



# **Housing Opportunities for Persons With AIDS (HOPWA) 2013-2014 Award Manual**

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## SECTION I: Introduction

### Background

*The Housing Opportunities for Persons with AIDS (HOPWA) program was established by the AIDS Housing Opportunity Act of 1992 to address the critical housing needs of low-income Americans living with HIV infection and their families. For over twenty years, HOPWA has funded States, municipalities, and community organizations to plan, develop, and fund housing and supportive services for low-income persons living with HIV/AIDS (PLWHA) who are homeless or unstably housed. Flexibility of HOPWA funding and the wide range of eligible housing activities and support services have enabled grantees to customize programs based on community housing and service needs, special subpopulations served, and other available public and private resources. This resource, in coordination with other leveraged resources, has helped HOPWA recipients to achieve housing stability and to access health care and other support. HIV providers and consumer testimony affirms that this has led to improved health outcomes and quality of life.*

HOPWA 20: Housing Innovations in HIV Care; U.S. Department of Housing and Urban Development, Office of HIV/AIDS Housing

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## **Strategic Vision**

*The United States will become a place where new infections are rare and when they do occur, every person, regardless of age, gender, race/ethnicity, sexual orientation, gender identity or socio-economic circumstance, will have unfettered access to high quality, life-extending care, free from stigma and discrimination.*

The National HIV/AIDS Strategy of the United States, July 2010

*Stable housing made possible with HUD support, provides an ideal platform for delivering a wide variety of health and social services to improve health, education, and economic outcomes. Through partnerships at the federal, state and local levels, HUD will utilize its housing platform... to improve the quality of life of its residents (and) utilize HUD assistance to improve housing stability through supportive services for vulnerable populations, including the elderly, people with disabilities, homeless people, and those individuals and families at risk of becoming homeless.*

Promoting Partnerships to Utilize Housing as a Platform for Improving Quality of Life,

*HUD Notice, September 2011 "Utilizing Housing as a Platform to Improve Quality of Life"*

HUD Strategic Plan FY 2010-2015, May 2010

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## **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.

Annual Income is the gross amount of income of all households members over the age of eighteen (18) anticipated to be received within the upcoming twelve month-period.

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.

Balance of State means that portion of Indiana which is served by HUD Continuum of Care IN-502, and which is comprised of 90 Indiana counties, excluding St. Joseph and Marion counties.

Care Coordination means providing assistance necessary to help ensure the effective and efficient organization of and access to services and resources that are appropriate and necessary to meet the needs of a child with special health care needs and the child's family. (*Indiana State Department of Health; 410 IAC 3.2-1-2*)

Case Management Services means services that enable an individual to receive a full range of appropriate services in a planned, coordinated, efficient, and effective manner. (*Division of Disability and Rehabilitative Services; 460 IAC 6-3-9*)

Client means a person or entity that employs a professional for advice or help in that professional's line of work. (*Black's Law Dictionary 246 (7th ed. 1999)*)

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 any related disease 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 C.F.R. 24 § 574.300(b)(9).

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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 is defined in 24 CFR 5.403 and includes one or more eligible persons living with another person or persons, regardless of actual or perceived sexual orientation, gender identity, or marital status, who are determined to be important to the eligible person or person's 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.

Gross Amount means the amount of income before any deductions are taken.

Household means 1. A family living together. 2. A group of people who dwell under the same roof. (Black's Law Dictionary 744 (7th ed. 1999))

Live-in Aide means a person who re-sides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

1. Is determined to be essential to the care and well-being of the persons;
2. Is not obligated for the support of the persons; and
3. Would not be living in the unit except to provide the necessary supportive services.

Low-income individual means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary 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. Such term includes the District of Columbia.

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;

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- (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.

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.

Recipient means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

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, or “the process of returning an historic residential structure to a state of utility, through repair or alteration, which makes possible an efficient contemporary use. In rehabilitation, those portions of the property important in illustrating historic, architectural and cultural values are preserved or restored.”

Sub-recipient means a public or private nonprofit agency, authority, or organization, or a for-profit entity authorized under C.F.R. 24 § 570.201(o).

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

(Sources: 24 C.F.R. §§ 574.3, 570.500, 5.100, 8.3, 92.203; 42 U.S.C. § 12902)

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## **References**

- Electronic Code of Federal Regulations: Title 24 – Housing and Urban Development  
[http://www.ecfr.gov/cgi-bin/text-idx?SID=5bc70a84ad3053048cda6e61b952d9e4&tpl=/ecfrbrowse/Title24/24tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=5bc70a84ad3053048cda6e61b952d9e4&tpl=/ecfrbrowse/Title24/24tab_02.tpl)
- “HOPWA 20: Housing Innovations in HIV Care.”  
<https://www.onecpd.info/resource/2037/hopwa-20-housing-innovations-in-hiv-care/>
- OneCPD Resource Exchange: Housing Opportunities for Persons With AIDS.  
<https://www.onecpd.info/hopwa/>
- HUD Technical Guide for Determining Income and Allowances for HOME Program (HUD-1780-CPD)  
[http://portal.hud.gov/huddoc/19754\\_1780.pdf](http://portal.hud.gov/huddoc/19754_1780.pdf)
- HUD.gov: Housing Opportunities for Persons With AIDS (HOPWA).  
<http://portal.hud.gov/hudportal/HUD?src=/hudprograms/hopwa>
- HUD.gov: Median Family Income, Indiana.  
<http://www.huduser.org/portal/datasets/il/il13/in.pdf>
- HUD Limited Denials of Participation Lists:  
[http://portal.hud.gov/hudportal/HUD?src=/topics/limited\\_denials\\_of\\_participation](http://portal.hud.gov/hudportal/HUD?src=/topics/limited_denials_of_participation)
- HUD Fair Market Rent Documentation:  
<http://www.huduser.org/portal/datasets/fmr.html>
- HUD HOPWA Grantee Oversight Guide  
[http://www.doh.state.fl.us/disease\\_ctrl/aids/care/HOPWAOversightGuide\\_Aug2010.pdf](http://www.doh.state.fl.us/disease_ctrl/aids/care/HOPWAOversightGuide_Aug2010.pdf)
- Office of HIV/AIDS Housing: HOPWA Rental Assistance Guide  
<https://www.onecpd.info/resources/documents/HOPWARentalAssistanceGuidebook.pdf>

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## SECTION II: Eligibility

### Eligibility Criteria

Based on United States Code Federal Regulations (C.F.R. 24 d 574.3), IHCD has established the following minimum eligibility requirements for a households' eligibility for HOPWA assistance:

- Household must have at least one person living with AIDS or related diseases;
- Household must be at or below 80% Area Median Income (AMI) for the county in which the household resides (according to HUD income guidelines);
  - 75% of all households served with HOPWA funding must be at or below 50% Area Median Income;
- Household must be engaged in care coordination/case management; and
- Household must reside within Indiana during the tenure of its receipt of HOPWA assistance.

\*HOPWA recipients (such as IHCD) have the flexibility to include additional eligibility requirements based on local preferences or availability of local resources. However, award sub-recipients must document their additional eligibility requirements in written program guidelines and make those guidelines available upon request.

\*HUD has determined that persons who are HIV+ without having a diagnosis of AIDS, are eligible for assistance as long as they meet the income criteria.

### Care Coordination/Case Management Requirement

Supportive Services, as required by 24 C.F.R. § 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.

Eligible Care Coordination/Case Management activities include:

- Indiana State Department of Health Division of HIV/STD (ISDH) funded care coordination site.
- Medicaid funded care coordination site
- Indiana Community Mental Health Center
- Hospital/Clinic social work department
- WIC/AFDC case manager

Community Action Agency case manager **Income Eligibility Verification**

Because all HOPWA clients and households must be income eligible, income verification must

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be performed **before** any assistance is rendered.

IHCDA will double-check all income verification for accuracy and eligibility. If a client or household is found to be over income eligibility limits, IHCDA will notify the sub-recipient to immediately cease providing assistance and the client or household will be required to repay any HOPWA funds received while over income eligibility limits.

Sub-recipients must include in their verification the income of **all** persons living in the household, regardless of HIV status and/or relationship to the qualifying client, **excepting in situations where the client is sharing housing with a roommate**. In this case, the sub-recipient is not required to verify the client's roommate's income, but the client will only receive assistance for the portion of housing costs for which they are responsible. In the event that a client has no income, the sub-recipient is required to direct them to complete a "Zero-Income Certification."

#### Income Re-Verification

Income must be re-verified if more than 180 calendar days passes between the date that client/household income is verified and the date assistance is provided to the client/household.

