



Kentucky Housing Corporation

Emergency Solutions Grant (ESG) Policy Manual

NOTE:

This manual outlines the policies pertaining to the Emergency Solutions Grant program only. For additional information please refer to 24 CFR Part 576.

KHC program policy manuals are subject to change without notice and are not inclusive of all resources needed to successfully administer an ESG program.

Separate policy manuals are available for other Housing Contract Administration programs.

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Notice

This manual serves as a reference for Kentucky Housing Corporation's administration of the Emergency Solutions Grant (ESG).

To the best of our knowledge, the information in this publication is accurate; however, neither Kentucky Housing Corporation nor its affiliates assume any responsibility or liability for the accuracy or completeness of, or consequences arising from, such information. Changes, typos, and technical inaccuracies will be corrected in subsequent publications. This publication is subject to change without notice. The information and descriptions contained in this manual cannot be copied, disseminated, or distributed without the express written consent of Kentucky Housing Corporation. This document is intended for informational purposes only. The manual contains resources and forms used to implement project(s) using KHC's various ESG grant programs. The manual is not inclusive of all resources needed to successfully administer a project.

Please contact a KHC Housing Contract Administration Help Desk if you have questions or need additional assistance with materials within this manual.

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Purpose

The Emergency Solutions Grant (ESG) Program is established by The McKinney-Vento Homeless Assistance Act, as amended by S.896. The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 is designed for the rehabilitation or conversion of buildings for use as emergency shelters for the homeless, for the payment of certain expenses related to operating emergency shelters, for essential services related to emergency shelters and street outreach for the homeless, and for homelessness prevention and rapid re-housing assistance.

The Emergency Solutions Grant (ESG) policies and procedures incorporate 24 CFR 91 HEARTH Act of 2009 and 24 CFR Part 576 ESG Interim Rule changes. All sub-recipients will be required to administer projects utilizing ESG funds in a manner consistent with all federal statutes and regulations, KHC policies and procedures, the Kentucky Consolidated Plan, and Annual Action Plan.

Projects funded through the ESG program by Kentucky Housing Corporation (KHC) are part of the Kentucky Balance of State (BoS) Continuum of Care (CoC) system. As part of the CoC, ESG providers are expected to work with community partners, regardless of funding source, to maximize communitywide planning and strategic use of resources to prevent and end homelessness; improve coordination and integration with mainstream services and other homeless service providers, including those not funded through ESG; increase efficiency; realign programs and systems to focus on preventing homelessness from occurring, shortening the length of time persons remain homeless, and directing funding to the most critical services to help people achieve long-term housing stability and avoid becoming homeless again; improve targeting of resources through coordinated entry; improve the utilization of data collection and performance measures; and continually evaluating progress towards ensuring homelessness is rare, brief, and non-recurring and adjusting project designs accordingly, if necessary.

Though not required at this time, ESG sub-recipients are strongly encouraged to utilize a low-barrier *Housing First* model in the administration of projects to ensure participants have access to emergency housing quickly, attain permanent housing as fast as possible, and maintain stable permanent housing. To be considered as using a Housing First model, projects must ensure that participants are not screened out for participation based on any of the following items: having too little or no income; active or history of substance abuse; having a criminal record with exceptions for state-mandated restrictions; or having a history of domestic violence (e.g., lack of a protective order, period of separation from abuser, or law enforcement involvement). Projects must also ensure that participants are not terminated from the program for the following reasons: failure to participate in supportive services; failure to make progress on a service plan; loss of income or failure to improve income; domestic violence; or any other activity not covered in a lease agreement typically found in the project's geographic area.

Application Criteria

Eligible Applicants

In order to be eligible to participate in the ESG program, an applicant must be deemed to be in good standing by the Secretary of State of the Commonwealth of Kentucky and in compliance with the requirements of 24 CFR §92.505 and all OMB requirements of 2 CFR §200.

- Eligible applicants include units of local government and private nonprofit organizations in the Balance of State region of Kentucky. KHC's funds are not eligible for projects or activities located in Fayette or Jefferson Counties.

