Commonwealth of Massachusetts
DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT
Deval L. Patrick, Governor ◆ Timothy P. Murray, Lt. Governor ◆ Aaron Gornstein, Undersecretary

Request for Responses (RFR) for the Emergency Solutions Grant (ESG) Program

Amendments #2-#4 and Question & Answer Document

Deadline for Written Questions: **April 17, 2012, 12:00 PM**

Respondents' Conference Held: **April 19, 2012, 9:30AM**

Document Number: **DHCD2012-03S**

This document includes:

I. AMENDMENT #2

IN SECTION I, B. 1. ADD THE FOLLOWING LANGUAGE:

Existing day shelters providing day services to other night shelters' residents may request ESG shelter support funding for a position to assist emergency shelter residents develop a housing plan which includes increasing income, gaining access to other benefits, and assistance in moving participants to quickly to housing. The plan should also include assistance to support individuals to become stabilized in that housing. Only responses from existing day shelters which meet all other requirements of this RFR and which consistently exceed their funded capacity will be considered.

II. AMENDMENT #3

IN SECTION I, C. 2. B. ADD THE FOLLOWING LANGUAGE:

- Direct staff costs required to conduct initial intake evaluations and re-evaluations, verify income and assets, obtain the required documentation of homeless status as specified in the ESG Interim Rule and RFR; direct staff may also provide housing search, placement, financial assistance, referrals for appropriate support services and mainstream benefit programs, as well as any follow-up services to eligible participants.

III. AMENDMENT #4

Appendix 5 to the ESG RFR was assembled as a tool for the convenience of ESG RFR respondents. This Appendix highlights DHCD's ESG recordkeeping and reporting requirements. Respondents are required to be familiar with all of the ESG regulations within the Interim Rule, not just those incorporated into Appendix 5. **Appendix 5 begins on page 10 of this document.**

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IV. RESPONSES TO WRITTEN QUESTIONS AND TO THE QUESTIONS ASKED AT THE ESG RESPONDENT CONFERENCE HELD ON APRIL 19, 2012

A. ELIGIBILITY TO RESPOND TO THE RFR

1. Question: My program is a Transitional Housing Program. Are we eligible for Shelter Support Services under the ESG RFR?
Response: No, in line with HUD's revised definition of emergency shelter, DHCD is focusing the limited ESG resources on shelters working toward re-house homeless people as rapidly as possible.

2. Question: My program is a day shelter open to all homeless persons. We serve the bulk of the individuals accommodated in the city's night shelters as they close during the day. Is my organization eligible to apply for Shelter Support for a housing worker under the ESG RFR?
Response: Yes, see Amendment 2 above.

3. Question: We now receive ESG Homeless Prevention funds. Are we eligible to apply again?
Response: Appendix 4 of the RFR will identify whether your CoC is applying for Rapid Re-Housing funds or Prevention funds. If your CoC is applying for Prevention funds, then you should speak with the CoC convener or co-chair to determine whether the CoC has identified specific provider or group of providers to submit the jurisdiction's Response for Homeless Prevention Service funds. DHCD expects that the Homeless Prevention Response from a jurisdiction will be a coordinated response serving the whole CoC or Regional Network jurisdiction.

4. Question: I work with a team assisting an existing entity which in the past received ESG funds. We are in the process of spinning that entity off from its parent agency. We will legally be a new entity with no documented history of its own. Does this separation bar us or prejudice in any way our ability to receive money from the open ESG Grant?
Response: Nothing in the RFR precludes a new 501 3c organization from submitting a response to the RFR. However, the organization should review Section IV.B.4 of the RFR, Evaluation Criteria, to assess whether it can submit a competitive enough response to obtain ESG funding.

5. **Question: Appendix 4, #5 says "Ma Balance of State". What does that mean? Is there an opportunity for organizations which fall within a CoC that has chosen to focus on rapid re-housing to apply for prevention funds through #5?**
Response: No. The Balance of State CoC is one of the 20 HUD recognized CoCs in the Commonwealth. It comprises 76 cities and towns and provides housing and services to address the needs of homeless and at risk residents within those communities.

