

CHAPTER 1. Monitoring Guidance for the Emergency Shelter Grants Program

1-1 Introduction

This Handbook provides guidance to HUD Field Offices as well as States, Units of General Local Government, Territories, Indian Tribes, and Alaskan Native Villages that receive ESG Program funds. This guidance is provided to ensure that ESG grants are being administered in compliance with the statutory and regulatory requirements of the program. This document applies to grantees, nonprofit recipients, and State recipients. Field Offices must monitor grantees according to the information provided below and ensure that grantees monitor nonprofit recipients and State recipients similarly. Grantees and State recipients that are units of general local government must monitor their recipients as described below as well.

To ensure that ESG grants are managed well, the Field Offices are expected to have regular contact with grantees by phone or letter. The purpose of this contact is to alert grantees to program deadlines and reporting requirements. In addition, Field Offices should use this contact and their access to LOCCS to track and remind grantees and recipients of the status of obligations and drawdowns well before the applicable deadlines. Field Offices are still expected to provide current information concerning grantees' progress through the CIMS database system.

If ESG grantees have any questions about the ESG Program or this Handbook, they may contact the Community Planning and Development Division Director in the HUD Field Office that serves the jurisdiction.

1-2 Governing Regulations

Governing regulations are at 24 CFR Part 576. The statutory changes found at Section 832 of the National Affordable Housing Act (Pub. L. 101-625), including the Comprehensive Housing Affordability Strategy (CHAS) requirements, and Section 1402 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992) govern the program as well.

The regulations at 24 CFR 576.81 affirm that States and units of local government are responsible for ensuring that their respective recipients carry out their ESG-supported efforts in compliance with all applicable requirements. Grantees are

responsible, whether they are providing homeless services directly or through other recipients, for making sure that compliance with program requirements occurs at all applicable levels. Grantees must (1) have a process to ensure the compliance of their recipients and (2) enforce it via sanctions if necessary. State grantees are required under 24 CFR 576.89(b) to take appropriate action, including sanctions, against recipients that are not in compliance with the program requirements.

1-3 Goals of Monitoring

A.To ensure compliance with the ESG requirements.

This document contains essential information about techniques and strategies to ensure that grantees' and recipients' use of ESG funds conforms to program requirements.

B.To enhance the Management capacity of recipients.

Monitoring can enhance the capacity of grantees and recipients to manage the ESG funds they receive. Monitoring begins when grantees select recipients with the management capacity to assist the homeless and meet program requirements. Grantees can enhance nonprofits' capacity through monitoring by conducting training sessions for groups of recipients, by regular review of recipients' files, and by discussing the details of Federal requirements with recipients in advance of the discovery of instances of noncompliance.

C.To ensure that ESG funds are used effectively to assist homeless individuals and families.

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1-4 Techniques of Monitoring

Many techniques can be used to meet the goals of monitoring. Traditional on-site monitoring constitutes only one of these techniques. All other things being equal, the more information provided through training and technical assistance situations (e.g., before RFP responses are submitted; in start-up conferences, training sessions in specialty areas such as financial management; by providing as much written instruction as possible in response to telephone requests), the fewer problems that on-site and other forms of monitoring should identify.

A.The most basic technique is, in effect, desk monitoring using existing documentation. Field Office staff and grantees should

review up-to-date records to gain important background information.

B. In addition to checking existing routine records, the Field Office or a grantee may request by letter or telephone that grantees or recipients submit specific documents and reports. Separate files should be kept on each grantee or on each recipient for every year of ESG funding and maintained until these funds are expended. It is recommended that records consist of the following items:

1. Any applications for ESG funding that are required. If an RFP process is used to award ESG funds to grantees' recipients, a copy of the RFP itself should be maintained.

2. Any award notifications, grant agreements, or contracts executed between HUD and grantees or grantees and their recipients of ESG funds.

3. Any correspondence from grantees or their recipients concerning questions they have had about eligible costs, substantial changes in the uses of ESG funds, or other issues or problems.

4. Any financial reports or audits grantees or recipients submit.

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5. Any reports requested from grantees' recipients concerning activities undertaken with ESG funds.

6. Copies of all requests for payment as an advance or reimbursement submitted by grantees or recipients.

7. Any records pertaining to monitoring reviews.

C. Telephone interviews can be used to supplement or clarify information obtained through the analysis of files.

D. A somewhat more intensive technique of monitoring would be to request a grantee to come to the Field Office or for grantees' recipients to come to their offices to meet with staff and present relevant documents, records, and reports. If several grantees or their recipients have common issues or problems, convening a group meeting followed by tailored review of individual recipients might be more effective.

