space and security.* Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.
 - (4) *Interior air quality.* Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
 - (5) *Water supply.* The shelter's water supply must be free of contamination.
 - (6) *Sanitary facilities.* Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
 - (7) *Thermal environment.* The shelter must have any necessary heating/cooling facilities in proper operating condition.
 - (8) *Illumination and electricity.* The shelter must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
 - (9) *Food preparation.* Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
 - (10) *Sanitary conditions.* The shelter must be maintained in a sanitary condition.
 - (11) *Fire safety.* There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.
- (b) Minimum standards for permanent housing. The subrecipient cannot use ESG-CV funds to help a program participant remain or move into housing that does not meet the minimum habitability standards provided in this paragraph (c). The subrecipient may also establish standards that exceed or add to these minimum standards. See also 24 CFR 576.403(b) and 24 CFR 576.500(j).
- (1) *Structure and materials.* The structures must be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.
 - (2) *Space and security.* Each resident must be provided adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.

- (3) *Interior air quality.* Each room or space must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
- (4) *Water supply.* The water supply must be free from contamination.
- (5) *Sanitary facilities.* Residents must have access to sufficient sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.
- (6) *Thermal environment.* The housing must have any necessary heating/cooling facilities in proper operating condition.
- (7) *Illumination and electricity.* The structure must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the structure.
- (8) *Food preparation.* All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
- (9) *Sanitary conditions.* The housing must be maintained in a sanitary condition.
- (10) *Fire safety*
 - (i) There must be a second means of exiting the building in the event of fire or other emergency.
 - (ii) Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.
 - (iii) The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

(c) Health and fire inspections. Facilities that receive funding from state, county or city must follow the regulatory duties or requirements of that entity to safeguard children in care in places other than their homes.

Conflicts of Interest (24 CFR 576.404)

- (a) *Organizational conflicts of interest.* The provision of any type or amount of ESG-CV assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the subrecipient, or a parent or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent or subsidiary of the subrecipient, carry out the initial evaluation required under 24 CFR 576.401 or administer homelessness prevention assistance under 24 CFR 576.103.
- (b) *Individual conflicts of interest.* For the procurement of goods and services, subrecipients must comply with 2 CFR 200.317 and 200.318. For all other transactions and activities, the following restrictions apply:
 - (1) *Conflicts prohibited.* No person described in paragraph (b)(2) of this section who exercises or has exercised any functions or responsibilities with respect to activities assisted under the

ESG-CV program, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.

(2) *Persons covered.* The conflict-of interest provisions of paragraph (b)(1) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the subrecipient.

(3) *Exceptions.* Upon the written request of the subrecipient, HUD may grant an exception to the provisions of this subsection on a case-by-case basis, taking into account the cumulative effects of the criteria in paragraph (b)(3)(ii) of this section, provided that the subrecipient has satisfactorily met the threshold requirements of paragraph (b)(3)(i) of this section.

i. *Threshold requirements.* HUD will consider an exception only after the subrecipient has provided the following documentation:

- a) If the subrecipient is a government, disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- b) An opinion of the subrecipient's attorney that the interest for which the exception is sought would not violate state or local law.

ii. *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the subrecipient has satisfactorily met the threshold requirements under paragraph (b)(3)(i) of this section, HUD must conclude that the exception will serve to further the purposes of the ESG-CV program and the effective and efficient administration of the subrecipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

- a) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- b) Whether an opportunity was provided for open competitive bidding or negotiation;
- c) Whether the affected person has withdrawn from his or her functions, responsibilities or the decision-making process with respect to the specific activity in question;
- d) Whether the interest or benefit was present before the affected person was in the position described in paragraph (b)(1) of this section;
- e) Whether undue hardship results to the subrecipient, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict; and
- f) Any other relevant considerations.

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

Homeless Participation (24 CFR 576.405)

(a) The subrecipient must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policymaking entity of the subrecipient, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under ESG-CV.

