

**SUBMITTAL TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

584



**FROM:** Housing Authority

**SUBMITTAL DATE:**  
April 8, 2010

**SUBJECT:** Housing Opportunities for Persons with AIDS (HOPWA) Agreement between the Housing Authority of the County of Riverside (Project Sponsor) and the City of Riverside (Grantee)

**RECOMMENDED MOTION:** That the Board of Commissioners:

1. Approve the agreement between the Housing Authority of the County of Riverside and the City of Riverside to allow the Housing Authority to serve as Project Sponsor for HOPWA services within Riverside County;
2. Authorize the Chairman to execute the attached 2009-2010 HOPWA Agreement; and
3. Authorize the Housing Authority Executive Director or designee to take all necessary steps to implement this Agreement including, but not limited to signing subsequent and necessary documents.

**BACKGROUND:** (Commences on Page 2)

Robert Field  
Executive Director

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 1,059,001	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	09/10

<b>SOURCE OF FUNDS:</b> U.S. Department of Housing and Urban Development	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/6 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE  
BY:   
Jennifer L. Sargent

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL  
DATE: 4/1/10  
MICHELLE CLACK  
Departmental Concurrence

Dept't Recomm.:  Consent  
Per Exec. Ofc.:  Consent  
 Policy  
 Policy

**Prev. Agn. Ref.:** District: ALL Agenda Number:

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

**10.2**

Housing Authority

Housing Opportunities for Persons with AIDS (HOPWA) Agreement between the Housing Authority of the County of Riverside (Project Sponsor) and the City of Riverside (Grantee)

April 8, 2010

Page 2

**BACKGROUND:**

The U.S. Department of Housing and Urban Development (HUD) has sponsored a program titled Housing Opportunities for Persons with AIDS (HOPWA). This program provides localities with financial resources to devise long-term comprehensive strategies for meeting the housing needs of low income, HIV positive individuals and their families. The City of Riverside, as grantee for the Riverside-San Bernardino service area, has awarded the Housing Authority \$1,059,001 to serve as the HOPWA Project Sponsor for Riverside County. As Project Sponsor, the Housing Authority plans, coordinates, and monitors HOPWA services for eligible Riverside County residents.

**FY 2009-2010 HOPWA AGREEMENT  
Housing Opportunities for Persons with AIDS**

**HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation, hereinafter referred to as "City", and the HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE, a public agency, located at 5555 Arlington Avenue, Riverside, California 92504, hereinafter referred to as "Authority" or with reference to the following:

**RECITALS**

A. WHEREAS, the U.S. Department of Housing and Urban Development ("HUD") has sponsored a program titled Housing Opportunities for Persons with AIDS ("HOPWA"), a program which provides localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immune deficiency syndrome (AIDS) or related diseases and their families.

B. WHEREAS, the City has received approval from HUD for an allocation of federal funds from the HOPWA program to carry out the goals and objectives of the program as outlined in the Consolidated Plan for fiscal year 2009-2010 and incorporated herein by this reference.

C. WHEREAS, the Authority has in previous fiscal years received these funds to provide similar services as a project sponsor; this year Authority will use funds in the amount of One Million Fifty-Nine Thousand and One Dollar (\$1,059,001.00) to provide services as described in the Scope of Services, attached hereto as Exhibit "A" and incorporated by this reference.

D. WHEREAS, the City and Authority agree that Authority shall implement the HOPWA program consistent with the City's Grant Application and Authority agrees to act as a project sponsor of this program for the period named in the grant award allowing for a full expenditure of fiscal year 2009-2010 HOPWA funds during the period of July 1, 2009 through June 30, 2010.

NOW, THEREFORE, the parties hereto agree as follows:

1. The City will contract with the Authority to implement the HOPWA program and coordinate and sponsor the program within the County of Riverside as set forth in the Scope of Services, attached hereto as Exhibit "A", and consistent with HUD/HOPWA Consolidated Plan Certifications, attached hereto as Exhibit "B", all of which is incorporated herein by this reference.

2. The Authority agrees to contract with appropriate agencies as contractors (the "Contractors") to fulfill the obligations of the HOPWA program and to coordinate and sponsor the program to benefit eligible persons who reside within the County of Riverside. As coordinator and sponsor of the program, the Authority will ensure that the Contractor(s) named by the Authority shall perform all services under this program in accordance with the conditions as described in the grant award from HUD to the City. All services shall also be performed in accordance with the rules and regulations set forth in 24 CFR Chapter V, Part 574, as may be amended, attached hereto as Exhibit "C" and incorporated herein by this reference.