#### Income to be Included

1. The full amount, before any payroll deductions, of wages, salaries, overtime pay, commissions, fees, tips, and bonuses, and any other compensation for personal services.
2. Net income resulting from the operation of or withdrawal of cash or assets from a business of profession.
  - a. Expenditures for business expansion or amortization of capital indebtedness **may not be** used as deductions.
  - b. A deduction **may be allowed** for depreciation of assets used in a business or profession, except to the degree that that withdrawal is reimbursement of cash or assets invested in the business or profession by the client/household.
3. Interest, dividends, and other net income of any kind from real or personal property.
  - a. Expenditures for amortization of capital indebtedness **may not be** used as deductions.
  - b. A deduction **may be allowed** for depreciation of assets as described in item 2b above.
  - c. A deduction **may be allowed** to the degree that a withdrawal from an investment is reimbursement of cash or assets invested by the client/household.
  - d. Where the client/household has net family intangible assets in excess of \$5,000, annual income shall include the greater of:
    - i. The actual income derived from all net family intangible assets

-or-

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- ii. A percentage of the value of such assets based on the current passbook savings rate, as determined under the provisions of HUD Notice PIH 2012-29.
  4. The full amount of payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of fixed periodic receipts, including a lump sum for the delayed start of a fixed periodic payment.
  5. Payment in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay.
  6. Welfare assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with actual cost of shelter and utilities, the amount of welfare assistance income to be reported as income shall include:
    - a. The amount of allowance or grant exclusive of the amount specifically designated for shelter and utilities
    - and-
    - b. The maximum amounts that the welfare assistance agency could, in fact, allow the family for shelter and utilities. (If the amount of welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph is the amount resulting from one application of that percentage.
  7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
  8. All regular pay, special pay, and allowances of a member of the Armed Forces, except for "hostile fire pay."

#### Income to Be Excluded

1. Income from the employment of household members under the age of eighteen (18) years.
2. Payments received for the care of foster children or foster adults.
3. Lump-sum additions to the family assets such as; inheritances, insurance payments, capital gains, and settlement for personal or property losses.
4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
5. Income of live-in aide.
6. The full amount of student financial assistance paid directly to the student or to the relevant educational institution.
7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
8. Amounts received under or related to HUD-funded training programs including
  - a. Amounts received by a person with a disability that are excluded for a limited time for purposes of Supplemental Security Income (SSI) eligibility and benefits because they are set aside for use under a Plan to Attain Self-

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- Sufficiency (PASS.)
- b. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and that are made solely to allow participation in a specific program.
  - c. Amounts received under a resident service stipend as defined in C.F.R. 24 § 5.609 (c)(8)(iv.)
  - d. Amount received under a resident service stipend. (as defined in C.F.R. 24 § 5.609 (c)(8)(iv.)
  - e. Incremental earnings and benefits resulting to any client or household member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only of the period during which the family member participates in the employment-training program.
9. Temporary, nonrecurring, or sporadic gifts or income.
  10. Reparation payments paid by foreign government pursuant to claims under the laws of that government to persons who were persecuted during the Nazi era.
  11. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household or spouse.)
  12. Adoption assistance payments in excess of \$480 per adopted child.
  13. **For Public Housing Only**, the earnings and benefits to any family member resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of the 1937 Act (U.S.C. 43 1437t), or any comparable federal, state, or local law during the exclusion period.
  14. Deferred period amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
  15. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
  16. Amounts paid by a state agency to a family member who has a developmental disability and is living at home which is intended to offset the cost of services and equipment needed to keep this developmentally disabled family member at home.
  17. Amount specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions of C.F.R. 24 5.609(c) apply, including:
    - a. The value of the allotment made under the Food Stamp Act of 1977;
    - b. Payments received under the Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);
    - c. Payments received under the Alaskan Native Claims Settlement Act;

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- d. Payment from the disposal of funds of the Grand River Band of Ottawa Indians;
  - e. Payments from certain sub-marginal U.S. land held in trust for certain Indian tribes;
  - f. Payments, rebates or credits received under Federal Low-Income Home Energy Assistance Programs (includes any winter differentials given to the elderly);
  - g. Payments received under the Main Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 9z Stat.1785);
  - h. The first \$2,000 of per capita shares received from judgments awarded by the Indian Claims Commission or the Court of Claims or from funds the Secretary of Interior holds in trust for an Indian tribe;
  - i. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs, or veterans benefits;
  - j. Payments received under Title V of the Older Americans Act (Green Thumb, Senior Aides, Older American Community Service Employment Program);
  - k. Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y);
  - l. Earned income tax credit;
  - m. The value of any child care provided or reimbursed under the Child Care and Development Block Grant Act of 1990; and
  - n. Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, State job training programs and career intern programs).

## Assets

When a client or household receives income from either tangible or intangible assets, it is the income received that is counted rather than the value of the asset itself. (For example, the interest earned on a savings account may be counted, but not the balance of the savings account itself.)

When calculating the income received from an asset, ensure to deduct reasonable expenses necessary to convert the asset into cash such as:

- Penalties or fees for liquidating financial holdings. Any penalties, fees, or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value
- Costs for selling real property. Settlement costs, real estate transaction fees, payment of mortgages/liens against the property and any legal fees associated with the sale of real property are deducted from the market value to determine equity in real estate.

Income generated by an asset is counted as income, even if the client or household chooses to

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not receive it. (For example, if the client chooses to reinvest dividends generated by an asset, those dividends are still counted as income for HOPWA purposes.)

For further information on and helpful examples of calculating income from assets and other sources, please refer to HUD Technical Guide for Determining Income and Allowances for HOME Program (HUD-1780-CPD) (*see references.*)

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## SECTION III: PROGRAM PROCEDURES AND POLICIES

The HOPWA program rules in 24 Code of Federal Regulation (CFR) Part 574 provide general standards for eligible housing activities such as client eligibility, housing quality standards, and standards regarding resident rent payments as provided under the United States Housing Act of 1937. (Standards for shared housing are referenced in 24 CFR Part 882, Subpart C.) Many of those rules are summarized here.

### Types of Assistance

HOPWA assistance can take several forms including:

**Long-term rental assistance (TBRA)** is used to provide ongoing monthly subsidy to clients for rental housing. The following **are not eligible** for this assistance:

- Clients who own their homes;
- Clients who are already receiving ongoing monthly rent subsidy from another program (such as Section 8 HCV, Supportive Housing, Shelter plus Care, etc.)

**Ineligible Expenses include:**

- Rent for a unit owned by client's relative
- Security Deposit
- Expenses due to repairs or damage
- Mortgage Expenses

Prior to receiving Long-Term Rental Assistance, clients or households must complete or satisfy the following requirements:

1. The assisted unit must meet housing stability standards.
2. The landlord/property management company must be verified against HUD's limited denial of participation and excluded parties lists (see *References*)
3. Unless rent reasonableness deems otherwise, the rent of the unit must be equal to or less than the HUD-published Fair Market Rent for the area where the unit is located. (see *References*.)

**Long-Term Program Delivery** includes staff time and supplies directly related to administering Long-Term Rental Assistance

**Eligible Expenses:**

- Staff time spent verifying rent-reasonableness
- Mileage to perform housing inspection

**Ineligible Expenses:**

- Housing referral services
- Moving Costs

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**Short-term Rent, Mortgage, and Utility Assistance (STRMU)** is intended for clients or households which are already housed in a rental or mortgage situation, in order to prevent homelessness when those clients are not able to meet their monthly housing expenses, including utilities, due to unanticipated circumstances.

Clients **are not eligible** for STRMU if they are:

- Already receiving Long-term rental assistance
- Homeless

Eligible Expenses:

- Back or ongoing payments for rent, mortgage, or utilities.

Ineligible Expenses

- Security deposit
- Realtor fees
- Unsustainable recurring living costs.

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. 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.

Clients may be eligible to transition onto Long-term rental assistance once their STRMU assistance has been exhausted.

### **Assistance for Mobile Homes**

Assistance can be made to clients who live in mobile homes in limited circumstances.

- A rent, mortgage, or utility payment must be the basis for the assistance, and an applicant must provide documentation of the payment/expense.
- The home must be permanently attached to ground with utility and sewer connections as well as compliant with local guidelines for mobile homes.
- Mobile homes with wheels, capable of being relocated, are considered personal property and therefore are not eligible for STRMU assistance.

**Short Term Program Delivery** includes staff time and supplies directly related to administering Short-Term rent, Mortgage, and Utility assistance.

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Eligible Expenses:

- Staff time spent processing payments of assessing need

Ineligible Expenses:

- Anything related to addressing temporary emergency need in current housing.

**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.

The aim of providing supportive services is to improve client's access to care and services related 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.

It is the sub-recipient and client's responsibility to try and locate public and private resources to assist with these activities and use HOPWA only as a last resort. It is also the responsibility of each sub-recipient to work with their clients to determine the most appropriate form of assistance. Clients served by these activities must have a demonstrated need that the activity will help them increase stability in their housing.

- Adult day care and personal assistance – For qualifying head of household or their non-minor dependents only.
- Alcohol and drug abuse services – For qualifying head of household only.
- Child care – for minor dependents of qualifying head of household only.
- Education - For qualifying head of household only.
- Employment assistance and training – For qualifying head of household only.
- Health and medical services – For diagnosed HIV/AIDS clients and beneficiaries only and not other beneficiaries.
- Legal Services – For qualifying head of household only.
- Life Skills Management – For qualifying head of household only.
- Nutritional Services – Includes meal services and reimbursement for necessary groceries. Documentation of grocery reimbursement must include an itemized receipt.
- Transportation – May only be used in conjunction with one of the other eligible activities listed above (e.g., bus fare to assist client with travel to medical appointment.) May not be used for expenses related to client's personal vehicle (e.g.: gasoline, maintenance, etc.) For monitoring and documentation, any client that receives transportation services must sign a copy of the HOPWA transportation affidavit, which is to be kept in their file.

