

STATE OF ALABAMA
EMERGENCY SOLUTIONS GRANTS (ESG)
PROGRAM
POLICIES AND PROCEDURES



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PROGRAM OVERVIEW

The Emergency Shelter Grants (ESG) Program was originally established by the Homeless Housing Act of 1986, in response to the growing issue of homelessness in the United States. In 1987, the ESG Program was incorporated into Subtitle B of Title IV of the Stewart B. McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378). On May 20, 2009, President Barack Obama signed the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009. The HEARTH Act amended and reauthorized the McKinney-Vento Homeless Assistance Act.

An interim rule was published in the Federal Register on December 5, 2011. This interim rule revised the regulations for the Emergency Shelter Grants Program by establishing the regulations for the Emergency Solutions Grants (ESG) Program. The Emergency Solutions Grants Program replaces the Emergency Shelter Grants Program. The change in the program's name, from Emergency Shelter Grants to Emergency Solutions Grants, reflects the change in the program's focus from addressing the needs of homeless persons in shelters to assisting people to quickly regain stability in permanent housing after experiencing a housing crisis or an episode of homelessness.

The ESG Program is funded by the U.S. Department of Housing and Urban Development (HUD). The State's program is administered by the Alabama Department of Economic and Community Affairs (ADECA). ESG funds can be used to: upgrade existing homeless facilities and domestic abuse shelters; help with operating costs of such facilities; engage homeless persons living on the streets; provide essential services to homeless persons in shelters; help prevent homelessness; and rapidly re-house homeless persons. Federal program regulations can be found at 24 CFR Part 576. ADECA's ESG Policies and Procedures are modeled after the Federal program regulations.

ESG funds may be used for the following five activities: street outreach, emergency shelter, homelessness prevention, rapid re-housing, Homeless Management Information System (HMIS), and administrative costs. Eligible program participants are those individuals or families who are homeless or at risk of homelessness, as defined by HUD.

Subrecipient Status

An entity applying for ESG funds may not be named as a second-tier subrecipient in another entity's application for ESG funds. Any entity that submits an application for ESG funds and is named as a second-tier subrecipient in another entity's application will be ineligible for funding as a subrecipient. An entity may be named as a second-tier subrecipient in multiple applications without affecting the applicants' eligibility.

Definitions

At risk of homelessness:

- A. An individual or family who:
- (1) Has an annual income below 30 percent (30%) of median family income for the area, as determined by HUD;
 - (2) 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 (A) of the “homeless” definition in this section; and
 - (3) Meets one of the following conditions:
 - (a) Has moved because of economic reasons two (2) or more times during the sixty (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 twenty-one (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 (2) persons or lives in a larger housing unit in which there reside more than 1.5 persons 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 ADECA’s approved consolidated plan;
- B. 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

- C. 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 (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Consolidated plan:

A plan prepared in accordance with 24 CFR part 91. An approved consolidated plan means a consolidated plan that has been approved by HUD in accordance with 24 CFR part 91.

Continuum of Care:

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.

Emergency shelter:

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 grant funded as an emergency shelter under a Fiscal Year 2010 Emergency Shelter Grants Program may continue to be funded under ESG. Facilities operating as emergency shelters must be insured.

HEARTH Act Emergency Services Grant (HESG):

The Emergency Solutions Grants Program as established by the HEARTH Act. HESG and ESG are used interchangeably throughout this document.

Homeless:

- A. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- (1) 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;
 - (2) 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
 - (3) An individual who is exiting an institution where he or she resided for ninety (90) days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- B. An individual or family who will imminently lose their primary nighttime residence, provided that:
- (1) The primary nighttime residence will be lost within fourteen (14) days of the date of application for homeless assistance;
 - (2) No subsequent residence has been identified; and
 - (3) 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;
- C. Unaccompanied youth under twenty-five (25) years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- (1) 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);
 - (2) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the sixty (60) days immediately preceding the date of application for homeless assistance;

- (3) 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
- (4) 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

D. Any individual or family who:

- (1) 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;
- (2) Has no other residence; and
- (3) Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

Homeless Management Information System (HMIS):

The information system designated by the Continuum of Care to comply with HUD's data collection, management, and reporting standards and used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness.

Letter of Conditional Commitment:

The letter to the subrecipient from ADECA confirming approval of the subrecipient's application for funding and setting forth requirements which shall be satisfied by the subrecipient prior to expending funds obligated through the ADECA HESG Agreement.

Private nonprofit organization:

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.

Program income:

As defined in 2 CFR Part 200.1, program income includes any amount generated by a supported activity or earned as a result of the Federal award during the period of performance. Program income also includes all fees collected as a condition of service.

Program participant:

An individual or family who is assisted under the HESG program.

Second-tier subrecipient:

Each entity with which the subrecipient contracts for work to be performed or services to be provided as a part of its ADECA HESG grant. Second-tier subrecipients must be private nonprofit organizations.

Subrecipient:

Each entity designated as a recipient for grant assistance in the Letter of Conditional Commitment and signing the acceptance provisions as subrecipient under the ADECA HESG Agreement.

Unit of local government:

A general-purpose political subdivision of a State including any city, county, town, township, parish, or village.

Victim service provider:

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.

ELIGIBLE ACTIVITIES

Street Outreach

ESG funds may be used for costs of providing essential services necessary to reach out to unsheltered homeless people; connect them with emergency shelter, housing, or critical services; and provide urgent, nonfacility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. Here unsheltered homeless people means 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.

Eligible costs include:

- A. Engagement – Activities to locate, identify, and build relationships with unsheltered homeless persons in an effort to provide intervention,

immediate support, and connections with mainstream social services, homeless assistance programs, and/or housing programs.

These activities include making an initial assessment of needs and eligibility; providing crisis counseling; addressing urgent physical needs (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. Cell phone costs of outreach workers during the performance of these activities are eligible costs.

- B. Case Management – The cost of assessing service and housing needs, arranging, coordinating, and monitoring the delivery of individualized services in order to meet the needs of the program participants.

Eligible activities and services include: using the centralized or coordinated assessment system developed by the local continuum of care; conducting the initial evaluation, 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.

- C. Emergency Health Services – Eligible costs include the direct outpatient treatment of medical conditions. Services are provided by licensed medical professionals operating in community-based settings and other places where unsheltered homeless persons reside.

ESG funds may be used only to the extent that other appropriate health services are unavailable or inaccessible in the area. Subrecipient must provide documentation of unavailability or inaccessibility of other appropriate health services. Provide documentation of licensure for emergency health services to be paid or reimbursed with ESG funds or used as match.

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.

- D. Emergency Mental Health Services – Eligible costs include the direct outpatient treatment of mental health conditions by licensed medical

professionals operating in community-based settings, including parks, streets, and other places where unsheltered homeless persons reside.

ESG funds may be used only to the extent that other appropriate mental health services are unavailable or inaccessible within the community. Provide documentation of unavailability or inaccessibility of other appropriate emergency mental health services. Provide documentation of licensure for emergency mental health services to be paid or reimbursed with ESG funds or used as match.

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.

- E. Transportation – Eligible costs include travel by social workers, medical professionals, outreach workers, or other service providers when the travel takes place during the provision of eligible street outreach services.

Eligible costs include:

- (1) The cost of a program participant's travel on public transportation;
 - (2) Mileage allowance for service workers to visit program participants, if service workers use their own vehicles;
 - (3) The cost of purchasing or leasing a vehicle for the subrecipient or second-tier 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
 - (4) The travel costs of subrecipient or second-tier subrecipient staff to accompany or assist program participants to use public transportation.
- F. Services to Special Populations – Eligible costs include 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 (1) through (5) of this section. The term *victim services* means 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.

Minimum Period of Use – The subrecipient must provide services to homeless individuals and families for at least the period during which ESG funds are provided.

Maintenance of Effort – If the subrecipient is a unit of local government, its ESG funds cannot be used to replace funds the local government provided for street outreach services during the immediately preceding 12-month period, unless HUD determines that the unit of local government is in a severe financial deficit. The unit of local government subrecipient should notify ADECA to initiate the HUD determination of severe financial deficit process.

The unit of local government must submit documentation of any funding it has given to agencies for street outreach services with the ESG application for funding.

Emergency Shelter

The types of assistance include providing essential services to homeless individuals or families in emergency shelters, operating costs for emergency shelters, and costs associated with renovating buildings to be used as emergency shelter for homeless individuals and families.

