

CHAPTER J:

HOUSING REHABILITATION

J.1 HOUSING REHABILITATION OVERVIEW

This chapter is designed to offer guidance in the operation of your housing rehabilitation program. This chapter provides programmatic guidance on the application and program processes, provides reference to federal and state statutory compliance requirements, and provides some sample documents to assist with program administration.

Your community must adopt a set of Policies and Procedures and have them approved by the State. The "sample" guidelines, forms, policies and procedures contained in this manual are intended for general use and to assist you with satisfying State and Federal requirements. You may adapt them to fit your particular needs. Any reference materials, forms, or recommendations are not intended as legal advice. You should seek legal representation if you need legal advice or assistance.

The TNECD wants your housing rehabilitation program to run smoothly and maintain compliance with all federal, state, and programmatic statutes and requirements. If you have any questions, problems, or concerns, please do not hesitate to contact us.

The Rehabilitation File Checklist (Exhibit J-12) and Individual File Checklist (Exhibit-13) should be used to ensure all necessary forms and documents are included in the grant file.

J.2 ELIGIBILITY REQUIREMENTS

A community shall establish eligibility requirements within its program policies and procedures. These requirements must be announced publicly prior to accepting applications. The application process must be fair, impartial and open to public scrutiny. *See, TNECD's Fair Housing and Equal Opportunity Chapter for additional guidance on public hearing requirements and documents.*

In addition to the HUD mandated programmatic eligibility requirements, there are specific eligible and ineligible activities that CDBG housing rehabilitation funds may or may not be used for.

NOTE: *The following list denotes HUD-defined eligible activities and is not a guarantee of funding by TNECD for a particular activity type. Any questions regarding eligible activities or applications should be directed to TNECD.*

J.2.a Program Eligibility Requirements

The following are minimum eligibility requirements when considering grant applications from homeowners (See, 24 C.F.R. § 570.202; See Also, HUD CDBG Chapters 2 & 4):

1. **Income:** The grant program must specify HUD's National Objective requirement that beneficiaries be low and/or moderate-income individuals. TNECD can assist the community in determining the correct income level. A homeowner applicant's income and expenses must be properly calculated to arrive at a gross annual household income. To qualify as low/moderate income, the household receiving the grant funds must be income verified at or below 80% of the County Median Income.
NOTE: *Questions concerning included or excluded income for the purposes of calculating gross household income can be directed to TNECD.*
2. **Ownership:** The community must have proof of ownership by the prospective homeowner applicant indicating clear title to the property and occupation by the applicant for at least one year prior to the date the application was submitted to TNECD.

3. Owner-Occupied: Any dwelling to be rehabilitated shall be owner-occupied to be eligible.
NOTE: *Duplexes are allowable for rehabilitation, as long as one household is below 80% of the area median income (See, 24 C.F.R. § 570.208(1)(3)).*
4. Location: The property must be within the approved target area (which will be identified by the community at the time of community's application to TNECD).
5. Property Condition: The property must be in violation of local housing codes with a determination made that the property justifies rehabilitation.

J.2.b Eligible Rehabilitation Activities

The following is a general list of eligible rehabilitation activities. Special conditions, limitations, or approvals may be imposed by the contract between TNECD and a community.

1. Existing Code Violations: Existing housing code violations which have been determined by a qualified housing inspector and formalized in an individualized housing report, are allowable rehabilitation costs.
2. Incipient Code Violations: An incipient violation exists if, at the time of inspection, an element in the structure whether due to age, deterioration, wear, or normal usage, will deteriorate within the life the grant period and thus become code violations. These are eligible costs.
3. Permits and Fees: Costs necessary to cover items such as: building permits and related fees required to carry out the proposed rehabilitation work, are eligible costs.
4. Equipment: Rehabilitation funds may provide for the repair or purchase and installation of certain basic equipment necessary for the maintenance of the household in a safe, sanitary and healthy environment. This includes such items as: heating/air conditioning unit (1 per unit), hot water tank (1 per unit), electrical and sanitary fixtures, kitchen stove (1 per unit), refrigerator (1 per unit), cabinets and sinks. Purchase and installation is acceptable if there is no such equipment in the dwelling or if the existing equipment is unsafe, unsanitary or non- functional.
5. Disability-Related Rehabilitation Costs: A community must contact TNECD if it is considering providing new construction or housing rehabilitation services to a disabled individual. The work write-up must be approved by TNECD prior to bidding. The community should enlist the assistance of a qualified professional who is familiar and knowledgeable with the type of disability the homeowner has. That professional should demonstrate the expertise necessary to make appropriate, cost-effective, and federally compliant construction/rehabilitation proposals.
6. Energy Conservation: All costs associated with weatherization and energy conservation as determined by the housing inspector or TVA are eligible.
7. Emergency Repair: The repair of certain elements of a housing unit in emergency situations, such as repairs to a roof that is leaking, but the whole house is not rehabilitated, are eligible.
8. Lead-Based Paint Activities: All labor, inspection, testing and material costs related to Title X compliance are eligible.
9. Flood Insurance: The purchase of flood insurance for a period equal to the length of the grant is eligible if the property lies in a floodplain for which the community is participating in the national flood insurance program (See, 42 U.S.§4106(a)).
NOTE: *In all cases the amount of assistance may not exceed either 50% of the before-rehab value of the property, or 50% of the value before flood damage occurred without initiating the 8- step decision-making process found in 24 C.F.R. Part 55, Subpart C. The 8-step process is required for all projects classified as substantial rehabilitation (those exceeding the 50% threshold).*
10. Fire Alarms: All new construction shall include a hard-wired and battery operated smoke detector. All dwellings being rehabilitated shall include a hard-wired smoke detector and must include a battery operated smoke detector.