- Applicants that meet the criteria for ESG established by HUD may apply for funding in the competitive ESG funding process. Applicants that are deemed ineligible as a result of KHC's suspension and debarment policy may not participate in any project that receives KHC resources. Refer to the *Minimum Thresholds* section below for additional stipulations.
- KHC reserves the right to use any information reported to the Corporation for the purpose of determining eligibility and/or for scoring.
- All agencies will be reviewed on an individual basis and will receive an overall final score.
- The only time a **single** applicant may submit more than one application is if the project's facilities are located in different counties. No more than two applications will be accepted from any single applicant. KHC reserves the right to amend the number of applications a single applicant may submit if it is deemed necessary to fully utilize ESG resources within HUD's required timeframe and if the community need warrants such.
- Each applicant must match the ESG funding request amount with at least an equal amount of match eligible resources.

Minimum Thresholds

In addition to meeting basic eligibility criteria, additional minimum thresholds may be set by KHC during the ESG competitive funding round. Such thresholds will be outlined in specific ESG funding round application guidelines.

Threshold waivers will be granted on a case-by-case basis at KHC's sole and absolute discretion. Agencies wishing to request a threshold waiver must complete the online Housing Contract Administration (HCA) Project Waiver/Modification Request form prior to the application submission deadline following the specific timeframes outlined in the ESG funding round application guidelines.

Allocation of Funds

The allocation of funds will be dependent upon funding from the Department of Housing and Urban Development (HUD) and Kentucky Housing Corporation's annual Allocation Plan. Previous awards do **not** guarantee funds or serve as an indication of the level of funding for any subsequent years.

KHC will make every attempt to award limited resources as prudently as possible and will award those agencies with the greatest capacity to effectively administer the funds. In general, the amount of funds awarded will depend on how well a particular application scores in relation to other applicants and the amount of funds available. KHC funds projects based on project viability, applicant capacity, and program design. It is the Corporation's goal to achieve as much geographic distribution as possible, while ensuring that the strongest applications receive funding based on their total scores.

Program Requirements and Administration

Eligible Uses

ESG funds may be used for one or more of the five program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and the Homeless Management Information System (HMIS), as well as administrative activities. Subject to the cost principles in 2 CFR Part 200 and other requirements in this part, employee compensation and other overhead costs directly related to carrying out street outreach, emergency shelter, homelessness prevention, rapid re-

housing, and HMIS are eligible costs of those program components.

1.) Street Outreach Component 24 CFR §576.101

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, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. Refer to §576.101 for eligible costs and requirements for essential services.

2.) Emergency Shelter Component 24 CFR §576.102

ESG funds may be used for costs of providing essential services to homeless families and individuals **in** emergency shelters, renovating buildings to be used as emergency shelter for homeless families and individuals, and operating emergency shelters. Refer to §576.102 for eligible costs and requirements.

3.) Homelessness Prevention Component 24 CFR §576.103

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 (1) of the “homeless” definition in 24 CFR §576.2. 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 (2), (3), or (4) of the “homeless” definition in 24 CFR §576.2 **and** have an annual income **below 30 percent** of median family income for the area, as defined by HUD.

The costs of homelessness prevention are only eligible to the extent that the assistance is necessary to help the program participant regain stability in the program participant’s current permanent housing or move into other permanent housing and achieve stability in that housing.

Homelessness prevention must be provided in accordance with the housing relocation and stabilization services requirements in 24 CFR §576.105, the short-term and medium-term rental assistance requirements in 24 CFR §576.106, as outlined below, and in the written standards and procedures established by 24 CFR §576.400.

Housing Relocation and Stabilization Services:

In relation to the Homelessness Prevention Component and the Rapid Re-Housing Component, ESG funds may be used to pay housing owners, utility companies, and other third parties for financial assistance costs and services costs. Refer to 24 CFR §576.105 for eligible costs and requirements.

