

CHAPTER 9

GRANT ADMINISTRATION

- 9-1 INTRODUCTION. This chapter describes grantee responsibilities for ensuring that rental rehabilitation grants are administered in accordance with the RRP statutory and regulatory requirements and other applicable laws. In the case of States and urban counties using units of general local government to perform program functions, and all grantees using designated public agencies or private contract agents, this includes responsibility for ensuring that the subrecipients and/or agents carry out their rental rehabilitation program functions in compliance with all requirements applicable under 24 CFR Part 511 and this Handbook.
- 9-2 RESPONSIBILITY FOR GRANT ADMINISTRATION. Grantees are responsible for ensuring that rental rehabilitation grants are administered in accordance with the requirements of 24 CFR Part 511 and other applicable laws. The parameters of State grantee discretion in using state recipients or other units of general local government to perform program functions are described in Paragraphs 5-6 and 9-5 of this Handbook. To the extent that urban counties run programs similar to decentralized State programs, the parameters are similar to those described for States in Paragraphs 5-6 and 9-5 of this Handbook; except that urban counties are not required by the RRP statute or regulations to share their administrative funds with units of general local government either performing specific, but limited program functions, or those acting as 'urban county recipients.' All grantees may enter into written agreements with "designated public agencies" or "contract agents" (which terms are defined in Paragraph 1-6 of this Handbook) to perform program administrative functions as generally described in this Chapter. The use of designated public agencies or contract agents does not relieve the grantee of its responsibility for ensuring compliance with 24 CFR 511 and other applicable laws.
- 9-3 ADMINISTRATIVE COSTS
- A. Maximum Amount. A grantee may use up to 10 percent of the grant amount initially obligated to the grantee for Federal Fiscal Year 1988 and later fiscal years for administrative costs eligible under 24 CFR 511.71(b) or (c). Eligible grantees may draw down funds to pay for eligible administrative costs through the Cash and Management Information (C/MI)

System in accordance with 24 CFR 511.75 (see Chapter 11 of this Handbook for information on the C/MIS).

- B. Eligibility. Eligible administrative expenses must be reasonable and necessary costs, as described in OMB Circular A-87, incurred by the grantee, or by a unit of general local government pursuant to a written cost-sharing agreement with a State grantee (See 24 CFR 511.51(b)) in carrying out the Rental Rehabilitation Program. Administrative costs do not include costs of rehabilitation which are incurred by and charged to project owners as eligible project costs under 24 CFR 511.10(f)(2).
- C. Written Cost-sharing Agreement Required for Some States. See Subparagraph 5-6.D of this Handbook.
- D. Cost-sharing Considerations for Urban Counties. While an urban county grantee is not specifically required by the RRP statute or regulations to share its administrative funds with units of general local government within the county which perform RRP program functions, it may do so at its option. If so, a written-cost sharing agreement, as contained in Subparagraph 5-6.D of this Handbook, or similar provisions, should be included in the written agreement between the county and the units of general local government specifying the RRP program functions being delegated and the cost-sharing arrangement. (See Subparagraph 5-6.C for written agreements that would be pertinent to an "urban county recipient" and Paragraph 9-5 for the terms of written agreements with designated public agencies and contract agents.)
- E. Allocation of Benefit--Administrative Funds. Administrative funds expended during a grant year will be deemed to meet program requirements in the same proportion as grant amounts for project costs. For example, if 70 percent of the Fiscal Year 1989 grant used for project costs benefit lower income families, then 70 percent of the Fiscal Year 1989 grant used for administrative costs will be deemed to benefit lower income persons. (See 24 CFR 511.71(d).)

9-4 APPLICABILITY OF UNIFORM ADMINISTRATIVE REQUIREMENTS. Grantees, State recipients and their designated public agencies and contract agents shall comply with the requirements and standards of OMB Circular A-87, "Principles for Determining Costs Applicable to Grants and

Contracts with State, Local and Federally recognized Indian Tribal Governments," OMB Circular A-128, "Audits of State and Local Governments" (implemented at 24 CFR Part 44) and with 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", except for Sections 85.10, 85.11, 85.25, 85.31, and 85.40(b), 85.41, and 85.50. In lieu of Section 85.25 and 85.50, HUD has adopted 24 CFR 511.76 which deals with program income generated under the RRP and 24 CFR 511.77 which deals with the close out of RRP grants.