6. Question: I am an ICHH Network Coordinator. We applied for a Workforce Pilot, a SOCO Career Navigator, through New Bedford for ESG funds in February (no word yet on whether or not we will receive these funds) and would like to respond to this RFR to provide employment support throughout the Bristol County region. Is this an appropriate use of these funds? Is collaboration with the Career Centers within the guidelines?
Response: DHCD supports responses from ICHH Networks, but under the terms of the Interim Rule, the primary ESG focus is shelter support, rapid rehousing and homeless prevention. Employment support would not be eligible under DHCD's Shelter Support component of ESG. However, if the CoCs within the

Network are requesting Homeless Prevention for families, it is possible that the CoC may want to incorporate employment services for their Prevention participants in their response. Employment, however, could not be a "stand alone" response. Collaboration with Career Centers isn't addressed by HUD either way.

7. Question: The RFR says that *DHCD asked each CoC to limit its jurisdiction's response to one for either Rapid Re-Housing for Individuals or Homeless Prevention primarily for Families in the first year of implementation of` ESG. Each CoC's year one decision is reflected in Appendix 4: CoC Need Maximum Funding Matrix.* The RFR also says: *Only one response will be reviewed from each CoC's geographic jurisdiction for either Rapid Re-Housing or Homeless Prevention in accordance with Appendix 4.* Does this mean only one response from the entire area will be reviewed?
Response: Yes, it means that only one response can be submitted for each CoC geographic jurisdiction for **either:**

- Homeless Prevention; or
- Rapid Rehousing

However, multiple responses can be submitted for a CoC geographic jurisdiction for:

- Shelter Support.

B. ALLOWABLE COSTS

1. Question: The maximum award for each CoC's geographic jurisdiction is specified in the RFR for Prevention and for Rapid Rehousing. Is there a formula for how funds for Shelter Support will be distributed?
Response: No.

2. Question: The RFR does not specifically state whether respondents can or cannot request staff to provide services under the Rapid Re-housing and Homelessness Prevention components. Can a respondent request staff costs?
Response: Yes. Staff costs are allowable ESG activities. See Amendment 3 above and related to Rapid Re-Housing and RFR Section I. D. 2 for Homeless Prevention. However, DHCD expects Respondents to secure matching funds to the extent possible to pay for the staffing costs required for Homeless Prevention, Rapid Re-Housing and the follow-up services required for each. The ESG funds are intended to be used primarily as financial assistance tools to be used by staff currently working with homeless individuals and At Risk households. The extent to which staff needed to provide the required activities under **Rapid Re-housing** and **Homelessness Prevention** can be paid for through matching funds is part of the RFR Selection Committee's evaluation criteria for responses.

3. Question: Under which component in the RFR should an organization apply if seeking both staffing costs and rental assistance funds for a rapid re-housing program that moves homeless individuals out of shelter?
Response: Rapid Re-housing.

4. Question: Are mortgage costs for a shelter allowable under the new ESG?
Response: No, this does not appear to be an eligible activity. DHCD will request clarification from HUD and if we receive an answer that it is an allowable activity prior to the final date of amendments to the RFR we will make the information available through Comm-PASS.

5. Question: For Prevention Programs, are court fees and cancellation fees reimbursable with ESG funds?
Response: No. These are not listed as eligible costs. However, DHCD will request clarification from HUD and if we receive an answer that it these are allowable activities prior to the final date of amendments to the RFR we will make the information available through Comm-PASS.

6. Question: Are the previous two years' DHCD and entitlement city allocations of ESG funds available for public viewing?
Response: Attachment 1, to this document contains the results of DHCD's 2010 ESG Request for Responses. These contracts were continued for an additional year pending HUD's release of the new regulations. As for the Entitlement Communities, HUD is not aware of a centralized, public website that describes the way ESG grantees allocate their funds. Technically, ESG grantees should make this information available to the public through their Action Plans and CAPERs, though there is no requirement to publish this information on the internet. If a grantee does not publish their Action Plan or CAPER on the internet, then they would be required to make a hard copy available on request.

7. Question: Can ESG funds be used under the RFR to serve households which meet HUD's definition of homeless or At-Risk, who are non-EA eligible victims of domestic violence? Can these households be served under Shelter Support as well?
Response: Yes to both questions provided that all of the specifications in the RFR are met.

8. Question: If my ESG Entitlement community can fund two of the CoC's four shelters, how can we be sure that DHCD will fund the other two?
Response: One of the goals of the Interim Rule is to maximize our coordination of the ESG funds so they are used most effectively. The CoC and ESG entitlement community should be clear with its providers that only those that the entitlement community was not able to fund should request DHCD funds. The CoC and city should only provide letters of support and collaboration for those responses it wishes DHCD to fund.