11. **Exterior Painting:** Exterior painting is an eligible cost when it is necessary to maintain a watertight exterior to the dwelling. Exterior painting and the addition of siding for cosmetic purposes are not eligible costs.
12. **Reconstruction:** The rebuilding of a structure on the same site in substantially the same manner without increasing the number of dwelling units is eligible. Any decrease in the number of units on a site may trigger compliance requirements with the “one-for-one replacement of low- income residential structures (See, 24 C.F.R § 42.375). The number of rooms per unit may be increased or decreased. Manufactured housing replacement with a new or standard unit of housing (manufactured or otherwise) is eligible.

NOTE: *Owner-Occupied Mobile Homes: In order to be eligible for replacement of mobile home, the owner must also own the land upon which the mobile home rests. In general, a mobile home owner is eligible for a new mobile home, manufactured home, or stick built home (whichever is most cost effective and reasonable).*
13. **Barrier Removal:** Costs to remove material and architectural barriers that restrict the mobility and accessibility of elderly and severely disabled persons to buildings and improvements are eligible for rehabilitation. Documentation will be required in the file to support the claimed disability.
14. **Landscaping, Sidewalks, and Driveways:** The costs of installation or replacement of landscape materials, sidewalks, and driveways is eligible only when such costs are *incidental* to other rehabilitation of the property.
15. **Water and Sewer Costs:** Costs of connecting existing residential structures to water distribution lines or local sewer collecting lines, when it is done as part of the rehabilitation of the property. Similarly, installation or replacement of a well-water system or septic waste- disposal system on private residential property is eligible as part of the rehabilitation cost of the dwelling.
16. **Safe Rooms:** CDBG funds may be used to construct a safe room or stormproof room for use as a tornado-safe shelter in a private home as a rehabilitation activity under 24 C.F.R. § 570.202.
17. **Other Eligible Rehabilitation Property Types:**
 - a. **Manufactured Housing:** when such housing constitutes part of the community’s permanent housing stock.
 - b. **Single-family residential property** which is also used as a place of business (which are required to operate the business) need not be considered rehabilitation of a commercial or industrial building, if the improvements also provide general benefit to the residential occupants of the building.

J.3 INELIGIBLE REHABILITATION ACTIVITIES

In general, rehabilitation grants shall not be used for:

1. New Construction, or the finishing of unfinished space such as attics or basements;
2. Remodeling, cosmetic, or “General Property Improvements”;
3. Creation of a secondary housing unit attached to a primary unit;
4. Renovation of dilapidated out buildings (except for those outbuildings/detached garages posing a Lead-Based Paint hazard;
5. Costs of equipment, furnishings, or other personal property not an integral structural fixture, such as: window air conditioner or washer/dryer;
6. Materials, fixtures, equipment, or landscaping of a type or quality that exceeds that which is customarily used in the locality for properties of the same general type as the property to be rehabilitated or solely for cosmetic purposes.
7. The value of the homeowner’s sweat equity to rehabilitate their own property.

8. Installation of luxury items such as a swimming pool or sheds;
9. Purchase installation or repair of furnishings;
10. Rehabilitation work completed, and not submitted for environmental review, but would have otherwise required additional ERR compliance.
11. Payment for previous repairs.
12. Payment for rehabilitation work contracted for, or completed prior to the owner signing agreements with the community.
13. Payment for a labor costs to non-insured persons/contractors, of any non-licensed person/contractor, or any person/contractor that does not submit a bid or otherwise have a contract to perform labor on the property.