3. By executing this Agreement, Authority certifies that Authority is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Authority shall carry the insurance or provide

for self-insurance required by California law to protect said Authority from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Authority shall file with City either (1) a certificate of insurance showing that such insurance is in effect, or that Authority is self-insured for such coverage, or (2) a certified statement that Authority has no employees, and acknowledging that if Authority does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City shall provide that City will be given ten (10) days prior written notice before modification or cancellation thereof.

4. Prior to City's execution of this Agreement, Authority shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance as required to insure Authority against damages for personal injury, including accidental death, as well as from claims for property damage which may arise from or which may concern operations by Authority, or by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Authority.

All liability insurance shall be issued by insurance companies authorized to transact liability insurance business in the State of California, with a policy holder's rating of A or higher, and a Financial Class of VII or larger.

Authority's commercial general liability policy shall cover both bodily injury (including death) and property damage (including but not limited to premises-operations liability, products-completed operations liability, independent contractors liability, personal injury liability, and contractual liability), in an amount not less than \$1,000,000 per-occurrence limit/\$2,000,000 aggregate.

This minimum amount of coverage shall not constitute any limitation or cap on Authority's indemnification obligations stated in this section.

Prior to City's execution of this Agreement, insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this Agreement, for commercial general liability, shall be filed with City and shall include City, its officers and employees as additional insureds. Said policies shall be in the usual form of commercial general liability insurance, but shall include the following provisions:

"Solely as respects work done by and on behalf of the named insured for the City of Riverside, it is agreed that the City and its officers and employees are added as additional insureds under this policy."

The policy shall not be cancelled unless thirty (30) days' prior written notification of intended cancellation has been given to City by certified or registered mail.

City, its agents and employees make no representation that the limits of the insurance specified to be carried by Authority pursuant to this Agreement are adequate to protect Authority. If Authority believes that any required insurance coverage is inadequate, Authority will obtain such additional insurance coverage as Authority deems adequate, as Authority's sole expense.

The insurance requirements stated in this section may be satisfied by Authority by providing proof of self-insurance acceptable to the City.

5. The Authority agrees to indemnify, defend and hold harmless the City and their authorized agents, officers, and employees against any and all claims or actions arising from the Authority's willful misconduct, negligent acts or omissions connected with the performance of work under this Agreement by Authority and for any costs or expenses incurred by the Authority or City on account of any claim therefore.

6. The City agrees to indemnify, defend and hold harmless the Authority and their authorized agents, officers, and employees against any and all claims arising from the City's willful misconduct, negligent acts or omissions connected with the performance of work under this Agreement by City and for any costs or expenses incurred by the Authority on account of any claims therefore.

7. The Authority agrees to provide City with all the documentation required by HUD for the HOPWA program upon City's request.

8. The Authority shall maintain financial, programmatic, statistical and other supporting records of its operations and financial activities in accordance with the requirements of the Housing and Community Development Act and its regulations and specifically shall prepare and maintain the following records and reports to assist the City in maintaining its records keeping requirements:

A. Records:

(1) Documentation of the income level as defined by the HUD Guidelines, and the number of persons and/or families participating in or benefiting by the Authority's program.

(2) Documentation of all HOPWA funds received from the City.

(3) Documentation of expenses as identified in the Authority's Fiscal Year 2009-2010 Budget, attached hereto as Exhibit "D" and incorporated by this reference, along with any adjustments, as approved by City.

(4) Authority must maintain current and accurate data on race and ethnicity of program participants (Sec. 574.530 Record keeping).

(5) Any other related records as City shall require.

B. Reports:

(1) Quarterly reports to the City of Riverside regarding the use of HOPWA funds by the Contractors as provided herein. Reports are due October 15, 2009 (1st Quarter), January 15, 2010 (2nd Quarter), April 15, 2010 (3rd Quarter), and July 15, 2010 (4th Quarter).

(2) Any such other reports as City shall reasonably require.

9. The Authority's records shall be open to inspection and audit by the authorized representatives of the City, HUD and the Comptroller General during regular working hours. Said records shall be retained for such time as may be required by the regulations of the Housing and Community Development Act, but in no case for less than five (5) years after completion of an audit. Records which relate to (a) complaints, claims, administrative proceedings or litigation arising out of the performance of this Agreement, or (b) costs and expenses of this Agreement to which City or any other governmental agency takes exception, shall be retained beyond the five (5) years until resolution or disposition of such appeals, litigation claims or exceptions.

10. All terms and conditions in this Agreement shall commence on July 1, 2009, and shall terminate when all program funds have been expended, or no later than June 30, 2010. In the event the funds allocated hereunder are not fully expended by such date, this Agreement and all its terms and conditions may be automatically extended for an additional period of one (1) year upon prior written approval of the City Development Director.

11. In the event the Authority fails to provide coordination and the sponsorship as set forth in the attached documents, particularly 24 CFR Part 574 Subparts D through G, the City may, upon thirty (30) days written notice to the Authority, terminate this HOPWA Agreement.