*\*Note: Permanent Housing Placement and Housing Information services are designated as supportive services in the reporting forms, but as separate budget*

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*line items.*

### **Housing Information Services**

Housing information services include assistance with referrals to affordable housing resources, assistance in locating available, affordable, and appropriate housing units, working with property owners to secure units for participants, homelessness prevention, and other housing-related activity.

#### **Eligible Expenses:**

- Counseling or housing referral services
- Cost of producing informational materials to educate clients on housing opportunities.
- Salary for housing counselors.

#### **Ineligible Expenses:**

- Credit checks
- Application fees
- Security deposits

### **Permanent Housing Placement**

Permanent housing placement services may be used to help eligible persons establish a new residence where ongoing occupancy is expected to continue. It may be used to complement other forms of HOPWA housing assistance. For example, it can be used to adjust to changes in care needs by assisting persons transitioning from more supportive settings and programs with securing alternative housing arrangements.

#### **Eligible Expenses:**

- Application fees and Credit Check expenses.
- First month's rent and security deposit (not to exceed two months' rent.)
- One-time utility connection fees and processing costs.

#### **Ineligible Expenses:**

- Counseling costs
- Moving services
- Regular recurring costs such as rent or utilities
- Standard household furnishings.

### **Facility Operations**

In addition to STRMU housing assistance and Long-term rental assistance, HOPWA funds may be used in connection with a specific housing project or facility including:

- Facility-based housing rental assistance, including master-leased units and project-based rental assistance;
- Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs. Maintenance activities include:
  - Cleaning activities

- Protective or preventative measures to keep a building, its systems, and its grounds in working order; or
- Replacement of appliances or objects that are not fixtures or part of the building.
- Capital funds for the acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services **(not currently offered by IHCD A)**; and
- Capital funds for the new construction of single-room occupancy units or community residences **(not currently offered by IHCD A.)**

Eligible Expenses:

- Rental Assistance tied to specific units
- Operating costs for the specified units, including maintenance, security, insurance, utilities, and/or supplies
- Construction acquisition or rehabilitation costs for dedicated units

Ineligible Expenses:

- Rental assistance that is not specified for a dedicated unit
- Assistance to a facility that does not serve as housing, such as an office.

## Program Administration Guidelines

- Award sub-recipients may use up to 7% of their HOPWA award for administration costs.
- Sub-recipients may also use up to a combined maximum of 35% for Housing Information and Permanent Housing Placement costs.
- Sub-recipients are required under IRS regulations to report TBRA payments made to owners of housing projects (Revenue Rule 88-53). Payments in excess of \$600 to a person in any calendar year must be reported to the IRS on form 1099-MISC, Box 1, "Rents."
- Costs incurred in one contract year cannot be paid with funds from a different contract year.

Eligible Expenses:

- Office supplies
- Postage
- Rent and utilities for office space
- Costs associated with attending HOPWA trainings
- Staff time spent creating reports, compiling claims, etc.

Ineligible Expenses:

- Costs directly associated with other eligible HOPWA activities.

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## **Sub-recipient Responsibilities**

The sub-recipient must manage HOPWA funds for delivery of HOPWA program services by establishing policies and procedures as required by federal regulations including:

- **Management of grant funds:** Attention must be given to assuring that HOPWA funds are available throughout the project year and are not expended prematurely. Having knowledge of current caseloads and expenditures by client, waiting lists, and past program experience can be used to effectively plan services. No more than 7 percent of the sub-recipient's grant may be expended for administrative costs.
- **Budgeting grant funds:** It is *recommended* that Sub-recipients budget 1/12 of their annual HOPWA budget per month after the TBRA commitment is determined. In this way, if a sub-recipient under-spends or over-spends in any particular month, program staff will be able to determine the balance of funds available for the coming months.
- **Charging to appropriate contracts:** Costs incurred in one contract year cannot be paid with funds from a different contract year.

### **Sub-Recipient Required Documentation**

The Sub-recipient is responsible for keeping the following documentation on file:

- Rental Assistance Agreement (and all attached documentation.)
- IHEDA Memorandum of Understanding

### **Client File Contents:**

For the sub-recipient's convenience, a HUD-provided checklist of required elements has been included in the 'Forms and Documents' section of this manual, along with HUD-provided samples of the relevant documents. Required minimum documentation\* includes:

- |  |  |
|--|--|
| 1. Housing Application and Assessment                          | 11. Copies of checks paid to landlord                    |
| 2. Date of First Contact                                       | 12. Program service agreement                            |
| 3. Date Assistance Began                                       | 13. Housing Inspection – Habitability form               |
| 4. Release of Information (ROI) Authorization                  | 14. Lead-Based Paint Acknowledgement form                |
| 5. Statement of HIV Verification                               | 15. Smoke Detector Certification                         |
| 6. Gross Annual Income Worksheet                               | 16. Grievance/Termination Policy Signed, Appeals Process |
| 7. Type of assistance rendered                                 | 17. Grievances filed, including follow-up and outcomes.  |
| 8. Income Exclusions List                                      | 18. Rent Reasonable check – long term rental assistance. |
| 9. Housing plan and/or Individual Case Management Service Plan |  |
| 10. Landlord Rental Agreement (Lease)                          |  |

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*\*Other documentation may be required depending on individual client needs, type of assistance provided, and situation.*

#### Housing Application and Assessment

This document is designed for use by sub-recipients to collect the information necessary to make a program eligibility determination. It will also help case managers better understand a client's needs and barriers, thereby allowing them to develop an appropriate service plan. This form is also used to capture client-level information that sub-recipients are required to report to HUD through the end-of-year performance reporting process.

As part of the initial housing and eligibility assessment, a risk assessment should be conducted to identify the client's risk factors such as:

- Physical or mental health conditions or disabilities in addition to HIV/AIDS.
- History of substance abuse/addiction.
- Past criminal history
- History of homelessness

#### Date of First Contact/ Date Assistance Began/ Type of Assistance Rendered

This information does not require unique paperwork, but must be recorded in the client's file in some capacity.

#### Release of Information Authorization

While HOPWA clients have the right to privacy, sharing certain information with other agencies may increase the client's access to services and supports. Before any information is release, however, the sub-recipient must seek permission from the client to release confidential information. The client's signature on this form grants that permission.

#### Statement of HIV Verification

To receive assistance under the HOPWA program, a client's HIV status must be documented. The HIV/AIDS diagnosis must be made by a health professional competent to make such a determination; **case manager's statement is not sufficient**. The Statement of HIV Verification can be used to document the client's HIV status.

*\*Please note, the client's HIV/AIDS status is subject to confidentiality requirements.*

#### Gross Annual Income Worksheet

To be eligible for assistance under the HOPWA program, individuals must be at or below 80 percent of area median income (AMI.) This worksheet can be used by sub-recipients to calculate household income and determine eligibility for assistance. Per State HOPWA funds, 75% of all households served with HOPWA funding must be at or below 50% Area Median Income;

*\*A Zero-Income Affidavit can be included in lieu of the Gross Annual Income Worksheet in the event that the client has no included income.*

#### Income Exclusions List

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This is simply a list of those income sources which are not included in determining eligibility for HOPWA assistance (see SECTION II: Eligibility – Income To Be Excluded.)

Housing Plan and/or Individual Case Management Service Plan

HOPWA regulations require that appropriate supportive services be provided as part of any HOPWA-assisted housing. Individualized plans are required as a means to address the HOPWA outcome goals. The plan should address all needs and barriers to housing stability identified through the assessment. This plan template can be used by case managers to develop a strategy for helping clients obtain and maintain housing stability. Regular follow-up should occur at a frequency appropriate to need. HOPWA requires at least annual income and rent recertification, presenting an opportunity for re-assessment.

Program Service Agreement

This document may take many forms based on the type of assistance provided to the client. However, it must outline precisely what assistance is provided, the value of that assistance, and the obligations of both the client and the sub-recipient under HOPWA regulations.

Housing Inspection Habitability or HQS form

All housing subsidized under C.F.R. 24 574.300(b)(3),(4),(5) and (8), including units assisted under HOPWA tenant-based and project-based rental assistance, must be safe and sanitary. Units must undergo inspection to ensure compliance with HUD habitability standards before assistance can be paid. HOPWA sub-recipients that are not HUD-certified inspectors can use this tool as a basis for performing inspections and documenting compliance.

Lead-Based Paint Acknowledgement Form

(See SECTION VI: OTHER STATE AND FEDERAL REGULATIONS – Lead-Based Paint Requirements.)

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**Financial Management Training**

Each award year (is it every year – even if they received certification last year) Or does someone at each agency have to be certified at least once? Check on this under regulations. sub-recipients are required to undergo HOPWA Financial Management Training. At least one person must receive a certificate from successful completion of this course within 90 days of their award date. While only one individual is required to pass the course, it would also be beneficial for as many representatives as possible to complete the course; particularly those who are involved

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with financial transactions related to the HOPWA program or the claims process.