NOTE: *Always contact TNECD prior to construction on an activity if there is a question as to the activity's eligibility!*

J.4 HOUSING REHABILITATION PROGRAM PROCESS & GENERAL GUIDELINES

J.4.a Housing Rehabilitation Process

The following steps enumerate the general process for the housing rehabilitation program, although listed in a sequential manner, some steps may occur simultaneously:

1. The community submits a CDBG regular round application to TNECD for their housing rehabilitation project.
2. TNECD reviews, scores, and announces grant awards for housing rehabilitation.
3. Award letters are sent to communities chosen to receive housing rehabilitation grant funds.
4. The community submits the Environmental Review Record.
5. The community develops "Policies and Procedures" and submits them to TNECD for comment and approval.
6. The community adopts by final vote, the Policies and Procedures.
7. The community holds a public meeting to explain the "Policies and Procedures" and operation of the program.
8. Applications are taken from homeowners, income and ownership are verified.
9. The community completes a code inspection and work write-up, and obtains homeowner sign-off.
10. The community prepares a confidential cost estimate.
11. The community develops a priority list based on individual need and dwelling condition, and lists the order in which houses will be rehabilitated.
12. The community holds a pre-bid conference and discusses policies and procedures, code inspections, method of payment, and grievance procedures.
13. The bidders conduct on-site inspections.
14. Bids are received by the community and the contract is awarded to the low bidder. A copy of the contract and escrow request is sent to TNECD.
15. A pre-construction conference is held with the owner and contractor, where the rehabilitation contract is executed and a "Notice to Proceed" is signed.
16. The community makes periodic inspections of the work in progress.
17. A final inspection is conducted by the rehabilitation inspector with the owner and contractor in attendance. A final work write-up is created, if necessary.
18. The contractor's final invoice is submitted.
19. A "Notice of Completion" is executed, advertised, and recorded.
20. The contractor is paid.
21. The program continues until all selected house rehabilitation projects are completed.

22. The community notifies TNECD as the program nears completion.
23. Once complete, TNECD conducts a final monitoring visit.
24. Upon full completion and monitoring, all final invoices are submitted to TNECD.
25. The community follows TNECD's Closeout Chapter protocol including all required forms, supporting documentation, public hearing requirements etc., needed to formally close out the project/grant.

J.4.b General Program Guidelines

Financial Assistance

In the application to TNECD, a community will indicate the type of assistance it proposes to provide to eligible participants. These CDBG housing rehabilitation funds should be granted to eligible participants the community chooses and prioritizes from applications submitted by interested homeowners. All funds applied for by a community, and ultimately awarded to individual homeowners, must be properly aligned with the scope of the grant contract between a community and TNECD. Any changes to the scope must be approved by TNECD before acting upon them.

Escrow Accounts

The Community must set up an escrow account in order to ensure prompt payments to contractors. These escrow accounts cannot earn interest and are only to be used for the purpose of the grant-related housing rehabilitation. A Certificate of Escrow Account form (Exhibit J-11) must be completed for each property and placed in the respective individual case files.

Terms and Conditions of Assistance

A community must determine the amount of assistance for which a homeowner is eligible. This should be the amount necessary to bring the dwelling into compliance with appropriate code requirements. TNECD does not recommend the use of a "ceiling" or a fixed sum for housing rehabilitation grant amounts when publicizing the available grants.

Repayment

Grants shall be repaid in whole or in part if the property is sold within five years. Each year the owner remains in the house, part of the owner's obligation is forgiven. Repayment shall be structured based on a 20% reduction of the repayable amount each year for five years. A lien which includes the repayment structure shall be placed against the property and activated if the owner attempts to sell within five years.

In the case of death, ownership should pass to immediate family with repayment being deferred. However, if the heir(s) sell the dwelling within the same 5-year timeframe, the same repayment schedule is followed.

Pre-Application Phase

Prior to submitting an application to TNECD, a public hearing must be held to satisfy public notice requirements prescribed by HUD. Before the public meeting can be held, a public notice must be published in a local paper, at least 10 days prior to the meeting.

NOTE: *A copy of the ad must be submitted to TNECD with the application and retained in the file for future monitoring visits.*

Upon public notice, an invitation to the public hearing should be mailed, e-mailed, or hand delivered to each property owner and/or occupant. The public meeting should clearly explain criteria for homeowner eligibility, the method of ranking applicants, the roles and responsibilities of the contractor, homeowner and community, and thorough walk-through of the community's adopted policies and procedures.