12. The City agrees to reimburse the Authority for payment made to Contractors under the HOPWA program consistent with the agreement(s) between the Authority and Contractor(s). Payments to Contractors eligible for reimbursement by the City shall not exceed the amount of One Million Fifty-Nine Thousand and One Dollars (\$1,059,001.00). As authorized by HUD, the Authority may bill the City an amount not to exceed Seventy-Four Thousand One Hundred and Thirty Dollars (\$74,130.00) for administrative costs associated with sponsorship of the HOPWA program within Riverside County. The maximum amount payable under this Agreement shall be One Million Fifty-Nine Thousand and One Dollars (\$1,059,001.00). All payments to the Authority will be made on a reimbursement basis for actual expenses incurred by Contractors or the Authority as outlined above.

13. Authority shall at all times during its performance of this Agreement retain its status as independent contractor. Authority's employees and agents shall under no circumstances be considered or held to be employees or agents of City and City shall have no obligation to pay or withhold state or federal taxes or provide workers' compensation or unemployment insurance for or on behalf of them or Authority.

14. The individuals executing this Agreement and the instruments referenced herein on behalf of the Authority each represent and warrant that they have the legal power, right and actual authority to bind the Authority to the terms and conditions hereof and thereof.

[Signatures on next page.]

This Agreement is hereby executed on behalf of the parties as follows:

CITY OF RIVERSIDE,  
a California charter city and  
a municipal corporation

HOUSING AUTHORITY OF THE  
COUNTY OF RIVERSIDE, a public agency

By: \_\_\_\_\_  
Development Director

By: \_\_\_\_\_  
Marion Ashley  
Chairman, Board of Commissioners

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_

\_\_\_\_\_  
[Name and Title]

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

FORM APPROVED COUNTY COUNSEL  
BY: Michelle Clack 7/1/10  
MICHELLE CLACK DATE

By: \_\_\_\_\_  
Deputy City Attorney

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09-1486 RMG  
REV: 12/16/09

**Housing Authority of the County of Riverside  
HOPWA Scope of Services FY 2009-2010**

**Services Provided**

The Housing Authority of the County of Riverside (HACR) will utilize HOPWA funds to provide: tenant based rental assistance; project based rental assistance; short term assistance with rent, mortgage, and utility costs (STRMU); housing information services; supportive services; and permanent housing placement assistance to low income individuals/families with HIV/AIDS residing in Riverside County. HACR will directly provide tenant based rental assistance and housing information services to eligible households. Short term assistance, supportive services, and permanent housing placement will be provided by local HIV/AIDS service providers through subcontracts.

**Households Served**

The HACR projects the following number of clients per service category:

	<b>Continuing Clients</b>	<b>New Clients</b>	<b>Total</b>
<b>Tenant Based Rental Assistance (TBRA)</b>	<b>80</b>	<b>22</b>	<b>90</b>
<b>Project Based Rental Assistance</b>	<b>18</b>	<b>7</b>	<b>25</b>
<b>Short Term Rental/Mortgage/Utility Assistance</b>			
<i>Desert AIDS Project</i>	45	165	210
<i>Catholic Charities</i>	5	30	35
<i>Foothill AIDS Project</i>	0	25	25
<b>Total STRMU</b>	<b>50</b>	<b>220</b>	<b>270</b>
<b>Supportive Services</b>			
<i>Desert AIDS Project</i>	40	130	170
<i>Catholic Charities</i>	5	35	40
<i>Foothill AIDS Project</i>	0	35	35
<b>Total Supportive Services</b>	<b>45</b>	<b>193</b>	<b>245</b>
<b>Permanent Housing Placement</b>			
<i>Desert AIDS Project</i>	0	35	35
<i>Catholic Charities</i>	0	15	15
<b>Total Permanent Housing Placement</b>	<b>0</b>	<b>50</b>	<b>50</b>
<b>Housing Information Services</b>	<b>25</b>	<b>200</b>	<b>225</b>

**How Funds Will be Expended**

HOPWA funding in Riverside County will be expended in the following manner:

- Tenant Based Rental Assistance, known locally as the Housing Opportunities Program (HOP), will be provided by the Housing Authority. These funds will be used to provide a rental subsidy to low income HIV positive households. The Housing Authority will also maintain a waiting list for the HOP program. HACR anticipates serving 90 households with the HOP program during the next 12 month contract period.
- Project Based Rental Assistance will be provided by Desert Aids Project in the City of Palm Springs at the Rick Weiss Apartments. This funding will support 25 subsidized rental units at an apartment complex that is within walking distance to Desert Aids Project's service site.

