

CHAPTER 2 – ADMINISTRATIVE OVERVIEW

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Administrative Requirements

The Department fully expects recipients of NAHTF to comply with all administrative requirements. Recipients must become educated on all administrative components, elements and requirements. A project management plan should include a list of responsibilities for each project team member, a timeline of implementation steps, and a detailed outline of a filing system.

The requirements in this manual provide grantees with standards for administering the NAHTF program in a consistent manner.

Administrative Training

The Department provides training on housing related topics and on administering NAHTF projects. Find information and registration forms on upcoming workshops at the Department's website (www.neded.org).

The principal contact at the Department for a particular NAHTF project is the program representative assigned to the project. The program representative is familiar with the project and assists the local government, public housing agency or non-profit organization with implementation.

Eligibility

Eligibility requirements for participation in the NAHTF Program are specified in the NAHP Application Guidelines that are published annually and are consistent with the Housing and Community Development Annual Action Plan.

Appeal of Department Decisions

An appeal is a written request directed to the Department by an applicant or grantee for reconsideration of a decision made by Department staff.

Procedures

1. An applicant or grantee appealing a decision of Department staff must submit a written appeal requesting a reversal of the decision based upon facts of the situation. If the appeal is being made on behalf of an agency, organization or public body, the appeal

must come to the Department from the Chief Elected Official of the local government or the Authorized Official of an agency.

2. The Housing Manager will consider the issues and respond within 30 days to the applicant or grantee.
3. If dissatisfied with the Housing Manager's decision, the applicant or grantee may appeal to the Department Director. The Department Director may, at the request of the parties, schedule a hearing or simply render a written decision. If a hearing is held, all interested parties will participate.
4. The purpose of this informal hearing, will be to determine the facts of the situation, the appropriateness of the decision, and the justification and appropriateness of the appeal.
5. The Director will make a decision within 30 days of the hearing. This written decision will be sent to all parties.
6. The Director's decision is the final administrative action that will be taken by the Department.

Complaints

Federal law prohibits housing discrimination based on your race, color, national origin, religion, sex, family status, or disability. Individuals or authorized representatives of individuals who believe they have been the subject of discrimination may file a complaint with the Department or with the United States Department of Housing and Urban Development:

Against Grantee Administration

The Department will accept complaints against grantee administration of the program. Only written complaints against the grantee's administration of the program will be received and acted upon by the Department.

The Department will implement the following procedures for disposition of complaints against local administration:

1. The Department will forward a copy of the written complaint to the grantee.
2. The Department Complaint Manager will request that the grantee respond to the complaint and inform the Department within 30 days of the action to be undertaken to resolve the complaint.
3. If the response by the grantee is determined to be satisfactory, in consultation with the Complaint Review Committee, the grantee will be notified along with the party lodging the complaint.
4. If the response is determined to be inadequate, the grantee will be put on official notice by the Department that the response was inadequate, and will be granted 15 days to reconsider and respond to the party lodging the official complaint. The grantee will submit to the Department the actions occurring to resolve the complaint.
5. The Complaint Review Committee will review the grantee's actions to resolve the complaint. If the actions are deemed satisfactory, the grantee will be notified along with the party lodging the complaint.

6. If the Complaint Review Committee does not consider the grantee's actions satisfactory in resolving the complaint, the Department will impose administrative sanctions upon the grantee. The sanctions will not be lifted until the Department is satisfied with the grantee's actions.
7. The Department Director, or his or her designee, may be consulted to arbitrate all complaints. If, after consulting with the Director or the designee, the grantee and/or the party lodging the complaint are not satisfied with the decision, they may appeal to HUD officials.

Against State Administration

The Department will receive complaints against state administration of the program. The Department will only respond to written complaints against the state's administration of the program.

The Department will implement the following procedures in response to complaints against state administration of the NAHTF Program:

1. When a complaint is received by a Department official it will be forwarded to the Housing Manager.
2. Within 30 days of receiving the complaint the Housing Manager, in consultation with the appropriate parties, will respond to the complaint.
3. Complaints will be responded to in writing.
4. If dissatisfied with the disposition of the complaint, the party may lodge an official appeal of a decision to the Department Director.