NOTE: *A list of all public meeting participants and meeting minutes must also be submitted to TNECD with the application and then retained on file.*

Homeowner Participant Application Phase

As described above, once a community has been awarded the grant and completed all required processes prior to grant administration, a community is ready to begin accepting applications from interested homeowners. The prior public meeting will have generated public interest, but additional letters may be sent to remaining project area residents/homeowners to elicit additional interest.

Upon initial contact by a prospective homeowner applicant, a community should briefly outline the program and eligibility requirements to the interested homeowner. If the initial screening reveals a likely eligible homeowner, an interview should be scheduled. The applicants should be asked to produce the following at the interview:

1. Warranty Deed for the property to be rehabilitated
2. Property Insurance Policy
3. Most recent real estate tax receipts
4. If self-employed, the prior year's tax returns and current financial statement
5. If employed, the prior year's tax returns or prior 12 months of wage statements, and /or completed/signed Employer Verification form for all employed members of the household for the previous 12 months.
6. Medical and/or extraordinary living expense records

The community should review the documentation with the applicant and facilitate completion of the Housing Rehabilitation Application/Family Survey (Exhibit J-1).

If an applicant is deemed ineligible based on household income, ownership, location, or who occupies the home, the applicant must be notified in writing (utilizing Exhibit J-2 or comparable form).

Initial Inspection Phase

Upon receipt of all required documents, application, income and other eligibility verification, the initial inspection can be scheduled. The initial home inspection is the final component of establishing eligibility as it identifies the work to be undertaken on the home and establishes the basis for evaluating the acceptability of bids. The community's rehabilitation specialist (or otherwise qualified housing code inspector) along with the homeowner shall, conduct the initial inspection. The needed improvements to the property including all existing and potentially incipient code violations must be included in an initial housing inspection report.

The community must evaluate the report advice of the inspector and determine the feasibility of correcting all major code violations under the maximum allowable grant. Applicants whose property is not suitable for rehabilitation should be notified in writing, indicating the reasons, and a copy of such denial placed in the file.

Contract Award, Change Orders, Work Write-Ups, Bids, and Closeout

Contract Award:

Following application approval, a grant agreement shall be signed between the community and the homeowner. This agreement should make clear the terms, amount, and type of grant award. It should include the grant repayment structure in the event of a sale before five (5) years, and detail what eligible activities will be performed using the grant funds. Upon entering into the grant agreement with a community, the homeowner shall enter into a rehabilitation contract with the contractor. The contractor must have provided proof of liability insurance prior to any contracting. Following receipt of satisfactory proof, a pre-

construction conference will be held at the applicant's home. A contract shall be provided for the homeowner's and contractor's review and signatures. The procedures to be utilized for inspection, change orders, grievance and closeout should be reviewed with the homeowner and contractor.

NOTE: *As with any contract, each party should understand their rights and obligations. Parties should consider obtaining independent legal counsel to ensure full understanding of their respective rights therein.*

Work Write-Up and Cost Estimate

Properties deemed eligible for rehabilitation by the community are ready to begin the work write-up process and have cost estimates prepared (Exhibit J-3). The work write-up is the detailed analysis of the required housing rehabilitation work needed. The write-ups serve as the construction specifications and therefore; should be specific and complete.

After completion of the write-up, a cost estimate should be made on each item in the write-up. The cost estimate aids the community in evaluating the bid prices. The rehabilitation specialist should review the write-up/cost estimate with the homeowner and ensure the homeowner understands the repairs to be made along with the cost. The homeowner should then sign a statement accepting the repairs listed in the write-up and initial each page. In addition, all documentation regarding all materials, appliances, colors, etc. must be included with the write-up and each item must be initialed by the homeowner. The acceptance of the repairs to be completed at the pre-bid stage will eliminate confusion after construction/repair work begins.

Bid Phase and Construction

The next step in the rehabilitation process is the initiation of the bid phase. As part of the bidding, interested contractors should complete the Contractor's Data Form (Exhibit J-4) to provide the community with general information such as experience, references, etc. Following all appropriate bid processes and awards, the Approval of Rehab Assistance (Exhibit J-5) should be completed and placed in the individual case file for each property.