9-5 DESIGNATED PUBLIC AGENCY AND CONTRACT AGENT ADMINISTRATION OF RRP ELIGIBLE ACTIVITIES. Grantees or State recipients may contract with private parties (referred to herein as "contract agents"), or may enter into agreements with another public agency (referred to herein as the "designated public agency"), to perform various functions in connection with carrying out their local rental rehabilitation grant programs to the extent not prohibited by HUD regulations or policy. Since designated public agencies and contract agents perform program administrative services on behalf of the grantee, they must execute any significant legal documents (if so permitted by the grantee), in the grantee's name. This specifically includes commitments and project agreements with owners and lien documents under 24 CFR 511.11(d), which shall also be recorded under the grantee's name. This section of the Handbook describes the procedures and requirements for entering into contracts or agreements for such services. Procedures for designated public agency/contract agent access to the C/MI System are discussed in Chapter 11 of this Handbook.

A. Agreements with Designated Public Agencies. Prior to authorizing a designated public agency to administer specific functions under its Rental Rehabilitation Program, the grantee or State recipient shall enter into a written agreement with the designated public agency which shall remain in effect during any period that the designated public agency has control over RRP funds including program income), or performs program administrative services for the grantee. At a minimum, the written agreement shall include provisions concerning the following items:

1. Statement of Work. The agreement shall include a description of the work to be performed, including the terms and conditions under which the work is to be performed. If the grantee wishes to have the designated public agency perform all aspects of the program (except as

prohibited in the introduction to this paragraph above and in Chapter 11), the agreement may simply so specify and shall require the agency to carry out the program in accordance with the requirements of 24 CFR 511 and this Handbook. These items shall be in sufficient detail to provide a sound basis for the grantee or State recipient and HUD to effectively monitor performance under the agreement. If the agreement is between a State grantee and a unit of general local government, it shall also contain any provision required by Subparagraph 5-6.D of this Handbook pertaining to administrative cost-sharing.

2. Records and Reports. The grantee/State recipient shall specify in the agreement the particular records to be maintained and the particular reports which must be submitted in order to assist the grantee/State recipient in meetings its recordkeeping and reporting requirements. (See Paragraph 9-6 below.) Such records will be made available to Federal officials as described in Paragraph 9-9 below.
3. Program Income. If applicable, the agreement shall include the program income requirements set forth at in Paragraph 9-10 below and 24 CFR 511.76.
4. Other Program Requirements. The agreement shall require compliance with all Federal laws and regulations described in Chapter 3 of this Handbook and at 24 CFR 511.16, as applicable, as well as with applicable uniform administrative requirements as described in Paragraph 9-4 above and 24 CFR 511.72.
6. Suspension and Termination. The agreement shall specify that the grantee may suspend or terminate the agreement immediately if the designated agent materially fails to comply with any term of the agreement and that the agreement may be terminated by the grantee or State recipient for convenience upon due notice.
7. Conditions for Religious Organizations. Where applicable, the agreement shall specify the conditions prescribed by HUD for the use of RRP funds by religious organizations pursuant to 24 CFR 511.11(c)(5). (See Subparagraph 2-10.D.6 of this Handbook)

B. Agreements with Contract Agents. Prior to authorizing a contract agent to administer specific functions under its rental rehabilitation program or granting access to project accounts in the C/MI System, the grantee or State recipient shall enter into a contract with the agent in accordance with the procedures in, and containing the provisions required by, 24 CFR 85.36. The agreement shall remain in effect during any period the contract agent has control over rental rehabilitation grant amounts# including program income, or performs program administrative services for the grantee. Additionally, if the contract agent is authorized to request disbursements of rental rehabilitation grant amounts through the C/MI System, the contract will also specify the monthly financial reports which must be submitted to the grantee/State recipient to document payments through the C/MI System. Finally, where applicable, the contract must specify that all program funds under the agent's control are held in trust for use exclusively for RRP purposes, and are not available for the agent's own use or for the satisfaction of claims against the agent. All records required to be maintained for program purposes will be made available to Federal officials as described in Paragraph 9-9 below.