A way to enrich grantees' or recipients' understanding of program

requirements is to hold occasional post-award training sessions on technical matters such as eligible costs or compliance with the OMB circulars. Start up conferences for new grantees or their new recipients or reviews of information for on-going grantees or their recipients are an early and general form of training useful to facilitate program compliance. The program elements most relevant to start up conferences or training are the following:

1. Eligible population and eligible activities.
2. Building standards requirements.
3. Assistance in obtaining social services.
4. Other federal requirements.
5. Deadline for the expenditure of funds.

E. The most intensive and time-consuming form of monitoring is the on-site monitoring visit. The on-site visit is an opportunity both to measure a recipient's performance and to provide technical assistance, if necessary.

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1. Any of the first four techniques outlined above could be used to prepare for on-site monitoring. Effective site visits should include the following steps:

- a. Formal and advance notification of the visit.
- b. Pre-visit preparation based on existing information.
- c. Comprehensive coverage of all areas covered below.
- d. Clear conclusions and clear recommendations.

2. No matter what tools of monitoring are chosen, staff should review all the areas described below annually.

1-5 Developing a Monitoring Strategy

A. One good way to initiate a monitoring strategy is to develop an adequate tracking system of the grant awards, activities, and performance of grantees and their recipients. The tracking system could be a database management system containing basic information about grantees or recipients including the amount of ESG funds received, the activities for which ESG funds are to be

used, the number of people served, and the race and ethnicity of the people served. The tracking system, whatever its nature, may be coordinated with grantees' accounting systems so that recipient drawdowns of ESG funds can be quickly and regularly reviewed.

B.If staff choose not to review all grantees' or their recipients' grants, risk analysis should be used to choose ones that are most likely to be out of compliance with the program requirements.

1.Risk analysis is a process to systematically analyze each ongoing ESG grant, its basic features, status, and progress, and rank each according to an assessment of how much risk of noncompliance it involves. Staff then apply the various forms of monitoring to the ranking and apply the most vigorous techniques, such as on-site monitoring, to the riskiest projects. Risk analysis can be used to identify, given existing resources, how frequently to review various recipients.

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2.The following risk factors may be considered, among others you may wish to identify, in making a decision about what form(s) of monitoring to use with each grantee or recipient:

a.Whether the grantee or recipient has been monitored closely in the recent past.

b.The amount of ESG funds the grantee, recipient, or project represents.

c.Evidence that the grantee is not obligating or expending ESG funds in a timely or appropriate manner.

d.New ESG recipients and recipients who are not accustomed to complying with Federal requirements.

e.Evidence based on complaints, visual inspection, or reviews of other projects administered by the same entity that a grantees' recipient is not providing shelter that conforms to the building standards requirements or is not performing the ESG-funded activity that it has proposed to perform.

f.ESG-funded activities that are especially risky, e.g., conversion or major rehabilitation.

g.Evidence of a history of poor past performance.

h.Evidence of substantial or critical turnover of staff.

C.Strategies for monitoring could range from periodic review of files to formally scheduled file reviews and meetings with each grantee or their recipients. Formal monitoring review could involve specific commitment of staff time to review a specific grantee or recipient at a specific time. Staff would use one or more of the tools listed above or others.

1-6 Areas of Monitoring

The major areas of compliance are listed below. The various means of monitoring described above should yield information about whether grantees or recipients meet the program requirements.

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A.Eligible Activities Requirements

1.Grantees or recipients should be using ESG funds as originally planned and for eligible activities. Any changes from planned expenditures should be documented in the appropriate files. If a grantee or recipient proposed to spend ESG funds for an eligible activity and, subsequently, expends ESG funds for another eligible activity, appropriate staff should be notified in writing about changes in planned expenditures. Section 576.22(a) of the regulations states that ESG funds may not be used for activities other than those authorized under section 576.21(a) and in accordance with the conditions of sections 576.21(b) and (c).

2.The first step in reviewing the uses of ESG funds for eligible purposes is to determine whether costs have been properly classified. Grantees' expenditures for essential services, homeless prevention, and administrative costs are subject to statutory caps, and only the Assistant Secretary can approve a waiver of the cap for essential services. There are also some specific restrictions on the eligible use of ESG funds.

3.While the ESG regulations at 24 CFR 576.21 do not list all possible eligible activities, items, or costs, there is a statutory requirement that items or activities benefit homeless persons, and there is, moreover, a requirement that they will be provided at a reasonable cost. If there are questions about the classification of items or activities, grantees should call their nearest Field Office for clarification.

4. Statutory changes relating to eligible activities not yet incorporated into 24 CFR 576 include:

a. Up to ten (10) percent of an ESG grant allocation may be spent on staff costs related to operations. (Staff costs associated with maintenance or security are eligible and are not subject to the 10% cap on staff salaries for operations. Staff salaries and other expenses associated with providing services, for example, case management or counseling, are eligible expenses under the essential services category.)

