

MISC_PT011997-98
SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Business, Economic
Development and Urban
Affairs (SC-BEDUA)

Sample:

Record of Comm. Proceedings ... RCP
➤ 05hrAC-EdR_RCP_pt01a
➤ 05hrAC-EdR_RCP_pt01b
➤ 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ **

➤ Miscellaneous ... Misc

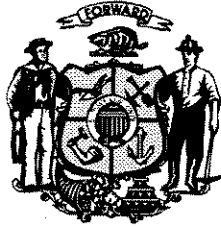
➤ 97hrSC-BEDUA_Misc_pt04

➤ Record of Comm. Proceedings ... RCP

➤ **

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
Division of Housing

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY
LEE MARTINSON
ADMINISTRATOR



Street Address:
101 E. Wilson St. 4th Floor

Mailing Address:
Post Office Box 8944
Madison, WI 53708-8944

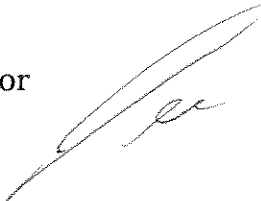
Phone: (608) 266-0288
Fax: (608) 267-6917

DATE: April 20, 1998

TO: Senator Gary Drzewiecki
Chair, Senate Committee on Business, Economic Development
and Urban Affairs

FROM: Lee Martinson, Administrator

SUBJECT: Grant Applications



Enclosed, for your information, is the application for funding available through the Housing Opportunities for Persons with AIDS (HOPWA) Grant program.

If you have any questions, please feel free to contact me at (608) 267-4889.

Thank you for your help.

Enclosures



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
Division of Housing

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Phone: (608) 266-0288
Fax: (608) 267-6917



DATE: April 1998

TO: Agencies Interested in Applying for Housing Opportunities for Persons With AIDS (HOPWA) Grant Funds

FROM: Lee Martinson, Administrator 

RE: HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)
GRANT APPLICATION FOR CALENDAR YEAR 1998

You are invited to submit an application for a Housing Opportunities for Persons With AIDS (HOPWA) Grant. The amount available through this competition is \$291,000. The attached application packet contains detailed information to assist you in preparing the application. The purpose of the HOPWA Grant program is to assist all forms of housing to prevent homelessness, including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate services must be provided as a part of any HOPWA assisted housing, but HOPWA funds may also be used to provide services independent of any housing activity.

If you would like a copy of the application on disk so you can use a computer to complete the application, send a 3.5 inch diskette and information regarding the computer language needed and staff will format the application. If no information is provided the diskette will be formatted in Microsoft Word for Windows 6.0. The deadline for requesting this service is May 15, 1998.

Questions about this application should be directed to Judith M. Wilcox, Homeless Shelter Coordinator, Bureau of Program Development and Management, (608) 266-9388.

All applications must be received, postmarked or identified by a commercial carrier on **Monday, June 29, 1998**. Mail the application to Ms. Wilcox at the Bureau of Program Development and Management, Division of Housing, P.O. Box 8944, Madison, Wisconsin 53708-8944.

Awards will be announced in August, 1998 and contracts will begin October 1, 1998.

LM/JW

GRANT APPLICATION
HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS
(HOPWA) GRANT PROGRAM

1998

SUBMISSION DEADLINE: JUNE 29, 1998

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF HOUSING
BUREAU OF PROGRAM DEVELOPMENT AND
MANAGEMENT

APRIL 1998



Division of Housing

DATE: April, 1998

TO: Local Units of Government and Private Nonprofit Agencies

RE: Request for Grant Applications

I. Introduction

The State of Wisconsin anticipates receiving a grant from the United States Department of Housing and Urban Development (HUD) for the Housing Opportunities for Persons With AIDS (HOPWA) Program, authorized by AIDS Housing Opportunity Act (AOHA) and amended by the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992). The Department of Administration (DOA), Division of Housing (DOH), is administering this program for the state. In anticipation of the federal HUD award, the Division is soliciting applications for funding at this time.

While the State of Wisconsin has attempted to address the need for the increasing housing and service needs of individuals and families affected by the AIDS and HIV virus, with state and other resources, not all areas in the state are being served. It is necessary to increase the capacity of existing programs which serve persons with HIV/AIDS and to develop additional facilities and services to meet the needs of this population throughout the state.

This year, the DOH will continue the competitive grant process for the 1998 HUD HOPWA funding. Therefore it is important for each applicant to submit the most complete and coherent grant application possible. The competition for HOPWA funds for 1998 will cover the area of the state outside of the four county Milwaukee Metro area and Pierce and St. Croix counties. Beginning in 1998 the Milwaukee Metro area will become an entitlement area and will receive HOPWA funds directly from HUD.

The counties included in the state service area include: Adams, Ashland, Barron, Bayfield, Brown, Buffalo, Burnett, Calumet, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Door, Douglas, Dunn, Eau Claire, Florence, Fond du Lac, Forest, Grant, Green, Green Lake, Iowa, Iron, Jackson, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Marquette, Menominee, Monroe, Oconto, Oneida, Outagamie, Pierce, Polk, Portage, Price, Racine, Richland, Rock, Rusk, Sauk, Sawyer, Shawano, Sheboygan, Taylor, Trempealeau, Vernon, Vilas, Walworth, Washburn, Waupaca, Waushara, Winnebago, and Wood Counties.

II. Use of Housing Opportunities for Persons With AIDS Funding

Housing Opportunities for Persons With AIDS (HOPWA) funding can be used to assist all forms of housing designed to prevent homelessness including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services as required by § 574.310(a), must be provided as a part of any HOPWA assisted housing, but HOPWA funds may also be used to provide services independent of any housing activity.

The following activities may be carried out with HOPWA funds:

- Housing information services including, but not limited to, counseling, information and referral services to assist an eligible person to locate, acquire, finance and maintain housing. This may also include fair housing counseling for eligible persons who may encounter discrimination the basis of race, color, religion, sex, age, national origin, familial status or handicap;
- Resource identification to establish, coordinate, and develop housing assistance resources for eligible persons;
- Acquisition, rehabilitation, conversion, lease and repair of facilities to provide housing and services;
- New construction for Single Room Occupancy (SRO) dwellings and community residences only; **an environmental impact assesment will be needed for proposals for acquisition and rehabilitation or new construction.**
- Project- or tenant-based rental assistance for shared housing arrangements; See Attachment B for Income Limits and Attachment C for HUD Fair Market Rents, Short-term rent, mortgage and utility payments to prevent the homelessness of a tenant or mortgagor of a property;
- Supportive services including, but not limited to, health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, nutritional services, intensive care, when required, and assistance in gaining access to local, State, and Federal government benefits except that health services may only be provided to individuals with AIDS or related diseases and not to family members of these individuals;
- Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies and other incidental costs;
- Technical assistance in establishing and operating a community residence, including planning and other pre-development or pre-construction expenses and including, but not limited to, costs related to community outreach and educational activities regarding AIDS or related diseases for persons residing in proximity to the community residence;
- Administrative expenses, each project sponsor may use not more than seven percent of the amounts received for its own administrative costs relating to carrying out eligible activities under this section, including costs of staff necessary to carry out eligible activities.

III. Eligible Applicants

All cities, counties, housing authorities, tribal agencies, and private nonprofit agencies serving the aforementioned counties in Wisconsin are eligible to apply under this Request for Proposals (RFP) for these funds. The private nonprofit agencies must be organized under Wisconsin Chapter 181; be exempt from taxation under subtitle A of Section 501(c) of the Internal Revenue Code; governed by a voluntary board of directors; use approved accounting systems; and practice nondiscrimination in the provision of assistance.

Questions concerning eligibility requirements are to be directed to Judith Wilcox at (608) 266-9388.

IV. Definitions

For the purposes of this Request for Proposals, the following definitions will be used:

- *Acquired immunodeficiency syndrome (AIDS) or related diseases* means the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome, including infection with the human immunodeficiency virus (HIV);
- *Eligible person* means a person with acquired immunodeficiency syndrome or a related disease and the family of such person;
- *Low income individual* means any individual or family whose annual gross income does not exceed 80 percent of the median income for the area;
- *Project sponsor* means any nonprofit organization or governmental agency that receives funds under a grant agreement with the state to carry out eligible activities under this grant.