However, DHCD historically receives many more responses than it can fund making the RFR and Selection process highly competitive. All shelter responses are evaluated using the same evaluation criteria. No organization should assume a particular response will score well enough to be funded under the RFR.

9. Question: Can we use ESG funds to provide emergency non-EA beds for families even if we do not have space in our existing shelter? If so, would these beds have to be in a congregate type of facility or a scattered site type program?
Response: Yes, non-EA beds community beds can be funded with ESG. Community family beds can be either congregate or scattered site emergency beds.

10. Question: Can we use ESG funds to provide additional emergency beds for homeless individuals even if we do not have space in our existing shelter? If so, would these beds have to be in a congregate type of facility or can we use short term scattered sites?
Response: Assuming they are not currently funded, new community beds for individuals can be either congregate or scattered site emergency beds.

C. HOMELESS PARTICIPATION

1. Question: In 2010 we were not funded under DHCD's ESG RFR because our formerly homeless member of our Board of Directors had resigned and we did not have another. We subsequently appointed another member who has also resigned recently. Will we be ineligible again?
Response: Under the ESG Interim Rule an organization which does not have a formerly homeless individual or homeless individual on the board of directors may meet the HUD homeless participation requirement if it has a homeless or formerly homeless member on an equivalent policymaking entity that makes policies and decisions regarding any facility, services, or other assistance assisted under ESG.

2. Question: Page 17, Homeless Persons Involved in Operations, requires that participants be involved in the operation of the ESG-funded program. For TPP responses, can this requirement be met by demonstrating homeless persons are involved in other activities of the organization, rather than TPP? TPP is not well designed to have participants become involved in program operations given the short-term nature of much of the work.
Response: HUD requires, to the maximum extent practicable, ESG funded organizations to involve homeless persons in constructing, renovating, maintaining, and operating facilities assisted under ESG, in providing services assisted under ESG, and in providing services for occupants of facilities assisted under ESG. This involvement may include employment or volunteer services. If a respondent believes it impracticable for homeless participants to participate in the operation of a the program for which it requests funds, the response should explain why this is and describe homeless persons involvement in other activities of the organization.

3. Question: Does HUD require the Homeless representative to be on the respondent's Board of Directors, the policy making entity, or the CoC?
Response: Not the CoC. See Question 1. in this section for the remainder of the answer.

D. MATCH

1. Question: For a Rapid Rehousing for Individuals response, could the match be for activities defined as ESG-eligible by HUD, such as case management/housing search to help individuals obtain housing with the ESG RRH funds? Or must the match be for ESG activities eligible under terms of the DHCD-RFR, so must be a match of additional client financial assistance since that's the only eligible activity for this component? In one section of the RFR it states the match funds are to be used for ESG eligible activities (G12. Match Requirements); in another it states the match must be for ESG activities under the terms of the RFR (A5. Narrative Response Guidelines).
Response: DHCD has clarified its intent that staff costs be considered eligible ESG activities. DHCD is expecting that some of the matching funds will be used to meet staff costs discussed in Amendment 3 above.

3. Question: Does the match for Homeless Prevention and/or Rapid Rehousing have to be financial assistance or can it be staffing, rent phone, PC, etc.?
Response: The match can be used to staff the new program and provide occupancy costs for staff. The match could also be a combination of the staffing and some financial assistance. The potential 7.5% overhead amount could also be designated for direct staff for the new program which would also reduce the amount of other match to be obtained.

4. Question: Can a respondent match one component's services with funds in another component? For example, can we use state shelter operation funds to match ESG funds for Prevention?
Response: No, the match must be for costs which are eligible under the component for which the organization is submitting its response.

5. Question: On page 45 it states bidders must complete the PPD (Prompt Payment Discount) form located under forms tab. I do not see it there.
Response: As it states in that section of boilerplate material, the requirement to use PPD offerings may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. DHCD's PMT for this RFR has waived this requirement. Therefore, the form is not necessary.

6. **Question: We understand that completion of a Supplier Diversity Program (SDP) Plan is optional for bidders requesting less than $150,000. If we request less than $150,000 and include an SDP Plan, will we then be able to score up to ten points for participation in the SDP?**
Response: Yes.

7. Question: Can we submit CoC/Regional Network letters of support with electronic signatures rather than original signatures in ink? Given we are submitting multiple ESG applications and need letters from multiple CoCs and Regional Networks this would help with the logistics.
Response: Yes it makes sense to use electronic signatures for this purpose. Electronic signature may not be used on any of the contract forms.