Eligible costs include:

- A. Essential services – ESG funds may be used to provide essential services to individuals and families who are in an emergency shelter, as follows:
 - (1) Case management – The costs of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant are eligible. Services and activities include:
 - (a) Using the centralized or coordinated assessment system developed by the local continuum of care;
 - (b) Conducting the initial evaluation, 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.
- (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 thirteen (13), unless they are disabled. Disabled children must be under the age of eighteen (18). The child-care center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible. Provide documentation of licensure for any childcare costs to be paid or reimbursed with ESG funds or used as match.
- (3) Education services – The costs of improving knowledge and basic educational skills are eligible when they are necessary for the program participant to obtain and maintain housing. 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. This includes 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 – The direct outpatient treatment of medical conditions is eligible. The treatment must be provided by licensed medical professionals. 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 noncosmetic dental care.

ESG funds may be used only to the extent that other appropriate health services are unavailable within the community. Provide documentation of unavailability of other appropriate health services. Provide documentation of licensure for outpatient health services to be paid or reimbursed with ESG funds or used as match.

(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. Provide documentation of licensure for legal services to be paid or reimbursed with ESG funds or used as match.
- (b) ESG funds may be used only for these services to the extent that other appropriate legal services are unavailable or inaccessible within the community. Provide documentation of unavailability or inaccessibility of other appropriate legal services.
- (c) Eligible subject matters include: 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 client 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) Ineligible costs include but are not limited to the following: legal services for immigration and citizenship matters; issues relating to mortgages; retainer fee arrangements; and contingency fee arrangements.

(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. Provide documentation of licensure for mental health services to be paid or reimbursed with ESG or used as match.

(b) ESG funds may only be used for these services to the extent that other appropriate mental health services are unavailable or inaccessible within the community. Provide documentation of unavailability or inaccessibility of other appropriate mental health services.

(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 may 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. Provide documentation of licensure or certification for substance abuse treatment services to be paid or reimbursed with ESG or used as match.
- (b) ESG funds may only be used for these services to the extent that other appropriate substance abuse treatment services are unavailable or inaccessible within the community. Provide documentation of unavailability or inaccessibility of other appropriate substance abuse treatment services.
- (c) Eligible treatment consists of client intake and assessment, and outpatient treatment for up to thirty (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 purchasing or leasing a vehicle for the subrecipient or second-tier 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 or second-tier subrecipient staff to accompany or assist program participants to use public transportation.

(11) Services for special populations – ESG 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(10) of this section. The term *victim services* means 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.

- B. 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.
- C. Shelter operations – Eligible costs are the costs of maintenance (including minor or routine repairs), 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 may also include a hotel or motel voucher for that family or individual. The subrecipient must provide documentation that no appropriate emergency shelter was available if hotel/motel costs will be paid or reimbursed with ESG or used as match.
- D. 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 grant assisted with ESG 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.

Prohibition against involuntary family separation – The age of a child under age eighteen (18) must not be used as a basis for denying any family's admission to an emergency shelter that uses ESG funding or services and provides shelter to families with children under age eighteen (18).

Minimum period of use:

- A. Renovated buildings – Each building renovated with ESG funds must be maintained as a shelter for homeless individuals and families for not less

than a period of three (3) or ten (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 ten (10) years, required for major rehabilitation and conversion, must be enforced by a recorded deed, or use restriction. Submit a copy of the recorded deed or use restriction with the first request for payment for the activity.

- (1) Major rehabilitation – If the rehabilitation cost of an emergency shelter exceeds seventy-five percent (75%) of the value of the building before rehabilitation, the minimum period of use is ten (10) years.
- (2) Conversion – If the cost to convert a building into an emergency shelter exceeds 75 percent (75%) of the value of the building after conversion, the minimum period of use is ten (10) years. (3) Renovation other than major rehabilitation or conversion – In all other cases where ESG funds are used for renovation, the minimum period of use is three (3) years.

Where ESG funds are used for major rehabilitation, renovation, or conversion, the subrecipient must submit a copy of the appraisal and all associated cost estimates with the first request for payment for the activity. A certification of building use and the number of persons served each year must be submitted annually by April 15 throughout the required period of use.

- B. Essential services and shelter operations – Where the subrecipient or second-tier subrecipient uses ESG funds solely for essential services or shelter operations, the subrecipient or second-tier subrecipient must provide services or shelter to homeless individuals and families at least for the period during which the ESG funds are provided. The subrecipient or second-tier 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 or second-tier subrecipient originally provided the services or shelter.

Maintenance of Effort – If the subrecipient is a unit of local government, its ESG funds cannot be used to replace funds the local government provided for emergency shelter services during the immediately preceding 12-month period, unless HUD determines

that the unit of local government is in a severe financial deficit. The unit of local government subrecipient should notify ADECA to initiate the HUD determination of severe financial deficit process.

The unit of local government must submit documentation of any funding it has given to agencies for emergency shelter services with the ESG application for funding.

Certification of Local Government Approval – When private nonprofit organizations (acting as the subrecipient or the second-tier subrecipient) will provide emergency shelter activities (*even if there are no emergency shelter facilities in the service area*), the subrecipient must submit a completed “Certification of Local Government Approval for Nonprofit Organizations Receiving ESG Funds from State Grantees” form to ADECA with the startup documents requested in the Letter of Conditional Commitment. This form must be signed by the chief elected official of the unit of local government where the emergency shelter facility is located, or the emergency shelter activities will take place.

Homelessness Prevention

ESG funds may be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance necessary to prevent an individual or family from moving into an emergency shelter or another place described in paragraph (A) of the “homeless” definition. This assistance, referred to as homelessness prevention, may be provided to individuals and families who meet the criteria under the “at risk of homelessness” definition, or who meet the criteria in paragraph (B), (C), or (D) of the “homeless” definition and have an annual income below 30 percent (30%) 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, the *Short-term and Medium-term Rental Assistance* requirements, the *Coordination Requirements*, and with the *Written Standards* requirements described herein.

Rapid Re-Housing

ESG funds may be used to provide 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, may be provided to program participants who meet the criteria under paragraph (A) of the “homeless” definition or who meet the criteria under paragraph (D) of the “homeless” definition and live in an emergency shelter or other place described in paragraph (A) of the “homeless” definition. The rapid re-housing assistance must be provided in

accordance with the *Housing Relocation and Stabilization Services* requirements, the *Short-term and Medium-term Rental Assistance* requirements, the *Coordination Requirements*, and with the *Written Standards* requirements described herein.

Housing Relocation and Stabilization Services

- A. Financial assistance costs – Subject to the general conditions under *Homelessness Prevention and Rapid Re-Housing*, ESG funds may be used to pay housing owners, utility companies, and other third parties for the following costs:
- (1) Rental application fees – ESG funds may pay for the rental housing application fee that is charged by the owner to all applicants.
 - (2) Security deposits – ESG funds may pay for a security deposit that is equal to no more than two (2) months' rent.
 - (3) Last month's rent – If necessary to obtain housing for a program participant, the last month's rent may be paid from ESG 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 twenty-four (24) months during any 3-year period.
 - (4) Utility deposits – ESG funds may pay for a standard utility deposit required by the utility company for all customers for the utilities listed in paragraph (5) of this section.
 - (5) Utility payments – ESG funds may pay for up to twenty-four (24) months of utility payments per program participant, per service, including up to six (6) months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may 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 twenty-four (24) months of utility assistance within any 3-year period.
 - (6) Moving costs – ESG funds may 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 three (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.

(7) If a program participant receiving short- or medium-term rental assistance meets the conditions for an emergency transfer under 24 CFR 5.2005(e), ESG funds may be used to pay amounts owed for breaking a lease to effect an emergency transfer. These costs are not subject to the 24-month limit on rental assistance.

B. Services costs – Subject to the general restrictions under *Homelessness Prevention and Rapid Re-Housing*, ESG funds may 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:

(a) Assessment of housing barriers, needs, and preferences;

(b) Development of an action plan for locating housing;

(c) Housing search;

(d) Outreach to and negotiation with owners;

(e) Assistance with submitting rental applications and understanding leases;

(f) Assessment of housing for compliance with ESG requirements for habitability, lead-based paint, and rent reasonableness;

(g) Assistance with obtaining utilities and making moving arrangements; and

(h) Tenant counseling.

(2) Housing stability case management – ESG funds may be used to pay the costs 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 thirty (30) days during the period the program participant is seeking permanent housing and cannot exceed twenty-four (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 to evaluate individuals and families applying for or receiving homelessness prevention or rapid re-housing assistance;
 - (b) Conducting the initial evaluation required under *Evaluations*, 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 *Re-evaluations*.
- (3) Mediation – ESG funds may 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 funds may pay for legal services, as set forth in *Emergency Shelter (A)(6)*, 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 funds may pay for credit counseling and other services 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.

Maximum amounts and periods of assistance – The subrecipient may set a maximum dollar amount that a program participant may receive for each type of financial

assistance under paragraph (A) of this section. The subrecipient may also set a maximum period for which a program participant may 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 may receive the services under paragraph (B) of this section must not exceed twenty-four (24) 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.