V. Funds Available

The Division of Housing has \$291,000 available to eligible grantees. Collaborative efforts are encouraged but a lead agency must be identified in the application. All grant awards by the Division are contingent upon receipt of HUD funding. DOH reserves the right to amend, modify, or withdraw the request for proposals and any of the grant program rules, instructions, or procedures contained herein and may exercise such right at any time and without notice and without liability to any applicant or other parties for their expenses incurred in the preparation of a proposal or otherwise.

VI. Program Requirements

Grant award recipients are required to comply with all federal requirements, including environmental requirements. We have attached a complete copy of 24 CFR part 574 Housing Opportunities for Persons With AIDS (HOPWA) for your information. (See Attachment A) Please review the HUD requirements before submitting a proposal for these funds. The federal rules will be included in the grant agreements between the Division and award recipients.

Primarily religious organizations may apply for these funds however, HUD has very specific limitations on the use of HOPWA funds by primarily religious organizations. These limitations are defined in Subpart D Uses of Grant Funds § 574.300(b)(11)(c)(1) (2) and (3). In addition, grantees using grant funds to provide housing must adhere to the standards defined in § 574.310.

Any building for which HOPWA rehabilitation grants are used must then be maintained as a facility to provide housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases for not less than a **three year period** or, if the grant amounts are used for major rehabilitation or conversion of the building, for not less than a **10 year period**. Any building renovated, rehabilitated, or converted with the use of these funds must meet the local government safety and sanitation standards. In addition, an environmental impact assesment will be required for proposals for acquisition and rehabilitation or new construction.

Programs using the HOPWA grants must comply with nondiscrimination and equal opportunity requirements. The grant recipient should make efforts to use minority and women's business enterprises in connection with activities funded. Information regarding Wisconsin Women Owned and Minority Businesses will be made available to grant recipients upon request.

Each agency or unit of local government receiving a grant must submit quarterly reports and also an annual performance report on the obligation and expenditure of HOPWA funds.

VII. Applicant Responses

Proposals submitted in reply to this RFP shall respond to the specifications stated herein. Failure to respond to the specifications may be a basis for an applicant being eliminated from consideration during the selection process. The Division of Housing reserves the right to reject any or all proposals.

All aspects of the proposal from the successful applicant(s) will become contractual obligations. The Division of Housing reserves the right to negotiate the award amount and budget items with the selected applicant(s) prior to entering into a grant agreement.

Justifiable modifications may be made in the course of the grant agreement only through prior consultation with and written approval of the Division of Housing. Failure of the successful applicant to accept these obligations may result in cancellation of the award.

VIII. Submittal of Application

1. Complete Application. A complete application will include:
 - a. The completed and signed application form (page 9)
 - b. Signed certifications (see page 17)
 - c. A map marked to show the exact location or the service area of any agency requesting the use of these funds.
 - d. Internal Revenue Service Letter of Nonprofit Status is required for all applicants which are not government entities, tribal entities or community action agencies. If not attached, please explain nonprofit status and note date when letter can be sent.
2. Number of Copies: **Three (3)** copies are required.
3. Application Deadline: The closing date for the receipt of all applications under this solicitation will be **June 30, 1998**. Applications may be mailed or hand delivered. An application will be accepted and considered received on time if:
 - a. The application is received, postmarked or identified by a commercial carrier processing date on or before **June 30, 1998**.
Housing Opportunities for Persons With AIDS Program
Division of Housing
Department of Administration
PO Box 8944
Madison, WI 53708-8944
 - b. The application is hand delivered to the address below by the close of business on **June 30, 1998**.
Housing Opportunities for Persons With AIDS Grant Program
Department of Administration
Division of Housing
101 E. Wilson St.
4th Floor
Madison, Wisconsin

All applications which are received, postmarked or identified by a commercial carrier processing date after the closing date of June 30, 1998 will not be reviewed and will be returned to the applicant. No exceptions will be allowed.

4. Supplemental and Clarifying Information: Unless requested by the Division, no additional information will be accepted from an applicant after the deadline for submittal of applications.

IX. Assistance

For assistance in filling out the application, contact Judith Wilcox at (608) 266-9388.

X. Review of Applications

An administrative review of funding requests will be conducted by DOH staff and other invited reviewers. DOH will award points for the following criteria: Applicant capacity, Ability of the applicant to comply with program requirements and certifications; Appropriateness of the budget; Need for the project in the area to be served, including the relative number of AIDS cases and per capita AIDS incidence and the housing needs of eligible persons in the proposed service area; Appropriateness of the housing and supportive services, including how activities will be carried out with HOPWA funds and how other resources will provide a continuum of housing and services to meet the changing needs of eligible persons; Extent of leveraged public and private resources for the project; Extent of local planning and coordination of other housing and supportive service programs for eligible persons and the likelihood of the continuation of State and local efforts. A recipient's past performance and progress regarding all of grantee's DOH administered grant programs, as well as recent financial audit results, will be considered in the review, selection and award process.

It is expected that all activities funded under this program will be in conformance with the State of Wisconsin's Consolidated Plan (CP). However, applicants do not need to submit a CP certification with this application.

XI. Award Procedures

Eligible proposals may be funded in part or in full. Grant agreements will be sent to the agencies that are awarded funds. Grant agreements would be expected to start October 1, 1998 and generally would not exceed two years. The grant agreement will include a schedule for fund disbursement and reporting, record keeping and auditing requirements, and special conditions of the grant award. The signed grant agreement and a specific list of all the sources of match and the amounts must be returned by the grant recipient to the Division of Housing within thirty (30) days of the effective date of the grant agreement. Attachment D provides information regarding Department of Administration Contract Laws and Regulations.

XII. Notice of Non-Approval and Rights of Applicants

Each applicant whose proposal is reviewed by the HOPWA Review Committee shall receive written notice of the determination of approval or non-funding of the proposed project on or about August 17, 1998.

After notification of awards are made, and under the supervision of Division of Housing staff, copies of all proposals will be available for public inspection from 8:00 a.m. to 4:00 p.m. in the Division of Housing, 4th Floor, 101 E. Wilson St., Madison, WI.

Each applicant whose project has not been approved for an award shall be given an opportunity to discuss with the DOH Homeless Shelter Coordinator the reasons for non-funding or may write the DOH representative requesting the reasons for the decision.

The DOH Homeless Shelter Coordinator will clarify non-funding reasons verbally or will respond in writing explaining the reasons for the project not being funded.

XIII. Appeal Process

An applicant who objects to the award or denial of an award has the right to appeal the decision through the following process:

1. The Applicant must file a written notice of appeal with the appropriate Division of Housing Program Manager. The Notice must include the name of the application and a short summary of why the applicant is appealing the decision.

THE NOTICE OF APPEAL MUST BE FILED WITHIN TEN (10) BUSINESS DAYS OF THE DATE THE APPLICANT RECEIVED NOTICE OF AWARD OR DENIAL.

2. Upon receipt of the written notice of appeal, the Program Manager shall review the decision and respond in writing to the applicant of the result.
3. If the appeal is denied, the applicant may appeal to the Division of Housing Administrator. The written notice of appeal must be filed within 10 business days of the date the applicant is notified under Step 2.
4. If the appeal to the Division of Housing Administrator is denied, the applicant may appeal to the Deputy Secretary of the Department of Administration. The written notice of appeal must be filed within ten business days of the date the applicant is notified under Step 3.

CHECKLIST FOR COMPLETED APPLICATION

For your convenience, please use this checklist to make sure you have obtained all the necessary signatures in the Application and have provided the necessary attachments and correct number of copies:

- _____ Signed Application title page and certifications (pages 9 & 17)
- _____ Map of the service area attached
- _____ An original and two copies of Application made for the Department of Administration, Division of Housing.
- _____ Internal Revenue Service letter of nonprofit status, if applicable.
- _____ Documentation of leveraged/matched funds.
- _____ Documentation of interagency relationships.