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b. Grantees may use up to five (5) percent of any annual grant received for administrative purposes.

B. Financial Regulations and OMB Circulars

1. The regulations at 24 CFR 576.79(b) and (i) require ESG grantees to meet certain requirements concerning financial management. The regulations direct State and local government grantees to 24 CFR parts 44 and 85 as well as OMB Circular A-87 and A-102. They direct nonprofit recipients to 24 CFR Part 84, which replaces OMB Circular A-110, and to OMB Circular A-122. 24 CFR Part 45 implements OMB Circular A-133 which covered the audit requirement of A-110.

2. OMB Circular A-133, which provided guidance on audits for nonprofit organizations, is in effect. HUD issued an Interim Rule implementing its provisions in the Federal Register on July 27, 1992, and it became effective on August 26, 1992. The provisions of A-133 supersede only paragraph 2h of Attachment F of OMB Circular A-110.

3. See the attached summaries of the financial instructions, Attachment 1 and Attachment 2.

C. Program Disbursements

The following standards apply to grantees' nonprofit recipients' disbursement of ESG funds.

1. Drawdowns in Advance of Need: 24 CFR 84.21(b)(5) states that a recipient must make drawdowns as close in time as possible to its disbursements. The Line of Credit system is designed so that recipients can draw down funds when needed.

2.Grantees' recipients should be reviewed to ensure that ESG funds are drawn down and disbursed as needed. The common standard for programs managed by the Office of Community Planning and Development of HUD is that funds drawn down by units of local government should be disbursed within three (3) days. Similarly, grantees' recipients should disburse funds in payment of program costs within three (3) days of receipt of funds from grantees' account. Staff may inform or remind grantees and recipients of these standards

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through start-up meetings, training, or technical assistance. After taking such steps, accounting systems and any other data management tools necessary may be used to monitor the financial activity of grantees' recipients. If their drawdowns do not conform to the above standard, staff may contact them to remind them that drawdowns must be related to their needs and to seek an explanation for drawdowns in advance of need.

D.Equipment and Records

24 CFR Part 84 defines equipment and the equipment records that must be maintained by nonprofit recipients.

E.Banking and Remittance of Interest

Standards for maintenance of bank accounts are covered in 24 CFR Part 84. Nonprofit recipients are not required to maintain separate bank accounts for program funds as long as they are able to document all uses of program funds. The following rules apply to any interest earned on ESG grant funds between the time of drawdown and disbursement:

1.States and Indian Tribes

Under 24 CFR Part 85, governmental entities covered under the Intergovernmental Cooperation Act and the Indian Self-Determination Act are exempt from remitting interest. This means that State and Indian tribal government grantees are not required to return any interest to HUD.

2.Nonprofit Organizations

The requirements for nonprofit organizations are covered in 24 CFR Part 84. Grantees must maintain advances of Federal funds in interest bearing accounts if they receive \$120,000 or more per year in Federal awards or would expect to earn

interest of \$250 per year in interest. Interest earned on Federal advances deposited in such accounts shall be remitted promptly, but at least quarterly, to the Department of Health and Human Services per 24 CFR 84.22(L). Interest amounts up to \$250 per year may be retained by the

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grantee for administrative expenses.

If a State grantee draws down funds, passes them down to a nonprofit, and for some reason those funds are not spent and interest is accrued, the interest rules for nonprofit organizations apply.

3. Local Governments

Under 24 CFR 85, the amount of interest earned on HUD funds each year that local government grantees may keep is \$100 or less.

F. Financial Management Standards

The ESG Program requires nonprofit recipients' financial management systems must conform to the requirements of 24 CFR Part 84. Nonprofit recipients should review these standards with their CPAs to ensure that the financial administration of the ESG funds meets all OMB standards.

G. Procurement

Purchases of services from contractors or vendors by nonprofit grantees with ESG funds are subject to 24 CFR Part 84. This includes standards that prohibit conflicts of interest, procedures for open competition with consistent technical solicitations, affirmative efforts to hire minority- and women-owned enterprises, maintenance of selection documentation, and a contract administration system that provides sufficient monitoring. Purchases of services from contractors or vendors by public agencies with ESG grant funds are subject to 24 CFR Part 85.

H. Conflict of Interest

A conflict of interest may exist when a person affiliated with a grantee or recipient organization has a direct or indirect financial interest in the selection of contractors, vendors, and beneficiaries assisted with program funds. ESG grantees and recipients must follow the conflict of interest

provisions contained in either 24 CFR Part 85 (for public agencies) or 24 CFR Part 84 (for nonprofit organizations).