(b) If the subrecipient is unable to meet requirement under paragraph (a), it must instead develop and implement a plan to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding any facilities, services, or other assistance that receive funding under ESG-CV. The plan must be included in the request for applications.

(c) To the maximum extent practicable, the subrecipient must involve homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under ESG-CV, in providing services assisted under ESG-CV, and in providing services for occupants of facilities assisted under ESG-CV. This involvement may include employment or volunteer services.

Faith-Based Activities (24 CFR 576.406)

(a) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to receive ESG-CV funds. Neither the Federal Government nor a State or local government receiving funds under ESG-CV shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(b) Organizations that are directly funded under the ESG-CV program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under ESG-CV. If an organization conducts these activities, the activities must be offered separately, in time or location, from the programs or services funded under ESG-CV, and participation must be voluntary for program participants.

(c) Any religious organization that receives ESG-CV funds retains its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ESG-CV funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide ESG-CV-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an ESG-CV-funded religious organization retains its authority over its internal governance, and the organization may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(d) An organization that receives ESG-CV funds shall not, in providing ESG-CV assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.

(e) ESG-CV funds may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. ESG-CV funds may be used for the rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under the ESG-CV program. Where a structure is used for both eligible and inherently religious activities, ESG-CV funds may not exceed the cost of those portions of the rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to ESG-CV funds. Sanctuaries, chapels, or other rooms that an ESG-CV-funded religious congregation uses as its principal place of worship, however, are ineligible for funded improvements under the program. Disposition of real property after the term of the grant, or any change in use of the

property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR 200.311). The subrecipient must inform HUD FL-504 and obtain instructions as to how the real property will be handled.

(f) If the subrecipient that is a local government voluntarily contributes its own funds to supplement federally funded activities, the subrecipient has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

Other Federal Requirements (24 CFR 576.407 and 24 CFR 5.105(d)) (see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

- (a) *General.* The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a). Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR part 135 apply, except that homeless individuals have priority over other Section 3 residents in accordance with 24 CFR 576.405(c).
- (b) *Affirmative outreach.* The subrecipient must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. If it is unlikely that the procedures that the subrecipient intends to use to make known the availability of the facilities, assistance, and services to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the subrecipient must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. The subrecipient must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Consistent with Title VI and Executive Order 13166, subrecipients are also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons.

Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. As provided in the rule, AFFH means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair

housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development."

- (c) *Uniform Administrative Requirements.* The requirements of 24 CFR part 200 apply to subrecipients. However, program income can be used as matching contributions subject to the requirements in 24 CFR 576.201. With regard to the disposition of real property for which ESG-CV funds are used for major rehabilitation, conversion, or other renovation under 24 CFR 576.102, and procurement, please contact HUD FL-504 for more guidance.
- (d) *Environmental review responsibilities*
 - (1) Activities under this part are subject to environmental review by HUD under 24 CFR part 50. The subrecipient shall supply all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50. The subrecipient also shall carry out mitigating measures required by HUD or select alternate eligible property. HUD may eliminate from consideration any application that would require an Environmental Impact Statement (EIS).
 - (2) The subrecipient, or any contractor of the subrecipient, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for eligible activities under this part, until HUD has performed an environmental review under 24 CFR part 50 and the subrecipient has received HUD approval of the property.
- (e) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) do not apply to the ESG-CV program.
- (f) *Procurement of Recovered Materials.* The subrecipient and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Displacement, relocation, and acquisition (24 CFR 576.408)

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

should be treated as permanently displaced and offered relocation assistance and payments consistent with that paragraph.