Department of Administration
Division of Housing
101 E. Wilson Street, 4th Floor
PO Box 8944
Madison, WI 53708-8944

APPLICATION FOR THE 1998 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS GRANT (HOPWA) GRANT PROGRAM

Applicant Agency _____	Contact Person _____
Federal Employer Identification Number _____	
Address _____	Telephone _____
_____	FAX Number _____

SUMMARY INFORMATION

1. Year program was established: _____

2. Briefly state the mission of the applicant agency:

3. Total HOPWA funds requested: _____

4. Total current operating budget: _____

5. Date funds will be expended: From: _____ To: _____

OFFICIAL AUTHORIZED TO COMMIT APPLICANT ORGANIZATION TO THIS AGREEMENT:

Name: _____ Signature: _____

Title: _____ Phone: _____ Date: _____

6. Purpose in requesting funds (check all that apply):

- To increase supportive services
- To provide housing services
- To bring building up to health and safety codes
- To expand the number of AIDS/HIV affected individuals or families served
- Other (specify) _____

NARRATIVE INFORMATION

7. Organization Profile/Administrative Capacity. (Use no more than five typewritten pages.)

A. For each organization involved in carrying out this proposal describe:

- 1) Agency Mission
- 2) Experience/history of providing services and/or housing to individuals and families affected by AIDS/HIV
- 3) Current housing or service programs, activities and accomplishments
- 4) Organizational structure
 - a. Indicate the number of facilities and their uses.
 - b. Attach an organizational chart, indicate where this project fits, if applicable.
 - c. Provide information regarding your organization's AIDS/HIV program(s).
- 5) Number of paid personnel working 35 hours per week
- 6) Number of paid personnel working less than 35 hours per week
- 7) Extent of volunteer participation

B. Describe your involvement with other agencies to collaborate and coordinate housing and supportive services for individuals and families affected by AIDS/HIV in your service area. Letters of support defining interagency relationships will be taken into consideration during the review process. (Add as an appendix to the application.)

8. A. Financial Management of Grant Funds (Fill out this sheet for every agency involved in carrying out this proposal.)

1. Total Organization Budget - (include all funds received or accounted for by your organization).

Enter your budget for your current fiscal year: \$ _____	Enter your budget for your previous fiscal year: \$ _____
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2. List the 2 largest grants received in the past 2 years from local, state or federal government agencies; corporations; foundations; religious organizations and civic organizations.

Grant #1	Amount Received: \$ _____	Year Grant Received: 19____	Expenditures to date on this grant: \$ _____
Name of Organization providing funding:			Organization Phone #: ()
Address	City	State	Zip
Contact Person:			Phone Number: ()
Purpose of Project:			
Was your organization directly responsible for the fiscal management or record keeping of these funds? <input type="checkbox"/> Yes <input type="checkbox"/> *No			
*If no, name of organization providing fiscal management:			
Address	City	State	Zip
Contact Person:			Phone Number: ()

Grant #2	Amount Received: \$ _____	Year Grant Received: 19____	Expenditures to date on this grant: \$ _____
Name of Organization providing funding:			Organization Phone #: ()
Address	City	State	Zip
Contact Person:			Phone Number: ()
Purpose of Project:			
Was your organization directly responsible for the fiscal management or record keeping of these funds? <input type="checkbox"/> Yes <input type="checkbox"/> *No			
*If no, name of organization providing fiscal management:			
Address	City	State	Zip
Contact Person:			Phone Number: ()

8. A. Financial Management (Continued)

3. Do you have an annual audit?

No Yes, performed by: Volunteer Employee Contractor

Auditor's Name	Phone Number: ()		
Address	City	State	Zip

4. Your organization's bookkeeping is performed by:

Volunteer Employee Contractor

Bookkeeper's Name: (If done by the same person who does your audit, enter "Same".)

Please describe the qualifications of your bookkeeper:

5. Please indicate the beginning and ending of your fiscal year:

_____ to _____
Month/Day/Year Month/Day/Year

9. Fully describe the need in your community for these funds. Remember, the grant is competitive so be specific. Statistical information, including the source of the statistics, on the need for housing and supportive services for individuals and families affected by AIDS/HIV will strengthen your application. This section should describe the characteristics and the service needs of the population proposed to be served, including the unmet housing and supportive service needs of the population. Do not describe what your agency wants or needs in this section of the application. You may use additional pages if necessary.

10. Fully describe how these funds would be used to meet the need. Be specific in describing exactly what you propose to do. Items to be taken into consideration in the review of the proposal are as follows:
- Describe the measurable objectives that will be used to assess the program's success, how will the program be monitored on an ongoing basis, and how will changes in the program be implemented;
 - Describe the households to be served. How many households and what are their demographic characteristics;
 - Describe the geographic area to be served by the program;
 - Describe how you have coordinated the planning and operation of this program with other organizations that assist persons affected by AIDS/HIV;
 - Describe the process for assessing the housing and service needs of potential program participants as well as the process for assessing the ongoing needs of program participants;
 - Provide a brief description of the supportive services to be offered. If the project offers case management services, describe how case management services will be provided;
 - Describe the housing alternatives to be used, what role participants will have in deciding where to live, what role participants will have in operating/maintaining the housing and the role of the project sponsor in operating and maintaining the housing;
 - Explain how rental assistance payments will be administered, who will hold the lease and the income certification process for participants who are being charged rent;
 - Explain the method for assuring that housing subsidized with HOPWA funds meets HUD Housing Quality Standards;
 - Describe how the program will be implemented in a timely manner.

11. Work Plan and Timetable

- a. Identify the start date and end date of the HOPWA funded program
- b. Describe on a monthly or quarterly basis the proposed activities and outcomes of the project. Be as specific and quantitative as possible.

BUDGET

12. How do you propose to spend the HOPWA funds?

a. Program Budget

Enter on the budget form the total estimated expenses for operating the program. Do not include the value of in-kind contributions, such as donated materials or volunteer time.

- (1) In cases where staff also perform administrative services, costs should be prorated between applicable budgets.
- (2) Rent payments made by program participants should be included in the program budget in the other funds column. (Only if rental assistance is a part of the program.)

b. Administrative Budget

Administrative costs may not exceed seven percent of the proposed program budget.

PROGRAM BUDGET

<u>CATEGORY</u>	<u>TOTAL HOPWA FUNDS</u>	+	<u>TOTAL OTHER FUNDS</u>	=	<u>TOTAL PROGRAM BUDGET</u>
Rental Assistance	_____		_____		_____
Emergency Rent/Mortgage Assistance	_____		_____		_____
Security Deposit	_____		_____		_____
Utility Assistance	_____		_____		_____
Housing Counseling	_____		_____		_____
Supportive Services Associated with Housing	_____		_____		_____
Supportive Services Not Associated with Housing	_____		_____		_____
Other	_____		_____		_____
	_____		_____		_____
TOTALS	_____		_____		_____

*Explanation of "Other" Expenditures

<u>Category</u>			
Subcontract	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

ADMINISTRATIVE BUDGET

<u>CATEGORY</u>	<u>TOTAL HOPWA ADM. FUNDS</u>	<u>+</u>	<u>TOTAL OTHER ADM. FUNDS</u>	<u>=</u>	<u>TOTAL PROGRAM ADM. BUDGET</u>
Personnel	_____		_____		_____
Fringe Benefits	_____		_____		_____
Temporary Help	_____		_____		_____
Travel	_____		_____		_____
Equipment	_____		_____		_____
Office Rent	_____		_____		_____
Supplies	_____		_____		_____
Telephone	_____		_____		_____
Postage & Shipping	_____		_____		_____
Printing & Copying	_____		_____		_____
Training	_____		_____		_____
Audit	_____		_____		_____
Contractual*	_____		_____		_____
Other **	_____		_____		_____
TOTALS	_____		_____		_____

*Explanation of "Contractual" expenditures

**Explanation of "Other" expenditures

Category

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS PROGRAM
CERTIFICATIONS (SEE ATTACHMENT 2 24 CFR PART 574)**

I, _____, of the
(name and title)

_____ of _____
(insert the applicant organization name) (enter address)

certify compliance with:

- (1) The requirements of 24 CFR §574.310(c)(i) and(ii), concerning the continued use of buildings for which HOPWA funds are used as a facility to provide housing or assistance for individuals with AIDS or related diseases;
- (2) The building standards requirement of 24 CFR §574.310(b)(1) and (2);
- (3) The requirements of 24 CFR §574.320 and §574.330, concerning rental assistance and additional standards for short term housing; and
- (4) The requirements of 24 CFR §574.600, other appropriate provisions of 24 CFR §574, and other applicable Federal law concerning nondiscrimination and equal opportunity.

I certify that the agency, in carrying out its HOPWA Grant, will not (except as provided at 24 CFR §574.510):

- (1) Fund renovation, major rehabilitation, or conversion of any building: listed on the National Register of Historic Places; located in an historic district; immediately adjacent to a property listed on the National Register; or deemed to be eligible for inclusion on the National Register by the State Historic Preservation Officer;
- (2) Fund any such activity taking place in a 100 year flood plain designated by map by the Federal Emergency Management Agency;
- (3) Fund any such activity which will jeopardize the continued existence of an endangered or threatened species designated by the Department of the Interior's Fish and Wildlife Service or by the Department of Commerce's National Maritime Fisheries Service, or affecting the critical habitat of such a species; and
- (4) Be inconsistent with HUD's environmental standards at 24 CFR Part 50.4 (noise, Thermal and man-made hazards, and Runway Clear Zones) or with the State's Coastal Zone Management Plan.