Short- and Medium-Term Rental Assistance:

In relation to the Homelessness Prevention Component and the Rapid Re-Housing Component, ESG funds may be used to provide a program participant with up to **24 months** of rental assistance during **any three-year period**. This assistance may be short-term rental assistance (up to 3 months), medium-term rental assistance (for more than 3 months but not more than 24 months), payment of rental arrears, or any combination of this assistance. Refer to 24 CFR §576.106 for eligible costs and requirements.

4.) Rapid Re-Housing Assistance Component 24 CFR §576.104

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 (1) of the “homeless” definition in 24 CFR §576.2 **or** who meet the criteria under paragraph (4) of the “homeless” definition **and** live in an emergency shelter or other place described in paragraph (1) of the “homeless” definition. The rapid re-housing assistance must be provided in accordance with the housing relocation and stabilization services requirements in 24 CFR §576.105, the short- and medium-term rental assistance requirements in 24 CFR §576.106, as outlined below **and** in the written standards and procedures established under 24 CFR §576.400.

Housing Relocation and Stabilization Services:

In relation to the Homelessness Prevention Component and the Rapid Re-Housing Component, ESG funds may be used to pay housing owners, utility companies, and other third parties for financial assistance costs and services costs. Refer to 24 CFR §576.105 for eligible costs and requirements.

Short-Term and Medium Term Rental Assistance:

In relation to the Homelessness Prevention Component and the Rapid Re-Housing Component, ESG fund may be used to provide a program participant with up to **24 months** of rental assistance during **any three-year period**. This assistance may be short-term rental assistance (up to 3 months), medium-term rental assistance (for more than 3 months but not more than 24 months), payment of rental arrears, or any combination of this assistance. Refer to 24 CFR §576.106 for eligible costs and requirements.

5.) HMIS Component 24 CFR §576.107

ESG funds may be used to pay the costs of contributing data to the HMIS designated by the Continuum of Care for the area. Refer to 24 CFR §576.107 for eligible costs and requirements.

6.) Administrative Expenses 24 CFR §576.108

Sub-recipients may use a portion, as defined in the grant agreement, of its ESG grant for the payment of administrative costs related to the planning and execution of ESG activities. This does **not** include staff and overhead costs directly related to carrying out activities eligible under 24 CFR §576.101 through 24 CFR §576.107, because those costs are eligible as part of those activities. Refer to 24 CFR §576.108 for eligible costs and requirements.

7.) Program Income

In the event ESG funds are returned to the agency (e.g., rent deposits), those funds are considered to be Program Income. The agency is expected to use those funds to serve another eligible client and to document in accordance with ESG financial tracking guidelines. If it is not possible to use the funds to serve another client, program income **must** be returned to KHC to be used for eligible ESG purposes.

Matching Funds Requirements 24 CFR §576.201

Each grantee must match the funding provided by ESG with at least an equal amount of funds from other sources. These funds must be provided after the date of the grant award. 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. However, the following requirements apply to matching contribution from a federal source of funds:

- The recipient must ensure the laws governing any funds to be used as matching contributions do not prohibit those funds from being used to match Emergency Solutions Grant funds.
- If ESG funds are used to satisfy the matching requirements of another federal program, funding from that program may not be used to satisfy the matching requirements under this section.
- Contributions used to match a previous ESG grant may **not** be used to match a

- subsequent ESG grant.
- 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 ESG matching requirement.
- Matching funds can be cash or noncash contributions.

Homeless Participation 24 CFR §576.405

Sub-recipients must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of the sub-recipient, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under ESG. To the maximum extent practicable, the sub-recipient 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.

Program Requirements Subpart E 24 CFR §576.400

In order to comply with this section of the ESG guidelines, entities must comply with the following:

Coordination with Other Targeted Homeless Services:

Sub-recipients 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 (CoC) area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area.

System and Program Coordination with Mainstream Resources:

Sub-recipients 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.