(c) *Relocation assistance for displaced persons.*

- (1) *In general*, A displaced person (defined in paragraph (c)(2) of this section) must be provided relocation assistance at the levels described in, and in accordance with, the URA and 49 CFR part 24. A displaced person must be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601 *et seq.*). Whenever possible, minority persons shall be given reasonable opportunities to relocate to comparable and suitable decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require providing a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. (See 49 CFR 24.205(c)(2)(ii)(D).) As required by Section 504 of the Rehabilitation Act (29 U.S.C. 794) and 49 CFR part 24, replacement dwellings must also contain the accessibility features needed by displaced persons with disabilities.
- (2) *Displaced Person.*
 - (i) For purposes of paragraph (c) of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm, including any corporation, partnership, or association) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under the ESG-CV program. This includes any permanent, involuntary move for an assisted project, including any permanent move from the real property that is made:
 - (A) After the owner (or person in control of the site) issues a notice to move permanently from the property or refuses to renew an expiring lease, if the move occurs on or after:
 - I. The date of the submission by the subrecipient (, as applicable) of an application for assistance to HUD (or the subrecipient, as applicable) that is later approved and funded if the subrecipient (, as applicable) has site control as evidenced by a deed, sales contract, or option contract to acquire the property; or
 - II. The date on which the subrecipient (as applicable) selects the applicable site, if the subrecipient (as applicable) does not have site control at the time of the application, provided that the subrecipient (as applicable) eventually obtains control over the site;
 - (B) Before the date described in paragraph (c)(2)(i)(A) of this section, if the subrecipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or
 - (C) By a tenant-occupant of a dwelling unit and the tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition of the property for the project.
 - (ii) Notwithstanding paragraph (c)(2)(i) of this section, a person does not qualify as a displaced person if:
 - (A) The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement; violation of applicable Federal, State, or local law, or other good cause; and

- the subrecipient determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.
- (B) The person moved into the property after the submission of the application but, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (*e.g.*, the person may be displaced), and the fact that the person would not qualify as a “displaced person” (or for any assistance under this section) as a result of the project;
 - (C) The person is ineligible under 49 CFR 24.2(a)(9)(ii); or
 - (D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.
- (iii) The subrecipient may, at any time, request that HUD to determine whether a displacement is or would be covered by this rule.
- (3) *Initiation of negotiations.* For purposes of determining the type of replacement housing payment assistance to be provided to a displaced person pursuant to this section:
- (i) If the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, “initiation of negotiations” means the execution of the agreement between the subrecipient and the person owning or controlling the property;
 - (ii) If site control is only evidenced by an option contract to acquire the property, the “initiation of negotiations” does not become effective until the execution of a written agreement that creates a legally enforceable commitment to proceed with the purchase, such as a sales contract.

(d) *Real property acquisition requirements.* The acquisition of real property, whether funded privately or publicly, for a project assisted with ESG-CV funds is subject to the URA and Federal government wide regulations at 49 CFR part 24, subpart B.

(e) *Appeals.* A person who disagrees with the subrecipient’s (if applicable) determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the subrecipient under 49 CFR 24.10. A low-income person who disagrees with the subrecipient’s determination may submit a written request for review of that determination by the appropriate HUD field office.

Recordkeeping and reporting requirements (24 CFR 576.500) (see CARES Act and HUD Notice CPD-20-08 and any subsequent HUD Waiver updates)

- (a) *In general,* the subrecipient must have policies and procedures to ensure the requirements of this part are met. The policies and procedures must be established in writing and implemented by the subrecipient to ensure that ESG-CV funds are used in accordance with the requirements. In addition, sufficient records must be established and maintained to enable the subrecipient and HUD to determine whether ESG-CV requirements are being met.
- (b) *Homeless status.* The subrecipient must maintain and follow written intake procedures to ensure compliance with the homeless definition in 24 CFR 576.2. The procedures must require documentation at intake of the evidence relied upon to establish and verify homeless status.

The procedures must establish the order of priority for obtaining evidence as third-party documentation first, intake worker observations second, and certification from the person seeking assistance third. However, lack of third-party documentation must not prevent an individual or family from being immediately admitted to emergency shelter, receiving street outreach services, or being immediately admitted to shelter or receiving services provided by a victim service provider. Records contained in an HMIS or comparable database used by victim service or legal service providers are acceptable evidence of third-party documentation and intake worker observations if the HMIS retains an auditable history of all entries, including the person who entered the data, the date of entry, and the change made; and if the HMIS prevents overrides or changes of the dates on which entries are made.