The program participants' files should document the type of service provided and the length of service provision for each individual service received. Any caps placed on the amount and period of assistance must be considerate of the amount of assistance required for the program participants to obtain and maintain housing stability.

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 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), during the period of time covered by the URA payments.

Housing Counseling - Housing counseling, as defined in 24 CFR 5.100, that is funded with or provided in connection with ESG funds must be carried out in accordance with 24 CFR 5.111. When recipients or subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of housing counseling, as defined in 24 CFR 5.100, and therefore are not required to be carried out in accordance with the certification requirements of 24 CFR 5.111.

Short-term and Medium-term Rental Assistance

A. General provisions – Subject to the general conditions under *Homelessness Prevention and Rapid Re-Housing*, the subrecipient or second-tier subrecipient may provide a program participant with up to twenty-four (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. The program participants' files should document the types of assistance provided and the length of service provision.

(1) Short-term rental assistance is assistance for up to three (3) months of rent.

(2) Medium-term rental assistance is assistance for more than three (3) months but not more than twenty-four (24) months of rent.

- (3) Payment of rental arrears consists of a one-time payment for up to six (6) months of rent in arrears, including any late fees on those arrears.
 - (4) Rental assistance may be tenant-based only, as set forth in paragraph (H) of this section.
- B. Discretion to set caps and conditions – Subject to the requirements of this section, the subrecipient may set a maximum amount or percentage of rental assistance that a program participant may receive, a maximum number of months that a program participant may receive rental assistance, or a maximum number of times that a program participant may 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 grant-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:
- (1) Rental assistance cannot be provided unless the rent does not exceed the Fair Market Rent 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.
 - (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 or second-tier subrecipient may make rental assistance payments only to an owner with whom the subrecipient or second-tier 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 or second-tier 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. Each rental assistance agreement must include all protections that apply to tenants and applicants under 24 CFR part 5, subpart L, as supplemented by 576.409, except for the emergency transfer plan requirements under 24 CFR 5.2005(e) and 576.409(d). If the housing is not assisted under another “covered housing program”, as defined in 24 CFR 5.2003, the agreement may provide that the owner's obligations under 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), expire at the end of the rental assistance period.

- F. Late payments – The subrecipient or second-tier 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 or second-tier subrecipient is solely responsible for paying late payment penalties that it incurs with non-ESG 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 grant-based rental assistance under paragraph (i) of this section, the lease must have an initial term of 1 year. Each lease must include a lease provision or incorporate a lease addendum that includes all requirements that apply to tenants, the owner or lease under 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), as supplemented by 24 CFR 576.409, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). If the housing is not assisted under another “covered housing program,” as defined in 24 CFR 5.2003, the lease provision or lease addendum may be written to expire at the end of the rental assistance period.

- H. Tenant-based rental assistance:
 - (1) A program participant who receives tenant-based rental assistance may 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 or second-tier subrecipient may 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:
 - (a) The program participant moves out of the housing unit for which the program participant has a lease;
 - (b) The lease terminates and is not renewed; or
 - (c) The program participant becomes ineligible to receive ESG rental assistance.
- I. Grant-based rental assistance - If the recipient or subrecipient identifies a permanent housing unit that meets ESG requirements and becomes available before a program participant is identified to lease the unit, the recipient or subrecipient may 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") may only be occupied by program participants, except as provided under paragraph (I)(4) of this section.
 - (2) The recipient or 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 recipient or 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 recipient or 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 recipient or 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 recipient or 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 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 recipient or subrecipient commit ESG funds to be expended beyond the expenditure deadline in the "Obligation of Funds" section of this document or commit funds for a future ESG 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.

Homeless Management Information System (HMIS)

The second-tier subrecipient and the subrecipient, as applicable, must collect and report data on their ESG program participants in HMIS or a comparable database.

The subrecipient may use up to five percent (5%) of its ESG grant for the payment of HMIS costs related to the data collection and reporting of ESG activities. Activities funded under this section must comply with HUD's standards on participation, data collection, and reporting under a local HMIS.

Eligible costs:

- A. The subrecipient or second-tier subrecipient may use ESG funds to pay the costs of contributing data to the HMIS designated by the Continuum of Care for the area, including the costs of:
 - (1) Purchasing or leasing computer hardware;

- (2) Purchasing software or software licenses;
 - (3) Purchasing or leasing equipment, including telephones, fax machines, and furniture;
 - (4) Obtaining technical support;
 - (5) Leasing office space;
 - (6) Paying charges for electricity, gas, water, phone service, and high-speed data transmission necessary to operate or contribute data to the HMIS;
 - (7) 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;
 - (8) 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;
 - (9) Paying staff travel costs to conduct intake; and
 - (10) Paying participation fees charged by the HMIS Lead, if the subrecipient or second-tier subrecipient is not the HMIS Lead. The HMIS Lead is the entity designated by the Continuum of Care to operate the area's HMIS.
- B. If the subrecipient is a victim services provider or a legal services provider, it may use ESG funds to establish and operate a comparable database that collects client-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.

Administration

The subrecipient may use up to 4 percent (4%) of its ESG grant for the payment of its administrative costs related to the planning and execution of ESG activities. This does not include staff and overhead costs directly related to carrying out eligible activities because those costs are eligible as part of those activities. Eligible administrative costs include:

- A. General management, oversight, and coordination. Costs of overall program management, coordination, monitoring, and evaluation are eligible. These costs include, but are not limited to, necessary expenditures for the following:
 - (1) Salaries, wages, and related costs of the subrecipient's staff engaged in program administration. In charging costs to this category, the subrecipient may either include the entire salary, wages, and related costs allocable to the program of each person whose *primary* responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. The subrecipient may use only one of these methods for each fiscal year grant. Program administration assignments include the following:
 - (a) Preparing program budgets and schedules, and amendments to those budgets and schedules;
 - (b) Developing systems for assuring compliance with program requirements;
 - (c) Developing interagency agreements and agreements with second-tier subrecipients and contractors to carry out program activities;
 - (d) Monitoring program activities for progress and compliance with program requirements;
 - (e) Preparing reports and other documents directly related to the program for submission to ADECA;
 - (f) Coordinating the resolution of audit and monitoring findings;
 - (g) Evaluating program results against stated objectives; and

- (h) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraph (A)(1)(a) through (g) of this section.
 - (2) Travel costs incurred for monitoring of second-tier subrecipients;
 - (3) Administrative services performed under third-party contracts or agreements, including general legal services, accounting services, and audit services; and
 - (4) Other costs for goods and services required for administration of the program, including rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.
- B. Training on ESG requirements – Costs of providing training on ESG requirements and attending HUD-sponsored trainings or trainings provided by ADECA.
 - C. Environmental review – Costs of carrying out the environmental review responsibilities under *Other Federal Requirements*. The environmental review process only applies to subrecipients that are units of local government.

Indirect Costs

ESG grant funds may be used to pay indirect costs in accordance 2 CFR Part 200, as applicable. ADECA will not negotiate indirect cost rates with subrecipients but will accept a federally negotiated indirect cost rate or the 10% de minimis rate of the modified total direct cost (MTDC) as defined in 2 CFR 200.68. Indirect costs may be allocated to each eligible activity so long as that allocation is consistent with an indirect cost rate proposal developed in accordance with 2 CFR Part 200, subpart E, as applicable. The indirect costs charged to an activity subject to an expenditure limit must be added to the direct costs charged for that activity when determining the total costs subject to the expenditure limit. If indirect costs will be charged to the ESG program, a copy of the indirect cost rate proposal must be submitted to ADECA. If requesting the 10% de minimis rate, subrecipients must submit a certification that the entity has never received a federally approved indirect cost rate.

Local/Matching Funds

Receipt of ESG funds requires a dollar-for-dollar match commitment. Match may be provided with cash or in-kind services. Local match must be applied to ESG-eligible activities. While second-tier subrecipients may provide matching funds, the subrecipient is ultimately responsible for meeting the local match requirement. The subrecipient may request a match waiver when cases of extreme need can be documented. Matching

contributions may be obtained from any source, including any federal source other than the ESG program, as well as state, local, and private sources.

Stipulations regarding matching funds from federal sources:

- A. The subrecipient must ensure the laws governing any funds to be used as matching contributions do not prohibit those funds from being used to match ESG funds.
- B. If ESG funds are used to satisfy the matching requirements of another federal program, then funding from that program may not be used to satisfy the matching requirements under this section.