Centralized or Coordinated Assessment:

Sub-recipients must participate in the KY BoS CoC's Coordinated Entry system in accordance with requirements established by HUD and the KY BoS CoC Coordinated Entry Policies and Procedures. Sub-recipients must work with the CoC to ensure the screening, assessment, and referral of program participants are consistent with the written standards. A Victim Service Provider (VSP) may choose not to use the CoC's centralized or coordinated assessment system. The KY BoS CoC has established specific procedures to allow for VSP participation in a manner that ensures access to the coordinated entry system while protecting the privacy of participants.

Written Standards for Providing ESG Assistance:

Sub-recipients must have written standards for providing ESG assistance and must consistently apply those standards for all program participants.

Participation in HMIS 24 CFR §91, 576, 580, and 583:

Sub-recipients must ensure that data on all persons served and all activities assisted under ESG are entered into the KYHMIS. **VSPs or legal services providers may use a comparable database that meets the requirements as outlined in 24 CFR above.** Information entered into a comparable database must not be entered directly into the KYHMIS.

System Performance Measurements and Outcomes as required by HUD:

Sub-recipients will be required to address U.S. Department of Housing and Urban Development (HUD) and KHC performance measures as they relate to outcomes to be achieved.

Reallocation of Funds

Kentucky Housing Corporation may deem it appropriate to recapture ESG funds. Funds will be reallocated in accordance of the applicable Action Plan.

Eligible Participants 24 CFR §576.2 In order for individuals and families to be eligible to receive ESG assistance, they must first meet the definition of Homelessness as defined by HUD at 24 CFR §91, 582, and 583. In addition, to be eligible to receive ESG Homelessness Prevention assistance, the At Risk of Homelessness definition at 24 CFR Part §576.2 may apply.

Sub-recipients must utilize funds for individuals or families who fall into one of the following categories. If providing Homelessness Prevention assistance, sub-recipients may elect to also use the At Risk of Homelessness definition at 576.2.

Category 1: Literally Homeless: Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (i) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; (ii) an individual or family living in a supervised publicly- or privately-operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or (iii) an individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

Category 2: Imminent Risk of Homelessness: Individual or family who will imminently lose their primary nighttime residence, provided that: (i) the primary nighttime residence will be lost within 14 days of the date of application for homeless assistance; (ii) no subsequent residence has been identified; and (iii) the individual or family lacks the resources or support networks, e.g., family, friends, faith-based, or other social networks, needed to obtain other permanent housing.

Note: Do not confuse the Imminent Risk of Homelessness definition with the At Risk of Homelessness definition. While both are very similar, there are distinct variations. See below for the At Risk of Homelessness definition.

Category 3: Homeless under other Federal Statutes: Unaccompanied youth under 25 years of age, or families with children and youth who do not otherwise qualify as homeless under this definition, but who; (i) are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832)), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) or section of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a); (ii) have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance; (iii) have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and (iv) can be expected to continue in such status for an extended period of time because of chronic disabilities chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a

child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

Category 4: Fleeing/Attempting to Flee DV: Any individual or family who: (i) is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; (ii) has no other residence; and (iii) lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

Note: Only sub-recipients providing Homelessness Prevention assistance may elect to use the At Risk of Homelessness definition.

At Risk of Homelessness means an individual or family who: (i) has an annual income below 30 percent of median family income for the area, as defined by HUD; (ii) does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph 1 of the "homeless" definition in this section; and (iii) meets one of the following conditions:

- (A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance.
- (B) Is living in the home of another because of economic hardship.
- (C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days 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 resides more than two persons or lives in a larger housing unit in which resides 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 of other youth facility, or correction program or institution).
- (G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the sub-recipient's approved consolidated plan.

Evaluation of Program Participant Eligibility and Needs 24 CFR §576.401

Initial Evaluations

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

Note: When providing Homelessness Prevention assistance, at initial evaluation the program participant must have income below 30 percent of median family income for the area, as determined by HUD.