Administration of a HOME Project – The Keys

Application

Most funding within the NAHP is available to local governments, public housing agencies and nonprofits on a competitive basis. The Department notifies potential applicants when NAHP application guidelines are available for an upcoming application period. The guidelines describe eligible applicants and activities, the application process, and the deadline for acceptance of an application.

The Department also holds annual workshops on the NAHP application process. It is recommended that you contact the Department's regional housing specialist serving your area before starting an application. Look for information on Department staff contacts, application guidelines and workshops on the Department's website (www.neded.org).

Notice of Approval or Denial

Following the Department's application review period, letters will be sent informing each applicant of the decision to fund or not fund their application. Those applicants not funded are encouraged to meet with Department staff and work toward a fundable application in the future.

The Notice of Approval notifies the grantee of the amount and type of funds awarded and the activities that the grantee will undertake with the funds. **However, the grantee must not obligate or incur project costs prior to satisfying contract conditions and receiving a Notice of Release of Funds from the Department.** Prior to the Notice of Release of Funds and after

Notice of Approval, costs necessary to complete general administrative requirements, such as satisfying the Special Conditions contained in the NAHTF Contract, can be obligated and incurred.

Administrative Costs

Note that each NAHTF award is unique. The Department provides funds for administrative costs in a variety of ways depending upon the nature of the project and the type of grantee. Grantees should understand the budget in the NAHTF Contract, including the line item to be used for administrative costs.

Grantees should confer with their program representative about the budget line item authorized for general administration of the award. This often varies from the budget submitted with the original application.

Administrative costs are those costs associated with the implementation of the grant. Costs may include: salaries for full or part-time personnel who administer the grant, cost of equipment and supplies used for grant activities, and cost of administrative services provided by other agencies. All administrative costs charged to the project must be documented through timesheets, purchase orders, invoices and cancelled checks. General administration and housing management are typically the administrative line items in the budget in the NAHTF Contract.

Note: The terms “housing management”, “housing administration” and “project soft costs” are interchangeable.

NAHTF Contract

The Department will send the recipient a NAHTF Contract shortly after the Notice of Approval. The contract contains a project description, time of performance, sources and uses of funds, conditions governing the use of NAHTF funds and the special conditions for release of funds.

The contract must be signed by the recipient and returned to the Department within one month. In most cases, the special conditions of the contract must be satisfied within three months and the project completed within two years. (See Chapter 7 – NAHTF Contract for more information)

The contract between the Department and the grantee provides for termination for cause and or for convenience. In the event the Department suffers a loss of funding the contract may terminate in full or in part.

The Department’s awards are referred to as conditional grants in the contract. The conditions making the grant a conditional grant include compliance with all terms and conditions of the contract, most particularly including monitoring and enforcing the eligibility restrictions and rent restrictions (rental project) required under the NAHTF program. If all conditions are satisfied, then the grant will be declared unconditional. The recipient will be held responsible for full repayment of the conditional grant to the Department unless and until unconditional grant status is achieved.

Special Conditions for Release of Funds – Notice to Proceed

Recipients of NAHTF funds are advised to carefully review their NAHTF Contract before implementing the funded project.

Contained within the contract is a section entitled Special Conditions for Release of Funds. The section begins by stating that “Funding of the amount stipulated in §1.01 will not be released to the Recipient by the Department until the following Special Conditions for Release of Funds are met”. These Special Conditions must be satisfactorily completed by the identified date, or the Department reserves the right to cancel the contract.

Please note: Project costs cannot be obligated or incurred prior to the Department issuing a written Notice of Release of Funds.

Typical Special Conditions for Release of Funds

- NAHTF Program Grantee Information Sheet
Documentation that the grantee has completed and returned this form.
- NAHTF Authorization to Request Funds
Documentation that the grantee has completed and returned this form.
- Environmental Review
Documentation is required by the Department evidencing the grantee’s completion of its responsibilities for environmental review and decision making pertaining to the project.
- Fair Housing
Documentation that the grantee has specifically provided a description of the actions it will take during the course of the Project to fulfill the requirements to affirmatively further fair housing.
- Implementation Schedule
Completion and submission to the Department of this form.
- Procurement Procedures
Submission to the Department of the grantee’s procurement policies.