Change Orders

Change orders are alterations from the original contract that require a modification (an increase or decrease) in project cost, engineering charges, quantity, or schedule. Change orders must stay within the original scope of the project and require a justification of the need for the change. Change orders may be submitted to TNECD by the project administrator, engineer, or community, and they must be approved before any work or activity including the changes is done. If submitted by the engineer, grantees should ensure that the administrator has reviewed and approved the changes. A budget revision must be submitted after the change order is approved. Change orders are only appropriate if:

1. The proposed work or purchase has not been initiated;
2. A previously approved set of specifications is changed;
3. No new items are added that were not on the approved specifications, and
4. The aggregate amount of all change orders does not exceed 25% of the approved budget.

Closeout

Upon completion of the Certificate of Final Inspection (Exhibit J-6); the contractor must submit all invoices for materials utilized during construction, along with statements from all subcontractors involved in the project. At the time of the submission of the final invoice for each property, the Final Invoice, Release of Liens, and Warranty (Exhibit J-7) should be completed by the appropriate parties and saved in the corresponding individual case file. Additionally, a contractor's final invoice, release of liens, warranty; and a contractor's "Non-Kickback Certification" must be included.

The community should ensure all documents are accurate and include proper signatures and date stamps. Furthermore, attention must be paid to any and all “Lien Waivers” to ensure all suppliers and subcontractors as identified, have released the project from any potential lien action. The homeowner should be supplied a copy of these documents as well. Final payment should then be made by the community to the contractor and a “Receipt of Final Payment” (Exhibit J-8) should be obtained. Upon acknowledgement of final receipt of payment by the contractor, the community may then proceed with the remaining process for closeout with TNECD.

J.5 LEAD-BASED PAINT

J.5.a Overview

In 1992, Congress enacted the Housing and Community Development Act of 1992. Title X of that Act, the Residential Lead-based Paint Hazard Reduction Act of 1992, is comprehensive lead-poisoning legislation. Title X defines lead-based paint hazards as “any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present on accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.” Title X established specific requirements for action in federally owned or associated housing that pre-date 1978. Section 1012 and 1013 of Title X are the regulations which set forth specific policies on lead-based paint hazard reduction in federally assisted and federally owned housing. The following provides guidance in following HUD lead-based paint regulations.

J.5.b Useful Lead-Based Paint Definitions

ABATEMENT: Any set of measures designed to permanently (at least twenty years) eliminate lead-based paint or lead-based paint hazards.

CLEARANCE EXAMINATION: An activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and no soil or settled dust lead hazards exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection an analysis of environmental samples.

INTERIM CONTROLS: A set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based maintenance activities, and the establishment and operation of management and resident education programs.

LEAD-BASED PAINT HAZARDS: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

LEAD-BASED PAINT: Lead-based paint means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

LEAD-BASED PAINT HAZARD: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

LEAD-BASED PAINT INSPECTION: A surface by surface testing of all painted, shellacked, or varnished surfaces to determine the presence or absence of lead.

PAINT TESTING: The process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.

RISK ASSESSMENT: An on-site investigation must be conducted to determine the existence, nature, severity, and location of lead-based paint hazards; and the provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

SAFE WORK PRACTICES: Hazard reduction using approved methods of paint stabilization, occupant protection, specialized cleaning.

STANDARD TREATMENTS: A series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation.

J.5.c Requirements For Rehabilitation Assistance (Subpart J Of Title X)

Subpart J of Title X deals specifically with rehabilitation. The requirements in regard to lead-based paint are dependent on the cost of the rehabilitation. HUD designates three categories of rehabilitation:

1. property receiving less than or equal to \$5,000,
2. property receiving between \$5,000 and \$25,000, and
3. property receiving more than \$25,000.

Cost of the site preparation, occupant protection, relocation, interim controls, abatement, clearance and waste handling attributed to lead-based paint hazard reduction are not be included when.

J.5.c.i Properties Receiving Less Than Or Equal To \$5,000 Per Unit

1. Provide the household with a copy of the pamphlet “*Protect Your Family From Lead in Your Home.*” <https://www.epa.gov/lead/protect-your-family-lead-your-home>
2. Conduct paint testing of surfaces to be disturbed or presume the presence of lead-based paint. If testing shows the absence of lead-based paint, safe work practices and clearance are not required.
3. Implement safe work practices during rehabilitation and repair any disturbed paint.
4. After completion of rehabilitation, conduct clearance testing of the worksite. Clearance is not required if rehabilitation did not disturb painted surfaces greater than the following “de minimis” levels set forth by HUD:
 - a. 20 square feet on exterior surfaces
 - b. 2 square feet in any one interior room or space
 - c. 10% of the total surface area on an interior or exterior type of component with a small surface area, windowsills, baseboards, and trim.
5. Notify the household of the results of the clearance testing

J.5.c.ii Properties Receiving Between \$5,000 And \$25,000 Per Unit

1. Provide the household with a copy of the pamphlet *Protect Your Family From Lead in Your Home.* <https://www.epa.gov/lead/protect-your-family-lead-your-home>
2. Conduct paint testing of surfaces to be disturbed or presume the presence of lead-based paint. If testing shows the absence of lead-based paint, safe work practices and clearance are not required.