Re-Evaluations

Re-Evaluations for **Homelessness Prevention** and **Rapid Re-Housing** Assistance – Sub-recipients must re-evaluate the program participant’s eligibility and the types and amounts of assistance the program participant needs **not less than once every three months for program participants receiving homelessness prevention assistance, and not less than once annually for program participants receiving rapid re-housing assistance.** Refer to 24 CFR §576.401(b) (i) (ii) for requirements.

Annual Income – When determining the annual income of an individual or family, the sub-recipient must use the standard for calculating annual income under 24 CFR §5.609. At a minimum, each re-evaluation of eligibility must establish that the program participant does not have an annual income that exceeds 30 percent of median family income for the area, as determined by HUD, and that the program participant lacks the resources and support networks necessary to retain housing without ESG assistance.

Connecting program participants to mainstream and other resources – Sub-recipients must assist each program participant to obtain appropriate supportive services and other federal, state, local, and private assistance available.

Housing Stability Case Management – When providing homelessness prevention or rapid re-housing assistance to program participants, the sub-recipient must require program participants to meet with a case manager **not less than once per month** to ensure long-term housing stability and to develop a plan to assist the program participant to retain permanent housing after the ESG assistance ends, taking into account all relevant considerations. Refer to 24 CFR §576.401(e) (i) (ii) for requirements.

Note: Utilization of a low-barrier, Housing First model is not incongruent with the above stated requirements. When using Housing First, sub-recipients must make services available to participants, but cannot require participation or progress towards achieving goals established in a service plan. Sub-recipients are permitted to require participants to meet with case managers. In the event participants fail to meet with a case manager, numerous attempts to engage the participant must be documented and non-compliance should be cause for termination only in the most extreme circumstances, as keeping the participant housed is of utmost importance.

Terminating Assistance 24 CFR §576.402

If a program participant violates program requirements, the sub-recipient may terminate the assistance in accordance with a formal process established by the sub-recipient that recognizes the rights of individuals affected. The sub-recipient 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.** Rental assistance or housing relocation and stabilization services programs require a formal process. Refer to 24 CFR §576.402 (1) (2) (3) (c) for requirements.

Shelter and Housing Standards 24 CFR §576.403

The Lead-Based Paint Poisoning Prevention Act applies to all shelters assisted with ESG funds and all housing occupied by program participants. 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 minimum safety, sanitation, and privacy standards. Any emergency shelter that receives assistance for shelter operations must also meet the minimum safety, sanitation, and privacy standards. Refer to 24 CFR §576.403 (1) thru (11) for requirements.

A sub-recipient cannot use ESG funds to help a program participant remain or move into housing that does not meet the minimum habitability standards. Refer to 24 CFR §576.403 (c)(1) through

(10) for requirements.

Fair Housing

Sub-recipients must comply with all Fair Housing requirements. In order to be eligible, agencies must be able to satisfactorily address the impediments to fair housing. Those are defined in Kentucky Housing Corporation's document entitled "Our Right to Choose Where We Live", which is available on KHC's website at www.kyhousing.org.

Conflicts of Interest 24 CFR §576.404

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 sub-recipient. No sub-recipient may, with respect to individuals or families occupying housing owned by the sub-recipient, or any parent or subsidiary of the sub-recipient, carry out the initial evaluation required under 24 CFR §576.103. For the procurement of goods and services, the sub-recipients must comply with the codes of conduct and conflict of interest requirements under 2 CFR Part 200. Sub-recipients must disclose all real, potential, or perceived conflicts of interest to KHC as outlined in 2 CFR Part 200, as applicable, regarding the receipt of, assistance provided with, or expenditure of KHC funds. All conflicts of interest must be disclosed and resolved prior to providing ESG assistance to the household. For additional guidance on Conflict of Interest requirements, refer to the Compliance section of the HCA Help Desk at <https://kyhmis.zendesk.com/home>.

Violence Against Women Act (VAWA) Requirements

Sub-recipients are responsible for adhering to the Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs. Additional information can be found at 24 CFR §5.2001- thru §5.2011.