8. **Question: In one section of the RFR it states a job description is necessary if there is a position open. However elsewhere the RFP indicates resumes and job description should be submitted without clarifying that it is only necessary if there is an open position. Should we include a job description anyway even if there are no vacant positions?**
Response: You should include a job description for all proposed positions. If the individual to be funded is already within the organization, you should also submit the resume. Vacant positions obviously do not require a resume.

9. Question: In evaluating our HMIS participation for TPP, what number would be used to compare if we are meeting 100% HMIS participation? Is it the 114 tenancies we stated in our last ESG application would be preserved?
Response: We would be looking for a number which is within the ballpark of what it should be for the type of program, looking at the number contracted to be served.

10. Question: Who signs the Community Sign-Off form?
Response: Community Sign-Off Form must be signed by a local official authorized to act on behalf of the jurisdiction.

11. Question: What does the term "low threshold" shelter mean as used in the ESG RFR?
Response: The term is used in the RFR to mean Emergency shelters which are open to all homeless people who have no other place to go who can safely be admitted to the shelter without apparent risk to themselves or other residents. For purposes of this RFR low threshold shelters do not include shelters which require people to have specific characteristics to be admitted or require program participation as

a shelter eligibility requirement, other than compliance with basic health and safety rules and participation in housing search and placement activities.

12. Question: Is there a standard time measure of a specific number of days to be used for moving people rapidly into housing?
Response: DHCD expects to measure shelter length of stay at the beginning of the contract vs. the end of the contract to determine whether individuals were moved rapidly into housing.

13. Question: Will DHCD consider extending the deadline for specific areas?
Response: No, DHCD cannot allow one area a longer time to respond than another area.

14. Question: Can Rapid Rehousing serve both homeless individuals and chronically homeless individuals?
Response: Yes.

15. Question: Does every single household served by ESG have to meet the income requirement of no more than 30% of Area Median Income? Can we make exceptions?
Response: It is a HUD regulation that households must have income at or below 30% of AMI. No exceptions may be made to any HUD regulation.

16. Question: Does income and eligibility have to be re-evaluated for Rapid Rehousing or Prevention?
Response: Yes. Re-evaluation is required quarterly for Prevention and annually for Rapid Rehousing.

17. Question: What if a household's income changes in month two of assistance?
Response: Changes in income will only impact rental assistance during re-evaluations.

18. Question: How can I document homelessness status?
Response: See Appendix 5.

19. Question: The Interim Rule and the RFR both say a household which is doubled-up meets the At Risk criteria for prevention. Both documents also require documentation of a rental agreement. Doubled up households are often not known to a property owner and will not have such an agreement. What should a provider require?
Response: Each program participant receiving rental assistance must have a legally binding, written lease between the owner and the program participant for the rental unit, unless the assistance is solely for rental arrears. 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. The ESG Contractor must document the contents of the oral agreement between the participant and property owner. 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.

We understand this is going to be an obstacle for some households which are doubled-up, but the above is a HUD ESG regulatory requirement.

21. Question: Most individuals in our shelter have no furniture can our organization use moving cost assistance to provide basic furniture such as a bed and chair?
Response: Not unless we receive clarification from HUD that this permissible.

22. Question: One of the criteria for being At Risk of Homelessness is losing the right to occupy housing within 21 days of the participant's date of ESG application. DHCD is requiring a Summary Process Summons and Complaint as documentation of those criteria. Under MA state law wouldn't the equivalent documentation be a Notice to Quit?
Response: A Notice to Quit (NQ) in MA does not terminate occupancy. MA requires a court judgment to terminate occupancy. The NQ is really a notice to the tenant from the landlord that if the situation isn't corrected in 14 days the landlord may request a Summary Process Summons and Complaint to be delivered by a constable or sheriff. The Summary Process contains a trial date, maybe two weeks from the date of the Complaint. If the court finds for the landlord and grants no stay of execution, the tenant has ten (10) days to appeal from the date that the Clerk's Office enters judgment. On the eleventh (11th) day, the landlord can ask for an execution of the judgment. The landlord cannot evict the tenant without the assistance of a Constable or Sheriff. The execution, which is the document which authorizes the eviction, is addressed to a Constable of Sheriff. The Constable or Sheriff then has to give forty-eight (48) hour notice to the tenant before the actual eviction can take place. Clearly, the tenant does not lose the right to occupy the housing until the court makes its finding. Therefore since the Execution Order from the judgment may not allow 21 days, DHCD is requiring at least documentation that there is court involvement.