Disclaimer: The above represents a list of typical standard special conditions, however all NAHTF Contracts are tailored to a specific project with unique standard conditions. The Special Conditions for Release of Funds in the NAHTF Contract must be satisfied before the Notice of Release of Funds will be issued for that project.

Additional guidance on fulfilling contract conditions is available in Chapter 7 – NAHTF Contract. More information on the environmental review, procurement and financial management is also available in this manual. The Department’s website contains forms needed to complete Special Condition requirements.

Release of Funds

Upon receiving the “Notice of Release of Funds” letter, the grantee may obligate non-administrative costs and draw down funds for eligible costs incurred. A Release of Funds will

not be approved if any audit findings relating to a past grant remain unresolved beyond the normal period or is due to “extreme misconduct.”

Requesting NAHTF Funds

The grantee must complete and send a Request for NAHTF Funds and supporting documentation (if required in the Project’s NAHTF Contract) to the Department, only as funds are needed for the project. NAHTF funds will be disbursed electronically to the grantee’s bank. The grantee has 15 working days to spend NAHTF funds following receipt. More information on requesting funds is available in Chapter 12 - Financial.

Matching Requirements/Other Funds

Matching funds committed to the project as a part of the approved NAHTF Contract should be accounted for in grant records. The receipt and expenditure of the matching funds should be carefully documented. If matching funds are derived from a source outside the local government or nonprofit, project records should identify the source and amount.

Note that the NAHTF program does not require proportional drawdowns (showing matching funds in the same proportion as in the budget in the NAHTF Contract), however, matching funds must be shown on Request for NAHTF forms and the Final Financial Report for the project. Grantees failing to meet the match required in the NAHTF Contract budget by the end of the project are subject to penalties that include repayment of NAHTF to the Department.

Although grantees are not required to show proportional match on each draw, the Department may elect to not process request for funds if satisfactory progress of match contribution is not demonstrated in Quarterly Results Assessment Forms. More information on matching funds is available in Chapter 12 – Financial.

Contract Amendments/Extensions

Grantees must request approval from the Department for any of the following changes:

- Changes to the budget.
- Extensions of the contract end date.
- Decreases in proposed accomplishments.
- Amendments to housing program guidelines, tenant selection process and/or lease agreements.

The Department will review amendment requests using the following factors:

- The strength of the project as amended compared to projects that were not funded.
- Grantee’s performance and capacity. An on-site visit may be required before a determination can be made.

More information on amendments is available in Chapter 7 – NAHTF Contract and a NAHTF Contract Amendment Request Form is available at the Department’s website.

Conflict of Interest

The Department requires that each grantee have written standards governing the performance of their employees engaged in awarding and administering contracts. At a minimum, these standards must:

- Require that no employee, officer, or agent of grantee shall participate in the selection, award or administration of a contract supported by NAHTF if a conflict-of-interest, either real or apparent, would be involved.
- Require that employees, officers and agents not accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements.
- Stipulate provisions for penalties, sanctions or other disciplinary actions for violations of standards.

A conflict would arise when any of the following has a **financial or other interest** in a firm selected for award:

- An employee, agent or officer of the grantee.
- Any member of an employee's, agent's or officer's immediate family.
- An employee's, agent's or officer's partner.
- An organization that employs or is about to employ an employee, agent or officer of the grantee.

Exceptions

Upon written request, the Department on a case-by-case basis may grant exceptions to the Conflict of Interest provisions only after the grantee has done both of the following:

- Disclosed the full nature of the conflict and submitted proof that the disclosure has been made public.
- Provided a legal opinion stating that there would be no violation of state or local law if the exception was granted.

Recordkeeping Requirements

- General records must be kept for three years after project completion.
- Tenant income, rent and inspection information must be kept for the most recent three years, until three years after the affordability period ends.
- Resale/Recapture records must be kept three years after the affordability period ends.

See Chapter 13 – Reporting for more information on recordkeeping.

Reporting Requirements

The Department requires grantees to submit reports at various stages during the course of a project. Note that not all of the reports are applicable to every project.

Grantees should use the most current form for any report that they are submitting. These current forms are available at the Department's website. The grantee's program representative will

provide assistance, if needed, with locating and/or sending to the grantee a copy of the current on-line form.

See Chapter 13 – Reporting for more information on reporting requirements.