Requirements for matching funds:

- A. In order to meet the matching requirement, the matching contributions must meet all requirements that apply to the ESG funds provided by ADECA.
- B. The matching contributions must be applied after the date that ADECA signs the grant agreement.
- C. To count toward the required match for the subrecipient's fiscal year grant, cash contributions must be expended within the expenditure deadline identified in the HESG Agreement, and noncash contributions must be made within the expenditure deadline.
- D. Contributions used to match a previous ESG grant may not be used to match a subsequent ESG grant.
- E. Contributions that have been or will be counted as satisfying a matching requirement of another federal grant or award may not count as satisfying the matching requirement of this section.

The matching requirement may be met by one or both of the following:

- A. Cash contributions – Cash expended for allowable costs, as defined in 2 CFR Part 200, of the subrecipient or second-tier subrecipient.
- B. Noncash contributions – The value of any real property, equipment, goods, or services contributed to the subrecipient's or second-tier subrecipient's ESG program, provided that if the subrecipient or second-tier subrecipient had to pay for them with grant funds, the costs would have been allowable. Noncash contributions may also include the purchase value of any donated building.

Calculating the amount of noncash contributions:

- A. To determine the value of any donated material or building, or of any lease, the subrecipient or second-tier subrecipient must use a method reasonably calculated to establish the fair market value. The value of space owned by the agency may not be billed to the ESG grant or used as local match.
- B. Services provided by individuals must be valued at rates consistent with those ordinarily paid for similar work in the subrecipient's or second-tier subrecipient's organization. If the subrecipient or second-tier subrecipient does not have employees performing similar work, the rates must be consistent with those ordinarily paid by other employers for similar work in the same labor market. If no individuals perform similar work in the local labor market, the federal minimum wage should be used.
- C. Some noncash contributions are real property, equipment, goods, or services that, if the subrecipient or second-tier subrecipient had to pay for them with grant funds, the payments would have been indirect costs. Matching credit for these contributions must be given only if the subrecipient or second-tier subrecipient has established, along with its regular indirect cost rate, a special rate for allocating to individual grants or programs the value of those contributions. In such cases, copies of the regular indirect cost rate and the special rate for allocating value to contributions must be submitted to ADECA.

Costs paid by program income shall count toward meeting the subrecipient's matching requirements, provided the costs are eligible ESG costs that supplement the subrecipient's ESG program.

Obligation of Funds

Subrecipients may contract with second-tier subrecipients to carry out eligible ESG activities. If a subrecipient will contract its ESG funds, the subrecipient must obligate all of those funds, with the exception of administration funds, to second-tier subrecipients within one hundred and twenty (120) days after ADECA obligates its funds to the subrecipient. Administration funds must be retained at the level of the subrecipient.

Expenditure of Funds

For the purposes of this section, expenditure is defined as an actual cash disbursement for a direct charge for a good, service, or indirect cost or the accrual of a direct charge for a good, service, or indirect cost. The subrecipient must submit a request for payment from each year's grant not less than once per quarter. All of the subrecipient's grant must be expended for eligible activity costs within the timeline established in the ADECA HESG Agreement. In addition, the rate of expenditures should follow the

Schedule submitted with the startup documents requested in the Letter of Conditional Commitment, or the revised Schedule, as applicable.

Requests for Payment

The first request for payment should not be submitted until the subrecipient is notified that it may begin to request reimbursement. Subrecipients must submit requests for payment at least once per quarter. Only one request for payment may be submitted during each month without prior approval from ADECA. During the month of September, ADECA accounting staff must process special year-end reports. Therefore, a deadline for submitting requests for payment has been established. Documentation for requests for payment to be paid in September should be received by the second week of August. Where requests for payment are received after the second week of August, payment may not be received until after October 1.

A Second-tier Subrecipient Expenditure Attachment must be submitted for each second-tier subrecipient when a Subrecipient Request for Payment is submitted. A summary of expenditures must be submitted with each second-tier subrecipient Expenditure Attachment when reimbursement is requested, or matching funds are applied. This summary should list all individual expenses for both ESG and match which total the amounts listed on the Second-tier Subrecipient Expenditure Attachment.

Supporting documentation for eligible expenditures of ESG and local match funds must be submitted with the first request for payment in each budgeted activity. Supporting documentation may be requested for subsequent requests. Matching funds should be applied proportionately to the amount of ESG funds requested by the subrecipient.

Services provided (with both ESG and matching funds) should be easily identifiable. If the service provided is not readily identifiable by the vendor's name, it will be necessary to notate the service provided on the invoice. If the amount requested for a service differs from the total amount of the invoice, it will be necessary to provide an explanation for the difference. If the type of service provided and/or the cost (for both ESG and match expenditures) cannot be determined, the costs will be deemed questionable and the subrecipient will be asked to submit additional documentation. The Subrecipient Request for Payment will not be processed until acceptable supporting documentation is received.

If acceptable documentation is not received within one (1) week of ADECA's request, it will be necessary to resubmit the Subrecipient Request for Payment (showing a recent date for the signature) along with the acceptable documentation.

A Subrecipient's request for payment must contain the following supporting documentation:

- An individual ADECA ESG Invoice Documentation Cover stating the expenditures for the eligible activities for which payment is requested;

- A confidential data list of program participants served downloaded from the HMIS or other comparable database;
- For requests related to Homelessness Prevention and/or Rapid Re-Housing activities, a Prevention/Re-Housing Documentation Checklist.

ADECA shall maintain the submitted documentation/information in each ESG Program Subrecipient's program file.

Procurement

All goods and services purchased by subrecipients and second-tier subrecipients under the ESG award must follow the Procurement Standards set forth at 2 CFR Parts 200.318 – 200.326 and/or the State Bid Law. Subrecipients should contact ADECA prior to utilizing the noncompetitive proposal (sole source) method of procurement. Supporting documentation must be maintained locally in program files.

Travel

Reimbursement for travel may be based on the subrecipient's written travel policy. The travel policy must be consistent with federal travel guidelines and applied consistently for federal and nonfederal activities. Reimbursement will only be allowed for travel to conduct eligible activities within the scope of the ESG program.

Payment to Second-tier Subrecipients

If the subrecipient is a unit of local government, it must pay each second-tier subrecipient within thirty (30) days after receiving the complete pay request.

Formal Amendments

Certain changes within the scope of the ESG grant will require formal amendments approved by ADECA. Formal amendments are required when:

- A. An activity will be added to or removed from the subrecipient's budget; or
- B. A second-tier subrecipient will be added to or removed from the subrecipient's program.
- C. There is any change to the terms of the SUBAWARD AGREEMENT.

When a formal amendment is necessary, the subrecipient must submit a letter to the director of ADECA requesting the amendment and explaining the need for the amendment. The letter should be signed by the chief elected official of unit of local government subrecipient or the executive director or equivalent of the nonprofit organization subrecipient. The unit of local government subrecipient must submit a copy of the resolution from the city/town council or county commission authorizing the

change. Revised budgets for the subrecipient and each second-tier subrecipient must be submitted with the formal amendment request.

Extension Requests

Subrecipients who determine a need to extend their Grant Period of Performance must submit a letter requesting an extension. The letter should be signed by the chief elected official of the unit of local government subrecipient or the executive director or equivalent of the nonprofit organization subrecipient. Requests for extensions must be received by ADECA no less than two (2) months prior to the end of the original Period of Performance. Requests for extensions received after this deadline will not be considered. Any extensions are subject to the final approval from the Director. Extensions will take effect only upon the execution of a written grant amendment signed by both parties.

Deobligations

Approximately fifty percent (50%) of the Subrecipient's award is to be drawn down and expended within twelve (12) months following the date of the grant agreement. At least seventy percent (70%) of the Subrecipient's award is to be drawn down and expended within sixteen (16) months following the date of the grant agreement. If the Subrecipient will not draw down and expend one hundred percent (100%) of the funds awarded to the Subrecipient, then all unexpended funds must be deobligated. ADECA is to be notified by the Subrecipient immediately, but no later than six (6) months prior to the end of the period of performance, that such deobligation is necessary. At that time, ADECA may initiate the deobligation process to reallocate the funds to other Subrecipients.

Coordination Requirements

Coordination with Other Services Targeted to Homeless Persons

The subrecipient and its second-tier subrecipients must coordinate and integrate, to the maximum extent practicable, ESG-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. Documentation of coordination, referrals to other agencies, and services received from other agencies should be reflected in the program participants' files.