- (1) If the individual or family qualifies as homeless under paragraph (1)(i) or (ii) of the homeless definition in 24 CFR 576.2, acceptable evidence includes a written observation by an outreach worker of the conditions where the individual or family was living, a written referral by another housing or service provider, or a certification by the individual or head of household seeking assistance.
- (2) If the individual qualifies as homeless under paragraph (1)(iii) of the homeless definition in 24 CFR 576.2, because he or she resided in an emergency shelter or place not meant for human habitation and is exiting an institution where he or she resided for 90 days or less, acceptable evidence includes the evidence described in paragraph (b)(1) of this section and one of the following:
 - (i) Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institution, stating the beginning and end dates of the time residing in the institution. All oral statements must be recorded by the intake worker; or
 - (ii) Where the evidence in paragraph (b)(2)(i) of this section is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described in paragraph (b)(2)(i) and a certification by the individual seeking assistance that states he or she is exiting or has just exited an institution where he or she resided for 90 days or less.
- (3) If the individual or family qualifies as homeless under paragraph (2) of the homeless definition in 24 CFR 576.2, because the individual or family will imminently lose their housing, the evidence must include:
 - (i)
 - (A) A court order resulting from an eviction action that requires the individual or family to leave their residence within 14 days after the date of their application for homeless assistance; or the equivalent notice under applicable state law, a Notice to Quit, or a Notice to Terminate issued under state law;
 - (B) For individuals and families whose primary nighttime residence is a hotel or motel room not paid for by charitable organizations or federal, state, or local government programs for low-income individuals, evidence that the individual or family lacks the resources necessary to reside there for more than 14 days after the date of application for homeless assistance; or
 - (C) An oral statement by the individual or head of household that the owner or renter of the housing in which they currently reside will not allow them to stay for more than 14 days after the date of application for homeless assistance. The intake worker must record the statement and certify that it was found credible. To be found credible, the oral statement must either:

- I. be verified by the owner or renter of the housing in which the individual or family resides at the time of application for homeless assistance and documented by a written certification by the owner or renter or by the intake worker's recording of the owner or renter's oral statement; or
 - II. if the intake worker is unable to contact the owner or renter, be documented by a written certification by the intake worker of his or her due diligence in attempting to obtain the owner or renter's verification and the written certification by the individual or head of household seeking assistance that his or her statement was true and complete;
- (ii) Certification by the individual or head of household that no subsequent residence has been identified; and
 - (iii) Certification or other written documentation that the individual or family lacks the resources and support networks needed to obtain other permanent housing.
- (4) If the individual or family qualifies as homeless under paragraph (3) of the homeless definition in 24 CFR 576.2, because the individual or family does not otherwise qualify as homeless under the homeless definition but is an unaccompanied youth under 25 years of age, or homeless family with one or more children or youth, and is defined as homeless under another Federal statute or section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), the evidence must include:
- (i) For paragraph (3)(i) of the homeless definition in 24 CFR 576.2, certification of homeless status by the local private nonprofit organization or state or local governmental entity responsible for administering assistance under the Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*), the Head Start Act (42 U.S.C. 9831 *et seq.*), subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e *et seq.*), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Food and Nutrition Act of 2008 (7 U.S.C. 2011 *et seq.*), section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*), as applicable;
 - (ii) For paragraph (3)(ii) of the homeless definition in 24 CFR 576.2, referral by a housing or service provider, written observation by an outreach worker, or certification by the homeless individual or head of household seeking assistance;
 - (iii) For paragraph (3)(iii) of the homeless definition in 24 CFR 576.2, certification by the individual or head of household and any available supporting documentation that the individual or family moved two or more times during the 60-day period immediately preceding the date of application for homeless assistance, including: recorded statements or records obtained from each owner or renter of housing, provider of shelter or housing, or social worker, case worker, or other appropriate official of a hospital or institution in which the individual or family resided; or, where these statements or records are unobtainable, a written record of the intake worker's due diligence in attempting to obtain these statements or records. Where a move was due to the individual or family fleeing domestic violence, dating violence, sexual assault, or stalking, then the intake worker will alternatively obtain a written certification from the individual or head of household seeking assistance that they were fleeing that situation and that they resided at that address; and
 - (iv) For paragraph (3)(iv) of the homeless definition in 24 CFR 576.2, written diagnosis from a professional who is licensed by the state to diagnose and treat that condition (or intake staff recorded observation of disability that within 45 days of date of the application for assistance is confirmed by a professional who is licensed by the state to