The course has 8 sections, each with a 10-15 question multiple choice test at the end. Completing all sections will take approximately 4 hours, but the course is not required to be taken in a single session.

A certificate of course completion must be forwarded to IHCD prior to 90 days after the award date to ensure continued eligibility.

HUD: HOPWA Financial Management Training:  
<http://www.hudhre.info/index.cfm?do=viewHopwaFinancialTraining>

### **Supporting Documentation**

All clients receiving Long-term rental assistance and short-term rent, mortgage, and utility assistance must submit current leases (in effect for the whole period that the client is receiving assistance) to award recipients in order to receive assistance.

Clients applying for short-term rent, mortgage, and utility assistance must:

- Be a tenant on a valid lease for property in which they have been residing for a time before seeking the HOPWA assistance; or,
- Be the owner of a mortgaged dwelling in which they reside.

Clients must also demonstrate the following:

- They are the named tenants under a valid lease (to receive a rental payment);
- They are the owner of mortgaged real property (to receive a mortgage payment);
- They have an account in their name with a utility company (to receive a utility payment); or
- Inability to make their monthly payments.

*\*In instances where the qualifying client is a minor, the parent and/or guardian is required to present the required evidence in their name.*

### **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.

With respect to shared housing arrangements, the rent charged for an assisted family or individual shall be in relation to the size of the private space for that assisted family or individual in comparison to other private space in the shared unit, excluding common space. An assisted family or individual may be assigned a pro rata portion based on the ratio derived by dividing the number of bedrooms in their private space by the number of bedrooms in the unit. Participation in shared housing arrangements shall be voluntary.

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IHCDA bases Rent Reasonableness calculations on figures found at [www.GoSection8.com](http://www.GoSection8.com)

## **Absence from Unit**

The family may be absent from the unit for brief periods. For longer absences, the PHA administrative plan establishes the PHA policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason. At its discretion, the PHA may allow absence for a lesser period in accordance with PHA policy.

Housing assistance payments terminate if the family is absent for longer than the maximum period permitted. The term of the HAP contract and assisted lease also terminate. (The owner must reimburse the PHA for any housing assistance payment for the period after the termination.)

Absence means that no member of the family is residing in the unit.

The family must supply any information or certification requested by the PHA to verify that the family is residing in the unit, or relating to family absence from the unit. The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of absence from the unit, including any information requested on the purposes of family absences.

The PHA may adopt appropriate techniques to verify family occupancy or absence, including letters to the family at the unit, phone calls, visits or questions to the landlord or neighbors.

The PHA administrative plan must state the PHA policies on family absence from the dwelling unit. The PHA absence policy includes:

1. How the PHA determines whether or when the family may be absent, and for how long. For example, the PHA may establish policies on absences because of vacation, hospitalization or imprisonment;
2. Any provision for resumption of assistance after an absence, including readmission or resumption of assistance to the family. (*source: 24 C.F.R. § 982.312*)

## **Homeless Management Information System (HMIS)**

Sub-recipients are encouraged to integrate with HMIS to improve coordination and to enhance beneficiary access to other community assistance programs (i.e. projects that target and serve persons who are homeless). Costs of staff time entering into HMIS can be reimbursed with the HOPWA grant. For all questions regarding HMIS, please refer to:

Homeless Management Information System (HMIS): <http://www.in.gov/myihcda/2404.htm>

-or-

## **Housing Habitability Standards**

All housing subsidized under 24 CFR 574.300(b)(3),(4),(5), and (8), including units assisted under HOPWA tenant-based and project-based rental assistance, must be safe and sanitary. Units must undergo inspection to ensure compliance with HUD habitability standards before assistance can be paid. Utilize the IHEDA Housing Habitability Form.

## **Termination**

Termination of a client's HOPWA assistance can occur under three conditions, based on who initiates the termination.

Voluntary Termination is when the client chooses to leave the program for any reason including: no longer requiring assistance, enrollment in Section 8 or another assisted housing program, and increase in household income that renders the client ineligible, etc.

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 recipient or sub-recipient 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 recipient or sub-recipient 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. (C.F.R. 24 §574.310 (e) (i))

Involuntary Termination is initiated by the award sub-recipient due to a client's non-compliance with program requirements or fraud.

Examples of non-compliance/fraud include but are not limited to:

- failure to provide a lease or requested information for application processing
- failure to report all sources of household income
- failure to identify all household members
- falsifying information in order to receive assistance,

\*Clients who are involuntarily terminated due to a violation of requirements are ineligible to receive HOPWA assistance funded through the state of Indiana for a period of one (1) year. Sub-recipients may still provide supportive services to terminated clients.

## Involuntary Termination Process

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According to HOPWA regulations (*C.F.R. 24 § 574.310 (e) (2)(iii)*), sub-recipients who involuntarily terminate a client must follow a formal termination process that recognizes the client's right to due process of law.

This process must include:

- Serving the participant with a written notice containing a clear statement of the reasons for termination;
- 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
- Providing prompt written notification of the final decision to the participant.

If the client wishes, they may appeal this decision to IHEDA in writing, within thirty days of notification by the sub-recipient.

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## SECTION IV: CLAIMS

### Submitting a Claim

1. Sub-recipient logs into [www.IHCDAOnline.com](http://www.IHCDAOnline.com)  
(New users: Select “New User? Register Here” and following the relevant instructions to register a new account. Please allow 24-72 business hours for your account to become active.)
2. Select link: “Award Claims Management”
3. Click “Create Claim” to start a new claim  
-OR-  
Select “Claim List,” and then the appropriate claim to continue working on an existing claim.
4. Select the appropriate Award Number from the drop-down list.
5. Complete each tab of the claim submission process.
6. Ensure that the month that the claim references is noted in the “Comments” section.
7. Hit “Submit.” Print and sign the Claim Receipt and Summary Pages.
8. Scan the Claim Receipt, the Summary Pages and attach to the claim using the “Supporting Documents” feature.  
-OR-  
Submit documentation separately to IHCDA at: [claims@ihcda.in.gov](mailto:claims@ihcda.in.gov), including the Award number in the “Subject” line of the email. (This option will be discontinued in January, 2014.)

### Guidelines for Claims:

- All claims are due on the 20<sup>th</sup> of each month.
- Sub-recipients may only claim expenditures incurred in the month immediate previous to the claim’s submission.
- Only one claim may be submitted per month (12 per year.)
- 45% of your organization’s award should be claimed by January 20, 2014. (If your organization has not claimed 45% of your award by that time, IHCDA reserves the right to de-allocate from your organization the remaining balance of your award.)

## Accompanying Documentation

All HOPWA activities and line items require the submission of the 2013 IHCD A Claim Forms (Excel workbook). However, some HOPWA activities have additional documentation requirements:

<ul style="list-style-type: none"> <li>• Long Term Rental Assistance</li> <li>• Short Term Rent, Mortgage, and utilities</li> </ul>	<ul style="list-style-type: none"> <li>• Long Term Program Delivery</li> <li>• Short Term Program Delivery</li> <li>• Housing Information</li> <li>• Supportive Services</li> <li>• Facility Operations</li> <li>• Administration</li> </ul>
<p>No additional documentation required</p>	<p>Copy of bill/invoice or check, and salary information with time sheet or journal detail report corresponding dates.</p>

## Steps of the Claims Process

The IHCD A Claims website will show the status of pending claims, including the following:

<b>Step/Status</b>	<b>Definition</b>
Claim Created- Awaiting Approval	The Sub-recipient has created the claim, but has not yet submitted the Claim to IHCD A.
Claim Created – Approved	The Sub-recipient has created the claim, and submitted it to IHCD A.
IHCD A Program Administrative Review/ Approved	IHCD A Claims Representative has approved the claim.
Accounting Review/ Approved	IHCD A Accounting Department has approved the claim.
ACH Transfer/Approved	Funds have been transferred to the Sub-recipients' account on record.

**\*Starting in January 2014, IHCD A's Financial Department's new policies and guidelines will begin. At that time, please follow the requirements of the streamlined documentation and deadlines.**

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## SECTION V: CONFIDENTIALITY

Confidentiality of all records is required. Sub-recipients are required to have a written confidentiality policy and ensure confidentiality of client name, information, and records. All information obtained in connection with the examination, care, or services provided to any client shall not be disclosed without the client's signed consent. (There may be exceptions to client disclosure as required by law.)

Policies related to confidentiality should, at a minimum, address the following:

- How staff will gather, record, and store confidential information
- The consent process for the release of confidential information
- Protocols for responding to breaches of confidentiality
- Standards contained in relevant State and Federal laws, including Health Insurance Portability and Accountability Act (HIPAA) compliance (if applicable), and HIV confidentiality statutes
- Privacy standards related to data collection and use of participant information for program reporting, such as Homeless Management Information System (HMIS) standards

Particular care must be taken to assure confidentiality by having the sub-recipient's correspondence, envelopes, and checks, to landlord, utilities, etc., not reveal that the client is receiving assistance due to HIV/AIDS. This can be accomplished by establishing a checking account for the provision of HOPWA assistance using a neutral account name such as "Housing Fund" or "Assistance Fund."