23. Question: The Interim Rule says that if an emergency shelter was funded in the previous 12 months it could be funded again even if it didn't meet HUD's definition of emergency shelter.
Response: HUD gives ESG grantees the right to use its own discretion about what to fund and we chose to follow the intent of the changes in the interim rule.

24. Question: My CoC requires individual shelters to use a bed register. ESG requires all HMIS standards be met. Does this mean I have to type all of the data into 2 different parts of HMIS?
Response: It depends on how the Bed Registry is set up in the system and how this ESG grant is funded (i.e., is there more than one grantee). You will have to work with your HMIS Lead and your CoC to ensure accurate and complete reporting.

25. Question: Tenancy Preservation Program serves both families and individuals. Are we going to have to pull out a sub-group of 80% families and 20% individuals in a separate HMIS program to meet the RFR requirements?
Response: TPPs should provide all TPP data rather than trying to separate out the ESG funded portion.

26. Question: Is TPP a separate application which does not impact the CoC even if they are requesting prevention?
Response: Yes this is correct.

27. Question: If we did not receive DHCD ESG last year, can we submit a data quality report for HPRP?
Response: Yes.

28. Question: How is "bed coverage" measured for non-shelter programs?
The number of people served is approximately what the number the organization was contracted to serve.

29. Question: Are data quality reports required for all sub contractors?
Response: Not by DHCD because DHCD requires that the ESG lead agency produce all of the required HMIS deliverables. DHCD strongly recommends, however, that the lead agency review the data quality reports of its planned subcontractors to determine whether the data quality is sufficient to meet its obligations. DHCD will have to terminate contracts for non-performance if the lead agency is unable to produce the required deliverables.

30. Question: If the single response from a CoC either doesn't meet the minimum requirements or is not determined to be a best value for the Commonwealth, what happens?
Response: DHCD would have several options depending on which requirement was not met and/or the reason the response was determined not to be a good value for the Commonwealth including: make no award for the CoC jurisdiction and redistribute the ESG funds; re-procure services for that geographic area; or negotiate changes with the respondent.

31. Question: Do ESG providers have 2 years to use their ESG funds?
Response: No. ESG providers for DHCD have annual contracts. Any unspent funds are de-obligated by DHCD and used for emergency shelter grant activities.

32. Question: Are shelters for victims of Domestic Violence eligible for funding under shelter support?
Response: Yes, if they have no other federal or state funds for the shelter beds or have significant over flow year round and do not require program participation of residents other than following basic health & safety rules and participating in housing search activities. However, the Interim rule clearly stipulates that if a shelter serves family households it cannot differentiate between family members based on sex or age.

33. Question: Under Shelter Support my organization is debating whether to apply for Triage & Assessment Services vs. unfunded beds, which would you recommend?
Response: Unfunded beds. This is a clearly eligible service under the guidelines and would be simpler to document for the organization. However, DHCD would be interested in seeing the results of the Triage & Assessment Services.

IV. RECORDKEEPING & REPORTING REQUIREMENTS

All DHCD ESG sub recipients must implement the following procedures to ensure that ESG funds are used in accordance with HUD requirements. In addition, each participant must have met the eligibility requirements and provided the HUD required documentation prior to receiving assistance paid for through ESG. Each participant must have an individual case record established and maintained which contains: case notes/records of contacts and services provided; initial evaluation; documentation of eligibility; copy of the participant's lease or rental agreement; documentation of financial assistance provided; re-evaluation if required; and follow-up information obtained to enable both DHCD and HUD to determine whether ESG requirements are being met.

The following procedures 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.

(a) **Homeless status.** DHCD ESG Contractors must maintain and follow these intake procedures to ensure compliance with the homeless definition in § 576.2 of the interim rule. These procedures require documentation at intake of the evidence relied upon to establish and verify homeless status.

(b) However, lack of third- party documentation must not prevent an individual or family from being immediately admitted to emergency shelter, or receiving services provided by a victim service provider. Records contained in an HMIS (or comparable database used by victim 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 HUD's homeless definition in § 576.2 of the interim rule, acceptable evidence includes a written observation by an outreach worker of the conditions where the individual or family was living, a written referral by another housing or service provider, or a certification by the individual or head of household seeking assistance.