diagnose and treat that condition); employment records; department of corrections records; literacy, English proficiency tests; or other reasonable documentation of the conditions required under paragraph (3)(iv) of the homeless definition.

- (5) If the individual or family qualifies under paragraph (4) of the homeless definition in 24 CFR 576.2, because the individual or family is fleeing domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions related to violence, then acceptable evidence includes an oral statement by the individual or head of household seeking assistance that they are fleeing that situation, that no subsequent residence has been identified and that they lack the resources or support networks, e.g. family, friends, faith-based or other social networks, needed to obtain other housing. If the individual or family is receiving shelter or services provided by a victim service provider, the oral statement must be documented by either a certification by the individual or head of household, or a certification by the intake worker. Otherwise, the oral statement that the individual or head of household seeking assistance has not identified a subsequent residence and lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain housing must be documented by a certification by the individual or head of household that the oral statement is true and complete, and, where the safety of the individual or family would not be jeopardized, the domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening condition must be verified by a written observation by the intake worker or a written referral by a housing or service provider, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or any other organization from whom the individual or head of household has sought assistance for domestic violence, dating violence, sexual assault, or stalking. The written referral or observation need only include the minimum amount of information necessary to document that the individual or family is fleeing, or attempting to flee domestic violence, dating violence, sexual assault, and stalking.

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

- (1) If the program participant meets the criteria under paragraph (1) of the "at risk of homelessness" definition in 24 CFR 576.2:
- (i) The documentation specified under this section for determining annual income;
 - (ii) The program participant's certification on a form specified by HUD that the program participant has insufficient financial resources and support networks; e.g., family, friends, faith-based or other social networks, immediately available to attain housing stability and meets one or more of the conditions under paragraph (1)(iii) of the definition of "at risk of homelessness" in 24 CFR 576.2;
 - (iii) The most reliable evidence available to show that the program participant does not have sufficient resources or support networks; e.g, family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "homeless" definition. Acceptable evidence includes:

- (A) Source documents (*e.g.*, notice of termination from employment, unemployment compensation statement, bank statement, health-care bill showing arrears, utility bill showing arrears);
 - (B) To the extent that source documents are unobtainable, a written statement by the relevant third party (*e.g.*, former employer, public administrator, relative) or the written certification by the subrecipient's intake staff of the oral verification by the relevant third party that the applicant meets one or both of the criteria under paragraph (1)(ii) of the definition of "at risk of homelessness" in 24 CFR 576.2; or
 - (C) To the extent that source documents and third-party verification are unobtainable, a written statement by the subrecipient's intake staff describing the efforts taken to obtain the required evidence; and
- (iv) The most reliable evidence available to show that the program participant meets one or more of the conditions under paragraph (1)(iii) of the definition of "at risk of homelessness" in 24 CFR 576.2. Acceptable evidence includes:
- (A) Source documents that evidence one or more of the conditions under paragraph (1)(iii) of the definition (*e.g.*, eviction notice, notice of termination from employment, bank statement);
 - (B) To the extent that source documents are unobtainable, a written statement by the relevant third party (*e.g.*, former employer, owner, primary leaseholder, public administrator, hotel or motel manager) or the written certification by the subrecipient's intake staff of the oral verification by the relevant third party that the applicant meets one or more of the criteria under paragraph (1)(iii) of the definition of "at risk of homelessness"; or
 - (C) To the extent that source documents and third-party verification are unobtainable, a written statement by the subrecipient's intake staff that the staff person has visited the applicant's residence and determined that the applicant meets one or more of the criteria under paragraph (1)(iii) of the definition or, if a visit is not practicable or relevant to the determination, a written statement by the subrecipient's intake staff describing the efforts taken to obtain the required evidence; or (2) If the program participant meets the criteria under paragraph (2) or (3) of the "at risk of homelessness" definition in 24 CFR 576.2, certification of the child or youth's homeless status by the agency or organization responsible for administering assistance under the Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*), the Head Start Act (42 U.S.C. 9831 *et seq.*), subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e *et seq.*), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Food and Nutrition Act of 2008 (7 U.S.C. 2011 *et seq.*), section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*), as applicable.
 - (D) *Determinations of ineligibility.* For each individual and family determined ineligible to receive ESG-CV assistance, the record must include documentation of the reason for that determination.
 - (E) Annual income. For each program participant who receives homelessness prevention assistance, or who receives rapid re-housing assistance longer than one year, the following documentation of annual income must be maintained:

- (1) Income evaluation form containing the minimum requirements specified by HUD and completed by the subrecipient; and
 - (2) Source documents for the assets held by the program participant and income received over the most recent period for which representative data is available before the date of the evaluation (*e.g.*, wage statement, unemployment compensation statement, public benefits statement, bank statement);
 - (3) To the extent that source documents are unobtainable, a written statement by the relevant third party (*e.g.*, employer, government benefits administrator) or the written certification by the subrecipient's intake staff of the oral verification by the relevant third party of the income the program participant received over the most recent period for which representative data is available; or
 - (4) To the extent that source documents and third-party verification are unobtainable, the written certification by the program participant of the amount of income the program participant received for the most recent period representative of the income that the program participant is reasonably expected to receive over the 3-month period following the evaluation.
- (F) Program participant records. In addition to evidence of homeless status or "at risk of homelessness" status, as applicable, records must be kept for each program participant that document:
- (1) The services and assistance provided to that program participant, including, as applicable, the security deposit, rental assistance, and utility payments made on behalf of the program participant;
 - (2) Compliance with the applicable requirements for providing services and assistance to that program participant under the program components and eligible activities provisions at 24 CFR 576.101 through 576.106, the provision on determining eligibility and amount and type of assistance at 24 CFR 576.401(a) and (b), and the provision on using appropriate assistance and services at 24 CFR 576.401(d) and (e); and
 - (3) Where applicable, compliance with the termination of assistance requirement in 24 CFR 576.402.
- (G) *Centralized or coordinated assessment systems and procedures.* The subrecipient must keep documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system(s) developed by the Continuum of Care(s) in accordance with the requirements established by HUD.
- (H) *Rental assistance agreements and payments.* The records must include copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by program participants.
- (I) *Utility allowance.* The records must document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.