3. Perform a risk assessment in the dwelling unit receiving federal assistance and in associated common areas and exterior painted surfaces before rehabilitation begins. A visual assessment may be made if presuming the present of lead-based paint.
4. Perform interim controls and all lead-based paint hazards identified by the pain testing and risk assessment, as well as lead-based paint hazards created as a result of the rehabilitation work or use Standard treatments.
5. After completion of rehabilitation, conduct clearance testing of the entire unit and common areas, and ongoing lead-based paint maintenance.
6. Notify the households of the results of the clearance testing.

J.5.c.iii Properties Receiving More Than \$25,000 Per Unit

1. If the homeowner rehabilitation cost estimate exceeds \$25,000, call program management to discuss. Provide the household with a copy of the pamphlet: *Protect Your Family from Lead in Your Home*: <https://www.epa.gov/lead/protect-your-family-lead-your-home>.
2. Conduct paint testing of surfaces to be disturbed or presume the presence of lead-based paint.
3. Perform a risk assessment in the dwelling unit receiving federal assistance and in associated common areas and exterior painted surfaces before rehabilitation begins.
4. Abate all lead-based paint hazards identified by the paint testing and risk assessment and as well as lead-based paint hazards created as a result of the rehabilitation work.
5. After completion of rehabilitation, conduct clearance testing of the entire unit and common areas, as well as maintain ongoing lead-based paint maintenance.
6. Notify the household of the clearance testing.

J.5.c.iv Steps and Other Items for Incorporating Lead-Based Procedures into Rehabilitation

Steps to Incorporate Lead-Based Paint Procedures in Housing Rehabilitation:

1. Complete the initial walk through and work write-up.
2. Determine the estimated cost of repairs and the category into which the project falls.
3. Proceed with appropriate paint inspection/risk assessment, or presume the present of lead-based paint.
4. Incorporate measures recommended by the risk assessor, into the work write-up. Determine if relocation is necessary. The Status of Compliance with Lead-Based Paint Regulations (Exhibit J-9) should be completed as part of this step.
5. Put the project out to bid. (The bid sheet should differentiate between rehabilitation work and lead work. The costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance and waste handling attributable to lead-based paint hazard reduction are not to be included in the hard costs of rehabilitation. The two totals will then be added together to arrive at a total bid amount.
6. Relocation of homeowner and furnishings, if applicable.
7. If interim controls or standard treatments are necessary, they must be performed by a person trained in accordance with 29 C.F.R. § 1926.59 (Hazard Communication) and either be supervised by an individual certified as a lead-based paint abatement supervisor or have successfully completed one of the following courses: a lead-based paint abatement supervisor or worker course accredited with 40 C.F.R § 745.225, The Lead-Based Paint Maintenance Program, or The Remodeler’s and Renovator’s Lead-Based Paint Training Program.
8. After completing work, clearance must be achieved. The Statement of Clearance (Exhibit J-10) must be completed for each affected property and submitted with the Certification of Completion and Final Inspection.
9. Move homeowner and belongings back into the home.

Standard Treatment

There is an alternative to a risk assessment and interim controls when a project falls between \$5,000 and \$25,000 where a property owner may elect to bypass the risk assessment and proceed directly to a set of maintenance and repair activities that will eliminate, at least temporarily, any lead-based paint hazard that might be present. This is called “standard treatments.” The presence of lead-based paint can be presumed, followed by the implementation of standard treatments. Standard treatments include:

1. **Paint Stabilization:** All deteriorated paint on exterior and interior surfaces located on the residential property shall be stabilized or abated.
2. **Smooth and cleanable horizontal surfaces:** All horizontal surfaces, such as uncarpeted floors, stairs, window sills and window troughs, that are rough, pitted, or porous, shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.
3. **Correction of dust-generating conditions:** Conditions causing friction or impact of painted surfaces shall be corrected.
4. **Bare residential soil:** Bare soil shall be treated, unless it is found not to be a soil-lead hazard.
5. **Safe work practices:** All standard treatments shall incorporate the use of safe work practices.
6. **Clearance:** A clearance examination shall be performed at the conclusion of any lead hazard reduction activity.