Signature: _____ Date: _____

ATTACHMENT 2

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for
Community Planning and Development

**Composite Regulation for the Housing Opportunities
for Persons with AIDS (HOPWA) Program** (as of 2-6-95)

The attached provides a composite regulation for the Housing Opportunities For Persons with AIDS (HOPWA) Program for informational purposes. The Final Rule was published on April 11, 1994 (59 FR 17174). The rule was amended by the Consolidated Submissions for Community Planning and Development Programs, Final Rule, 24 CFR Part 91, published on January 5, 1995 (60 FR 1878).

Catalog. The Catalog of Federal Domestic Assistance program number for the Housing Opportunities for Persons with AIDS program is 14.241.

List of Subjects. 24 CFR Part 574 AIDS, Community facilities, Disabled, Emergency shelter, Grant programs-health programs, Grant programs-housing and community development, Grant programs-social programs, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

Authority. 42 U.S.C. 12901-12912.

PART 574--HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Subpart A-General

- 574.1 Purpose.
- 574.2 Overview.
- 574.3 Definitions.
- 574.4 Waivers.

Subpart B-Formula Entitlements

- 574.100 Eligible applicants.
- 574.120 Responsibility of applicant to serve EMSA.
- 574.130 Formula allocations.
- [574.140 Eligible persons. REMOVED]
- 574.150 Eligible activities.
- [574.160 Application requirements. REMOVED]
- [574.170 Application review and approval. REMOVED]
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Subpart A-General

§ 574.1 Purpose.

The Housing Opportunities for Persons with AIDS (HOPWA) program is authorized by AIDS Housing Opportunity Act (AOHA) and amended by the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992). The program is designed to provide States and localities with resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome or related diseases and their families. The program authorizes entitlement grants and competitively awarded grants for housing assistance and services.

§ 574.2 Overview.

(a) Available funds. The Department awards funds appropriated for any fiscal year for the program through a formula allocation and a competitive grant process. Ninety percent of funds appropriated for this program are distributed by formula entitlement. The remaining ten percent is awarded through the competitive process.

(b) Formula entitlements. The formula grants are awarded upon submission and approval of a consolidated plan, pursuant to 24 CFR part 91, that covers the assistance to be provided under this part. Certain States and cities that are the most populous unit of general local government in eligible metropolitan statistical areas will receive formula allocations based on their State or metropolitan population and proportionate number of cases of persons with AIDS. They will receive funds under this part (providing they comply with 24 CFR part 91) for eligible activities that address the housing needs of persons with AIDS or related diseases and their families (see § 574.130(b)).

(c) Competitive grants. The competitive grants are awarded based on applications, as described in subpart C of this part, submitted in response to a Notice of Funds Availability published in the FEDERAL REGISTER. All States and units of general local government and nonprofit organizations are eligible to apply for competitive grants to fund projects of national significance. Only those States and units of general local government that do not qualify for formula allocations are eligible to apply for competitive grants to fund other projects.

§ 574.3 Definitions.

Acquired immunodeficiency syndrome (AIDS) or related diseases means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome, including infection with the human immunodeficiency virus (HIV).

Administrative costs mean costs for general management, oversight, coordination, evaluation, and reporting on eligible activities. Such costs do not include costs directly related to carrying out eligible activities, since those costs are eligible as part of the activity delivery costs of such activities.

Applicant means a State or city applying for a formula allocation as described under § 574.100 or a State, unit of general local government, or a nonprofit organization applying for a competitive grant as described under § 574.210.

City means any unit of general local government which is classified as a municipality by the U.S. Bureau of the Census or any other unit of general local government which is a town or township and which, in the determination of the Secretary:

- (1) Possesses powers and performs functions comparable to those associated with municipalities;
- (2) Is closely settled; and

(3) Contains within its boundaries no incorporated places as defined by the U.S. Bureau of the Census which have not entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.

Eligible Metropolitan Statistical Area (EMSA) means a metropolitan statistical area that has a population of more than 500,000 and has more than 1,500 cumulative cases of AIDS.

Eligible person means a person with acquired immunodeficiency syndrome or related diseases who is a low-income individual, as defined in this section, and the person's family. A person with AIDS or related diseases or a family member regardless of income is eligible to receive housing information services, as described in § 574.300(b)(1). Any person living in proximity to a community residence is eligible to participate in that residence's community outreach and educational activities regarding AIDS or related diseases, as provided in § 574.300(b)(9).

Eligible State means a State that has:

- (1) More than 1,500 cumulative cases of AIDS in those areas of the State outside of eligible metropolitan statistical areas that are eligible to be funded through a qualifying city; and
- (2) A consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part. (A State may carry out activities anywhere in the State, including within an EMSA.)

Family means a household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death.

Grantee means a State, unit of general local government, or nonprofit organization receiving a grant directly from HUD under this part.

Low-income individual means any individual or family whose income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area if HUD finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

Metropolitan statistical area means a metropolitan statistical area as established by the Office of Management and Budget.

Moderate rehabilitation means rehabilitation that involves costs that are less than or equal to 75 percent of the value of the building after rehabilitation.

Nonprofit organization means any nonprofit organization (including a State or locally chartered, nonprofit organization) that:

- (1) Is organized under State or local laws;
- (2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- (3) Has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or has designated an entity that will maintain such an accounting system; and
- (4) Has among its purposes significant activities related to providing services or housing to

persons with acquired immunodeficiency syndrome or related diseases.

Non-substantial rehabilitation means rehabilitation that involves costs that are less than or equal to 75 percent of the value of the building after rehabilitation.

Population means total resident population based on data compiled by the U.S. Census and referable to the same point in time.

Project sponsor means any nonprofit organization or governmental housing agency that receives funds under a contract with the grantee to carry out eligible activities under this part.

Qualifying city means a city that is the most populous unit of general local government in an eligible metropolitan statistical area (EMSA) and that has a consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part.

Rehabilitation means the improvement or repair of an existing structure, or an addition to an existing structure that does not increase the floor area by more than 100 percent.

Secretary means the Secretary of the Department of Housing and Urban Development.

State means a State of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this part.

Substantial rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building after rehabilitation.

Unit of general local government means any city, town, township, parish, county, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of the National Affordable Housing Act.

§ 574.4 Waivers.

Upon a determination and finding of good cause, the Secretary may waive any requirement of this part in any particular case subject only to statutory limitations. Each waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.

Subpart B-Formula Entitlements

§ 574.100 Eligible applicants.

(a) Eligible States and qualifying cities, as defined in § 574.3, qualify for formula allocations under HOPWA.

(b) HUD will notify eligible States and qualifying cities of their formula eligibility and allocation amounts and EMSA service areas annually.

§ 574.120 Responsibility of applicant to serve EMSA.

The EMSA's applicant shall serve eligible persons who live anywhere within the EMSA, except that housing assistance shall be provided only in localities within the EMSA that have a consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part. In allocating grant amounts among eligible activities, the EMSA's applicant shall

address needs of eligible persons who reside within the metropolitan statistical area, including those not within the jurisdiction of the applicant.

§ 574.130 Formula allocations.

(a) Data sources. HUD will allocate funds based on the number of cases of acquired immunodeficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control, and on population data provided by the U.S. Census. The number of cases of acquired immunodeficiency syndrome used for this purpose shall be the number reported as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and allocated.

(b) Distribution of appropriated funds for entitlement awards. (1) Seventy-five percent of the funds allocated under the formula is distributed to qualifying cities and eligible States, as described in § 574.100, based on each metropolitan statistical area's or State's proportionate share of the cumulative number of AIDS cases in all eligible metropolitan statistical areas and eligible States.

(2) The remaining twenty-five percent is allocated among qualifying cities, but not States, where the per capita incidence of AIDS for the year, April 1 through March 31, preceding the fiscal year of the appropriation is higher than the average for all metropolitan statistical areas with more than 500,000 population. Each qualifying city's allocation reflects its EMSA's proportionate share of the high incidence factor among EMSAs with higher than average per capita incidence of AIDS. The high incidence factor is computed by multiplying the population of the metropolitan statistical area by the difference between its twelve-month-per-capita-incidence rate and the average rate for all metropolitan statistical areas with more than 500,000 population. The EMSA's proportionate share is determined by dividing its high incidence factor by the sum of the high incidence factors for all EMSAs with higher than average per capita incidence of AIDS.