These programs include:

- A. Shelter Plus Care Program (24 CFR Part 582);
- B. Supportive Housing Program (24 CFR Part 583);

- C. Section 8 Moderate Rehabilitation Program for Single Room Occupancy Program for Homeless Individuals (24 CFR Part 882);
- D. 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));
- E. 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.*));
- F. Grants for the Benefit of Homeless Individuals (section 506 of the Public Health Services Act (42 U.S.C. 290aa-5));
- G. Healthcare for the Homeless (42 CFR Part 51c);
- H. Programs for Runaway and Homeless Youth (Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*));
- I. Grants 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.*));
- J. Services in Supportive Housing Grants (section 520A of the Public Health Service Act);
- K. Emergency Food and Shelter Program (title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 *et seq.*));
- L. 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));
- M. Homeless Veterans Reintegration Program (section 5(a)(1)) of the Homeless Veterans Comprehensive Assistance Act (38 U.S.C. 2021);
- N. Domiciliary Care for Homeless Veterans Program (38 U.S.C. 2043);
- O. VA Homeless Providers Grant and Per Diem Program (38 CFR Part 61);
- P. Health Care for Homeless Veterans Program (38 U.S.C. 2031);
- Q. Homeless Veterans Dental Program (38 U.S.C. 2062);
- R. Supportive Services for Veteran Families Program (38 CFR Part 62); and
- S. Veteran Justice Outreach Initiative (38 U.S.C. 2031).

System and Program Coordination with Mainstream Resources

The subrecipient and its second-tier subrecipients must coordinate and integrate, to the maximum extent practicable, ESG-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. Documentation of coordination, referrals to other agencies, and services received from other agencies should be reflected in the program participants' files.

Examples of these programs include:

- A. 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);
- B. Housing programs receiving tenant-based or grant-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);
- C. Supportive Housing for Persons with Disabilities (Section 811) (24 CFR Part 891);
- D. HOME Investment Partnerships Program (24 CFR Part 92);
- E. Temporary Assistance for Needy Families (TANF) (45 CFR Parts 260-265);
- F. Health Center Program (42 CFR Part 51c);
- G. State Children's Health Insurance Program (42 CFR Part 457);
- H. Head Start (45 CFR chapter XIII, subchapter B);
- I. Mental Health and Substance Abuse Block Grants (45 CFR Part 96); and
- J. Services funded under the Workforce Investment Act (29 U.S.C. 2801 *et seq.*).

Centralized or Coordinated Assessment System

Each ESG-funded program or grant within the continuum of care's (CoC) service area must use the CoC's centralized or coordinated assessment system. The subrecipient must work with the local continuum of care to become aware of the coordinated assessment system's process for implementation. The subrecipient must ensure that its written standards regarding the screening, assessment and referral of program participants are consistent with the process established in the coordinated assessment system. A victim service provider may choose not to use the CoC's centralized or coordinated assessment system.

Written Standards for Providing ESG Assistance

Each subrecipient must establish and consistently apply written standards for providing ESG assistance. A copy of the written standards must be submitted at grant startup with the documents requested in the Letter of Conditional Commitment. Subrecipients must ensure that all second-tier subrecipients consistently apply the standards for all program participants.

At a minimum these written standards must include:

- A. Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under ESG;
- B. Standards for targeting and providing essential services related to street outreach;
- C. Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG, 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;
- D. Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
- E. 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 to the maximum extent practicable;
- F. 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;
- G. 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;
- H. 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;

- I. 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 receives assistance; or the maximum number of times the program participant may receive assistance;
- J. Standard policies and procedures for entering participant data into HMIS or a comparable database
- K. Standard policies and procedures for compliance with the coordinated assessment system developed by the local continuum of care
- L. Policy for prohibition against involuntary family separation for emergency shelter providers;
- M. Policy for compliance with the *Conflicts of Interest* requirements; and
- N. Policy for compliance with the *Confidentiality* requirements.

Participation in HMIS

The subrecipient must ensure that data on all persons served and all activities assisted under ESG is 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 may use a comparable database that collects client-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. Agencies reporting in a comparable database should meet with the local Continuum of Care or HMIS Lead Agency to ensure that all information captured is in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. Documentation regarding the comparable database's compliance with HUD's standards should be submitted with the startup documents requested in the Letter of Conditional Commitment.

Eligibility Determination and Needs Assessment

Evaluations:

The subrecipient or its second-tier subrecipients must conduct an initial evaluation to determine the eligibility of each individual or family to receive ESG homelessness prevention and rapid re-housing assistance. The amount and types of assistance

needed to regain stability in permanent housing should be assessed and documented. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements and the subrecipient's written standards.

Re-evaluations:

The subrecipient or second-tier subrecipient must re-evaluate the program participant's eligibility and the types and amounts of assistance needed every three (3) months for program participants receiving homelessness prevention assistance, and once annually for program participants receiving rapid re-housing assistance. At a minimum, each re-evaluation of eligibility must establish that:

- A. The program participant does not have an annual income that exceeds 30 percent (30%) of median family income for the area, as determined by HUD; and
- B. The program participant lacks sufficient resources and support networks necessary to retain housing without ESG assistance.

The subrecipient may require each program participant receiving homelessness prevention or rapid re-housing assistance to notify the subrecipient or second-tier 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. When notified of a relevant change, the subrecipient or second-tier subrecipient must re-evaluate the program participant's eligibility and the amount and types of assistance the program participant needs.

Annual Income:

When determining the annual income of an individual or family, the subrecipient or second-tier subrecipient must use the standard for calculating annual income under 24 CFR 5.609.

Connecting Program Participants to Mainstream and Other Resources:

The subrecipient and its second-tier subrecipients must assist each program participant, as needed, to obtain:

- A. 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
- B. Other federal, state, local, and private assistance available to assist the program participant in obtaining housing stability, including:

- (1) Medicaid (42 CFR chapter IV, subchapter C);
- (2) Supplemental Nutrition Assistance Program (7 CFR Parts 271-283);
- (3) Women, Infants and Children (WIC) (7 CFR Part 246);
- (4) Federal-State Unemployment Insurance Program (20 CFR Parts 601-603, 606, 609, 614-617, 625, 640, 650);
- (5) Social Security Disability Insurance (SSDI) (20 CFR Part 404);
- (6) Supplemental Security Income (SSI) (20 CFR Part 416);
- (7) Child and Adult Care Food Program (42 U.S.C. 1766(t) (7 CFR Part 226)); and
- (8) Other assistance available under the programs listed in 576.400(c).

Housing Stability Case Management:

While providing homelessness prevention or rapid re-housing assistance to a program participant, the subrecipient or second-tier subrecipient must:

- A. Require the program participant to meet with a case manager at least once per month to assist the program participant in ensuring long-term housing stability; and
- B. Develop a plan to assist the program participant to retain permanent housing after the ESG 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.

The subrecipient or second-tier subrecipient is exempt from the requirement 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 or second-tier subrecipient from making its shelter or housing conditional on the participant's acceptance of services.

Terminating Assistance

If a program participant violates program requirements, the subrecipient or second-tier subrecipient may terminate the assistance in accordance with a formal process established by the subrecipient that recognizes the rights of individuals affected. The subrecipient or second-tier 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.

To terminate rental assistance or housing relocation and stabilization services to a program participant, the required formal process, at a minimum, must consist of:

- A. Written notice to the program participant containing a clear statement of the reasons for termination;
- B. 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
- C. Prompt written notice of the final decision to the program participant.
- D. If the aggrieved person is not satisfied with the final decision, he or she may file a written grievance or complaint with ADECA. All written grievances and complaints are to be submitted to the following address:

Alabama Department of Economic and Community Affairs (ADECA)
Community and Economic Development Division
Post Office Box 5690
401 Adams Avenue
Montgomery, Alabama 36103-5690
Attention: CED Division Chief

Termination from the ESG program does not bar the subrecipient or second-tier subrecipient from providing further assistance at a later date to the same family or individual so long as they remain eligible for the program.

Standards for Emergency Shelter and Permanent Housing

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 (42 U.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 the ESG program and all housing occupied by program participants.

Minimum Standards for Emergency Shelters

Any building for which ESG 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.

- A. 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 assistance must use Energy Star and WaterSense products and appliances.
- B. 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.
- C. 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.
- D. 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.
- E. Water supply – The shelter's water supply must be free of contamination.
- F. 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.
- G. Thermal environment – The shelter must have any necessary heating/cooling facilities in proper operating condition.
- H. 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.
- I. 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.
- J. Sanitary conditions – The shelter must be maintained in a sanitary condition.

- K. 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.

Minimum Standards for Permanent Housing

The subrecipient or second-tier subrecipient cannot use ESG funds to help a program participant remain in or move into housing that does not meet the minimum habitability standards provided below.

- A. 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.
- B. 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.
- C. 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.
- D. Water supply – The water supply must be free from contamination.
- E. 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.
- F. Thermal environment – The housing must have any necessary heating/cooling facilities in proper operating condition.
- G. 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.
- H. Food preparation – All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.

- I. Sanitary conditions – The housing must be maintained in a sanitary condition.
- J. Fire safety:
 - (1) There must be a second means of exiting the building in the event of fire or other emergency.
 - (2) 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.
 - (3) 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.