(2) If the individual qualifies as homeless under paragraph (1) (iii) of the homeless definition in § 576.2, because he or she resided in an emergency shelter or place not meant for human habitation and is exiting an institution where he or she resided for 90 days or less, acceptable evidence includes the evidence described in paragraph (b) (1) of this section and one of the following:
(i) Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institution, stating the beginning and end dates of the time residing in the institution. All oral statements must be recorded by the intake worker; or

(ii) Where the evidence in paragraph (b) (2) (i) of this section is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described in paragraph (b) (2) (i) and a certification by the individual seeking assistance that states he or she is exiting or has just exited an institution where he or she resided for 90 days or less.

(3) If the individual or family qualifies as homeless under paragraph (2) of the homeless definition in § 576.2, because the individual or family will imminently lose their housing, documentation must include a Summary Process requiring the individual or family to appear in court within 21 days after the date of their application for homeless assistance;

(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, the statement can be documented by a written certification by the intake worker of his or her due diligence in attempting to obtain the owner or renter's verification and the written certification by the individual or head of household seeking assistance that his or her statement was true and complete;

(ii) Certification by the individual or head of household that no subsequent residence has been identified; and
(iii) Certification or other written documentation that the individual or family lacks the resources and support networks needed to obtain other permanent housing.

(4) If the individual or family qualifies as homeless under paragraph (3) of the homeless definition in § 576.2, because the individual or family does not otherwise qualify as homeless under the homeless definition but is an unaccompanied youth under 25 years of age, or homeless family with one or more children or youth, and is defined as homeless under another Federal statute or section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2)), the evidence must include:

(i) For paragraph (3)(i) of the homeless definition in § 576.2, certification of homeless status by the local private nonprofit organization or state or local governmental entity responsible for administering assistance under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), as applicable;

(ii) For paragraph (3)(ii) of the homeless definition in § 576.2, referral by a housing or service provider, written observation by an outreach worker, or certification by the homeless individual or head of household seeking assistance;

(iii) For paragraph (3)(iii) of the homeless definition in § 576.2, certification by the individual or head of household and any available supporting documentation that the individual or family moved two or more times during the 60-day period immediately preceding the date of application for homeless assistance, including: recorded statements or records obtained from each owner or renter of housing, provider of shelter or housing, or social worker, case worker, or other appropriate official of a hospital or institution in which the individual or family resided; or, where these statements or records are unobtainable, a written record of the intake worker's due diligence in attempting to obtain these statements or records. Where a move was due to the individual or family fleeing domestic violence, dating violence, sexual assault, or stalking, then the intake worker may alternatively obtain a written certification from the individual or head of household seeking assistance that they were fleeing that situation and that they resided at that address; and

(iv) For paragraph (3)(iv) of the homeless definition in § 576.2, written diagnosis from a professional who is licensed by the state to diagnose and treat that condition (or intake staff- recorded observation of disability that within 45 days of date of the application for assistance is confirmed by a professional who is licensed by the state to diagnose and treat that condition); employment records; department of corrections records; literacy, English proficiency tests; or other reasonable documentation of the conditions required under paragraph (3)(iv) of the homeless definition.

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

(c) At risk of homelessness status. For each individual or family who receives Emergency Solutions Grant (ESG) homelessness prevention assistance, the records must include the evidence relied upon to establish and verify the individual or family's "at risk of homelessness" status. This evidence must

include an intake and certification form that meets HUD specifications and is completed by the recipient or sub recipient. The evidence must also include:

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

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

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

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

(A) Source documents (e.g., notice of termination from employment, unemployment compensation statement, bank statement, health-care bill showing arrears, utility bill showing arrears);

(B) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., former employer, public administrator, relative) or the written certification by the recipient's or sub recipient's intake staff of the oral verification by the relevant third party that the applicant meets one or both of the criteria under paragraph (1) (ii) of the definition of "at risk of homelessness" in § 576.2; or

(C) To the extent that source documents and third-party verification are unobtainable, a written statement by the recipient's or sub recipient's intake staff describing the efforts taken to obtain the required evidence; and

(IV) The most reliable evidence available to show that the program participant meets one or more of the conditions under paragraph (1) (iii) of the definition of "at risk of homelessness" in § 576.2. Acceptable evidence includes:

(A) Source documents that evidence one or more of the conditions under paragraph (1) (iii) of the definition (e.g., eviction notice, notice of termination from employment, bank statement);

(B) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., former employer, owner, primary leaseholder, public administrator, hotel or motel manager) or the written certification by the recipient's or sub recipient's intake staff of the oral verification by the relevant third party that the applicant meets one or more of the criteria under paragraph (1) (iii) of the definition of "at risk of homelessness"; or