- (J) *Shelter and housing standards.* The records must include documentation of compliance with the shelter and housing standards in 24 CFR 576.403, including inspection reports.
- (K) *Emergency shelter facilities.* The subrecipient must keep records of the emergency shelters assisted under the ESG-CV program, including the amount and type of assistance provided to each emergency shelter. As applicable, the subrecipient's records must also include documentation of the value of the building before the rehabilitation of an existing emergency shelter or after the conversion of a building into an emergency shelter and copies of the recorded deed or use restrictions.
- (L) *Services and assistance provided.* The subrecipient must keep records of the types of essential services, rental assistance, and housing stabilization and relocation services provided under the subrecipient's program and the amounts spent on these services and assistance. The subrecipient that are units of general-purpose local government must keep records to demonstrate compliance with the maintenance of effort requirement, including records of the unit of the general purpose local government's annual budgets and sources of funding for street outreach and emergency shelter services.
- (M) *Coordination with Continuum(s) of Care and other programs.* The subrecipient must document their compliance with the requirements of 24 CFR 576.400 for consulting with the Continuum(s) of Care and coordinating and integrating ESG-CV assistance with programs targeted toward homeless people and mainstream service and assistance programs.
- (N) *HMIS.* The subrecipient must keep records of the participation in HMIS or a comparable database by all projects of the subrecipient.
- (O) *Matching.* The subrecipient must keep records of the source and use of contributions made to satisfy the matching requirement in 24 CFR 576.201. The records must indicate the particular fiscal year grant for which each matching contribution is counted. The records must show how the value placed on third-party, noncash contributions was derived. To the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocation of regular personnel costs.
- (P) *Conflicts of interest.* The subrecipient must keep records to show compliance with the organizational conflicts-of-interest requirements in 24 CFR 576.404(a), a copy of the personal conflicts of interest policy or codes of conduct developed and implemented to comply with the requirements in 24 CFR 576.404(b), and records supporting exceptions to the personal conflicts of interest prohibitions.
- (Q) *Homeless participation.* The subrecipient must document its compliance with the homeless participation requirements under 24 CFR 576.405.
- (R) *Faith-based activities.* The subrecipient must document their compliance with the faith-based activities requirements under 24 CFR 576.406.
- (S) *Other Federal requirements.* The subrecipient must document their compliance with the Federal requirements in 24 CFR 576.407, as applicable, including:
 - (1) Records demonstrating compliance with the nondiscrimination and equal opportunity requirements under 24 CFR 576.407(a), including data concerning race, ethnicity, disability status, sex, and family

characteristics of persons and households who are applicants for, or program participants in, any program or activity funded in whole or in part with ESG-CV funds and the affirmative outreach requirements in 24 CFR 576.407(b).

- (2) Records demonstrating compliance with the uniform administrative requirements in 2 CFR part 200.
 - (3) Records demonstrating compliance with the environmental review requirements, including flood insurance requirements.
 - (4) Certifications and disclosure forms required under the lobbying and disclosure requirements in 24 CFR part 87.
- (T) *Relocation.* The records must include documentation of compliance with the displacement, relocation, and acquisition requirements in 24 CFR 576.408.
- (U) *Financial records.*
- (1) The subrecipient must retain supporting documentation for all costs charged to the ESG-CV grant.
 - (2) The subrecipient must keep documentation showing that ESG-CV grant funds were spent on allowable costs in accordance with the requirements for eligible activities under 24 CFR 576.101 - 576.109, financial management in 2 CFR 200.302, and the cost principles in 2 CFR 200, subpart E.
 - (3) The subrecipient must retain records of the receipt and use of program income.
 - (4) The subrecipient must keep documentation of compliance with the expenditure limits in 24 CFR 576.100 and the expenditure deadline in 24 CFR 576.203.
- (V) *Contractors*
- (1) The subrecipient must retain copies of all solicitations of and agreements with contractors, records of all payment requests by and dates of payments made to contractors, and documentation of all monitoring and sanctions of contractors, as applicable.
 - (2) The subrecipient must retain copies of all procurement contracts and documentation of compliance with the procurement requirements in the HUD FL-504 Fiscal Policy and Procedural Manual.
 - (3) The subrecipient must ensure that its contractors comply with the recordkeeping requirements specified by the subrecipient and HUD notice or regulations.
- (W) *Other records specified by HUD.* The subrecipient must keep other records specified by HUD.
- (X) *Confidentiality*
- (1) The subrecipient must develop and implement written procedures to ensure:
 - (i) All records containing personally identifying information (as defined in HUD's standards for participation, data collection, and reporting in a local HMIS) of any individual or family who applies for and/or receives ESG-CV assistance will be kept secure and confidential;
 - (ii) The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under the ESG-