## EXHIBIT A

- STRMU, Supportive Services, and Permanent Housing Placement will be subcontracted to local services providers to ensure that clients have a choice when accessing HOPWA services. A total of \$315,120 has been allocated to these subcontractors who intend to serve 270 households with STRMU assistance; 245 households with Supportive Services; and 50 households with Permanent Housing Placement.
- Housing Information Services will be provided by HACR. The agency will dedicate a full time Office Assistant III to the HOPWA program. One of the major responsibilities of this staff person is to provide HOPWA information to HIV positive households, other individuals seeking services on behalf of an HIV positive household, surviving family members, and local service providers. An estimated 225 persons will receive Housing Information Services
- Finally, \$74,130 has been allocated for administrative costs specific to the HOPWA program.

### **Office Locations**

*Housing Authority of the County of Riverside*  
5555 Arlington Avenue  
Riverside, CA 92504

44-199 Montore, Ste B (Desert Office)  
Indio, CA 92201

*Desert AIDS Project*  
1695 N. Sunrise Way  
Palm Springs, CA 92262

*Rick Weiss Apartments (Project Based Site)*  
1313 E Vista Chino  
Palm Springs, CA 92262

*Catholic Charities*  
21250 Box Springs Rd # 206  
Moreno Valley, CA 92557

*Foothill AIDS Project (main office)*  
233 West Harrison Avenue,  
Claremont, CA 91711

EXHIBIT "B"

Riverside

This certification does not apply.  
 This certification is applicable.

HOPWA Certifications

The HOPWA grantee certifies that:

**Activities** -- Activities funded under the program will meet urgent needs that are not being met by available public and private sources.

**Building** -- Any building or structure assisted under that program shall be operated for the purpose specified in the plan:

1. For at least 10 years in the case of assistance involving new construction, substantial rehabilitation, or acquisition of a facility,
2. For at least 3 years in the case of assistance involving non-substantial rehabilitation or repair of a building or structure.

*Deanna Lorson*

May 8, 2009

Signature/Authorized Official

Date

Deanna Lorson

Name

Development Director

Title

3900 Main Street

Address

Riverside, CA 92522

City/State/Zip

951.826.2520

Telephone Number

# EXHIBIT "C"

## § 574.3

24 CFR Ch. V (4-1-04 Edition)

- 574.240 Application requirements.
- 574.260 Amendments.

### Subpart D—Uses of Grant Funds

- 574.300 Eligible activities.
- 574.310 General standards for eligible housing activities.
- 574.320 Additional standards for rental assistance.
- 574.330 Additional standards for short-term supported housing.
- 574.340 Additional standards for community residences.

### Subpart E—Special Responsibilities of Grantees and Project Sponsors

- 574.400 Prohibition of substitution of funds.
- 574.410 Capacity.
- 574.420 Cooperation.
- 574.430 Fee prohibitions.
- 574.440 Confidentiality.
- 574.450 Financial records.

### Subpart F—Grant Administration

- 574.500 Responsibility for grant administration.
- 574.510 Environmental procedures and standards.
- 574.520 Performance reports.
- 574.530 Recordkeeping.
- 574.540 Deobligation of funds.

### Subpart G—Other Federal Requirements

- 574.600 Cross-reference.
- 574.603 Nondiscrimination and equal opportunity.
- 574.605 Applicability of OMB circulars.
- 574.625 Conflict of interest.
- 574.630 Displacement, relocation and real property acquisition.
- 574.635 Lead-based paint.
- 574.640 Flood insurance protection.
- 574.645 Coastal barriers.
- 574.650 Audit.
- 574.655 Wage rates.

AUTHORITY: 42 U.S.C. 3535(d) and 12901-12912.

SOURCE: 57 FR 61740, Dec. 28, 1992, unless otherwise noted.

### Subpart A—General

#### § 574.3 Definitions.

The terms *Grantee* and *Secretary* are defined in 24 CFR part 5.

*Acquired immunodeficiency syndrome (AIDS) or related diseases* means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome, including

infection with the human immunodeficiency virus (HIV).

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

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

*City* has the meaning given it in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

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

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

*Eligible State* means a State that has:

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

*Family* means a household composed of two or more related persons. The term family also includes one or more eligible persons living with another

person or persons who are determined to be important to their care or well being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death.

*Low-income individual* has the meaning given it in section 853(3) of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

*Metropolitan statistical area* has the meaning given it in section 853(5) of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

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

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

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

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

*Project sponsor* means any nonprofit organization or governmental housing agency that receives funds under a contract with the grantee to carry out eligible activities under this part. The selection of project sponsors is not subject to the procurement requirements of 24 CFR 85.36.

*Qualifying city* means a city that is the most populous unit of general local government in an eligible metropolitan statistical area (EMSA) and that has a consolidated plan prepared, submitted, and approved in accordance with 24

CFR part 91 that covers the assistance to be provided under this part.

