

§ 576.53 Use as an emergency shelter.

(a)(1) *Restrictions and definition.* Period of use restrictions applicable to assistance provided under this part are governed by 42 U.S.C. 11375(a). Use of grant amounts for developing and implementing homeless prevention activities does not trigger period of use requirements.

(2) For purposes of the requirements under this section, the term *same general population* means either the same types of homeless persons originally served with ESG assistance (i.e., battered spouses, runaway children, families, or mentally ill individuals), or persons in the same geographic area.

(b) *Calculating the applicable period.* The 3- and 10-year periods applicable under paragraph (a) of this section begin to run:

(1) In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant amounts under this part, on the date of initial occupancy as an emergency shelter for the homeless.

(2) In the case of a building that was operated as an emergency shelter before receipt of grant amounts under this part, on the date that grant amounts are first obligated for the shelter.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51552, Oct. 2, 1996]

§ 576.55 Building standards.

(a) Any building for which emergency shelter grant amounts are used for conversion, major rehabilitation, rehabilitation, or renovation must meet local government safety and sanitation standards.

(b) For projects of 15 or more units, when rehabilitation costs are:

(1) 75 percent or more of the replacement cost of the building, that project must meet the requirements of § 8.23(a) of this title; or

(2) Less than 75 percent of the replacement cost of the building, that project must meet the requirements of § 8.23(b) of this title.

[61 FR 51552, Oct. 2, 1996]

§ 576.56 Homeless assistance and participation.

(a) *Assistance.* (1) Grantees and recipients must assure that homeless individuals and families are given assistance in obtaining:

(i) Appropriate supportive services, including permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(ii) Other Federal, State, local, and private assistance available for such individuals.

(2) Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375(c)(5).

(3) Grantees and recipients may, in accordance with 42 U.S.C. 11375(e), terminate assistance provided under this part to an individual or family who violates program requirements.

(b) *Participation.* (1) Each unit of local government, Indian tribe, and nonprofit recipient that receives funds under this part must provide for the participation of homeless individuals on its policymaking entity in accordance with 42 U.S.C. 11375(d).

(2) Each State, territory, Indian tribe, unit of local government, and nonprofit recipient that receives funds under this part must involve homeless individuals and families in providing work or services pertaining to facilities or activities assisted under this part, in accordance with 42 U.S.C. 11375(c)(7).

[61 FR 51552, Oct. 2, 1996]

§ 576.57 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, use of emergency shelter grant amounts must comply with the following requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements at 24 CFR part 5 are modified as follows:

(1) *Rehabilitation Act requirements.* HUD's regulations at 24 CFR part 8 implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). For purposes of the emergency shelter grants program, the term "dwelling units" in 24 CFR part 8 shall include sleeping accommodations.

(2) Use of emergency shelter grant amounts must also comply with the requirement that the grantee or the State recipient make known that use of the facilities and services is available to all on a nondiscriminatory basis. If the procedures that the grantee or recipient intends to use to make known the availability of the facilities and services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such facilities and services, the grantee or recipient must establish additional procedures that will ensure that such persons are made aware of the facilities and services. Grantees and recipients must also adopt procedures which will make available to interested persons information concerning the location of services and facilities that are accessible to persons with disabilities.

(b) *Applicability of OMB Circulars.*¹ The policies, guidelines, and requirements of 24 CFR part 85 (codified pursuant to OMB Circular No. A-102) and OMB Circular No. A-87, as they relate to the acceptance and use of emergency shelter grant amounts by States and units of general local government, and Nos. A-110 and A-122 as they relate to the acceptance and use of emergency shelter grant amounts by private nonprofit organizations.

(c) *Lead-based paint.* The requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR part 35. In addition, the grantee (or in the case of States, the State recipient) must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

(1) Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity under this part; and

(2) Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

(d) *Conflicts of interest.* In addition to the conflict of interest requirements in OMB Circulars A-102 and A-110, no person—

(1)(i) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, State recipient, or nonprofit recipient (or of any designated public agency) that receives emergency shelter grant amounts and

(ii) Who exercises or has exercised any functions or responsibilities with respect to assisted activities, or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter. HUD may grant an exception to this exclusion as provided in §570.611 (d) and (e) of this chapter.

(e) *Environmental review responsibilities*—(1) *Generally.* Responsible entities must assess the environmental effects of each application under part 58 of this title. An applicant must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under the National Environmental Policy Act of 1969 (NEPA) and related authorities listed in part 58 of this title. The grant award is subject to completion of the environmental responsibilities set out in part 58 of this title within a reasonable time period after notification of the award. This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.

¹OMB Circulars referenced in this section are available at the Entitlement Cities Division, Room 7282, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(2) *Awards to States.* In the case of emergency shelter grants to States that are distributed to:

(i) Units of general local government, the unit of general local government shall be the responsible entity, and the State will assume HUD's functions with regard to the release of funds; or

(ii) Nonprofit organizations, the State shall be the responsible entity, and HUD will perform functions regarding release of funds under part 58 of this title.

(3) *Release of funds.* HUD will not release funds for an eligible activity if the grantee, recipient, or any other party commits emergency shelter grant funds before the grantee submits, and HUD approves, any required Request for Release of Funds.

(f) *Audit.* The financial management systems used by a State, formula city or county, governmental entity, or an Indian tribe that is a grantee under this program must provide for audits in accordance with part 44 of this title. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in part 45 of this title. (OMB Circulars are available from the Executive Office of the President, Publication Service, 725 17th Street, NW., Suite G-2200, Washington, DC 20503, Telephone, 202-395-7332.)

(g) *Audit.* The financial management system used by a State or unit of general local government that is a grantee or State recipient must provide for audits in accordance with 24 CFR part 44. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in 24 CFR part 45.

(h) *Lobbying and disclosure requirements.* The disclosure requirements and prohibitions of 42 U.S.C. 3537a and 3545 and 31 U.S.C. 1352 (the Byrd Amendment), and the implementing regulations at parts 4 and 87 of this title.

(i) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 276a-276a-5) do not apply to this program.

(j) *Intergovernmental review.* The requirements of Executive Order 12372 and the regulations issued under the order at 24 CFR part 52, to the extent

provided by FEDERAL REGISTER notice in accordance with 24 CFR 52.3.

[54 FR 46799, Nov. 7, 1989, as amended at 57 FR 33256, July 27, 1992; 61 FR 5210, Feb. 9, 1996. Redesignated and amended at 61 FR 51552, Oct. 2, 1996]

§ 576.59 Relocation and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, grantees and recipients 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 this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).

(c) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Responsibility of grantees and recipients.* Each grantee and recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this part, or funds available from other sources.

(e) *Appeals.* A person who disagrees with the grantee's or recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the grantee or recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

(f) *Definition—(1) Displaced person.* (i) The term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property,