- CV will not be made public, except with written authorization of the person responsible for the operation of the shelter; and
- (iii) The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the subrecipient and consistent with state and local laws regarding privacy and obligations of confidentiality.
- (2) The confidentiality procedures of the subrecipient must be in writing and must be maintained in accordance with this section.
- (Y) *Period of record retention.* All records pertaining to each fiscal year of ESG-CV funds must be retained for the greater of 5 years or the period specified below. Copies made by microfilming, photocopying, or similar methods can be substituted for the original records.
- (1) Documentation of each program participant's qualification as a family or individual at risk of homelessness or as a homeless family or individual and other program participant records must be retained for 5 years after the expenditure of all funds from the grant under which the program participant was served;
 - (2) Where ESG-CV funds are used for the renovation of an emergency shelter involves costs charged to the ESG-CV grant that exceed 75 percent of the value of the building before renovation, records must be retained until 10 years after the date that ESG-CV funds are first obligated for the renovation; and
 - (3) Where ESG-CV funds are used to convert a building into an emergency shelter and the costs charged to the ESG-CV grant for the conversion exceed 75 percent of the value of the building after conversion, records must be retained until 10 years after the date that ESG-CV funds are first obligated for the conversion.
- (Z) *Access to records.*
- (1) *Federal government rights.* Notwithstanding the confidentiality procedures established under paragraph (x) of this section, subrecipients must comply with the requirements for access to records in 2 CFR 200.336.
 - (2) *Public rights.* The subrecipient must provide citizens, public agencies, and other interested parties with reasonable access (consistent with state and local laws regarding privacy and obligations of confidentiality and the confidentiality requirements in this part) to records regarding any uses of ESG-CV funds the subrecipient received during the preceding 5 years.
- (AA) *Reports.* The subrecipient must collect and report data on its use of ESG-CV funds in the Integrated Disbursement and Information System (IDIS) and other reporting systems, as specified by HUD. The subrecipient must also comply with the reporting requirements in 2 CFR part 200 and 24 CFR part 91 and the reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, (31 U.S.C. 6101 note), which are set forth in Appendix A to 2 CFR part 170.

HUD FL-504 recommends that participant records are kept in files that are sectioned for organizational purposes.

Enforcement (24 CFR 576.501)

HUD FL-504 will perform monitoring activities as follows:

- All ESG funded shelters will be monitored annually.
- All homeless prevention and rapid re-housing programs will be monitored annually.
- All subrecipients will be fiscally monitored throughout the program year.
- All new subrecipients to the ESG-CV program will be monitored during the program year.

In conducting performance reviews, the FL-504 will rely primarily on information obtained from the records and reports from the subrecipient and as well as information from onsite monitoring, audit reports, and information from HMIS. Where applicable, the FL-504 will also consider reliant information pertaining to the subrecipient's performance gained from other sources, including citizen comments, complaint determinations, and litigation. Reviews to determine compliance with specific requirements of this part will be conducted as necessary, with or without prior notice to the subrecipient.

- (1) If the FL-504 determines preliminarily that one of its subrecipients has not complied with an ESG-CV program requirement, the FL-504 will give notice of this determination and an opportunity to demonstrate, within the time prescribed by HUD FL-504 and on the basis of substantial facts and data, that the subrecipient has complied with ESG-CV requirements.
- (2) If the subrecipient fails to demonstrate to HUD FL-504's satisfaction that the activities were carried out in compliance with ESG-CV program requirements, HUD FL-504 will take one or more of the remedial actions or sanctions specified in paragraph (b) of this section.

(a) *Remedial actions and sanctions.* Remedial actions and sanctions for a failure to meet an ESG-CV program requirement will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence.

- (1) The FL-504 will instruct the subrecipient to submit and comply with proposals for action to correct, mitigate, and prevent noncompliance with ESG-CV requirements, including:
 - (i) Preparing and following a schedule of actions for carrying out activities affected by the noncompliance, including schedules, timetables, and milestones necessary to implement the affected activities;
 - (ii) Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;
 - (iii) Canceling or revising activities likely to be affected by the noncompliance, before expending ESG-CV funds for the activities;
 - (iv) Reprogramming ESG-CV funds that have not yet been expended from affected activities to other eligible activities;
 - (v) Suspending disbursement of ESG-CV funds for some or all activities;
 - (vi) Reducing or terminating the remaining grant of a subrecipient and reallocating those funds to other subrecipients; and