Other Federal Requirements

For information on all other federal requirements related to the ESG Program, please refer to 24 CFR §576.407.

Recordkeeping and Reporting Requirements 24 CFR §576.500

(a) General

Sub-recipients 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 sub-recipient to ensure that ESG funds are used in accordance with the requirements. In addition, sufficient records must be established and maintained to enable the sub-recipient and HUD to determine whether ESG requirements are being met.

(b) Homeless Status

Sub-recipients 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 VSP.

Records contained in an HMIS or comparable database used by VSP 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;

- The HMIS prevents overrides or changes of the dates on which entries are made. Refer to §576.500 for additional requirements.

Other examples of documentation include:

- If the program participant 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 program participant was living, a written referral by another housing or service provider, or a certification by the individual or head of household seeking assistance.
- If the program participant 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 immediately prior to entering an institution, and is now exiting that institution, where he or she resided for 90 days or less, acceptable evidence includes the evidence described in paragraph (b)(1) of this section and one of the following: 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 Where the evidence is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence 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 90 days or less.
- If the program participant qualifies as homeless because the individual or family will imminently lose their housing; a court order resulting from an eviction action that requires the program participant to leave their residence within **14** days after the date of their application for homeless assistance; or the equivalent notice under applicable state law, a Notice to Quit, or a Notice to Terminate issued under state law.
- For program participants whose 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 program participant lacks the resources necessary to reside there for more than **14** days after the date of application for homeless assistance.
- An oral statement by the individual or head of household that the owner or renter of the housing in which they currently reside will not allow them to stay for more than **14** days after the date of application for homeless assistance: the intake worker must record the statement and certify that it was found credible.
- If the program participant qualifies as homeless under paragraph (3) of the homeless definition in 24 CFR §576.2, because they do not otherwise qualify as homeless under the homeless definition but is an unaccompanied youth under 25 years of age, or homeless family with one or more children or youth, and is defined as homeless under another federal statute or section 735(2) of the McKinney-Vento Homeless Assistance Act, the evidence must include: **(i)** For paragraph (3)(i) of the homeless definition in § 576.2, certification of homeless status by the local private nonprofit organization or state or local governmental entity responsible for administering assistance under the Runaway and Homeless Youth Act (42 U.S.C. 5701*et seq.*), the Head Start Act (42 U.S.C. 9831*et seq.*), subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043*et seq.*), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Food and Nutrition Act of 2008 (7 U.S.C. 2011*et seq.*), section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431*et seq.*), as applicable; **(ii)** For paragraph (3)(ii) of the homeless definition in § 576.2, referral by a housing or service provider, written

observation by an outreach worker, or certification by the homeless individual or head of household seeking assistance; **(iii)** For paragraph (3)(iii) of the homeless definition in § 576.2, certification by the individual or head of household and any available supporting documentation that the individual or family moved two or more times during the 60-day period immediately preceding the date of application for homeless assistance, including: recorded statements or records obtained from each owner or renter of housing, provider of shelter or housing, or social worker, case worker, or other appropriate official of a hospital or institution in which the individual or family resided; or, where these statements or records are unobtainable, a written record of the intake worker's due diligence in attempting to obtain these statements or records. Where a move was due to the individual or family fleeing domestic violence, dating violence, sexual assault, or stalking, then the intake worker may alternatively obtain a written certification from the individual or head of household seeking assistance that they were fleeing that situation and that they resided at that address; and **(iv)** For paragraph (3)(iv) of the homeless definition in § 576.2, written diagnosis from a professional who is licensed by the state to diagnose and treat that condition (or intake staff-recorded observation of disability that within 45 days of date of the application for assistance is confirmed by a professional who is licensed by the state to diagnose and treat that condition); employment records; department of corrections records; literacy, English proficiency tests; or other reasonable documentation of the conditions required under paragraph (3)(iv) of the homeless definition.