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

*State* has the meaning given it in section 853(9) of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

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

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

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17199, Apr. 11, 1994; 60 FR 1917, Jan. 5, 1995; 61 FR 5209, Feb. 9, 1996; 61 FR 7963, Feb. 29, 1996]

## Subpart B—Formula Entitlements

### §574.100 Eligible applicants.

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

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

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17199, Apr. 11, 1994; 60 FR 1917, Jan. 5, 1995]

### §574.110 Overview of formula allocations.

The formula grants are awarded upon submission and approval of a consolidated plan, pursuant to 24 CFR part 91, that covers the assistance to be provided under this part. Certain states and cities that are the most populous unit of general local government in eligible metropolitan statistical areas will receive formula allocations based

§ 574.120

24 CFR Ch. V (4-1-04 Edition)

on their State or metropolitan population and proportionate number of cases of persons with AIDS. They will receive funds under this part (providing they comply with 24 CFR part 91) for eligible activities that address the housing needs of persons with AIDS or related diseases and their families (see § 574.130(b)).

[61 FR 7963, Feb. 29, 1996]

§ 574.120 Responsibility of applicant to serve EMSA.

The EMSA's applicant shall serve eligible persons who live anywhere within the EMSA, except that housing assistance shall be provided only in localities within the EMSA that have a consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part. In allocating grant amounts among eligible activities, the EMSA's applicant shall address needs of eligible persons who reside within the metropolitan statistical area, including those not within the jurisdiction of the applicant.

[60 FR 1917, Jan. 5, 1995]

§ 574.130 Formula allocations.

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

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

(2) The remaining twenty-five percent is allocated among qualifying cities, but not States, where the per cap-

ita incidence of AIDS for the year, April 1 through March 31, preceding the fiscal year of the appropriation is higher than the average for all metropolitan statistical areas with more than 500,000 population. Each qualifying city's allocation reflects its EMSA's proportionate share of the high incidence factor among EMSA's with higher than average per capita incidence of AIDS. The high incidence factor is computed by multiplying the population of the metropolitan statistical area by the difference between its twelve-month-per-capita-incidence rate and the average rate for all metropolitan statistical areas with more than 500,000 population. The EMSA's proportionate share is determined by dividing its high incidence factor by the sum of the high incidence factors for all EMSA's with higher than average per capita incidence of AIDS.

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

§ 574.190 Reallocation of grant amounts.

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

[57 FR 61740, Dec. 28, 1992, as amended at 60 FR 1918, Jan. 5, 1995]



**Subpart C—Competitive Grants**

**§574.200 Amounts available for competitive grants.**

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

(1) Special projects of national significance; and

(2) Other projects submitted by States and localities that do not qualify for formula grants.

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

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

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

[57 FR 61740, Dec. 28, 1992, as amended at 61 FR 7963, Feb. 29, 1996]

**§574.210 Eligible applicants.**

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

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

(c) Except for grants for projects of national significance, nonprofit organizations are not eligible to apply directly to HUD for a grant but may re-

ceive funding as a project sponsor under contract with a grantee.

**§574.240 Application requirements.**

Applications must comply with the provisions of the Department's Notice of Funding Availability (NOFA) for the fiscal year published in the FEDERAL REGISTER in accordance with 24 CFR part 12. The rating criteria, including the point value for each, are described in the NOFA, including criteria determined by the Secretary.

[61 FR 7963, Feb. 29, 1996]

**§574.260 Amendments.**

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

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

(1) HUD accepts the revised proposed use; and

(2) For amendments to acquire, rehabilitate, convert, lease, repair or construct properties to provide housing, an environmental review of the revised proposed use of funds has been completed in accordance with §574.510.

(Approved by the Office of Management and Budget under control number 2506-0133)

**Subpart D—Uses of Grant Funds**

**§574.300 Eligible activities.**

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

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used to provide services independently of any housing activity.

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

- (1) Housing information services including, but not limited to, counseling, information, and referral services to assist an eligible person to locate, acquire, finance and maintain housing. This may also include fair housing counseling for eligible persons who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap;
- (2) Resource identification to establish, coordinate and develop housing assistance resources for eligible persons (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives);
- (3) Acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services;
- (4) New construction (for single room occupancy (SRO) dwellings and community residences only);
- (5) Project- or tenant-based rental assistance, including assistance for shared housing arrangements;
- (6) Short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or mortgagor of a dwelling;
- (7) Supportive services including, but not limited to, health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local, State, and Federal government benefits and services, except that health services may only be provided to individuals with acquired immunodeficiency syndrome or related diseases and not to family members of these individuals;
- (8) Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs;
- (9) Technical assistance in establishing and operating a community residence, including planning and other pre-development or pre-construction

expenses and including, but not limited to, costs relating to community outreach and educational activities regarding AIDS or related diseases for persons residing in proximity to the community residence;

(10) Administrative expenses:

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

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

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

(c) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOPWA program. Neither the Federal government nor a State or local government receiving funds under HOPWA programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the HOPWA program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) An organization that participates in the HOPWA program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct HOPWA funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide

HOPWA-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HOPWA-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the HOPWA program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) HOPWA funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOPWA funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, HOPWA funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to HOPWA funds in this part. Sanctuaries, chapels, or other rooms that a HOPWA-funded religious congregation uses as its principal place of worship, however, are ineligible for HOPWA-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).