Prior to exchanging information with any other agency or entity, HOPWA sub-recipients must first secure a Release of Information (ROI) authorization from the client. This ROI must be completed and signed by the client identifying specific individuals or organizations to which confidential information may be disclosed and must be re-signed annually. In the absence of specific written authorization, no information identifying an individual's HIV status may be disclosed by the HOPWA sub-recipient to ANY individual or organization (save for those disclosures required by law.)

Confidentiality requirements are established by HUD regulations (C.F.R. 24 § 574.440.)

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## SECTION VI: REPORTING

Generally, each operating year under the new award should be a 12-month period, which begins on the operating period beginning date established in the grant agreement (July 1, 2013 to June 31, 2014.) For the purposes of Annual Progress Reports (APR) the sub-recipient and all grant recipients should document activities consistent within this operating period.

**The APR is due to IHCD A within 30 days of the end of the designated 12-month operating period (6/31/2014.)**

The APR is available at:

[https://www.onecpd.info/resources/documents/APR\\_HOPWA.docx](https://www.onecpd.info/resources/documents/APR_HOPWA.docx)

The APR must be used for any HOPWA grants that have been awarded. The grant sub-recipients should use the APR for reporting to IHCD A on their program activities as a sponsor. IHCD A will consolidate sub-recipient and recipient information into a Consolidated Annual Performance and Evaluation Report (CAPER); the CAPER should be the only report filed with HUD.

As applicable, the recipient must submit a completed CAPER to HUD within 90 days after the end of each operating year. After the area HUD Office has received and reviewed the CAPER, the recipient may be contacted regarding the information presented and may be asked to submit additional or corrective information. Failure of a sub-recipient to submit an APR may affect the receipt of future competitively awarded grant funds and may result in corrective action.

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## Monitoring Standards

HUD requires that IHEDA perform on-site monitoring of a minimum of 15% of HOPWA sub-recipients each year to ensure that the program is being administered efficiently and in accordance with grant regulation and standards. Monitors will be reviewing the following elements (if applicable):

### ELIGIBILITY Client File Contents

#### General:

- HOPWA Application
- HIV Verification
- Housing Plan/ Individual Case Management Service Plan
- Program Service Agreement
- Grievances filed
- Termination/Grievance Policy signed

#### Supportive Services:

- Documentation of service activities
- Copies of bills/receipts

#### STRMU:

- Lease
- Copies of Checks
- Documentation of Emergency Need
- Mobile/Manufactured Home Requirements
- 21-Week Tracking Sheet

#### Housing Placement:

- Documentation of service activities
- Copies of bills/receipts

#### TBRA:

- Lease
- Lease Addendum
- Sub-Recipient/Landlord Contract
- Housing Inspection
- Lead Based Paint Acknowledgement
- Smoke Detector Certification

### RENT AND INCOME CALCULATION Client File Contents

#### General:

- Completed Household Income Verification (with attachments)
- Income Exclusions list
- Earned Income Disregard

#### TBRA:

- Rent Calculation
- Shared housing rent calculation

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## **HOUSING PLANS AND REPORTING**

### **Client File Contents**

#### **Assessment:**

- Includes guidelines for conducting housing assessments and creating housing plans
- Identifies the causes of housing instability
- Identifies barriers to maintaining housing
- Identifies eligibility for other housing assistance
- Identifies any resources, skill deficits, or services needs that could lead to lack of housing stability

#### **Housing Goal Plans:**

- Reviewed at least every 6 months
- Includes the development of a realistic housing stabilization plan that addresses both short and long-term housing needs
- Establishes time frame to achieve stability within 21 week assistance period (STRMU)
- Allows time to plan for and arrange longer term housing assistance
- Clients set goals for housing and independence
- Creates a strategy to avoid perpetual dependence on HOPWA rental/utility assistance
- Plan addresses budget and money management issues

#### **Documenting Goals**

- HOPWA Goals and objectives are clearly identified in housing plans
- Progress tracking is identifiable by specific HOPWA goals and outcomes

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## SECTION VII: OTHER STATE AND FEDERAL REGULATIONS

### Conflict of Interest

#### Conflicts Prohibited

No persons (as described in persons covered) who exercise or who have exercised any functions or responsibilities with respect to HOPWA activities or who are 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 or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

#### Persons Covered

The conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or sub-recipients which are receiving HOPWA funds.

#### Exceptions

A request for an exception to this conflict of interest prohibition will be considered by IHCD A only after the award recipient has provided the following:

1. A copy of the minutes from a public meeting denoting that the affected person has publicly disclosed the conflict of interest and has stated that he/she has withdrawn from functions or responsibilities with respect to the assisted activity in question.
2. An opinion from the award recipient's legal counsel that the interest for which the exception is sought would not violate State or local law.

Once IHCD A receives minutes of the public meeting and an opinion from the award recipient's attorney, IHCD A will respond in writing as to whether or not an exception to the conflict of interest prohibition has been granted.

Should IHCD A approve the award recipient's request, a completed Uniform Conflict of Interest Disclosure Statement must be provided to IHCD A as well as filed with the State Board of Accounts and the Clerk of the Circuit Court of the county in which the governmental entity executed the contract or purchase within 15 days after the final action toward awarding HOPWA funds to the person in question.

IHCD A will approve an exception to this conflict of interest prohibition only after it has been determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the HOPWA program.

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The Uniform Conflict of Interest Disclosure Statement is available at:  
<http://www.in.gov/sboa/files/Form236.pdf>

## Lead Based Paint Requirements

### Background

The primary cause of childhood lead poisoning is deteriorating lead-based paint and lead-contaminated dust and soil in older housing units. Although lead was banned from residential house paint in 1978 by the Consumer Product Safety Commission (CPSC), an estimated 57 million older homes still contain some lead-based paint. Of these, some 3.8 million dwellings are thought to have both lead-based paint hazards and young children as residents.

The amount of lead-based paint in housing is significant. Tens of millions of housing units contain at least some lead-based paint. Children living in homes with lead-based paint become exposed to lead by directly eating chips of lead-based paint or chewing on protruding surfaces painted with lead-based paint. The more common route of exposure, however, is the ingestion of lead-bearing dust that is generated by the paint when it deteriorates, chinks, or is disturbed through renovation or even abrasion from the opening and closing of windows. Even in this less direct way, lead-based paint can be a source lead poisoning.

The most common route of exposure for children is through ingestion of lead-contaminated dust. This dust sticks to moist hands as a child plays or crawls across the floor, and is then ingested via finger sucking or other normal hand-to-mouth activity. A child can also be poisoned by eating lead-based paint chips and lead-contaminated soil, and through exposure to other environmental sources of lead from inside and outside the home. Additionally, repair and renovation activities, such as repainting, that disturb lead-based paint can generate significant levels of leaded dust to which children can be easily exposed.

“Lead-based paint hazards” have been defined in the Residential Lead-Based Paint Hazard Reduction Act of 1992, commonly referred to as “Title X,” as any of six conditions which can present lead exposures sufficient to cause adverse health effects. These include:

1. lead-contaminated dust;
2. deteriorated lead-based paint;
3. intact lead-based paint on friction surfaces;
4. intact lead-based paint on impact surfaces;
5. intact lead-based paint on chewable surfaces accessible to young children; and
6. lead-contaminated bare soil.

### Lead Requirements

IHCDA requires all grantees to participate in educating the public on the hazards of lead poisoning. The EPA lead brochures must be distributed to **all** households receiving long-term and short term rental assistance. Documentation of this brochure must be maintained in each

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client file.

### Exemptions to the Lead Based Paint Requirements

- Exemptions Still Applicable from the Current Regulations
  - Residential structures build after January 1, 1978
  - Emergency action activities
- Existence of Lead-Based Paint Unlikely
  - Areas where state and local governments banned lead-based paint prior to January 1, 1978
  - Properties found not to have lead-based paint during earlier testing that meets the requirements of prior evaluations
  - Properties where all lead-based paint has been identified and removed using approved methods
- Human Threat Unlikely
  - Unoccupied units that will be demolished
  - Property not suitable for human residential habitation
  - Rehabilitation that does not disturb paint
- Child Occupancy Unlikely
  - Zero-room dwelling units
  - Elderly and disabled housing

### Long term & Short term Rental Assistance

If there will be a child under the age of 6 or a pregnant woman residing in the unit receiving HOPWA long term and short term rental assistance, the grantee must conduct a visual assessment for the presence of lead-based paint. Long-term rental assistance **cannot** be provided to any unit with lead-based paint present.