Qualifications

An individual performing standard treatments must meet the training and/or supervision requirements of 24 C.F.R. § 35.1330(a)(4), trained workers or workers supervised by a certified lead-based abatement supervisor.

Occupant Protection

This section establishes procedures for protecting dwelling unit occupants and the environment from contamination from lead-contaminated or lead-containing materials during hazard reduction activities.

1. Occupants shall not be permitted to enter the worksite during hazard reduction activities until after hazard reduction work has been completed and clearance, if required, has been achieved.
2. Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:
 - a. Treatment will not disturb lead-based paint, dust-lead hazards, or soil-lead hazards.
 - b. Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes, and other opening in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is
 - c. Treatment of the interior will be completed within one period of 8 daytime hours, the worksite is contained to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards; or
 - d. Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards, and the worksite and the area within at least 10 feet of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.
3. The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area or covered with all seams and edges taped or otherwise sealed.

Acquisition, Leasing, Support Services or Operation (Subpart K)

The purpose of Subpart K under 24 C.F.R. § 35, is to establish procedures to eliminate as far as practicable, lead-based paint hazards in a pre-1978 residential property that receives federal assistance under certain HUD programs for acquisition, leasing, support services, or operation. Acquisition, leasing, support services, and operation do not include mortgage insurance, sale of federally owned housing, project-based or tenant-based rental assistance, or assistance to public housing.

In cases where evaluation or hazard reduction (including paint stabilization) is undertaken, each grantee shall provide a notice to residents. A visual assessment is not considered an evaluation for purposes of this part. The grantee shall provide the lead hazard information pamphlet.

If a dwelling unit receives federal assistance under a program covered by this subpart, each grantee shall conduct the following activities for the dwelling unit and all common areas servicing the dwelling unit and the exterior surfaces of the building in which the dwelling unit is located:

1. A visual assessment of all painted surfaces in order to identify deteriorated paint;
2. Paint stabilization of each deteriorated paint surface, before occupancy of a vacant dwelling unit or where a unit is occupied, immediately after the receipt of federal assistance; and
3. The grantee shall incorporate ongoing lead-based paint maintenance activities into regular building operations;
4. The grantee shall provide a notice to occupants describing the results of the clearance examination.

Cost

Costs of paint testing, risk assessments, and clearance testing will be paid as soft costs. There is an acceptable range of costs involving these activities. Please contact your specialist for cost approval prior to contracting for these services.

Expenses incurred conducting lead activities, interim controls, standard treatments, and abatement will not count towards the \$25,000 cap on rehab costs. These costs will count towards the subsidy limit.

Certification

Lead-based paint inspectors, lead-based paint risk assessors, lead-based paint abatement workers, and lead-based paint abatement supervisors must be certified by the Tennessee Department of Environment and Conservation (TDEC).

A listing of these certified lead professionals is available from the TDEC office:

Tennessee Tower
312 Rosa L. Parks Ave
2nd Floor
Nashville, TN 37243 (888) 891-TDEC (8332)

J.6 DEVELOPING PROGRAM POLICIES AND PROCEDURES

A community must formally adopt a set of “Policies and Procedures” for the operation of the CDBG housing rehabilitation program. These will serve as guidelines for day-to-day operations of the program. It is important for citizens, elected officials and program administrators to be involved in the establishment of the policies and procedures.

When creating your program policies and procedures, be sure to address all required topics below. Remember, the policies and procedures must be approved by TNECD before they are formally adopted by the community.

The following are required topics which must be covered by any adopted “Policies and Procedures” for a housing rehabilitation program:

1. Purpose: There must be a stated purpose which sufficiently describes the goals of the program, including National Objective, and what activities will be undertaken to meet those goals and National Objective.
2. Authority: Indicate what legal authority (federal, state and local) that your program is presuming to operate under.
3. Condemnation: During the life of a CDBG program in a target area, a community must ensure no houses will be condemned and no persons will be forced to move permanently.
4. Program Resources: The funding sources available for the program as well as the length of time such funds will be available, must be specified.
5. Regulatory Authority and Forms: There are numerous laws, regulations, compliance certifications and other requirements which local governing bodies, contractors, sub-contractors, vendors, and applicants for rehabilitation assistance are required to abide by.