9-6 RECORDS TO BE MAINTAINED. As required by 24 CFR 511.73(a) each grantee shall maintain records as specified by HUD that clearly document its performance under each requirement of 24 CFR 511. States distributing rental rehabilitation grant amounts to State recipients shall also ensure that their recipients maintain such records in order to document each recipient's performance. The records required, shall, at a minimum, include the following:

1. Program Records. Records will be maintained documenting that the grantee's or State recipient's program is in compliance with the program-wide requirements of 24 CFR 511.10, including but not limited to records supporting the following:
 1. That the lower-income benefit requirements at 24 CFR 511.10(a) are met on a grant year basis;
 2. That the requirements for use of rental rehabilitation grants for housing for families at 24 CFR 511.10(b) are met on a grant year basis;

3. That the neighborhoods selected are in accordance with the criteria at 24 CFR 511.11(c);
 4. That a rehabilitation standard has been adopted in accordance with 24 CFR 511.10 (e); and
 5. That projects were selected in accordance with the project selection priorities (24 CFR 511.10(g)).
- B. Project Records. Records will be maintained which provide a full description of each project assisted (or being assisted) with RRP funds, including the location of the project, a pre-rehabilitation inspection report describing the deficiencies, the total cost of the rehabilitation including both RRP and non-RRP funds, and evidence that the project meets the project specific requirements of 24 CFR 511.10 and 11 including but not limited to records supporting the following:
1. That RRP funds expended for the project were necessary to correct substandard conditions, make essential improvements, or repair systems in danger of failure (24 CFR 511.11(a));
 2. That the property is real property used for permanent, primarily residential rental purposes (24 CFR 511.11(b));
 3. That the property is privately owned after completion (24 CFR 511.11(c));
 4. That there exists a legally enforceable written agreement with the project owner receiving RRP assistance documenting that the owner agrees to the long-term owner obligations under 24 CFR 511.11(d);
 5. That total project costs meet the minimum project costs required (24 CFR 522.10(d));
 6. That RRP funds expended do not exceed the maximum amount allowable under 24 CFR 511.11(e); and
 7. That all project costs were eligible under 24 CFR 511.10(f); and
 8. That the rehabilitation of the property did not cause the involuntary displacement of very

low-income families by families who were not very low-income families. (24 CFR 511.14(A))1))

9. Copies of inspection reports, deficiency lists, work write-ups, cost estimates, bids, cost proposals, and or other information pertaining to specifying the work to be done and supporting the cost of the work.
- C. Cash and Management Information (C/MI) System Records. Records are required to be maintained to comply with the C/MIS provisions of 24 CFR 511.75 (see Chapter 11 of this Handbook) including but not limited to the following:
1. Tenant Information. Records indicating the characteristics of tenants, including race/ethnicity, household size, income, and gender of household head of:
 - a. Tenants occupying units before rehabilitation;
 - b. Tenants moving (initially after rehabilitation) into projects assisted with rental rehabilitation grant funds; and
 2. Owner Information. Records indicating the name and address of the project owner as well as the type of ownership (individual(s), corporation, partnership). When the type of ownership is individual(s), the names of all owners will be listed.
 3. Project Information. Records indicating the following:
 - a. The number of units, bedroom size and rent of each unit in assisted projects, both before and after rehabilitation;
 - b. Copies of Pre-Rehabilitation, Payment Voucher, and Project Completion Reports for each individual project assisted with RRP funds including any amendments thereto.
 4. C/MI System Documents. Copies of all C/MI forms including but not limited to Security Forms, Direct Deposit Sign-Up Forms, and, for States designating local recipients, State Designation of Local Recipients Forms (See Chapter 11 of this Handbook.)