(c) Minimum grant. No grant awarded under paragraph (b) of this section shall be less than \$200,000. Therefore, if the calculations under paragraph (b) of this section would result in any eligible metropolitan statistical area or eligible State receiving less than \$200,000, the amount allocated to that entity is increased to \$200,000 and allocations to entities in excess of \$200,000 are proportionately reduced by the amount of the increase.

§ 574.140 [Eligible Persons--Removed]

§ 574.150 Eligible activities.

Grantees under this subpart are authorized to provide, or contract with project sponsors to provide, housing assistance or service activities as described in Subpart D-Uses of Grant Funds. The selection of project sponsors is not subject to the procurement requirements of 24 CFR 85.36.

§ 574.160 [Application requirements--Removed]

§ 574.170 [Application review and approval--Removed]

§ 574.180 [Amendments--Removed]

§ 574.190 Reallocation of grant amounts.

If an eligible State or qualifying city does not submit a consolidated plan in a timely fashion, in accordance with 24 CFR part 91, that provides for use of its allocation of funding under this part, the funds allocated to that jurisdiction will be added to the funds available for formula allocations to other jurisdictions in the current fiscal year. Any formula funds that become available as a result of deobligations or the imposition of sanctions as provided for in § 574.540 will be added to the funds available for formula allocations in the next fiscal year.

Subpart C-Competitive Grants

§ 574.200 Amounts available for competitive grants.

(a) The Department will set aside 10 percent of the amounts appropriated under this program to fund on a competitive basis:

- (1) Special projects of national significance; and
- (2) Other projects submitted by States and localities that do not qualify for formula grants.

(b) Any competitively awarded funds that become available as a result of deobligations or the imposition of sanctions, as provided in § 574.540, will be added to the funds available for competitive grants in the next fiscal year.

§ 574.210 Eligible applicants.

(a) All States, units of general local government, and nonprofit organizations, may apply for grants for projects of national significance.

(b) Only those States and units of general local government that do not qualify for formula grants, as described in § 574.100; may apply for grants for other projects as described in § 574.200(a)(2).

(c) Except for grants for projects of national significance, nonprofit organizations are not eligible to apply directly to HUD for a grant but may receive funding as a project sponsor under contract with a grantee.

§ 574.220 [Eligible Persons--Removed]

§ 574.230 Eligible activities.

Grantees under this subpart are authorized to provide, or contract with project sponsors to provide, housing assistance or service activities as described in Subpart D-Uses of Grant Funds. The selection of project sponsors is not subject to the procurement requirements of 24 CFR 85.36.

§ 574.240 Application requirements.

(a) Notice of fund availability for competitive grants. Applications must comply with the provisions of the Department's Notice of Fund Availability (NOFA) to be published in the Federal Register in accordance with 24 CFR part 12. The notice:

(1) Gives the location for obtaining application packages, which will provide specific application requirements and guidance; (2) Specifies the time and the place for submitting completed applications;

(3) States the amount and status of funding available under the notice, including the amounts allocated to each of the two categories of assistance;

(4) Specifies the timing and conditions for curing technical deficiencies in reviewed application;

(5) Provides other appropriate program information and guidance, including purpose, authority, and eligibility; and

(6) Describes the factors relative to each ranking criterion contained in § 574.250 of this part, and indicates the weight or relative importance of the criteria as they will be applied to the funding round announced in the Notice.

(b) Application requirements. To receive grant amounts, a State, unit of general local government, or nonprofit organization that elects to apply for a competitive grant award must submit an application that meets the requirements of paragraph (c) of this section and must be submitted within the time period established by HUD in the Notice of Funds Availability.

(c) Application contents. A competitive grant application, at a minimum, must contain:

(1) Applicant and project sponsor data, including a description of the applicant and sponsor's past experience in administering programs providing assistance to persons with AIDS, including minority persons, and for nonprofit organizations, description of how it is consistent with the definition of nonprofit organization as provided in § 574.3;

(2) A description of the proposed activities, including site information and costs;

- (3) A description of the number and characteristics of the persons who would be served by the proposed activities;
- (4) A description of the public and private resources that are expected to be made available in connection with the proposed activities;
- (5) A description of the method of selecting project sponsors;
- (6) (i) a description of efforts that have been or will be taken to coordinate proposed activities with:
 - (A) State and local government agencies responsible for providing State or locally funded assistance and services to persons with AIDS or related diseases; and
 - (B) Government agencies and nonprofit organizations that are administering the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C. 300) and other related Federal programs.
- (ii) In addition, a description of efforts that have been or will be taken to consult with and involve in the application's proposed activities, community-based nonprofit organizations which are experienced in caring for persons with AIDS and organizations which represent persons with AIDS;
- (7) A certification that any building or structure assisted with amounts under this part will be maintained as a facility to provide assistance for eligible persons:
 - (i) For not less than 10 years in the case of assistance involving new construction, substantial rehabilitation or acquisition of the building; and
 - (ii) For not less than 3 years in cases involving non-substantial rehabilitation or repair of a building or structure;
- (8) Description of how the proposed activities will meet urgent needs that are not being met by available public and private sources;
- (9) For grants for projects of national significance, a description of the innovative nature of the project and its potential for replication in similar localities or nationally;
- (10) An assurance that the applicant will:
 - (i) Supply HUD with information necessary for HUD to perform any applicable environmental review for each property in accordance with the environmental laws and authorities cited in 24 CFR part 50;
 - (ii) Carry out mitigating measures required by HUD or select alternate eligible property; and
 - (iii) Not acquire, rehabilitate, convert, lease, repair or construct property to provide housing, or commit HUD, State, local, or other funds to such program activities with respect to any eligible property until HUD approval is received. See § 574.510 of this part for the environmental procedures and standards for applicants for assistance;
- (11) For States and units of general local government, a certification that proposed housing activities are consistent with a consolidated plan approved by HUD in accordance with 24 CFR part 91; and
- (12) Such other information or certifications as the Secretary determines to be necessary.

§ 574.250 Grant selection process.

- (a) Selection process. - (1) Review. Applications will be reviewed to determine:
 - (i) Whether the application is adequate in time of submission, form, and completeness;
 - (ii) Whether the applicant, the population to be served and project sponsor(s), if any, are eligible;
 - (iii) Whether the proposed activities are eligible for assistance under the program; and
 - (iv) Whether the applicant is currently in compliance with the Federal requirements contained in Subpart G-Other Federal Requirements, §§ 574.600-574.650.
- (2) Rating. Applications received by the deadline will be rated based on the selection criteria provided in paragraph (b) of this section;
- (3) Conditional selection for funding. The highest rated applications within each of the two categories of assistance will be selected for potential funding in accordance with their ranked order to the extent funds are available. Each conditionally selected applicant will be invited to provide additional project information, as described in paragraph (a)(4) of this section, as a prerequisite to a grant offer from

HUD.

(4) Obtaining additional information. When an applicant is selected for potential funding, the applicant will be invited by HUD to submit additional project information, which may include:

- (i) documentation to show that the project is feasible;
- (ii) documentation showing site control, as described in § 574.240(c)(2);
- (iii) information necessary for HUD to perform an environmental review under § 574.510; and
- (iv) such other documentation that is necessary for clarification or confirmation of the information in the application, as specified by HUD in writing to the applicant.

(5) Receipt of additional information. The required additional information must be received in acceptable form by the deadline established by HUD in a notice of funding availability published in the Federal Register. HUD reserves the right to remove any project from further consideration for grant assistance if the required additional information is not received in acceptable form by the established deadline.

(6) Grant award. Following receipt of the additional information in acceptable form and following completion of an acceptable environmental review, HUD will approve the application and send a grant agreement for execution to the applicant.

(b) Rating criteria for applications for funds for competitive grants.

(1) General. Applications for funds for competitive grants will be assigned a rating score and placed in ranked order, based upon the criteria listed in paragraphs (b)(2) and (b)(3) of this section. The criteria, including the point value for each, will be described in more detail in the Notice of Funds Availability which will be published in the Federal Register.