### Lead Hazard Evaluation

- The interior and exterior surfaces and common areas of the rental property must be visually assessed to identify deteriorated paints. Note: A visual assessment is not considered an evaluation that requires a notification of lead hazard evaluation, since the assessment does not evaluate lead-based paint and/or lead hazards.
- If the visual assessment reveals deteriorated paint, the award recipient should notify the owner of the unit with inspection results. The owner is required to have the deteriorated paint tested for lead based paint or to assume the presence of lead based paint in its stabilization activities.
- Award recipient staff should instruct the owner to conduct paint stabilization before the unit is occupied to control possible lead-based paint hazards.
- Owners must correct the deteriorated paint identified during the visual assessment

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process using safe work practices in order to participate in the long-term rental assistance program.

### Lead Hazards Reduction

At the completion of any paint stabilization, the owner must sign the Lead Certification 8.11 of the HQS inspection form or a form with equivalent language. This section instructs the owner to provide certification to the administering agency if any agency if any correction of defective paint occurs at the unit.

- **Training/Supervision.** Workers performing paint stabilization must be trained in accordance with OSHA regulations at 29 CFR 1926.59. In addition, they must meet one of the following:
  - (a) Supervision by a certified abatement supervisor;
  - (b) Successful completion of an accredited abatement supervisor course in accordance with 40 CFR 745.225;
  - (c) Successful completion of an accredited lead-based paint abatement worker course in accordance with 40 CFR 745.225;
  - (d) Successful completion of the Lead-Based Paint Maintenance Training Program developed by the National Environmental Training Association for EPA and HUD;
  - (e) Successful completion of the Remodeler's and Renovator's Lead-Based Paint Training Program developed by HUD and the National Association of the Remodeling Industry; or
  - (f) Successful completion of an equivalent course approved by HUD.
- **Safe Work Practices.** The owner must use safe work practices when conducting paint stabilization. Safe work practices include safe work methods, occupant protection, worksite preparation, and cleanup.
  - (a) **Occupant Protection.** Work should be performed in a vacant unit if possible. If residents must remain inside the dwelling during work, a barrier to the room where stabilization is taking place should be erected and residents should not be allowed to enter the work area until clearance has been completed.
  - (b) **Worksite Preparation.** The worksite should be contained using plastic sheeting extending five feet beyond the perimeter of the treated area in all directions on the floor. Ventilation systems should be turned off until work is complete.
  - (c) **Cleanup.** After paint stabilization is complete, the worksite should be cleaned to remove all lead-based paint dust. Cleanup must be accomplished by wet washing surfaces with a lead specific detergent or its equivalent. Other cleaning devices, such as vacuum cleaners with HEPA filters, can be used during cleanup. Waste and debris must be disposed of in sealed containers in accordance with Federal and state waste disposal requirements. Use of a HEPA vacuum is recommended.
- **Exemptions to Safe Work Practices.** Safe work practices are not required when treated areas are tested and found to be free of lead-based paint, or if the surface area being treated is smaller than a total of 2 square feet per room or 10 percent of the total

surface area of interior components, such as window sills.

- **Occupant Protection.** Property owners should protect residents and their personal belongings from exposure to lead-contaminated dust and debris during paint stabilization.
  - (a) Personal belongings should be relocated to an area outside the treatment area or covered with an impermeable covering with all seams and edges taped shut.
  - (b) Residents may need to be temporarily relocated during treatment if they are exposed to lead-based paint hazards. See your HOPWA Coordinator for an explanation of when relocation is applicable and eligible costs.
- **Worksite Preparation.** The award recipient should instruct the owner to control the spread of dust and debris at the worksite. This preparation should ensure that leaded dust, lead-based paint chips and other debris are contained within the worksite until they can be safely removed. Protective measures include sealing off vents and doorways with poly sheeting; covering floors and furniture with poly sheeting and wrapping debris in poly before disposal.
- **Cleanup.** After paint stabilization is complete, the worksite should be cleaned to remove lead-based paint dust. Cleanup must be accomplished by wet washing surfaces a lead-specific detergent or its equivalent. Vacuum cleaners with HEPA filters should be used during cleanup. Waste and debris must be disposed in sealed containers in accordance with Federal and state disposal requirements.

## Clearance

- Clearance must take place following paint stabilization. Clearance helps to ensure that lead-based paint hazards are controlled and the unit is safe for habitation.
- Paint stabilization and other lead hazard reduction efforts are considered complete when clearance is conducted. Clearance must be performed to ensure that lead-based paint hazards have been controlled.
  - (a) Clearance consists of a visual examination, collection of dust samples, and laboratory analysis of the samples for lead.
  - (b) Clearance is performed after lead hazard reduction and clean-up are complete.
  - (c) Dwellings must meet the following clearance standards.

	Floors ( $\mu\text{g}/\text{ft}^2$ )	Interior Window Sills ( $\mu\text{g}/\text{ft}^2$ )	Window Troughs ( $\mu\text{g}/\text{ft}^2$ )
Lead in Dust (as measured by a dust wipe sample)	40	250	800

- **Clearance Examiner.** The administering agency is responsible for hiring a certified

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professional to conduct the clearance. This professional may be a certified risk assessor, lead-based paint inspector, or clearance technician. The clearance examiner must be independent from the individual or entity who conducted the paint stabilization or other lead hazard reduction, unless they are employees of the administering agency. Note: If agency employees are used, the same individual who conducted paint stabilization is not permitted to conduct clearance.

- **Clearance Report.** Prior to closing, and within 15 calendar days of the completion of the lead hazard reduction activities, the tenant must be notified of the clearance examination. The administering agency should ensure that the report is prepared and sent to the tenant. This report should include:
  - (a) Beginning and ending dates of the lead hazard reduction activities.
  - (b) Name and address of the firm conducting lead hazard reduction activities and the name of the supervisor assigned to the lead hazard reduction activities.
  - (c) The name, address and signature of each person conducting clearance sampling, the date of the clearance testing, and the certification number for each certified risk assessor or inspector who conducted sampling.
  - (d) The results of clearance testing and the name of each laboratory that conducted the analyses and the identification number of the laboratory.
  - (e) A detailed written description of the lead hazard reduction activities including methods used, location of rooms where activity occurred, and any suggested monitoring.
- **Notify Tenants.** The owner must provide a notice to tenants describing the results of the clearance examination. The award recipient should instruct the owner to notify tenants of clearance results.
- **Staff Training.** As a result of the new cleanup and clearance requirements, the administering agency will need to evaluate their program design and incorporate these new requirements.
  - (a) All program staff should have a basic understanding of the proper clearance procedures;
  - (b) Staff conducting the clearance examination must complete one of the acceptable training courses listed under paint stabilization; and
  - (c) Program staff should understand the components of the clearance report and understand the procedures for notifying the buyer of the results.

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## Civil Rights Laws

### Fair Housing

As a recipient of federal funds, you are required to maintain compliance with civil rights and fair housing laws. The information in this chapter is provided to educate you on your requirements and as a resource tool to assist you in facilitating access to housing for your clients. If you have specific questions about any of the laws please contact IHCD for clarification.

The Fair Housing Act states that it is illegal to discriminate against any person because of race, color, religion, sex, handicap, familial status, or national origin in:

- the sale or rental of housing or residential lots;
- advertising the sale or rental of housing;
- the financing of housing;
- the provision of real estate brokerage services; and
- the appraisal of housing.

The Fair Housing Amendments Act of 1988 Final Committee Report to the House of Representatives (100-711) dated June 17, 1988 provides the background information to the Fair Housing Law and Committee intentions when submitted to Congress. The Fair Housing Amendments became Public Law 100-430 on September 13, 1988 to amend Title VIII, commonly called The Civil Rights Act of 1968. This legislation revised certain procedures and implemented new protections and enforcement. On Monday, January 23, 1989, the Federal Register contained the Final Rule for implementation of the Fair Housing Amendments Act of 1988. The effective date of this legislation was March 12, 1989 with the specific provisions for new construction effective March 13, 1991.

Fair Housing legislation is clear in regard to discriminatory practices and penalties. The law does not intend to prohibit property owners, managers, and administrators from valid inquiries into an applicant's ability to meet lease requirements and/or program eligibility requirements as set forth in Federal or State programs or in a Tenant Selection Criteria. However, there are certain areas that owners, managers, and administrators must clearly understand in regard to legitimate questions and disallowed inquiries. These are discussed below:

1. Independent Living - An owner, manager, or administrator should not attempt to assess whether an applicant is capable of independent living but only whether the applicant meets essential eligibility requirements. If an applicant requires supportive services but does not ask that they be provided, the need for supportive services should not be considered a factor in determining eligibility. If the provision of supportive services is part of the housing program, then these services should be provided in a non-discriminatory manner. However, no provider is required to take any action which would fundamentally alter the nature of the program in order to accommodate the disability of an applicant or tenant.
2. Restriction of Children/Handicapped in Housing: Evacuation Safely - There can be no restriction as to where persons may reside in housing with the exception of Federal or management priorities for certain adapted or accessible units. Accepting

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- or rejecting applicants on the basis of the ability to evacuate safely is not allowed.
3. **Legal and Illegal Questions** - The Fair Housing Law clearly defines legal and illegal questions for all applicants of all housing in the United States. It is unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is sold, rented or made available, or any person associated with that person, has a handicap or to make inquiry as to the nature or severity of a handicap of such a person.