- If the program participant qualifies under paragraph (4) of the homeless definition in 24 CFR §576.2, because they are fleeing domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions related to violence: acceptable evidence includes an oral statement by the individual or head of household seeking that they are fleeing that situation, that no subsequent residence has been identified, and that they lack the resources or support networks to obtain other housing.
- If the program participant is receiving shelter or services provided by a VSP: 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 of support networks needed to obtain housing must be documented by 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 of 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.

(c) At Risk of Homelessness Status

The definition of “at risk of homelessness” only applies to the ESG homelessness prevention component.

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’s 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 sub-recipient. This evidence must also include: If the program participant meets the criteria under paragraph (1) of the “at risk of homelessness” definition in 24 CFR §576.2.

- The documentation specified under this section for determining annual income.
- The program participant’s certification on a form specified in the ESG Toolkit that the program participant has insufficient financial resources and support 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.
- The most reliable evidence available to show that the program participant does not have sufficient resources or support networks, immediately available to prevent them from moving to an emergency shelter or another place described in 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.
- To the extent that source documents and third-party verification are unobtainable, a written statement by the sub-recipient’s intake staff describing the efforts taken to obtain the required evidence.
- 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.
- Source documents that evidence one or more of the conditions under paragraph (1) (iii) the definition (e.g. eviction notice, notice of termination from employment, bank statement).
- 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 sub- recipient’s intake staff of the oral verification by the relevant third-party that the applicant meets one or more of the criteria under paragraph (1) (iii) of the definition of “at risk of homelessness.”
- To the extent that source documents and third-party verification are unobtainable, a written statement by the sub-recipient’s intake staff that the 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 sub-recipient’s intake staff describing the efforts taken to obtain the required evidence.
- 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.

(d) Determinations of Ineligibility

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

(e) Annual Income

For each program participant who receives homelessness prevention assistance, or who receives rapid re-housing assistance longer than one year, the following documentation of annual income must be maintained;

- Income evaluation form containing the minimum requirements specified by HUD and completed by the sub-recipient; and
- 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);
- 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 sub-recipient's intake staff of the oral verification by the relevant third-party of the income the program participant received over the most recent period for which representative data is available.
- 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 three-month period following the evaluation.

(f) Program Participant Records

In addition to evidence of homeless status or “at risk of homelessness” status, as applicable, records must be kept for each program participant that document:

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

(g) Centralized or Coordinated Assessment Systems and Procedures

Sub-recipients must keep documentation evidencing the use of, and written intake procedures for, the centralized or coordinated assessment system(s) developed by the CoC in accordance with the requirements established by HUD.

(h) Rental Assistance Agreements and Payments

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

(i) Utility Allowance

The records must document the monthly allowance for utilities (excluding telephone), using the most current PHA Utility Allowance Chart to ensure units do not exceed HUD’s Fair Market Rent (FMR) restriction.

(j) Shelter and Housing Standards

The records must include documentation of compliance with the shelter and housing standards in 24 CFR §576.403, including inspection reports.

(k) Emergency Shelter Facilities

The sub-recipient 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 recipient's records must also include documentation of the value of the building before the rehabilitation of an existing emergency shelter or after the conversion of a building into an emergency shelter and copies of the recorded deed or use restrictions.

(l) Services and Assistance Provided

The sub-recipient must keep records of the types of essential services, rental assistance, and housing stabilization and relocation services provided under the sub-recipient's program and the amount spent on these services and assistance. Sub-recipients that are units of general purpose local government must keep records to demonstrate compliance with the maintenance of effort requirement, including records of the unit of the general purpose local government's annual budgets and sources of funding for street outreach and emergency shelter services. (See 24 CFR §576.101 and §576.102 for more details).

(m) Coordination with Continuum of Care and Other Programs

The sub-recipient must document their compliance with the requirements of §576.400 for consulting with the CoC and coordinating the integrating ESG assistance with programs targeted toward homeless people and mainstream service and assistance programs.

(n) HMIS

The sub-recipient must keep records of the participation in HMIS or a comparable database by all projects.