(C) To the extent that source documents and third-party verification are unobtainable, a written statement by the recipient's or sub recipient's intake staff that the staff person has visited the

applicant's residence and determined that the applicant meets one or more of the criteria under paragraph (1)(iii) of the definition or, if a visit is not practicable or relevant to the determination, a written statement by the recipient's or sub recipient's intake staff describing the efforts taken to obtain the required evidence; or

(2) If the program participant meets the criteria under paragraph (2) or (3) of the "at risk of homelessness" definition in § 576.2, certification of the child or youth's homeless status by the agency or organization responsible for administering assistance under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), as applicable.

(d) Determinations of ineligibility. For each individual and family determined ineligible to receive Emergency Solutions Grant (ESG) assistance, the record must include documentation of the reason for that determination.

(e) Annual income. For each program participant who receives homelessness prevention assistance, or who receives rapid re-housing assistance the following documentation of income must be maintained:
(1) Income evaluation form completed during the initial evaluation and any re-evaluations containing the minimum requirements specified by HUD and completed by the recipient or sub recipient; and

(2) Source documents for the assets held by the program participant and income received over the most recent period for which representative data is available before the date of the evaluation (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement);

(3) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or the written certification by the recipient's or sub recipient's intake staff of the oral verification by the relevant third party of the income the program participant received over the most recent period for which representative data is available; or

(4) To the extent that source documents and third party verification are unobtainable, the written certification by the program participant of the amount of income the program participant received for the most recent period representative of the income that the program participant is reasonably expected to receive over the 3-month period following the evaluation.

(f) Program participant records. In addition to evidence of homeless status or "at risk of homelessness" status, as applicable, records must be kept for each program participant that document:

(1) The services and assistance provided to that program participant, including, as applicable, the security deposit, rental assistance, and utility payments made on behalf of the program participant;

(2) Compliance with the applicable requirements for providing services and assistance to that program participant under the program components and eligible activities provisions at § 576.101 through § 576.106, the provision on determining eligibility and amount and type of assistance at § 576.401(a) and

(b), and the provision on using
Appropriate assistance and services at § 576.401(d) and (e); and

(3) Where applicable, compliance with the termination of assistance requirement in § 576.402.

(g) Centralized or coordinated assessment systems and procedures, if applicable

(h) Rental assistance agreements and payments. The records must include copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by program participants.

(i) Utility allowance. The records must document the monthly allowance for utilities (excluding telephone) used to determine compliance with the rent restriction.

(j) Shelter and housing standards. The records must include documentation of compliance with the shelter and housing standards in § 576.403, including inspection reports.

(k) Services and assistance provided. ESG Contractors must keep records of the types of essential services, rental assistance, and housing stabilization and relocation services provided and the amounts spent on these services and assistance. ESG Contractors must also keep records to demonstrate compliance with the match requirement, including records of the total program budget and sources of funds and expenditures from these funds.

(l) HMIS. The ESG Contractors must keep records of each ESG participant in HMIS, including intake and assessment outcome referral and follow-up data.

(m) Matching. ESG Contractors must keep records of the source and use of contributions made to satisfy the matching requirement in § 576.201. The records must indicate the particular fiscal year grant for which each matching contribution is counted. The records must show how the value placed on third-party, noncash contributions was derived. To the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocation of regular personnel costs.

(n) Homeless participation. The recipient must document its compliance with the homeless participation requirements under § 576.405.

(o) Other Federal requirements. The recipient and its sub recipients must document their compliance with the Federal requirements in § 576.407, as applicable, including:

(p) Records demonstrating compliance with the nondiscrimination and equal opportunity requirements under § 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 funds and the affirmative outreach requirements in § 576.407(b).

(q) Records demonstrating compliance with the uniform administrative requirements in 24 CFR parts 85

(for governments) and 24 CFR part 84 (for nonprofit organizations).

(r) Records demonstrating compliance with the environmental review requirements, including flood insurance requirements.

(s) Relocation. The records must include documentation of compliance with the displacement, relocation, and acquisition requirements in § 576.408, if applicable.

(t) Financial records.

(1)The recipient must retain supporting documentation for all costs charged to the ESG grant.

(2)The recipient and its sub recipients must keep documentation showing that ESG grant funds were spent on allowable costs in accordance with the requirements for eligible activities under § 576.101-§ 576.109 and the cost principles in OMB Circulars A–87 (2 CFR part 225) and A–122 (2 CFR part 230).