(2) Criteria. HUD will award points for the following criteria:

- (i) Applicant capacity;
- (ii) Need for the project in the area to be served, including the relative numbers of AIDS cases and per capita AIDS incidence, and the housing needs of eligible persons in the community;
- (iii) Appropriateness of housing and supportive services, including how activities carried out with HOPWA funds and other resources will provide a continuum of housing and services to meet the changing needs of eligible persons;
- (iv) Extent of leveraged public and private resources for the project;
- (v) Extent of local planning and coordination of housing programs for eligible persons and the likelihood of the continuation of State and local efforts; and
- (vi) Other criteria as determined by the Secretary and announced in the NOFA.

(3) Additional criteria for projects of national significance. For projects of national significance, HUD also will award points for the following criteria:

- (i) Innovative nature of the proposal, including the effectiveness of the proposed model(s) for providing supportive housing for eligible persons; and
- (ii) Potential for replication of the proposed activity in other similar localities or nationally.

(c) Ties between applicants. In the event of a tie between applicants, HUD will use need for the project to determine which application should be selected for potential funding.

(d) Procedural error. If HUD makes a procedural error in a funding competition that, when corrected, would warrant funding of an otherwise eligible application, HUD will select that application for potential funding when sufficient funds become available.

§ 574.260 Amendments.

(a) After an application has been selected for funding, any change that will significantly alter the scope, location, service area, or objectives of an activity or the number of eligible persons served must be justified to HUD and approved by HUD. Whenever any other amendment to the application is made, the grantee must provide a copy to HUD.

(b) Each amendment request must contain a description of the revised proposed use of funds. Funds may not be expended for the revised proposed use of funds until:

- (1) HUD accepts the revised proposed use; and
- (2) For amendments to acquire, rehabilitate, convert, lease, repair or construct properties to

provide housing, an environmental review of the revised proposed use of funds has been completed in accordance with § 574.510.

Subpart D-Uses of Grant Funds

§ 574.300 Eligible activities.

(a) General. Subject to applicable requirements described in §§ 574.310, 574.320, 574.330, and 574.340, HOPWA funds may be used to assist all forms of housing designed to prevent homelessness including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services, as required by § 574.310(a), must be provided as part of any HOPWA assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity.

(b) Activities. The following activities may be carried out with HOPWA funds:

(1) Housing information services including, but not limited to, counseling, information, and referral services to assist an eligible person to locate, acquire, finance and maintain housing. This may also include fair housing counseling for eligible persons who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap;

(2) Resource identification to establish, coordinate and develop housing assistance resources for eligible persons (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives);

(3) Acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services;

(4) New construction (for single room occupancy (SRO) dwellings and community residences only).

(5) Project- or tenant-based rental assistance, including assistance for shared housing arrangements;

(6) Short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or mortgagor of a dwelling;

(7) Supportive services including, but not limited to, health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local, State, and Federal government benefits and services, except that health services may only be provided to individuals with acquired immunodeficiency syndrome or related diseases and not to family members of these individuals;

(8) Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs;

(9) Technical assistance in establishing and operating a community residence, including planning and other pre-development or pre-construction expenses and including, but not limited to, costs relating to community outreach and educational activities regarding AIDS or related diseases for persons residing in proximity to the community residence;

(10) Administrative expenses:

(i) Each grantee may use not more than 3 percent of the grant amount for its own administrative costs relating to administering grant amounts and allocating such amounts to project sponsors; and

(ii) Each project sponsor receiving amounts from grants made under this program may use not more than 7 percent of the amounts received for administrative costs.

(11) For competitive grants only, any other activity proposed by the applicant and approved by HUD.

(c) Limitations of assistance to primarily religious organizations-(1) Provision of assistance. (i) Assistance may be provided under this part by a grantee to a project sponsor that is a primarily religious organization if the primarily religious organization agrees to provide all eligible activities under this program in a manner that is free from religious influences and in accordance with the following principles:

(A) It will not discriminate against any employee or applicant for employment on the basis of

religion and will not limit employment or give preference in employment to persons on the basis of religion.

(B) It will not discriminate against any person applying for any of the eligible activities under this part on the basis of religion and will not limit such housing or other eligible activities or give preference to persons on the basis of religion.

(C) It will provide no religious instruction or counseling, conduct no religious services or worship, engage in no religious proselytizing, and exert no other religious influence in the provision of eligible activities under this part.

(ii) Assistance will not be provided to a project sponsor that is a primarily religious organization to construct or acquire a structure. Assistance may be provided to a project sponsor that is a primarily religious organization to rehabilitate or convert a structure owned by the organization, only as described in paragraph (c)(2) of this section.

(2) Rehabilitation or conversion of structures owned by primarily religious organizations. Grant amounts may be used to rehabilitate or convert a structure that is owned by a primarily religious organization, only if:

(i) The structure (or portion thereof) that is to be rehabilitated or converted with HUD assistance has been leased to an existing or newly established wholly secular organization (which may be established by the religious organization under the provisions of paragraph (c)(3) of this section).

(ii) The HUD assistance is provided to the secular organization (and not the religious organization) to make the improvements.

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion. (iv) The lease payments paid to the primarily religious organization do not exceed the fair market rent for the structure before the rehabilitation or conversion was done.

(v) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the religious organization.

(vi) The primarily religious organization agrees that if the secular organization does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the original grantee from which the amounts used to rehabilitate or convert the building were derived. While the original grantee is expected to use this amount for eligible HOPWA activities, there is no requirement that funds received after the close of the grant period be used in accordance with the requirements of this part.

(3) Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.

(i) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a project sponsor. The secular organization may be eligible to receive all forms of assistance available under this part.

(ii) The secular organization must agree to provide eligible activities under this part in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(iii) The secular organization may enter into a contract with the religious organization to operate the housing assistance, supportive services and other eligible activities for the project. In such a case, the religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(iv) The rehabilitation or conversion of structures are subject to the requirements of paragraph (c)(2) of this section.

§ 574.310 General standards for eligible housing activities.

All grantees using grant funds to provide housing must adhere to the following standards:

(a) Supportive Services. (1) General. The grantee shall ensure that qualified service providers in the area make available appropriate supportive services to the individuals assisted with housing under this

subpart. Supportive services are described in § 574.300(b)(7). For any individual with acquired immunodeficiency syndrome or a related disease who requires more intensive care than can be provided in housing assisted under this subpart, the grantee shall provide for locating a care provider who can appropriately care for the individual and for referring the individual to the care provider.

(2) Payments. The grantee shall ensure that grant funds will not be used to make payments for health services for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:

(i) Under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(ii) By an entity that provides health services on a prepaid basis.

(b) Housing quality standards. All housing assisted under § 574.300 (b) (3), (4), (5), and (8) must meet the applicable housing quality standards outlined below.

(1) State and local requirements. Each recipient of assistance under this part must provide safe and sanitary housing that is in compliance with all applicable State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the housing.

(2) Habitability standards. Except for such variations as are proposed by the locality and approved by HUD, recipients must meet the following requirements:

(i) Structure and materials. The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from hazards.

(ii) Access. The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.

(iii) Space and security. Each resident must be afforded adequate space and security for themselves and their belongings. An acceptable place to sleep must be provided for each resident.

(iv) Interior air quality. Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.

(v) Water supply. The water supply must be free from contamination at levels that threaten the health of individuals.

(vi) Thermal environment. The housing must have adequate heating and/or cooling facilities in proper operating condition.

(vii) Illumination and electricity. The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliance while assuring safety from fire.

(viii) Food preparation and refuse disposal. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.

(ix) Sanitary condition. The housing and any equipment must be maintained in sanitary condition.

(c) Minimum use period for structures. (1) Any building or structure assisted with amounts under this part must be maintained as a facility to provide housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases:

(i) For a period of not less than 10 years, in the case of assistance provided under an activity eligible under § 574.300(b)(3) and (4) involving new construction, substantial rehabilitation or acquisition of a building or structure; or

(ii) For a period of not less than 3 years in the cases involving non-substantial rehabilitation or repair of a building or structure.

(2) Waiver of minimum use period. HUD may waive the minimum use period of a building or structure as stipulated in paragraph (c)(1) of this section if the grantee can demonstrate, to the satisfaction of HUD, that:

(i) The assisted structure is no longer needed to provide supported housing or assistance, or the continued operation of the structure for such purposes is no longer feasible; and

(ii) The structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, if the Secretary finds that such variations are necessary because of construction costs or unusually

high or low family incomes.