(o) Matching

Sub-recipients must keep records of the source and use of contributions made to satisfy the matching requirements in CFR 24 §576.201. The records must indicate the particular fiscal year grant for which each matching contribution is counted. The records must show how the value placed on third-party, noncash contributions was derived. To the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocation of regular personnel costs.

(p) Conflicts of Interest

Sub-recipients must keep records to show compliance with the organization's 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 §576.404(b), and records supporting exceptions to the personal conflicts of interest prohibitions.

(q) Homeless Participation

Sub-recipients must document its compliance with the homeless participation requirement under §576.405.

(r) Faith-Based Activities

The sub-recipients must document their compliance with the faith-based activities requirements under §576.406

(s) Other Federal Requirements

Sub-recipients must document their compliance with the Federal requirements in §576.407.

(t) Relocation

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

(u) Financial Records

The sub-recipient must retain supporting documentation for all costs charged to the ESG grant.

(v) Sub-recipients and Contractors

Sub-recipients must retain copies of all procurement contracts and documentation of compliance with the procurement requirements at 2 CFR Part 200.

(w) Confidentiality

Sub-recipients must develop and implement written procedures to ensure:

- 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;
- The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project will not be made public, except with the written authorization of the person responsible for the operation of the shelter; and
- 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 sub-recipient and consistent with state and local laws regarding privacy and obligations of confidentiality.

(x) Period of Record Retention

All records pertaining to each fiscal year of ESG funds must be retained for the greater of 5 years or the period specified below.

- Documentation of each program participant’s qualification as a family or individual at risk of homelessness or as a homeless family or individual and other program participant records must be retained for 5 years after the expenditure of all funds from the grant under which the program participant was served;
- Where ESG funds are used for the renovation of an emergency shelter and the costs charged to the ESG grant that exceed 75 percent of the value of the building before renovation, records must be retained until 10 years after the date that the ESG funds are first obligated for the renovation; and
- 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 75 percent of the value of the building after conversion, records must be retained until 10 years after the date that ESG funds are first obligated for the conversion.

(y) Access to Records

Federal government rights. Notwithstanding the confidentiality procedures, 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 sub-recipients that are pertinent to the ESG grant, in order to make audits, examinations, excerpts, and transcripts. These rights of access are not limited to the required retention period but last as long as the records are retained.

Public Information and Open Records Act Requests

All materials contained in applications for Emergency Solutions Grant are subject to the requirements of the Kentucky Open Records laws at KRS 61.870-61.884, and the application materials may be viewed and copied by any member of the public. Applicants seeking to claim a statutory exemption to disclosure from open records requests, which may be made, must place all documents viewed as confidential in a sealed envelope marked "Confidential." Applicants must be aware that if an open records request is made for any of the application materials, KHC will make an independent determination of confidentiality and may or may not agree with the applicant's determination regarding the confidentiality of the materials. KHC will publish via the eGram an announcement of all awarded applications for the current application round. The list will be made available within sixty days of the current application deadline.

ESG Program Assistance

All questions or comments about the ESG Program should be directed to the Housing Contract Administration (HCA) Help Desk at <https://kyhmis.zendesk.com/home>

Resources

ESG Interim Rule 24 CFR Part 576

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr576_main_02.tpl

HUD Exchange

<https://www.hudexchange.info/>

Housing Contract Administration (HCA) Help Desk

<https://kyhmis.zendesk.com/home>

2 CFR Part 200 Uniform Administrative Requirements

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

Section 8 Method of Income Calculation of Annual Income 24 CFR part 5.609

<https://www.gpo.gov/fdsys/granule/CFR-2000-title24-vol1/CFR-2000-title24-vol1-sec5-611/content-detail.html>

HUD Income Limits

<https://www.hudexchange.info/home/>

HUD Fair Market Rents

<https://www.huduser.gov/portal/datasets/fmr.html>

Violence Against Women Act (VAWA) Requirements for HUD programs

<https://www.hudexchange.info/resource/4718/federal-register-notice-proposed-rule-violence-against-women-act-2013-vawa-2013/>