Conflicts of Interest

Organizational Conflicts of Interest

The provision of any type or amount of ESG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the subrecipient, second-tier subrecipient, or a parent or subsidiary of the subrecipient or second-tier subrecipient. No subrecipient or second-tier subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, second-tier subrecipient, or any parent or subsidiary of the subrecipient or second-tier subrecipient, carry out the initial evaluation or administer homelessness prevention assistance under *Homelessness Prevention*.

Individual Conflicts of Interest

For the procurement of goods and services, the subrecipient and its second-tier subrecipients must comply with the codes of conduct and conflict of interest requirements under 2 CFR Part 200. For all other transactions and activities, the following restrictions apply:

- A. Conflicts prohibited – No person described in paragraph (2) of this section who exercises or has exercised any functions or responsibilities with respect to activities assisted under the ESG 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.

- B. Persons covered – The conflict-of-interest provisions of paragraph (1) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the subrecipient or its second-tier subrecipients.
- C. Contractors – All contractors of the subrecipient or second-tier subrecipient must comply with the same requirements that apply to subrecipients under this section.

Where conflicts of interest are suspected or have been identified, the subrecipient must contact ADECA immediately.

The subrecipient must include a copy of the adopted Conflicts of Interests policy with the ESG Written Standards/Policies and Procedures. The subrecipient must submit the Certification of Compliance with the Conflicts of Interests Policy requested in the Letter of Conditional Commitment.

Participation of Homeless Persons

To the maximum extent practicable, the subrecipient and second-tier subrecipient must involve homeless individuals and families 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. When applicable, a summary of participation of homeless persons should be included with the supporting documentation submitted with the request for payment.

Religious and Faith-based Organizations

Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to receive ESG funds. A unit of local government receiving funds under the ESG program shall not discriminate against an organization on the basis of the organization's religious character or affiliation.

Organizations that are directly funded under the ESG 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. If an organization conducts these

activities, the activities must be offered separately, in time or location, from the programs or services funded under ESG, and participation must be voluntary for program participants.

Any religious organization that receives ESG 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 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-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an ESG-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.

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

ESG funds may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. Emergency Solutions ESG 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 program. Where a structure is used for both eligible and inherently religious activities, ESG 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 funds. Sanctuaries, chapels, or other rooms that an ESG-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 2 CFR Part 200).

If the unit of local government subrecipient 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

- A. 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 576.405(c).

B. Affirmative Outreach

The subrecipient and second-tier subrecipients 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 or second-tier subrecipients intends to use to make known the availability of the facilities, assistance, and services will 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 and second-tier subrecipients must establish additional procedures that ensure that those persons are made aware of the facilities, assistance, and services. The subrecipient and second-tier subrecipients 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, the subrecipient and second-tier subrecipients are also required to take reasonable steps to ensure meaningful access to programs and activities for limited English proficiency (LEP) persons.

C. Uniform Administrative Requirements

The requirements of 2 CFR Part 200 apply to all subrecipients. Program income is to be used as match under 2 CFR 200.307(e)(3). These regulations include allowable costs and non-Federal audit requirements.

D. Environmental Review Responsibilities

Per 24 CFR Part 58, the Governor of Alabama serves as the Certifying Officer under Section 104(g) of the Housing and Community Development Act of 1974, as amended [42 U.S.C. 5304(g) (HCD Act)], in connection with the receipt of assistance from the U.S. Department of Housing and Urban Development (HUD) under Title I of the HCD Act and the receipt of other assistance from HUD. That Certifying Officer authority is delegated to the Director of ADECA. That Certifying Officer authority includes the ability to:

- (1) Execute the certification required under Section 104(g) of the HCD Act;
- (2) Specify when appropriate that ADECA has fully carried out its responsibilities for environmental review, decision making, and action under Section 104(g)1 of the HCD Act;

- (3) Consent to assume the status of a responsible Federal official under National Environmental Policy Act and other provisions of law specified in the regulations of HUD in 24 CFR Part 58;
- (4) Consent on behalf of ADECA and himself/herself to acceptance of the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as responsible Federal official;
- (5) All other authority necessary and proper to assume legal responsibility for certifying that all environmental requirements have been followed per the laws and regulations cited herein above.

The Environmental Officer shall be responsible for the implementation of environmental reviews related to the receipt of assistance from HUD under Title I of the HCD Act, and in connection with the receipt of other assistance from HUD. The environmental review work can include, but not be limited to, the following:

- (1) Writing or obtaining grant narratives;
- (2) Obtaining maps of grant areas;
- (3) Soliciting or obtaining comments from appropriate local, State and Federal agencies;
- (4) Facilitating or obtaining responses to comments received on environmental findings related to the receipt of assistance from HUD; and
- (5) All other environmental review work necessary and proper for ensuring environmental requirements have been followed per the laws and regulations cited herein above.

Each ESG-funded activity is subject to an environmental review according to 24 CFR Part 58. Each unit of local government subrecipient shall carry out the environmental review responsibilities under 24 CFR Part 58. ADECA will carry out the environmental review responsibilities under 24 CFR Part 58 for each private nonprofit organization subrecipient. The private nonprofit organization subrecipient shall supply all available, relevant information necessary for ADECA to perform the environmental review for each property. The subrecipient also shall carry out any mitigating measures that may be required by ADECA or select alternate eligible property. ADECA may eliminate from consideration any application that would require an Environmental Impact Statement (EIS).

The subrecipient, second-tier subrecipient, or any contractor of the subrecipient or second-tier subrecipient, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for an ESG-funded grant, or commit or expend ADECA's federal funds or local funds for eligible activities, until ADECA's federal funds has approved or performed an environmental review under 24 CFR Part 58 and the subrecipient has received ADECA 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 program.

F. Procurement of Recovered Materials

The subrecipient, second-tier subrecipient, and their 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

A. Minimizing Displacement

Consistent with the other goals and objectives of ESG, the subrecipient and its second-tier subrecipients 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 grant assisted under ESG.

B. Temporary Relocation

Temporary relocation is 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 grant assisted with ESG funds or be required to move to another unit in the same building/complex. When a tenant moves for a grant assisted with ESG 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) 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

(a) 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 grant assisted under the ESG program. This includes any permanent, involuntary move for an assisted grant, including any permanent move from the real property that is made:

(1) 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:

(a) The date of the submission by the subrecipient of an application for assistance to ADECA that is later approved and funded if the subrecipient has site control as evidenced by a deed, sales contract, or option contract to acquire the property; or

(b) The date on which the subrecipient selects the applicable site, if the subrecipient does not have site control at the time of the application, provided

that the subrecipient eventually obtains control over the site;

- (2) Before the date described in paragraph (C)(2)(a)(1) of this section, if ADECA or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the grant; or
- (3) 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 grant.

(b) Notwithstanding paragraph (C)(2)(a) of this section, a person does not qualify as a displaced person if:

- (1) 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 ADECA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance.
- (2) 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 grant, 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 grant;
- (3) The person is ineligible under 49 CFR 24.2(a)(9)(ii); or
- (4) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the grant.

(c) ADECA or the subrecipient may, at any time, request that HUD 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:

- (a) 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 ADECA and the subrecipient or the agreement between the subrecipient (or second-tier subrecipient, as applicable) and the person owning or controlling the property;
- (b) 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 grant assisted with ESG 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 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 ADECA under 49 CFR 24.10. A low-income person who disagrees with ADECA's determination may submit a written request for review of that determination by the HUD field office in Birmingham.

Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

- A. Applicability of Violence Against Women Act (VAWA) protections - The core statutory protections of VAWA that prohibit denial or termination of assistance or eviction solely because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking applied upon enactment of VAWA 2013 on March 7, 2013. The VAWA regulatory requirements under 24 CFR part 5, subpart L, as supplemented by this section, apply to all eligibility and termination decisions that are made with respect to ESG rental assistance. The recipient must ensure that the requirements under 24 CFR part 5, subpart L, are included or incorporated into rental assistance agreements and leases as provided in the Short-term and Medium-term Rental Assistance section.