Monitoring

All NAHTF projects are monitored for compliance with NAHTF requirements.

See Chapter 14 – Monitoring for more information on monitoring.

Closeout

The following items/steps are required to be satisfactorily completed before the Department will issue a Certificate of Completion for a NAHTF project:

- The Final Financial Report (grantee must submit within 3 months of the NAHTF Contract's Time of Performance termination date);
- The Final Performance Report (grantee must submit within 3 months of the NAHTF Contract's Time of Performance termination date); and
- The Department has determined that the grant was implemented in accordance with NAHTF requirements or that the grantee has taken appropriate corrective action to address all areas of noncompliance.

It is important to note that following the Department's issuance of a Certificate of Completion, the grantee must continue to abide by the NAHTF Contract through the affordability period and retain grant records for the required amount of time. The Department will continue to monitor the project for compliance through the end of the affordability period.

See Chapter 13 – Reporting for more information on closeout.

Lead-Based Paint

The Department has determined that the requirements concerning lead-based paint for the HOME Program generally will apply to NAHTF projects. The Department may accept an amended version of these regulations on a project-by-project basis. All of the following must be submitted to the grant's program representative to request an exception to the lead-based paint requirements:

- A written request from the Chief Elected Official or the Authorized Official of the grantee to accept the amended lead-based paint requirements for the project.
- A full explanation of the suggested lead-based paint requirements using the format in the lead-based paint section of Chapter 2 of the NAHTF manual.
- Clearly demonstrate (such as with a strike-through format) the difference between the NAHTF lead-based paint requirements and the requested amended lead-based paint requirements.
- A detailed description of why the amendments are necessary to project success.

- How the project will continue to protect assisted households and workers from lead-based paint hazards even with the requested amendments.

The Department will issue a determination on the request for an exception within thirty days of receiving the request. Grantees must not implement any lead-based paint procedures that differ from those required by the NAHTF until after the Department issues a favorable ruling on the request for an exception.

All units in a project assisted with NAHTF must comply with the regulation implementation Title X of the 1992 Housing and Community Development Act (24 CFR Part 35). This regulation has been in effect since September 15, 2000.

Overview

The lead-based paint regulation at 24 CFR Part 35 consolidates all lead-based paint requirements for HUD-assisted housing. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead.

The regulation is divided into subparts. Subparts that apply to the NAHTF funds include:

Subpart A: Disclosure.

Subpart B: General Requirements and Definitions.

Subpart J: Rehabilitation.

Subpart K: Acquisition, Leasing, Support Services, and Operations.

Subpart M: Tenant-Based Rental Assistance.

Subpart R: Methods and Standards for Lead-Based Paint Hazard Evaluation and Reduction.

Summary of the Requirements

There are four approaches to addressing lead-based paint in NAHTF-funded projects. See the following exhibit for more information about each approach.

Approach 1: Do No Harm

Approach 2: Identify and Stabilize Deteriorated Paint

Approach 3: Identify and Control Lead-Based Paint Hazards

Approach 4: Identify and Abate Lead-Based Paint Hazards

Approach	Lead Hazard Evaluation	Lead Hazard Reduction	Options
1) Do no harm	Paint testing performed on surfaces to be disturbed.	Repair surfaces disturbed during work. Safe work practices used when working on areas identified as lead-based paint. Clearance performed.	Presume lead-based paint is present and use safe work practices of all surfaces being disturbed.
2) Identify and stabilize deteriorated	Visual assessment performed to identify	Paint stabilization of identified deteriorated	Perform paint testing on deteriorated paint.

paint	deteriorated paint.	paint. Safe work practices used. Clearance performed.	Safe work practice requirements only apply to lead-based paint.
3) Identify and control lead hazards	Paint testing performed on surfaces to be disturbed. Risk analysis performed on entire dwelling.	Interim controls performed on identified hazards. Safe work practices used. Clearance performed.	Presume lead-based paint and/or lead-based paint hazards are present and perform standard treatments.
4) Identify and abate lead hazards	Paint testing performed on surfaces to be disturbed. Risk analysis performed on entire dwelling.	Abatement performed on identified hazards. Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation. Safe work practices used. Clearance performed.	Presume lead-based paint and/or lead-based paint hazards are present and perform abatement on all applicable surfaces – deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.