(6) If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the

funds are commingled, this section applies to all of the commingled funds.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994; 68 FR 56405, Sept. 30, 2003]

**§ 574.310 General standards for eligible housing activities.**

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

(a)(1) *General.* The grantee shall ensure that qualified service providers in the area make available appropriate supportive services to the individuals assisted with housing under this subpart. Supportive services are described in § 574.300(b)(7). For any individual with acquired immunodeficiency syndrome or a related disease who requires more intensive care than can be provided in housing assisted under this subpart, the grantee shall provide for locating a care provider who can appropriately care for the individual and for referring the individual to the care provider.

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

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

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

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

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

(2) *Habitability standards.* Except for such variations as are proposed by the

locality and approved by HUD, recipients must meet the following requirements:

- (i) *Structure and materials.* The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from hazards.
- (ii) *Access.* The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.
- (iii) *Space and security.* Each resident must be afforded adequate space and security for themselves and their belongings. An acceptable place to sleep must be provided for each resident.
- (iv) *Interior air quality.* Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.
- (v) *Water supply.* The water supply must be free from contamination at levels that threaten the health of individuals.
- (vi) *Thermal environment.* The housing must have adequate heating and/or cooling facilities in proper operating condition.
- (vii) *Illumination and electricity.* The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliance while assuring safety from fire.
- (viii) *Food preparation and refuse disposal.* All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.
- (ix) *Sanitary condition.* The housing and any equipment must be maintained in sanitary condition.

(c) *Minimum use period for structures.*

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

- (i) For a period of not less than 10 years, in the case of assistance pro-

vided under an activity eligible under §574.308(b) (3) and (4) involving new construction, substantial rehabilitation or acquisition of a building or structure; or

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

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

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

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

(d) *Resident rent payment.* Except for persons in short-term supported housing, each person receiving rental assistance under this program or residing in any rental housing assisted under this program must pay as rent, including utilities, an amount which is the higher of:

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the age of the individual, medical expenses, size of family and child care expenses and are described in detail in 24 CFR 5.609). The calculation of the family's monthly adjusted income must include the expense deductions provided in 24 CFR 5.611(a), and for eligible persons, the calculation of monthly adjusted income also must include the disallowance of earned income as provided in 24 CFR 5.617, if applicable;

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

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the

family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payment that is designated for housing costs.

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

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

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

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

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

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

(Paragraph (c) approved by the Office of Management and Budget under control number 2506-0133)

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994; 61 FR 7963, Feb. 29, 1996; 66 FR 6225, Jan. 19, 2001]

§574.320 Additional standards for rental assistance.

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

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

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

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

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

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

(b) With respect to shared housing arrangements, the 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.

[57 FR 61740, Dec. 28, 1992, as amended at 61 FR 7963, Feb. 29, 1996]

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§ 574.330 Additional standards for short-term supported housing.

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

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

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

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

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

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

(d) *Assistance to continue independent living.* In addition to the supportive services provided when an individual is relocated to a short-term supported housing facility, supportive services may be provided to individuals when they remain in their residence because the residence is appropriate to the needs of the individual. In the latter case, a rent, mortgage and utilities

payments program assisted under this part shall provide, when reasonable, supportive services specifically designed to maintain the individual in such residence.

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

(Paragraph (b) approved by the Office of Management and Budget under control number 2506-0133)

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994]

§ 574.340 Additional standards for community residences.

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

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

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

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

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

(ii) A certification that the grantee has on file an analysis of the service

level needed for each community residence, a statement of which grantee agency, project sponsor, or service provider will provide the needed services, and a statement of how the services will be funded; and

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

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

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994]

#### Subpart E—Special Responsibilities of Grantees and Project Sponsors

##### § 574.400 Prohibition of substitution of funds.

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

##### § 574.410 Capacity.

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

##### § 574.420 Cooperation.

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

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

(c) A grantee that is a city receiving a formula allocation for an EMSA shall coordinate with other units of general local government located within the

metropolitan statistical area to address needs within that area.