However, the following inquiries can be made, **provided these inquiries are made to all applicants, whether or not they have handicaps:**

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with handicaps or to persons with a particular type of handicap;
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with handicaps or to persons with a particular type of handicap;
- Inquiry to determine whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;
- Inquiry to determine whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

A manager or owner is never required to make available a dwelling to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.

### **Grantee Required Actions**

When awarded HOPWA funds through IHCD, the following actions must be taken by the grantee to comply with Fair Housing regulations and IHCD policy.

1. All HOPWA grantees are required to post the Fair Housing Opportunity poster (shown reduced as Exhibit D of this chapter) at their office(s) as evidence of compliance with fair housing opportunity. For grantees with HOPWA funded operating costs programs or previous units funded with HOPWA dollars for construction, the fair housing opportunity poster must be hung conspicuously at those locations as well. Additional copies of this poster may be obtained by calling HUD at 800-767-7468. You can request up to 10 posters. Grantees must also include the Fair Housing logo on all client housing correspondence (confirmation letters, brochures, leases, etc.) The logo can be downloaded at IHCD's website: [www.indianahousing.org](http://www.indianahousing.org) or requested by contacting IHCD staff.
2. Grantees must provide **all** long-term rental assistance beneficiaries the HUD brochure entitled "Fair Housing - It's Your Right." Documentation of the client's receipt of the

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brochure must be maintained in the client's file. IHEDA has included a blanket signature page in the long-term rental assistance application where clients can sign off on all of the required compliance brochures.

3. Grantees 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 disabilities. Grantees must also maintain evidence of implementation of the procedures.

Examples of procedures include:

- Presentation on HOPWA to local consumer advisory board
- Providing HOPWA brochures to local community centers and faith based organizations
- Outreach and networking with local social service providers

## **Introduction**

The civil rights laws, regulations, and executive orders are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age and handicap status. These laws, regulations, and executive orders, as they apply to the HOPWA program, protect individuals from discrimination in housing, the use of public facilities and services, benefits created by HOPWA projects, and employment and business opportunities.

The following is a summary of the regulations:

### ***Title VI - Civil Rights Act of 1964***

Title VI provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. It directs each federal department or agency that extends financial assistance to any program or activity through grants, loans, or contracts, except contracts of insurance or guaranty, to issue rules or regulations to be approved by the President to carry out the purposes of the Title. Title VI authorizes the termination or the refusal to grant or continue federal assistance under any program or activity involving a recipient receiving an express finding of a failure to comply, but only after due notice, an opportunity for a hearing, and a determination that compliance cannot be secured by voluntary means.

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### ***Title VII – Civil Rights Act of 1964 (as amended)***

This provision prohibits discrimination in employment on the basis of sex.

### ***Title VIII – Civil Rights Act of 1968***

Title VIII prohibits blockbusting, or discrimination in the sale or rental of dwellings, the financing of housing, or advertising, Title VIII makes it unlawful to deny any person access to, membership, or participation in any multiple listing service or real estate brokers' organization for discriminatory reasons. The law is applicable in stages and ultimately applies to all dwellings except those which are specifically exempt. Title VIII generally does not apply to the sale or rental of a single family house by a private individual owner who does not own more than three such single-family houses at any one time. After December 31, 1969, the sale or rental of any such single-family home is exempted from the application of Title VIII only if it is sold or rented without the use of a broker and without discriminatory advertising. The act does not apply to rooms or units in dwellings containing living quarters occupied by not more than four families living independently of each other if the owner occupies one of such quarters as his or her residence.

Also exempted is the sale or rental of dwellings owned or operated by religious organizations, for other than a commercial purpose, to persons of the same religion unless membership in such religion is restricted on account of race, color or national origin. Neither does Title VIII prohibit a private club, not open to the public and providing lodging which it owns or operates for other than commercial purposes, from limiting rental or occupancy to its members.

### ***Section 3: Housing and Urban Development Act of 1968***

Section 3 provides that to the greatest extent feasible, training and employment opportunities shall be made available to low-income residents of project areas and that contracts be awarded to small businesses located within the project area or owned in substantial part by project area residents.

### ***Section 109: Housing and Urban Development Act of 1974***

Section 109 provides that no person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.

### ***Section 504: Rehabilitation Act of 1974***

Section 504 provides that no otherwise qualified handicapped individual in the United States, as defined in Section 7(6), shall, solely by reason of this handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

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### ***Age Discrimination Act of 1975***

The Act provides that no person in the United States on the basis of age shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

### ***Executive Order 11063***

Executive Order 11063 provides that no person on the basis of race, color, religion, sex or national origin, shall be discriminated against in:

- Housing (and related facilities) provided with federal assistance.
- Lending practices, with respect to residential property, when such practices are connected with loans insured or guaranteed by the federal government.

### ***Executive Order 11246, as amended by Executive Order 11375***

Executive Order 11246, as amended by Executive Order 11375, provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally assisted construction contracts in excess of \$25,000.

### ***Executive Order 12138: Women Business Enterprise Policy***

For purposes of this Order, affirmative action may include, but is not limited to, creating or supporting new programs responsive to the special needs of women business enterprises, establishing incentives to promote business or business-related opportunities for women business enterprises, collecting and disseminating information in the support of women business enterprises and ensuring to women business enterprises knowledge of any ready access to business-related services and resources. In implementing this Order an agency undertakes to use or to require compliance with numerical set-asides or similar measures. It shall state the purpose of such measure and the measure shall be designed on the basis of pertinent factual findings of discrimination against women's business enterprise and the need for such measure.

### **Civil Rights Applicability**

Civil rights laws, regulation, and executive orders are applicable to all grantees regardless of the percentage of HOPWA funded participation. Requirements included here are in addition to the community's existing civil rights requirements.

To assure compliance with these requirements and to provide an adequate record by both the grantee and its contractors, all policies and procedures must be fully documented. In addition, on housing construction activities, the grantee must fully document the characteristics of the

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eligible population of the development area to determine the specific actions necessary to ensure civil rights compliance.

## **Civil Rights Policies and Procedures**

The grantee must document compliance with civil rights policies and procedures in four general areas:

1. Employment
2. Housing
3. Benefits of Project
4. Contracts

### **I. Employment**

The grantee must keep records concerning any persons it hires, indicating that the hires were on an equal opportunity basis. To document equal employment opportunity efforts, all advertisements for employment must state that the grantee is an equal opportunity employer. The grantee must retain copies of the advertisements in its files. IHEDA also encourages the grantee to prepare and implement an affirmative action hiring plan. Finally, records of the number of persons employed must be kept by race, sex, and income. If any HOPWA funds go into any administrative arm or department of the grantee, all departments of the grantee become subject to the civil rights requirements under the HOPWA program.

Other suggested procedures for the grantee to follow in demonstrating equal employment opportunity in its hiring, firing and promotion practices are:

- a. Document job descriptions and qualifications required of applicants and reasons for rejection or acceptance of each applicant.
- b. Provide the Indiana Employment and Training Services with job descriptions for all open positions and request the referral of minority and female applicants. Copies of all such correspondence should be kept in the grantee files.
- c. Post the equal employment opportunity (EEO) posters prescribed by HUD and U.S. Department of Labor (DOL) at the city hall or other public buildings notifying the community that the grantee is an equal opportunity employer. These posters can be obtained on request from IHEDA. The grantee must enter its name and address in the top box on the EEO poster. In the next two boxes the grantee must enter the name and address of IHEDA and the HUD Area Office:

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**Indiana Housing and  
Community Development Authority  
30 S. Meridian St, Suite 1000  
Indianapolis, IN  
46204**

**U.S. Department of  
Housing and Urban Development  
Fair Housing and Equal Opportunity  
Division  
151 North Delaware Street  
Indianapolis, IN  
46204**

**2. Housing**

If the grantee has a HOPWA funded housing development, it must affirmatively promote fair housing. Regardless of the HOPWA development undertaken, the grantee is required to not discriminate in any area related to housing.

A grantee with a housing assistance program is required to post the fair housing opportunity poster at all work sites and at the city hall or other public buildings. For grantees with no housing provision projects (e.g., housing planning only), this poster should still be posted in public buildings as evidence of the grantee's fair housing policy. Copies of this poster may be obtained from the IHEDA HOPWA Staff.

**3. Benefits of Development**

The grantee must keep records on the number of minority, female, and low-to-moderate income persons or families applying for and benefiting from the development. Records should include the make-up of the households being assisted, either individually or by target area.

A direct benefit activity is an activity which requires the beneficiary to submit an application or complete a personal record as an integral part of participating in the program. Individual household information will be available for direct benefit activities. For example, in a housing rehabilitation program, an application would be an integral part of providing loans or grants to households. For such individual assistance, the grantee should require each applicant to provide a signed declaration of the race, sex, and income status of his or her household. The grantee must also require the applicant to provide written verification of the income status of the household.

Beneficiary information must be obtained and documented in a form that can be readily summarized for inclusion in either the HOPWA claim voucher narrative or the HOPWA Completion Report.