(d) Resident rent payment. Except for persons in short-term supported housing, each person receiving rental assistance under this program or residing in any rental housing assisted under this program must pay as rent, including utilities, an amount determined in accordance with section 3(a) of the United States Housing Act of 1937 and 24 CFR 813.106. Under these authorities, each resident must pay as rent the higher of:

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the age of the individual, medical expenses, size of family and child care expenses and are described in detail in 24 CFR 813.102);

(2) 10 percent of the family's monthly gross income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated.

(e) Termination of assistance.

(1) Surviving family members. With respect to the surviving member or members of a family who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death, housing assistance and supportive services under the HOPWA program shall continue for a grace period following the death of the person with AIDS. The grantee or project sponsor shall establish a reasonable grace period for continued participation by a surviving family member, but that period may not exceed one year from the death of the family member with AIDS. The grantee or project sponsor shall notify the family of the duration of their grace period and may assist the family with information on other available housing programs and with moving expenses.

(2) Violation of requirements. (i) Basis. Assistance to participants who reside in housing programs assisted under this part may be terminated if the participant violates program requirements or conditions of occupancy. Grantees must ensure that supportive services are provided, so that a participant's assistance is terminated only in the most severe cases.

(ii) Procedure. In terminating assistance to any program participant for violation of requirements, grantees must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process at minimum, must consist of:

(A) Serving the participant with a written notice containing a clear statement of the reasons for termination;

(B) Permitting the participant to have a review of the decision, in which the participant is given the opportunity to confront opposing witnesses, present written objections, and be represented by their own counsel, before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

(C) Providing prompt written notification of the final decision to the participant.

§ 574.320 Additional standards for rental assistance.

(a) If grant funds are used to provide rental assistance, the following additional standards apply:

(1) Maximum subsidy. The amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between:

(i) The lower of the rent standard or reasonable rent for the unit; and

(ii) The resident's rent payment calculated under § 574.310(d).

(2) Rent standard. The rent standard shall be established by the grantee and shall be no more than the published Section 8 fair market rent (FMR) or the HUD-approved community-wide exception rent for the unit size. However, on a unit by unit basis, the grantee may increase that amount by up to 10 percent for up to 20 percent of the units assisted.

(3) Rent reasonableness. The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.

(b) With respect to shared housing arrangements, the provisions of subpart C of 24 CFR part 882 shall be followed.

§ 574.330 Additional standards for short-term supported housing.

Short-term supported housing includes facilities to provide temporary shelter to eligible individuals as well as rent, mortgage, and utilities payments to enable eligible individuals to remain in their own dwellings. If grant funds are used to provide such short-term supported housing assistance, the following additional standards apply:

(a) Time limits. (1) A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six month period. Rent, mortgage, and utilities payments to prevent the homelessness of the tenant or mortgagor of a dwelling may not be provided to such an individual for these costs accruing over a period of more than 21 weeks in any 52 week period. These limitations do not apply to rental assistance provided under § 574.300(b)(5).

(2) Waiver of time limitations. HUD may waive, as it determines appropriate, the limitations of paragraph (a)(1) and will favorably consider a waiver based on the good faith effort of a project sponsor to provide permanent housing under subsection (c).

(b) Residency limitations.-(1) Residency. A short-term supported facility may not provide shelter or housing at any single time for more than 50 families or individuals;

(2) Waiver of residency limitations. HUD may waive, as it determines appropriate, the limitations of paragraph (b)(1) of this section.

(c) Placement. A short-term supported housing facility assisted under this part must, to the maximum extent practicable, provide each individual living in such housing the opportunity for placement in permanent housing or in a living environment appropriate to his or her health and social needs.

(d) Assistance to continue independent living. In addition to the supportive services provided when an individual is relocated to a short-term supported housing facility, supportive services may be provided to individuals when they remain in their residence because the residence is appropriate to the needs of the individual. In the latter case, a rent, mortgage and utilities payments program assisted under this part shall provide, when reasonable, supportive services specifically designed to maintain the individual in such residence.

(e) Case management services. A program assisted under this section shall provide each assisted individual with an opportunity, if eligible, to receive case management services from the appropriate social service agencies.

§ 574.340 Additional standards for community residences.

(a) A community residence is a multiunit residence designed for eligible persons to provide a lower cost residential alternative to institutional care; to prevent or delay the need for such care; to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently; and to enable such persons to participate as fully as possible in community life.

(b) If grant funds are used to provide a community residence, except for planning and other expenses preliminary to construction or other physical improvement for a community residence, the grantee must, prior to the expenditure of such funds, obtain and keep on file the following certifications:

(1) A services agreement. (i) A certification that the grantee will itself provide services as required by § 574.310(a) to eligible persons assisted by the community residence; or

(ii) A certification that the grantee has entered into a written agreement with a project sponsor or contracted service provider to provide services as required by § 574.310(a) to eligible persons assisted by the community residence;

(2) The adequacy of funding. (i) A certification that the grantee has acquired sufficient funding for these services; or

(ii) A certification that the grantee has on file an analysis of the service level needed for each community residence, a statement of which grantee agency, project sponsor, or service provider will provide the needed services, and a statement of how the services will be funded; and

(3) Capability. (i) A certification that the grantee is qualified to provide the services; or

(ii) A certification that the project sponsor or the service provider is qualified to provide the services.

Subpart E-Special Responsibilities of Grantees and Project Sponsors.

§ 574.400 Prohibition of substitution of funds.

Amounts received from grants under this part may not be used to replace other amounts made available or designated by State or local governments through appropriations for use for the purposes of this part.

§ 574.410 Capacity.

The grantee shall ensure that any project sponsor with which the grantee contracts to carry out an activity under this part has the capacity and capability to effectively administer the activity.

§ 574.420 Cooperation.

(a) The grantee shall agree, and shall ensure that each project sponsor agrees, to cooperate and coordinate in providing assistance under this part with the agencies of the relevant State and local governments responsible for services in the area served by the grantee for eligible persons and other public and private organizations and agencies providing services for such eligible persons.

(b) A grantee that is a State shall obtain the approval of the unit of general local government in which a project is to be located before entering into a contract with a project sponsor to carry out an activity authorized under this part.

(c) A grantee that is a city receiving a formula allocation for an EMSA shall coordinate with other units of general local government located within the metropolitan statistical area to address needs within that area.

§ 574.430 Fee prohibitions.

The grantee shall agree, and shall ensure that each project sponsor agrees, that no fee, except rent, will be charged of any eligible person for any housing or services provided with amounts from a grant under this part.

§ 574.440 Confidentiality.

The grantee shall agree, and shall ensure that each project sponsor agrees, to ensure the confidentiality of the name of any individual assisted under this part and any other information regarding individuals receiving assistance.

§ 574.450 Financial records.

The grantee shall agree, and shall ensure that each project sponsor agrees, to maintain and make available to HUD for inspection financial records sufficient, in HUD's determination, to ensure proper accounting and disbursing of amounts received from a grant under this part.

Subpart F-Grant Administration

§ 574.500 Responsibility for grant administration.

(a) General. Grantees are responsible for ensuring that grants are administered in accordance with the requirements of this part and other applicable laws. Grantees are responsible for ensuring that their respective project sponsors carry out activities in compliance with all applicable requirements.

(b) Grant agreement. The grant agreement will provide that the grantee agrees, and will ensure that each project sponsor agrees, to:

- (1) Operate the program in accordance with the provisions of these regulations and other applicable HUD regulations;
- (2) Conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;
- (3) Assure the adequate provision of supportive services to the participants in the program; and
- (4) Comply with such other terms and conditions, including recordkeeping and reports (which

must include racial and ethnic data on participants) for program monitoring and evaluation purposes, as HUD may establish for purposes of carrying out the program in an effective and efficient manner.

(c) Enforcement. HUD will enforce the obligations in the grant agreement in accordance with the provisions of 24 CFR 85.43. A grantee will be provided an opportunity for informal consultation before HUD will exercise any remedies authorized in paragraph (a) of that section.

§ 574.510 Environmental procedures and standards.

(a) Before any amounts under this program are used to acquire, rehabilitate, convert, lease, repair or construct properties to provide housing, HUD shall perform a review in accord with 24 CFR part 50, which implements the National Environmental Policy Act and the related Federal environmental laws and authorities listed under 24 CFR 50.4. In performing its environmental review, HUD may use previously issued environmental reviews prepared by other local, State, or federal agencies for the proposed property. The grantee will cooperate in providing these documents. HUD must, however, conduct the environmental analysis and prepare the environmental review and be responsible for the required environmental findings.