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Parts 84 and 85 provide general guidelines with respect to the procurement of services and materials with Federal funds. In general, grantees and recipients must have a code of conduct that prohibits any employee, officer, or agent of the grantee from participating in the decisionmaking process if that person or his/her immediate family, partner, or any organization employing any of the above has a direct financial interest or benefit in the entity selected. These persons also may not accept any form of gratuity, favors, or anything of monetary value from any entities selected. Grantees should develop standards for avoiding such conflicts, be they real, apparent, or potential.

I. Audits

1. Nonprofit ESG recipients are subject to the audit requirements of 24 CFR Part 45.

2. States and Local Government ESG grantees are subject to 24 CFR Part 44. State and Local ESG grantees will include ESG activities in their single audit and proceed as usual.

J. Environmental Compliance

1. Grantees' recipients must have taken all corrective actions regarding any environmental problems and lead based paint concerns identified before the grantee can obtain a release of funds certification from HUD for any nonexempt ESG activities.

2. Verify that an environmental record is kept on all HUD supported actions which require an environmental assessment. The record should include name and location of the project, name of the assessment preparer, and the date of the assessment. The record should note the conclusion, reasons, and supporting documentation for determining if the project is in compliance with pertinent environmental and historic preservation laws - e.g. floodplain and wetland protection, noise policies, hazard clearance and/or mitigation actions. For actions subject to the National Environmental Policies Act, the record should show whether sufficient community facilities and amenities are present to support the project, e.g.

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water and sewer, recreation, schools, fire protection, etc.

3. Because HUD may recapture ESG funds if grantees' recipients committed any funds prior to HUD's release of funds to grantees, grantees should ensure that their recipients have not made such commitments.

K. Other Federal Requirements

1. Grantees and their recipients' use of ESG funds must comply with the following additional requirements stated in the National Affordable Housing Act and at 24 CFR 576.79, 576.80, and elsewhere in the ESG Final Rule.

2. Nondiscrimination and Equal Opportunity.

a. The requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR part 100; Executive Order 11063 and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) and implementing regulations at 24 CFR part 1;

b. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against otherwise qualified individuals with handicaps under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended by the Americans with Disabilities Act, and its implementing regulations at 28 CFR part 36;

c. The requirements of Executive Order 11246 and the regulations issued under the Order at 41 CFR chapter 60;

d. The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (see 570.607(b));

e. The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority and women's business

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enterprises in connection with activities funded under this part; and

f. The requirement that the grantee (or in the case of States, the State recipient) make known that use of the facilities and services is available to all on a nondiscriminatory basis. Where the procedures that a grantee or recipient intends to use to make known the availability of such facilities and services are unlikely to reach persons with handicaps or persons of any particular race, color, religion, sex, age, familial status or national origin within their service area who may qualify for them, the recipient or grantee must establish additional procedures that will ensure that these persons are made aware of the facilities and services. Grantees and recipients must also adopt and implement procedures designed to make available to interested persons information concerning the existence and location of services and facilities that are accessible to persons with disabilities.

3. Lead Based Paint

Grantees and their recipients must ensure that facilities meet the requirements at 24 CFR 576.79(c).

4. Flood Insurance

Grantees and their recipients must ensure that facilities meet the requirements at 24 CFR 576.79(f). Also see Attachment 3.

5. Relocation

Grantees and their recipients must ensure that projects meet the requirements at 24 CFR 576.80(b).

6. Minimizing Displacement

Grantees and their recipients must ensure that projects meet the requirements at 24 CFR 576.80(a).

7. Conflicts of Interest

Grantees and their recipients must ensure that projects meet the requirements at 24 CFR 576.79(d) as

stated now in 24 CFR 84.42 rather than in OMB Circular A-110.

8.Coastal Barriers

Grantees and their recipients must ensure that projects meet the requirements at 24 CFR 576.79(g).

9.Drug-free Workplace

Grantees and their recipients must ensure that projects meet the requirements at 24 CFR 576.79(h).

10.Lobbying and disclosure of information

Grantees must meet the requirements imposed by Section 1352, Title 31, U.S. Code.

11.Primarily Religious Organizations

Grantees must ensure that recipients' projects meet the requirements at 24 CFR 576.22(b).

12.Confidentiality

Grantees and their recipients must ensure that projects meet the following requirement.

The requirement of the National Affordable Housing Act (Pub. L. 101-625) contained in Section 832(e)(2)(C) that grantees "develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted" under the Emergency Shelter Grants Program and "that the address or location of any family violence shelter project assisted" under the Emergency Shelter Grants Program "will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public." Grantees' compliance with this law requires that their recipients have similar procedures.

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Attachments

1. Financial requirements and OMB circulars summaries
2. Overview of 24 CFR Part 84 and OMB Circular A-122
3. Policy Declaration Form