(3) The recipient and its sub recipients must retain records of the receipt and use of program income.

(4) The recipient must keep documentation of compliance with the expenditure limits in § 576.100 and the expenditure deadline in § 576.203.

(5) Confidentiality: DHCD will implement procedures to ensure:
(I) All records containing personally identifying information (as defined in HUD's standards for participation, data collection, and reporting in a local HMIS) of any individual or family who applies for and/or receives ESG assistance will be kept secure and confidential;
(ii) The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under the ESG will not be made public, except with written authorization of the person responsible for the operation of the shelter; and
(iii) The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the recipient or sub recipient and consistent with state and local laws regarding privacy and obligations of confidentiality.

(6) Period of record retention. All records pertaining to each fiscal year of ESG funds must be retained for the greater of 5 years or the period specified below. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records. 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;

(7) Access to records. (1) Federal government rights. Notwithstanding the confidentiality procedures established under paragraph (w) of this section, HUD, the HUD Office of the Inspector General, and the Comptroller General of the United States, or any of their authorized representatives, must have the right of access to all books, documents, papers, or other records of the recipient and its sub recipients that are pertinent to the ESG grant, in order to make audits, examinations, excerpts, and transcripts. These rights of access are not limited to the required retention period but last as long as the records are retained.

(8) Public rights. The recipient must provide citizens, public agencies, and other interested parties with reasonable access (consistent with state and local laws regarding privacy and obligations of confidentiality and the confidentiality requirements in this part) to records regarding any uses of ESG funds the recipient received during the preceding 5 years.
(aa) Reports. The recipient must collect and report data on its use of ESG funds in the Integrated Disbursement and Information System (IDIS) and other reporting systems, as specified by HUD. The recipient must also comply with the reporting requirements in 24 CFR parts 85 and 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.

Eligible activities in accordance with all ESG program requirements.

(9) If ESG Contractors fail to demonstrate to DHCD's and/or HUD's satisfaction that the activities were carried out in compliance with ESG program requirements, DHCD 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 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.
(i) Preparing and following a schedule of actions for carrying out activities affected by the noncompliance, including schedules, timetables, and milestones necessary to implement the affected activities;
(ii) Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;
(iii) Canceling or revising activities likely to be affected by the noncompliance, before expending ESG funds for the activities;
(iv) Reprogramming ESG funds that have not yet been expended from affected activities.
(v) Suspending disbursement of ESG funds for some or all activities;
(vi) Reducing or terminating the remaining grant of a sub recipient and reallocating those funds to other sub recipients; and
(vii) Making matching contributions before or as draws are made from the recipient's ESG grant.
(b) DHCD Sanctions: If an ESG contractor is unable to meet its outcome measurements for at least two consecutive months DHCD will take appropriate actions

Enforcement.

(a) HUD Performance reviews:
(1) HUD will review the performance of its ESG Grantees in carrying out its responsibilities under this part whenever determined necessary by HUD, but at least annually. In conducting performance reviews, HUD will rely primarily on information obtained from the records and reports from DHCD and, when appropriate, its ESG Contractors, as well as information from onsite monitoring, audit reports, and information from IDIS and HMIS. Where applicable, HUD may also consider relevant information pertaining to DHCD'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 DHCD.

(2) If HUD determines preliminarily that DHCD or one of its ESG Contractors has not complied with an ESG program requirement, HUD will give DHCD notice of this determination and an opportunity to demonstrate, within the time prescribed by HUD and on the basis of substantial facts and data that the recipient has complied with Emergency Solutions Grant (ESG) requirements.

(b) DHCD Performance reviews:
(1) DHCD will review the performance of each of its ESG Contractors in carrying out its responsibilities under this part whenever determined necessary by DHCD, but at least annually. In conducting performance reviews, DHCD will rely primarily on information obtained from the ESG Contractor Reports, HMIS data and information from onsite monitoring, audit reports, and fiscal information. Where applicable, DHCD may also consider relevant information pertaining to an ESG Contractor'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 ESG Contractors.

(2) If DHCD determines preliminarily that one of its ESG Contractors has not complied with an ESG program requirement, DHCD will provide written notice to the organization's Executive Director of this determination and provide an opportunity for the program to demonstrate, within the time prescribed by DHCD and on the basis of substantial facts and data, that the recipient has complied with Emergency Solutions Grant (ESG) requirements.