Requirements include, but are not limited to:

1. Equal Opportunity Provisions (See, 41 C.F.R. § 60.1.5 and Executive Order 11246). Including Documentation of: Documentation of Fair Housing Activity, Copy of Analysis of Impediments, Fair Housing Ordinance copy (if any), Section 3 Questionnaire and summary report, City/county hiring policies, policy of non-discrimination, contract/subcontract activity report, documentation of attempts to solicit participation from minority/female businesses, list of minority/female contractors, bid advertisement for construction, certification of equal employment opportunity, certification regarding debarment/suspension/ineligibility/and voluntary exclusion, subcontractor certification for Equal Employment Opportunity and Section 3.
2. Title VI of Civil Rights Act of 1964 Provisions
3. Section 109 of Housing and Community Development Act of 1974 Provisions
4. Section 3 Compliance Provisions: Section 3 is a provision of the Housing and Urban Development Act of 1968 which requires that programs of direct financial assistance administered by HUD provide, to the greatest extent feasible, opportunities for job training and employment to lower income residents. Further, to the greatest extent feasible, contracts in connection with these projects are to be awarded to Section 3 business concerns.
5. Age Discrimination Act of 1975 Provisions
6. Section 504 Affirmative Action for Handicapped Workers Provisions
7. Lead-based Paint Hazard Provisions (Title X)
8. Public Access to Records/Maintenance of Records Provisions
9. Conflict of Interest Provisions
10. Davis Bacon Wage Laws (if rehabilitating residential structure with at least 8 units or more).
11. Eligibility Requirements: The program policies and procedures should sufficiently define eligibility of the program and fully explain income, ownership status, dwelling location, and application requirements.
12. Prioritization of Applicants: Rehabilitation grants must be awarded to eligible applicants based on priority to those households which demonstrate the greatest need for housing assistance.
13. Rating System: The Community should have a rating system in place to ensure an objective standard by which to prioritize grant applicants.

14. Terms, Conditions and Considerations for Awards: The Community should set forth certain terms, conditions and considerations which are in effect for the program to include: grant maximum/minimum awards, financial assistance structure, repayment structure for any sale within 5 years of receiving a grant, inspection and monitoring requirements, and other requirements which further national objectives and goals.
15. Grievance Procedure: The Community should establish a grievance procedure to facilitate communication and dispute resolution as a means of resolving homeowner/contractor/community disputes in an effort to avoid litigation where possible.
16. Performance and Contracting: The Community must discuss the criteria for establishing a written contract between the homeowner and community which encompasses the program policies and procedures and all applicable laws and regulations. The homeowner should fully understand or obtain legal counsel to assist with any construction contracts in order to further ensure programmatic compliance. The contracts between community and homeowner or homeowner and contractor should speak to items such as: interest of public officials, kickbacks and discounts, eligible/ineligible activities, work write-ups, relocation/dilapidated dwellings, housing rehabilitation specifications, property inspections, homeowner consultations, clearly written specifications, insurance requirements, contractor licensure, invitation to bid and selection of successful bidder, and general contract award provisions.
17. Inspection, Closeout and Payment: The community should set forth parameters for inspections, progress of payment and final payment, escrow accounts, notice of completion 10-day requirements, and closeout requirements/procedures.
18. Lead-Based Paint Activities: The community must ensure that all housing rehabilitation activities comply with Title X and establish programmatic processes, policies and procedures which comply with, and further the requirements of Title X.

J.7 HOUSING REHABILITATION EXHIBIT LIST

- | | |
|------|--------------------------------------------------|
| J-1 | HOUSING REHABILITATION APPLICATION/FAMILY SURVEY |
| J-2 | INELIGIBLE FOR ASSISTANCE |
| J-3 | WORK WRITE-UP AND COST ESTIMATE |
| J-4 | CONTRACTOR'S DATA FORM |
| J-5 | APPROVAL OF REHAB ASSISTANCE |
| J-6 | CERTIFICATION OF COMPLETION/FINAL INSPECTION |
| J-7 | FINAL INVOICE, RELEASE OF LIENS, AND WARRANTY |
| J-8 | RECEIPT OF FINAL PAYMENT |
| J-9 | LEAD-BASED PAINT COMPLIANCE CERTIFICATION |
| J-10 | LEAD-BASED PAINT STATEMENT OF CLEARANCE |
| J-11 | CERTIFICATE OF ESCROW ACCOUNT |
| J-12 | REHABILITATION FILE CHECKLIST |
| J-13 | INDIVIDUAL CASE FILE CHECKLIST |