- B. Covered housing provider - For the ESG program, “covered housing provider,” as such term is used in HUD's regulations in 24 CFR part 5, subpart L, refers to:
- (1) The recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2005(e);
 - (2) The housing owner for the purposes of 24 CFR 5.2005(d)(1), (d)(3), and (d)(4) and 5.2009(a);
 - (3) The housing owner and the recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2005(d)(2); and
 - (4) The housing owner and the recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2007. However, the recipient or subrecipient may limit documentation requests under 24 CFR 5.2007 to only the recipient or subrecipient, provided that:
 - (a) This limitation is made clear in both the notice described under 24 CFR 5.2005(a)(1) and the rental assistance agreement;
 - (b) The entity designated to receive documentation requests determines whether the program participant is entitled to protection under VAWA and immediately advise the program participant of the determination; and
 - (c) If the program participant is entitled to protection, the entity designated to receive documentation requests must notify the owner in writing that the program participant is entitled to protection under VAWA and work with the owner on the program participant's behalf. Any further sharing or disclosure of the program participant's information will be subject to the requirements in 24 CFR 5.2007.
- C. Notification - As provided under 24 CFR 5.2005(a) each recipient or subrecipient that determines eligibility for or administers ESG rental assistance is responsible for ensuring that the notice and certification form described under 24 CFR 5.2005(a)(1) is provided to each applicant for ESG rental assistance and each program participant receiving ESG rental assistance at each of the following times:
- (1) When an individual or family is denied ESG rental assistance;

- (2) When an individual or family's application for a unit receiving grant-based rental assistance is denied;
- (3) When a program participant begins receiving ESG rental assistance;
- (4) When a program participant is notified of termination of ESG rental assistance; and
- (5) When a program participant receives notification of eviction.

D. Emergency transfer plan

- (1) The subrecipients must develop the emergency transfer plan under 24 CFR 5.2005(e) and the plan must be developed for each subrecipient that administers ESG rental assistance.

- (a) The emergency transfer plan must provide that a tenant receiving rental assistance through, or residing in a unit subsidized under, a subrecipient who is a victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer if:

- (1) The tenant expressly requests the transfer; and

- (a) The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or

- (b) In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.

- (b) The emergency transfer plan must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists.

- (c) The emergency transfer plan must incorporate strict confidentiality measures to ensure that the subrecipient does not disclose the location of the dwelling unit of the tenant to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.
- (d) The emergency transfer plan must allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available.
- (e) The emergency transfer plan must describe policies for assisting a tenant in making an internal emergency transfer under VAWA when a safe unit is not immediately available, and these policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing providers may already provide to other types of emergency transfer requests.
- (f) The emergency transfer plan must describe reasonable efforts the subrecipient will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available. The plan must include policies for assisting a tenant who is seeking an external emergency transfer under VAWA out of the subrecipient's program, and a tenant who is seeking an external emergency transfer under VAWA into the subrecipient's program.
- (g) Nothing may preclude a tenant from seeking an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.
- (h) Where applicable, the emergency transfer plan must describe policies for a tenant who has tenant-based rental assistance and who meets the requirements to move quickly with that assistance.
- (i) The emergency transfer plan may require documentation from a tenant seeking an emergency transfer.

- (j) The subrecipient must make its emergency transfer plan available upon request and, when feasible, must make its plan publicly available.
 - (k) The subrecipient must keep a record of all emergency transfers requested under its emergency transfer plan, and the outcomes of such requests, and retain these records for a period of three years.
- (2) Once the applicable plan is developed in accordance with this section, the subrecipients that administer ESG rental assistance must implement the plan in accordance with 24 CFR 5.2005(e).
- E. Bifurcation - For the purposes of this part, the following requirements shall apply in place of the requirements at 24 CFR 5.2009(b):
 - (1) When a family receiving tenant-based rental assistance separates under 24 CFR 5.2009(a), the family's tenant-based rental assistance and utility assistance, if any, shall continue for the family member(s) who are not evicted or removed.
 - (2) If a family living in a unit receiving grant-based rental assistance separates under 24 CFR 5.2009(a), the family member(s) who are not evicted or removed can remain in the assisted unit without interruption to the rental assistance or utility assistance provided for the unit.
- F. Emergency shelters - The following requirements apply to emergency shelters funded under the Emergency Shelter section:
 - (1) No individual or family may be denied admission to or removed from the emergency shelter on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the individual or family otherwise qualifies for admission or occupancy.
 - (2) The terms "affiliated individual," "dating violence," "domestic violence," "sexual assault," and "stalking" are defined in 24 CFR 5.2003.

Equal access in accordance with the individual's gender identity in community planning and development programs

A. Applicability

This section applies to assistance provided under HUD's Community Planning and Development (CPD) programs, including assistance under the following CPD programs: HOME Investment Partnerships program (24 CFR part 92), Housing Trust Fund program (24 CFR part 93), Community Development Block Grant program (24 CFR part 570), Housing Opportunities for Persons With AIDS program (24 CFR part 574), Emergency Solutions Grants program (24 CFR part 576), Continuum of Care program (24 CFR part 578), or Rural Housing Stability Assistance Program (24 CFR part 579). The requirements of this section apply to recipients and subrecipients, as well as to owners, operators, and managers of shelters and other buildings and facilities and providers of services funded in whole or in part by any CPD program.

B. Equal access in accordance with gender identity

The admissions, occupancy, and operating policies and procedures of recipients, subrecipients, owners, operators, managers, and providers identified in paragraph A. of this section, including policies and procedures to protect privacy, health, safety, and security, shall be established, or amended, as necessary, and administered in a nondiscriminatory manner to ensure that:

- (1) Equal access to CPD programs, shelters, other buildings and facilities, benefits, services, and accommodations is provided to an individual in accordance with the individual's gender identity, and in a manner that affords equal access to the individual's family;
- (2) An individual is placed, served, and accommodated in accordance with the gender identity of the individual;
- (3) An individual is not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of the individual's gender identity; and
- (4) Eligibility determinations are made and assisted housing is made available in CPD programs as required by 5.105(a)(2).

- C. Placement and accommodation in temporary, emergency shelters and other buildings and facilities with shared sleeping quarters or shared bathing facilities -
- (1) Placement and accommodation. Placement and accommodation of an individual in temporary, emergency shelters and other buildings and facilities with physical limitations or configurations that require and are permitted to have shared sleeping quarters or shared bathing facilities shall be made in accordance with the individual's gender identity.
 - (2) Post-admission accommodations. A recipient, subrecipient, owner, operator, manager, or provider must take nondiscriminatory steps that may be necessary and appropriate to address privacy concerns raised by residents or occupants and, as needed, update its admissions, occupancy, and operating policies and procedures in accordance with paragraph (B) of this section.
- D. Documentation and record retention. Providers shall document and maintain records of compliance with the requirements in paragraph (b) of this section for a period of 5 years.

Recordkeeping and Reporting Requirements

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 and its second-tier subrecipients to ensure that ESG funds are used in accordance with the requirements. In addition, sufficient records must be established and maintained to enable ADECA and HUD to determine whether the following ESG requirements are being met.

A. Homeless Status

The subrecipient and its second-tier subrecipients 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 ninety (90) days or less, acceptable evidence includes the evidence described in paragraph (A)(1) of this section and one of the following:
 - (a) 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
 - (b) Where the evidence in paragraph (A)(2)(a) 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 (A)(2)(a) 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:
 - (a) Documentation of:
 - (1) A court order resulting from an eviction action that requires the individual or family to leave their residence within fourteen (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;

- (2) 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 fourteen (14) days after the date of application for homeless assistance; or
- (3) 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 fourteen (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;
 - (b) Certification by the individual or head of household that no subsequent residence has been identified; and
 - (c) 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 twenty-five (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:

- (a) 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;
- (b) 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;
- (c) 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 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
- (d) 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 forty-five (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.

B. At Risk of Homelessness Status

For each individual or family who receives 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 subrecipient or second-tier 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:

- (a) The documentation specified under this section for determining annual income;
- (b) 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;
- (c) 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:
 - (1) Source documents (e.g., notice of termination from employment, unemployment compensation statement, bank statement, health-care bill showing arrears, utility bill showing arrears);
 - (2) 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 or second-tier 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
 - (3) To the extent that source documents and third-party verification are unobtainable, a written statement by the subrecipient's or second-tier subrecipient's intake staff describing the efforts taken to obtain the required evidence; and
- (d) 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:
 - (1) 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);

- (2) 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 or second-tier 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
- (3) To the extent that source documents and third-party verification are unobtainable, a written statement by the subrecipient's or second-tier 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 or second-tier 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.

C. Determinations of Ineligibility

For each individual and family determined ineligible to receive ESG assistance, the record must include documentation of the reason for that determination.

D. 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 or second-tier 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 or second-tier 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.

E. 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 24 CFR 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 576.401(d) and (e); and
- (3) Where applicable, compliance with the termination of assistance requirement in 24 CFR 576.402.

F. Centralized or Coordinated Assessment Systems and Procedures

The subrecipient and its second-tier subrecipients 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.

G. 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.

H. Utility Allowance

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

I. 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.

J. Emergency Shelter Facilities

The subrecipient must keep records of the emergency shelters assisted under the ESG 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.

K. 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 subrecipients that are units of local government must keep records to demonstrate compliance with the maintenance of effort requirement, including records of the unit of the local government's annual budgets and sources of funding for street outreach and emergency shelter services. Records documenting the annual budget and sources of funding for street outreach and emergency shelter services

must be submitted to ADECA in the ESG grant application and annually by April 15, during the grant agreement period.