(b) HUD shall determine whether an environmental assessment under NEPA is required. HUD also shall determine whether the proposed property triggers thresholds for the applicable federal environmental laws and authorities listed under 24 CFR 50.4. These may apply when the property:

- (1) Is located within designated coastal barriers;
- (2) Is listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, an historic district, or is a property whose area of potential effects includes a historic district or property;
- (3) Is located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature;
- (4) Is contaminated by toxic chemicals or radioactive materials;
- (5) Is located within a runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield;
- (6) Is located within certain flood hazard areas or a designated wetland;
- (7) Is located within an area requiring flood insurance protection;
- (8) Is located within a high noise area;
- (9) Is located within a coastal management zone;
- (10) Is located on a sole source aquifer; or
- (11) Would affect an endangered species.

(c) A grantee or project sponsor shall refer the property to HUD for threshold review and shall submit all available, relevant information to HUD to permit HUD to make the review.

(d) If HUD determines that one or more of the thresholds are exceeded, HUD shall conduct an environmental review of the issue and, if appropriate, establish mitigating measures that the grantee and/or project sponsor shall carry out for the property unless it decides to select an alternate property.

(e) HUD will issue a notice specifying applicable threshold and documentation requirements.

§ 574.520 Performance reports.

(a) Formula grants. For a formula grant recipient, the performance reporting requirements are specified in 24 CFR part 91.

(b) Competitive grants. A grantee shall submit to HUD annually a report describing the use of the amounts received, including the number of individuals assisted, the types of assistance provided, and any other information that HUD may require. Annual reports are required until all grant funds are expended.

§ 574.530 Recordkeeping.

Each grantee must ensure that records are maintained for a four-year period to document compliance with the provisions of this part. Grantees must maintain current and accurate data on the race and ethnicity of program participants.

§ 574.540 Obligation and deobligation of funds.

Selection of an application for funding and notification of the applicant constitutes the obligation of funds by HUD to cover the amount of the approved assistance. HUD may deobligate all or a portion of the amounts approved for eligible activities if such amounts are not expended in a timely manner, or the proposed activity for which funding was approved is not provided in accordance with the approved application and the requirements of this regulation. HUD may deobligate any amount of grant funds that have not been expended within a three-year period from the date of the signing of the grant agreement. The grant agreement may set forth other circumstances under which funds may be deobligated or sanctions imposed.

Subpart G-Other Federal Requirements

§ 574.600 Nondiscrimination and equal opportunity.

Grantees and project sponsors must, within the eligible population, comply with the following requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familial status and handicap:

(a) Fair housing requirements. The requirements of the Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR part 100; Executive Order 11063 and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(b) Discrimination on the basis of age or handicap. The prohibitions against discrimination based on age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR part 146; the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; and applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101-12213) and implementing regulations at 28 CFR part 35 (States and local government grantees) and part 36 (public accommodations requirements for certain types of short-term housing assistance).

(c) Employment opportunities. The requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701(u)) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects).

(d) Minority and women's business enterprises. The requirements of Executive Orders 11625, 12432, and 12138 apply to grants under this part. Consistent with HUD's responsibilities under these Orders, the grantee and project sponsor must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(e) Affirmative outreach. A grantee or project sponsor must adopt procedures to ensure that all persons who qualify for the assistance, regardless of their race, color, religion, sex, age, national origin, familial status, or handicap, know of the availability of the HOPWA program, including facilities and services accessible to persons with a handicap, and maintain evidence of implementation of the procedures.

(f) Disability requirements. The grantee and project sponsor must not discriminate against persons with AIDS or related diseases based on an additional handicap of such persons in violation of the Fair Housing Act or Section 504 of the Rehabilitation Act of 1973. In addition, the grantee and project sponsor must comply with the reasonable modification requirement of the Fair Housing Act, the reasonable accommodation requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the accessibility requirements of the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, and implementing regulations. See 42 U.S.C. 3604(f) and 24 CFR 100.203-100.205; 29 U.S.C. 794 and 24 CFR part 8; and 28 CFR parts 35 and 36.

§ 574.605 Applicability of OMB circulars.

The policies, guidelines, and requirements of 24 CFR part 85 (codified pursuant to OMB Circular No. A-102) and OMB Circular No. A-87 apply with respect to the acceptance and use of funds under the program by States and units of general local government, including public agencies, and Circulars Nos. A-110 and A-122 apply with respect to the acceptance and use of funds under the program by private non-profit entities. (Copies of OMB Circulars may be obtained from E.O.P. Publications, Room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7332. (This is not a toll-free number.) There is a limit of two free copies.)

§ 574.610 Drug-free workplace.

Grantees are subject to the requirements of sections 5151-5180 of the Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24, subpart F.

§ 574.615 Anti-lobbying certification.

Recipients of Federal contracts, grants, and loans are prohibited from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government. The rule is found at 24 CFR part 87. It requires applicants, grantees, and project sponsors of assistance exceeding \$100,000 to certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. The rule also requires disclosures from applicants, grantees, and project sponsors if nonappropriated funds have been spent or committed for lobbying activities if those activities would be prohibited if paid with appropriated funds. Substantial monetary penalties may be imposed for failure to file the required certification or disclosure.

§ 574.620 Debarred or suspended contractors.

The provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status are applicable to grantees and project sponsors under this part.

§ 574.625 Conflict of interest.

(a) In addition to the conflict of interest requirements in OMB Circular A-102 and 24 CFR 85.36(b)(3), no person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or project sponsor and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

(b) Exceptions: Threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (a) of this section when it determines that the exception will serve to further the purposes of the HOPWA program and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

- (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- (2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(c) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (b) of this section, HUD will consider the cumulative effect of the following factors, where applicable:

- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- (2) Whether the person affected is a member of a group or class of eligible persons and the

exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (a) of this section;

(5) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(6) Any other relevant considerations.

§ 574.630 Displacement, relocation and real property acquisition.

(a) Minimizing displacement. Consistent with the other goals and objectives of this part, grantees and project sponsors must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

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

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

(d) Appeals. A person who disagrees with the grantee's or project sponsor's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the grantee. A low-income person who is dissatisfied with the grantee's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

(e) Responsibility of grantee. (1) Each grantee shall certify (i.e., provide assurance of compliance as required by 49 CFR part 24) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and shall ensure such compliance notwithstanding any third party's contractual obligation to the grantee to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid for with funds available from other sources.

(3) The grantee shall maintain records in sufficient detail to demonstrate compliance with these provisions.

(f) Definition of displaced person. (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. This includes any permanent, involuntary move for an assisted project including any permanent move for an assisted project, including any permanent move from the real property that is made:

(i) After notice by the grantee, project sponsor, or property owner to move permanently from the property, if the move occurs on or after the date that the grantee submits to HUD an application for assistance that is later approved and funded;

(ii) Before the submission of the application to HUD, if the grantee, project sponsor, or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project; or

(iii) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:

(A) The tenant moves after the "initiation of negotiations" and the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and

estimated average monthly utility costs that do not exceed the greater of:

(1) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or

(2) 30 percent of gross household income; or

(B) The tenant is required to relocate temporarily, does not return to the building/complex and either:

(1) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

(2) Other conditions of the temporary relocation are not reasonable; or

(C) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for 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 HUD determines that the eviction was not undertaken for the purposes of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The grantee or project sponsor may request, at any time, HUD's determination of whether a displacement is or would be covered under this section.

(g) Definition of initiation of negotiations. For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the grantee and the project sponsor.

§ 574.635 Lead-based paint.

The grantee and project sponsor must comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR part 35, as applicable. In addition, the grantee and project sponsor must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces;

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

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

§ 574.640 Flood insurance protection.

No property to be assisted under this part may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(a)(1) The community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR parts 59 through 79); or

(2) Less than a year has passed since FEMA notification regarding such hazards; and

(b) The grantee will ensure that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

§ 574.645 Coastal barriers.

In accordance with the Coastal Barrier Resources Act, 16 U.S.C. 3501, no financial assistance under this part may be made available within the Coastal Barrier Resources System.

§ 574.650 Audit.

The financial management system used by a State or unit of general local government that is a grantee must provide for audits in accordance with 24 CFR part 44. A nonprofit organization that is a grantee or a project sponsor is subject to the audit requirements set forth in 24 CFR part 45.

§ 574.655 Wage rates.

The provisions of the Davis-Bacon Act (40 U.S.C. 276a-276a-5) do not apply to this program, except where funds received under this part are combined with funds from other Federal programs that are subject to the Act.