##### § 574.430 Fee prohibitions.

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

##### § 574.440 Confidentiality.

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

##### § 574.450 Financial records.

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

#### Subpart F—Grant Administration

##### § 574.500 Responsibility for grant administration.

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

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

(1) Operate the program in accordance with the provisions of these regulations and other applicable HUD regulations;

(2) Conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

(3) Assure the adequate provision of supportive services to the participants in the program; and

(4) Comply with such other terms and conditions, including recordkeeping

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

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

§574.510 Environmental procedures and standards.

(a) Activities under this part are subject to HUD environmental regulations in part 58 of this title, except that HUD will perform an environmental review in accordance with part 50 of this title for any competitive grant for Fiscal Year 2000.

(b) The recipient, its project partners and their contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for such eligible activities under this part, until the responsible entity (as defined in §58.2 of this title) has completed the environmental review procedures required by part 58 and the environmental certification and RROF have been approved (or HUD has performed an environmental review and the recipient has received HUD approval of the property). HUD will not release grant funds if the recipient or any other party commits grant funds (i.e., incurs any costs or expenditures to be paid or reimbursed with such funds) before the recipient submits and HUD approves its RROF (where such submission is required).

(c) For activities under a grant to a nonprofit entity that would generally be subject to review under part 58, HUD may make a finding in accordance with §58.11(d) and may itself perform the environmental review under the provisions of part 50 of this title if the recipient nonprofit entity objects in writing to the responsible entity's performing the review under part 58. Irrespective of whether the responsible entity in accord with part 58 (or HUD in

accord with part 50) performs the environmental review, the recipient shall supply all available, relevant information necessary for the responsible entity (or HUD, if applicable) to perform for each property any environmental review required by this part. The recipient also shall carry out mitigating measures required by the responsible entity (or HUD, if applicable) or select alternate eligible property.

[68 FR 56130, Sept. 29, 2003]

§574.520 Performance reports.

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

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

[60 FR 1918, Jan. 5, 1995]

§574.530 Recordkeeping.

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

[57 FR 61740, Dec. 28, 1992, as amended at 60 FR 1918, Jan. 5, 1995]

§574.540 Deobligation of funds.

HUD may deobligate all or a portion of the amounts approved for eligible activities if such amounts are not expended in a timely manner, or the proposed activity for which funding was approved is not provided in accordance with the approved application or action plan and the requirements of this regulation. HUD may deobligate any amount of grant funds that have not been expended within a three-year period from the date of the signing of the grant agreement. The grant agreement may set forth other circumstances



under which funds may be deobligated or sanctions imposed.

[61 FR 7963, Feb. 29, 1996]

### Subpart G—Other Federal Requirements

#### § 574.600 Cross-reference.

The Federal requirements set forth in 24 CFR part 5 apply to this program as specified in this subpart.

[61 FR 5209, Feb. 9, 1996]

#### § 574.603 Nondiscrimination and equal opportunity.

Within the population eligible for this program, the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5 and the following requirements apply:

(a) *Fair housing requirements.* (1) Grantees and project sponsors shall comply with the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101-12213) and implementing regulations at 28 CFR part 35 (States and local government grantees) and part 36 (public accommodations and requirements for certain types of short-term housing assistance).

(2) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964-1965 Comp., p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970 Comp., p. 803; 3 CFR 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264) (Equal Employment Opportunity) does not apply to this program.

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

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 33894, June 30, 1994, Redesignated and amended at 61 FR 5209, Feb. 9, 1996; 61 FR 7964, Feb. 29, 1996]

#### § 574.605 Applicability of OMB circulars.

The policies, guidelines, and requirements of 24 CFR part 85 (codified pur-

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

#### § 574.625 Conflict of interest.

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

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

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the

exception is sought would not violate State or local law.

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

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(2) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

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

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

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

(6) Any other relevant considerations.

**§ 574.630 Displacement, relocation and real property acquisition.**

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

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

(URA) (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR part 24.

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

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

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

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

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

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

(i) After notice by the grantee, project sponsor, or property owner to move permanently from the property, if the move occurs on or after the date

that the grantee submits to HUD an application for assistance that is later approved and funded;

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

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

(A) The tenant moves after the "initiation of negotiations" and the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

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

(2) 30 percent of gross household income; or

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

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

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

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

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

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation or applicable Federal, State or local law, or other good cause, and HUD determines that the eviction was not undertaken for

the purposes of evading the obligation to provide relocation assistance;

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

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

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

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

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

#### §574.635 Lead-based paint.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, J, K, M, and R of this part apply to activities under this program.

[64 FR 50226, Sept. 15, 1999]

#### §574.640 Flood insurance protection.

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

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

**§ 574.645**

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

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

**§ 574.645 Coastal barriers.**

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

**§ 574.650 Audit.**

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

**§ 574.655 Wage rates.**

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

[59 FR 17201, Apr. 11, 1994]

**PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT**

**Subpart A—General**

- Sec.
- 576.1 Applicability and purpose.
- 576.3 Definitions.
- 576.5 Allocation of grant amounts.