Types of Requirements

The lead-based paint requirements established by the regulation fall into the five major categories listed below:

Notification

Grantees must meet four notification requirements.

- **Lead Hazard Information Pamphlet**
Occupants, owners, and purchasers must receive the EPA/ HUD/ Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
- **Disclosure**
Check that property owners have provided purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence.
- **Notice of Lead Hazard Evaluation or Presumption**
Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards.
- **Notice of Lead Hazard Reduction Activity**
Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.

Lead Hazard Evaluation

The evaluation activity required depends on the nature of the activity funded and the amount of Federal funding (and NAHTF funding in the case of NAHTF projects). Evaluation methods include visual assessments, paint testing, and risk assessments.

Lead Hazard Reduction

The reduction activity required depends on the nature of the activity funded and the amount of Federal funding (and NAHTF funding in the case of NAHTF projects). Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.

Ongoing Maintenance

Ongoing maintenance is required if the grantee has an ongoing relationship with the Federal government (or State government in the case of NAHTF projects) (e.g. rental activities). Ongoing maintenance includes periodic visual assessments to determine if lead-based paint hazards have reappeared.

Compliance

Penalties [24 CFR 35.170]

Failure to comply with the lead-based paint requirements under the new regulation will be subject to sanctions authorized under the Federal funding programs providing assistance to the property, and violations may be subject to other penalties available under state or local law.

Notifying owners, purchasers, or occupants of possible lead-based paint hazards **does not** relieve grantees of the responsibilities under the new regulation.

Addressing Other Regulations and Laws [24 CFR 35.145]

Grantees must comply with other regulations – Federal, State, tribal, and local – that apply to lead-based paint hazard evaluation and reduction. When multiple regulations cover a program activity, grantees must comply with the most stringent requirement.

All lead-based paint activities must be performed in accordance with other applicable Federal laws and authorities. For example, the National Environmental Policy Act of 1969 (42 U. S. C. 4321 et seq.), OSHA worker safety regulations (29 CFR 1910.1200 and 29 CFR 1926.62), and other environmental laws and authorities cover activities related to lead-based paint evaluation and hazard reduction.

Recordkeeping [24 CFR 35.175]

There are numerous records that grantees must keep to verify that they conducted the required lead hazard response activities. These documents must be located in program and project files.

Lead Hazard Information Pamphlet

A record of the distribution of the lead hazard information pamphlet is recommended, but not required.

Notification, Evaluation, and Reduction Reports

The grantee must keep a copy of each notification, lead hazard evaluation report, lead hazard reduction documentation (such as job specifications), and clearance or abatement report for at least five years, or for such other period as specified in the program regulations.

Ongoing Maintenance Records

Grantees must keep ongoing maintenance records and records of relevant building operations for use during reevaluations.

Lead Paint: Recommended and Prohibited Practices

Safe Treatment Methods

Safe treatment methods control the spread of dust and debris. They should be preceded by proper containment practices and followed-up with proper clean-up procedures.

Examples of safe treatment methods include:

- Wet scraping or wet sanding.
- Chemical stripping on- or off-site (except methylene chloride).
- Replacing painted components.
- Scraping with an infra-red or coil type heat gun with temperatures below 1,100 degrees Fahrenheit.
- Vacuum-sanding using a sander equipped with a High Efficiency Particle Air (HEPA) filter.
- Using a HEPA vacuum needle gun.
- Contained hydroblasting or high pressure wash with a HEPA vacuum.
- Abrasive sanding with a HEPA vacuum.
- Covering the painted surface with durable materials (such as wallboard) with joints sealed and caulked.

Prohibited Methods

Prohibited methods can spread lead dust or lead fumes.

Prohibited Methods include:

- Open flame burning or torching
- Machine sanding or grinding without HEPA exhaust.
- Uncontained hydroblasting or high pressure wash.
- Abrasive blasting or sandblasting without a HEPA vacuum exhaust.
- Heat guns operating above 1,100 degrees Fahrenheit.
- Chemical paint strippers containing methylene chloride.
- Dry scraping (except around electrical outlets or in conjunction with heat guns).

For more information about safe and prohibited methods, see the 1995 HUD Guidelines for the Evaluation and Control of Lead-Based Paint in Housing.