L. Coordination with Continuum(s) of Care and Other Programs

The subrecipient and its second-tier subrecipients 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 assistance with programs targeted toward homeless people and mainstream service and assistance programs.

M. HMIS

The subrecipient must keep records of the participation in HMIS or a comparable database by all grants of the subrecipient and its second-tier subrecipients.

N. 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. Documentation of match as described above should be submitted with each request for payment. Matching funds should be applied in proportion to the amount of ESG funds being requested.

O. Conflicts of Interest

The subrecipients 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.

P. Homeless Participation

The subrecipient and its second-tier subrecipients must document their compliance with the homeless participation requirements under 24 CFR 576.405.

Q. Faith-based Activities

The subrecipient and its second-tier subrecipients must document their compliance with the faith-based activities requirements under 24 CFR 576.406.

R. Other Federal Requirements

The subrecipient must document its 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 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.

S. Relocation

The records must include documentation of compliance with the displacement, relocation, and acquisition requirements in 24 CFR 576.408.

T. Financial Records

- (1) The subrecipient should submit requests for payment to ADECA at least once per quarter.
- (2) The subrecipient must retain supporting documentation and submit a summary of expenditures to ADECA showing that ESG grant funds were spent on allowable costs in accordance with the requirements for eligible activities under 24 CFR 576.101 – 576.109 and the cost principles in 2 CFR Part 200.
- (3) The subrecipient must retain records of the receipt and use of program income and submit a summary of the receipt and use to ADECA with the applicable request for payment.

U. Subrecipients and Contractors

The subrecipient must retain copies of all procurement contracts and documentation of compliance with the procurement requirements in 2 CFR Part 200 and submit copies of contracts and documentation to ADECA with the request for payment.

V. Confidentiality

ADECA will maintain 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 in locked filing cabinets.

(1) The subrecipient must develop and implement written procedures to ensure:

- (a) 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;
- (b) The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter grant assisted under the ESG program will not be made public, except with written authorization of the person responsible for the operation of the shelter; and
- (c) 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 or second-tier 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 by the subrecipient and the second-tier subrecipient in accordance with this section.

The subrecipient must include a copy of the adopted Confidentiality Policy with the ESG Written Standards/Policies and Procedures. The subrecipient must submit the Certification of Compliance with the Confidentiality Policy requested in the Letter of Conditional Commitment.

W. Period of Record Retention

All records pertaining to each fiscal year of ESG funds must be retained for the greater of five (5) years or the period specified below. Copies made by microfilming, photocopying, or similar methods may 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 five (5) years after the expenditure of all funds from the grant under which the program participant was served;
- (2) Where ESG funds are used for the renovation of an emergency shelter involves costs charged to the ESG grant that exceed seventy-five percent (75%) of the value of the building before renovation, records must be retained until ten (10) years after the date that ESG funds are first obligated for the renovation; and
- (3) Where ESG funds are used to convert a building into an emergency shelter and the costs charged to the ESG grant for the conversion exceed seventy-five percent (75%) of the value of the building after conversion, records must be retained until ten (10) years after the date that ESG funds are first obligated for the conversion.

X. Access to Records

- (1) Federal government rights – Notwithstanding the confidentiality procedures established under paragraph (V) 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 subrecipient and its second-tier subrecipients 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.
- (2) Public rights – The ADECA Director, the Chief Examiner of Public Accounts, or any of their duly authorized representatives, shall have the right of access to any pertinent books, documents, papers, and records of the subrecipient for the purpose of making audits, financial reviews, examinations, excerpts, and transcripts. This right also includes timely and reasonable access to the subrecipient's personnel for the purpose of interview and discussion related to such agreement. This right of access is not limited to the required record retention period but shall last as long as the applicable records are retained.

Request for Review

Applicants or subrecipients may submit a written request for review of an ADECA determination via electronic or postal mail within thirty (30) calendar days from the date of the determination being contested.

All determinations made by ADECA are final.

Monitoring

ADECA staff will monitor each ESG grant to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Monitoring shall include desk reviews of documentation submitted with requests for payment and startup documents, and on-site monitoring visits at least once for each ESG grant prior to grant close-out. Areas reviewed for compliance include adherence to the program's national objective and eligibility requirements, progress and timeliness, citizen participation, environmental, shelter standards, housing habitability standards, rent reasonableness, affirmative outreach, fair housing, equal employment opportunity, procurement, and financial management.

After each monitoring visit, written correspondence will be sent to the subrecipient describing the results of the review in sufficient detail to clearly describe the areas that were covered and the basis for the conclusions. Monitoring determinations of noncompliance range from "concern" to "finding" with appropriate corrective measures imposed. Corrective measures may include certifications that inadequacies will be resolved, documentary evidence that corrective actions have been instituted, or reimbursement of disallowed costs. No grant can be closed until all monitoring findings have been satisfactorily resolved.

ADECA maintains an "HESG-Grants Schedule" spreadsheet which is used as a tracking system to ensure each ESG grant is monitored at least once prior to close-out. Monitoring visits will be scheduled at the time when at least forty percent (40%) of the funds have been drawn. This spreadsheet is also used to track monitoring findings, receipt of the requested responses, and the date of grant closeout.

ADECA retains the ability to schedule additional monitoring visits as may be necessitated by problems identified in the monitoring visit or when grant conditions demonstrate a need for additional ADECA review. Further, ADECA may also incorporate additional monitoring and review techniques not listed here in order to ensure program compliance.

Second-Tier Subrecipient Monitoring

A subrecipient which acts as a pass-through entity and provides funds to a second-tier subrecipient must comply with Federal regulations in monitoring its second-tier subrecipients. Subrecipient staff shall conduct on-site monitoring of second-tier subrecipients, if any, to verify:

- A. Compliance with Federal statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved
- B. Financial management by reviewing financial and performance reports
- C. Activities correspond to those reported on invoices or programmatic reports
- D. Procedures are in place to assure that religious proselytizing does not occur
- E. Activities are carried out as stated in the application
- F. Second-tier subrecipients take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the second-tier subrecipient from the subrecipient that have been detected through audits, on-site reviews, and written confirmation from the second-tier subrecipient highlighting the status of actions planned or taken to address such deficiencies, to include Single Audit findings, related to the particular subaward.

Subrecipients shall issue a management decision for applicable audit findings pertaining only to the Federal award provided to the second-tier subrecipient from the subrecipient as required by 2 CFR 200.521.

Subrecipients are responsible for resolving audit findings specifically related to the subaward and are not responsible for resolving crosscutting findings. If a second-tier subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), then the subrecipient may rely on the second-tier subrecipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section 2 CFR 200.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the subrecipient to issue subawards that conform to ADECA's and the subrecipient's award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.

Performance Standards

Subrecipients and their respective continuums of care will periodically, at least semi-annually, monitor program progress of all ESG-funded activities to document the following performance standards.

- A. Impact of ESG-funded grants
- B. Number of persons served by ESG-funded grants

- C. Number of program participants obtaining mainstream benefits such as Temporary Assistance to Needy Families, Supplemental Nutrition Assistance Programs, VA Health and Pension Benefits, Supplemental Security Income/Social Security Disability Insurance, and Medicaid

Subrecipients have the option to develop additional performance standards. The performance standards will be reviewed during the onsite monitoring visit to assess the impact of ESG-funded activities.

Outcome Measures

Outcome measures will be determined by performance indicators. Because the State's ESG program will be implemented in different geographic areas with various needs, various social services programs, and various degrees of access to service, the State has chosen not to develop performance indicators. The subrecipients will develop performance indicators that best depict program accomplishments for their local areas. Subrecipients are encouraged to work with their local continuums of care when developing measurable performance indicators. Outcome measures specific to geographic areas will be evaluated during the onsite monitoring visit to assess the impact of ESG-funded activities.

Reports

Consolidated Annual Performance Evaluation Report (CAPER):

The ESG CAPER generated from HMIS, or the comparable database must be submitted annually into the Sage database by April 15, by each subrecipient for each second-tier subrecipient. In addition, information regarding program year expenditures must be submitted to ADECA annually by April 15, by each subrecipient.

Grant Closeout

The ESG grant must be closed within thirty (30) days after the end of the Period of performance by submitting the appropriate closeout documents. Closeout documents consist of a Subrecipient Budget/Final Financial Report and the Conditions of Grant Closeout form.

Applicable Federal and State Laws

These Policies and Procedures do not supersede the ADECA ESG Grant Agreement or the ESG federal regulations established by HUD at 24 CFR Part 576. These Policies and Procedures serve as a supplementary guide for ADECA's administration of its ESG Program. The subrecipient and its second-tier subrecipients are required to follow all HUD ESG Program regulations and all applicable Federal and State laws.