**4. Contracts**

a. All applicable civil rights language must be included in award bid documents and contracts with contractors or professional service firms. The procurement chapter (Chapter 6) lists the required provisions which must be included in the contracts and bid documents. The contract and bid documents should also contain the requirements for a Section 3 plan and, when applicable, an affirmative action hiring plan.

The grantee must make sure that all of the above items are completed prior to the actual award of the contract, or within 15 days of the award and before the notice to proceed is sent to the contractor. This includes, as applicable, the completion of the affirmative action hiring plan, the Section 3 plan, the signing of the above and the non-

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- segregated facilities form. This would also need to be done by all subcontractors.
- b. The grantee's contractors and subcontractors may be subject to the affirmative action requirements. All contractors and subcontractors holding any federal or federally-assisted construction contract in excess of \$10,000 are subject to the provisions of 41 CFR Part 60-4, Construction Contractors - Affirmative Action Requirements, which specifies language to be included in all applicable bid documents and contracts and the requirements of contractors subject to those regulations.
  - c. Contracts subject to 41 CFR Part 60-4 include appropriate minority and women workforce participation goals. Indiana has adopted a goal of 11.47% participation by minority owned business enterprises and 5.93 for women-owned business enterprises in federally funded activities.
  - d. Non-construction contractors and construction contractors with 50 or more non-construction employees and one or more contracts totaling \$50,000 in a 12-month period and which meet the other conditions of 41 CFR 60-2 are subject to the affirmative action requirements of 41 CFR Part 60-2, Affirmative Action Programs.
  - e. 41 CFR 60-1.21 requires each grantee to include in the invitation for bids for each formally advertised non-construction contract, or state at the outset of negotiations for each negotiated non-construction contract, that if the award should exceed \$1 million, the prospective contractor (and certain subcontracts) will be subject to a compliance review before the award of the contract.
  - f. Contractors and subcontractors must post the appropriate equal opportunity and fair housing posters at all work places, regardless of the type of development. The EEO poster should be completed by placing the contractor's name and address in the top box. In the next two boxes the contractor should enter the names and addresses of IHCD and the HUD Field Office as listed on page 5. The fair housing opportunity poster should be posted at all work places when housing construction funded by HOPWA is involved.
  - g. The grantee must also inform its contractors and subcontractors of their requirement to file DOL form CC-257, "Monthly Employment Utilization Report". For all contracts and subcontracts less than \$100,000, this report must be filed with the grantee each month by each contractor and subcontractor. For contracts equal to or greater than \$100,000, this form must be filed each month with both the grantee and the DOL area office. This form provides the grantee with equal employment monitoring information and must be kept in the grantee's files as evidence of this monitoring. A copy of this form may be obtained from IHCD.
  - h. All contractors under the program who: (1) are not exempt under 41 CFR 50-1.5; (2) have 50 or more employees; and (a) are prime contractors or first-tier subcontractors having a contract or contracts totaling \$50,000 or more in any 12-month period or (b) serve as depositories of government funds in any amount, or (c) are financial institutions

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which are issuing and paying agents for U.S Savings Bonds and Notes, are required by 41 CFR 60-1.7 to annually file on or before March 31 the Employer Information Report EEO-1 (Standard Form 100) with the DOL area office. Each contractor required to submit such report shall file it within 30 days after it is awarded a contract unless the contractor has submitted such a report within 12 months preceding the date of the award. To obtain a copy of this form with instructions, contact IHCDA.

- i. Required Posters: Two for equal employment opportunity and one for fair housing opportunity
- j. DOL Form CC-257 – Monthly Employment Utilization Report
- k. Employer Information Report, EEO-1 (Standard Form 100)
- l. Signatures required of contractors on contract and certifications

### **Minority and Women Business Participation**

Minority-owned and women-owned business enterprises (MBE/WBE's) shall have the maximum feasible opportunity to participate in the performance of contracts under federal grant programs. Grantees shall exercise their "best efforts" to ensure that MBE/WBE's are given the opportunity to participate in HOPWA-funded contracts, including contracts for services, supplies and construction activities. Indiana has adopted a goal of 11.47% participation by minority owned business enterprises and 5.93 for women-owned business enterprises in federally funded activities.

A minority- or women-owned business enterprise is defined for this program as a business which has been established for at least one year and is 51% owned, operated and controlled by minorities or women. Corporation or partnerships formed merely to qualify as an MBE or WBE for purposes of this program will not be considered minority or women-owned business enterprises.

Grantees are required to maintain documentation supporting their "best efforts" to achieve the state goal of 11.47% minority owned business enterprise participation and/or 5.93% women-owned business enterprise participation on all HOPWA-funded procurement and contract solicitation. To document "best efforts" and attain the goals, the following steps should be taken to solicit bids from and encourage participation by minority- or women-owned business enterprises:

1. Where legal notice is required by law, include language notifying bidders of the 11.47% and 5.93% MBE/WBE participation goal on the project.
2. Contact IHCDA or the Indiana Department of Administration Minority Business Development Division for a referral list of firms in the categories of work needed for the development including professional services, supply, and construction services.

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3. Contact at least two (2) MBE/WBE firms from the referral list, notifying them of the impending bidding opportunity and how to participate.
  4. If grantees anticipate the use of subcontractors or additional purchasing contracts for supplies, then the referral list of qualified minority- and women-owned businesses should be disbursed to all prime contractors at this conference. Grantees should supply a copy of the plans and specifications as well as a list of the organizations that will have plans and specification on file.
  5. Grantees must maintain documentation supporting their “best efforts” for monitoring and auditing purposes. **Grantees must document solicitation of MBE/WBE firms through Certified Mail receipts, Certificates of Mailing, or receipts from hand-delivery of notices.**

### **Accessibility Requirements**

This section outlines Section 504 of the Rehabilitation Act. Grantees can not discriminate against an otherwise qualified individual with handicaps, solely by reason of his or her handicap, in participating in any program or activity receiving HOPWA funds. This chapter defines the grantee’s responsibilities in terms of physical and program accessibility of their HOPWA program.

### **Section 504 of the Rehabilitation Act of 1973**

“No **otherwise** qualified individual with handicaps, shall, **solely** by reason of his or her handicap, be excluded from the participation in, or denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance from HUD.”

### **Physical Accessibility**

All new housing developments greater than five or more units or developments involving substantial rehabilitation must be designed and constructed to be readily accessible to and usable by individuals with handicaps.

Substantial rehabilitation is defined as having 15 or more units (in a development) and the cost of the rehabilitation is greater than 75% of the replacement cost of the completed facility.

A minimum of five percent or at least one of the units (whichever is greater), must be accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise in compliance with the Uniform Federal Accessibility Standards (UFAS) is accessible for purposes of this section. An additional two percent of the units (but not less than one unit) in such a development must be accessible for persons with hearing or vision impairments.

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### Distribution of accessible dwelling units.

Accessible dwelling units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout developments and sites and shall be available in a sufficient range of sizes and amenities so that a qualified individual with handicaps' choice of living arrangements is, as a whole, comparable to that of other persons eligible for housing assistance under the same program. This provision shall not be construed to require provision of an elevator in any multifamily housing development solely for the purpose of permitting location of accessible units above or below the accessible grade level.

### Occupancy of accessible dwelling units.

Grantees with accessible units shall adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps, and shall take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of the particular unit. To this end, when an accessible unit becomes vacant, the owner or manager before offering such units to a non-handicapped applicant shall offer such unit:

- (1) First, to a current occupant of another unit of the same project, or comparable projects under common control, having handicaps requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then
- (2) Second, to an eligible qualified applicant on the waiting list having a handicap requiring the accessibility features of the vacant unit.

When offering an accessible unit to an applicant not having handicaps requiring the accessibility features of the unit, the owner or manager may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

## **Accessibility Standards for Design, Construction, and Alteration**

This regulation deals with the Uniform Federal Accessibility Standards (UFAS) for construction. The UFAS outline specific requirements in terms of creating units accessible for people with disabilities. The UFAS contain specs and guidance on access ramps, doorway widths, handles on doors, cabinets, sink heights, etc.

This is used in new construction and substantial rehab (more than 15 units in a development and the cost of the rehab is greater than 75% of the replacement cost of the completed facility).

Copies of UFAS are available through HUD's Publications Office. (800) 767-7468/ HUD's TDD (hearing or speech impaired) number is 202-708-0113. IHCD also has limited copies available for use.

Grantees also need to ensure that the space where clients apply for housing is accessible. IHCD staff will review either the physical offices of the grantee, sub-recipient and/or grant

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administrator in order to determine the accessibility of the offices.

## **Program Accessibility**

In addition to physical accessibility grantees are also required to have accessible programs. Grantees must ensure that people have access to apply for that program.

For example, if an applicant required an application in Braille or in a language other than English, the grantee is required to make that accommodation. Please contact IHEDA for technical assistance if you have any questions.

Grantees must have a communication system in place for the hearing and speech impaired. The telephone company offers Telecommunications Relay Systems. TRS is a free service that relays calls between a person using a text telephone (TTY/TTD) and users of the general telephone network in Indiana. For information about this service and rates visit [www.relayindiana.com](http://www.relayindiana.com).

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