**Subpart B—Eligible Activities**

- 576.21 Eligible activities.
- 576.23 Faith-based activities.
- 576.25 Who may carry out eligible activities.

**Subpart C—Award and Use of Grant Amounts**

- 576.31 Application requirements.
- 576.33 Review and approval of applications.
- 576.35 Deadlines for using grant amounts.

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**Subpart D—Reallocations**

- 576.41 Reallocation; lack of approved consolidated plan—formula cities and counties.
- 576.43 Reallocation of grant amounts; lack of approved consolidated plan—States, territories, and Indian tribes.
- 576.45 Reallocation of grant amounts; returned or unused amounts.

**Subpart E—Program Requirements**

- 576.51 Matching funds.
- 576.53 Use as an emergency shelter.
- 576.55 Building standards.
- 576.56 Homeless assistance and participation.
- 576.57 Other Federal requirements.
- 576.59 Relocation and acquisition.

**Subpart F—Grant Administration**

- 576.61 Responsibility for grant administration.
- 576.63 Method of payment.
- 576.65 Recordkeeping.
- 576.67 Sanctions.

AUTHORITY: 42 U.S.C. 3535(d) and 11376.

SOURCE: 54 FR 46799, Nov. 7, 1989, unless otherwise noted.

**Subpart A—General**

**§ 576.1 Applicability and purpose.**

This part implements the Emergency Shelter Grants program contained in subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378). The program authorizes the Secretary to make grants to States, units of general local government, territories, and Indian tribes (and to private nonprofit organizations providing assistance to homeless individuals in the case of grants made with reallocated amounts) for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating expenses and essential services in connection with emergency shelters for the homeless, and for homeless prevention activities. The program is designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as to prevent homelessness.

[61 FR 51548, Oct. 2, 1996]

**Housing Authority of the County of Riverside  
HOPWA Funding FY 2009-2010**

**EXHIBIT "D"**

	HA	DAP	Cath. Char.	FAP	Total Budget
<b>Housing Assistance</b>					
<b>Housing Subsidy Assistance</b>					
Tenant Based Rental Assistance	496,800				496,800
Project Based Rental Assistance		72,960			72,960
Short Term Rent, Mortgage, & Utility Assistance*		104,000	25,900	10,100	140,000
<b>Total</b>	<b>496,800</b>	<b>176,960</b>	<b>25,900</b>	<b>10,100</b>	<b>709,760</b>
<b>Supportive Services</b>					
<b>Personnel</b>					
Housing Case Manager		54,720	45,600	22,800	123,120
<b>Operating Costs</b>					
Equipment Main/lease					
Transportation (Staff)					
Telephone/fax/DSL line					
Printing/Reproduction					
FacilityRent/utilities/maint.					
Supplies/Equipment					
Training/ Conferences/ Housing Events					
Postage					
<b>Total</b>		<b>54,720</b>	<b>45,600</b>	<b>22,800</b>	<b>123,120</b>
<b>Permanent Housing Placement</b>					
Hotel/Motel					
Move-in/Security Deposit		35,000	17,000		52,000
<b>Total</b>		<b>35,000</b>	<b>17,000</b>		<b>52,000</b>
<b>Housing Information</b>					
<b>Personnel</b>					
Housing Coordinator	67,160				67,160
Housing Coord. Support Staff	5,331				5,331
Office Assistant III**	27,500				27,500
<b>Operating Costs</b>					
Equipment Main/lease					
Legal					
Transportation (Staff)					
Telephone/fax/DSL line					
Printing/Reproduction/Advertisements					
FacilityRent/utilities/maint.					
Supplies/Equipment					
Training/ Conferences/ Housing Events					
Postage					
<b>Total</b>	<b>99,991</b>				<b>99,991</b>
<b>Administration</b>					
Limited to 7% of Budget	74,130				74,130
<b>Total</b>	<b>74,130</b>				<b>74,130</b>
<b>Total Allocation</b>	<b>670,921</b>	<b>366,074</b>	<b>88,500</b>	<b>32,900</b>	<b>1,059,001</b>

**Housing Authority of the County of Riverside  
HOPWA Funding FY 2009- 2010**

**Administrative Cost Detail**

Heidi Marshall, Dep. Dir. @ 1%	\$1,851
Carrie Harmon, Sen. Dev. Spec. @69%	\$63,195
Allowance for Subs Administrative Needs	\$4,584
Legal	\$2,500
Newspaper Advertisements	\$500
Travel for Annual HOPWA Conference (if applicable)	<u>\$1,500</u>
<b>Total</b>	<b>\$74,130</b>

*\*Staffing costs include fringe and benefits*