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- D. Affordability. Grantees and State recipients must keep data as necessary to show the affordability of units occupied (or to be occupied by low and moderate income households. This data would include information as to the current Fair Market Rents (FMRs) for the various bedroom sizes.
- E. Nondiscrimination, Equal Opportunity, Affirmative Marketing and Minority and Women's business enterprise. Grantees and State recipients must maintain records demonstrating compliance with the requirements of 24 CFR 511.13(a), nondiscrimination, equal opportunity and affirmative marketing, and 24 CFR 511.13(c) minority and women's business enterprise. Such records will include but are not limited to:
1. Data on the racial, ethnic, gender and income level characteristics of:
 - a. Tenants occupying units before rehabilitation;
 - b. Tenants moving from and (initially after rehabilitation) into projects assisted under the RRP;
 - c. Applicants for tenancy within 90 days following completion of rehabilitation assisted under the RRP; and
 2. Data indicating the race, ethnicity and gender of head of households displaced as a result of RRP funded activities, and, if available, the address and census tract of the housing units to which each displaced household relocated. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No grantee is required to attain or maintain any particular statistical measure by race, ethnicity, or gender.
 3. Documentation as to the race, ethnicity and gender of owners of RRP projects and of contractors performing rehabilitation work.
 4. Documentation describing the grantee's affirmative marketing steps and evidence of an annual assessment of the effectiveness of the grantee's or State recipient's affirmative marketing efforts.

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5. Documentation describing the grantee's assessment of the results of the efforts to promote the use of minority and women-owned businesses prescribed by 24 CFR 511.13(c).
 - F. Public consultation. The grantee or State recipient must maintain records which demonstrate that the grantee's program was developed in consultation with the public as required in 24 CFR 511.20(c)(2).
 - G. Tenant Assistance. The grantee or State recipient must maintain records which demonstrate compliance with the requirements regarding tenant assistance, displacement relocation and acquisition as required under 24 CFR 511.14. (See Chapter 14 for additional information about specific recordkeeping requirements in this area.)
 - H. Lead Based Paint. The grantee or State recipient must maintain records which demonstrate compliance with the lead based paint requirements of 24 CFR 511.15(c)(7). These include but are not limited to:
 1. Documentation that all tenants in housing constructed prior to 1978 were notified of the hazards of lead-based paint.
 2. Copies of all inspection and/or test reports pertaining to lead-based paint.
 3. Documentation as to whether or not any children under 7 resided in the units and whether or not such children had an EBL.
- 9-7 RETENTION OF RECORDS. Under 24 CFR 511.73(b), records required to be maintained in conjunction with the RRP shall be retained for a period of three years from the date of final closeout of the rental rehabilitation grant.
- 9-8 PUBLIC DISCLOSURE. Documents relevant to a grantee's Program Description shall be made available for public review upon request at the grantee's office during normal working hours, pursuant to 24 CFR 511.73(c).
- 9-9 FEDERAL ACCESS TO RECORDS. Under 24 CFR 511.73(d), the Secretary, the Inspector General and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all books, accounts, reports, files, and other papers or property of grantees, State recipients, or contractors

7360.01

purpose of making surveys, audits, examinations, excerpts, and transcripts. Grantees or, where applicable, State recipients shall ensure that their agreements with owners require the owners to provide for similar access to their records pertaining to the use of rental rehabilitation grant amounts. In addition, if grantees use designated agents or contract agents for any purpose, then the Secretary, the Inspector General and the Comptroller General or any of their duly authorized representatives, shall have access to the agent's records pertaining to the use of rental rehabilitation grant amounts or the services performed by the agent. (The information collection requirements contained in this section have been approved by the Office of Management and Budget under control number 2506-0080 and 2506-0110.)

9-10 PROGRAM INCOME. (24 CFR 511.76) Grantees and State recipients are neither encouraged to earn nor discouraged from earning program income in using rental rehabilitation grant funds. In the event program income is generated from the use of RRP funds grantees or State recipients are not authorized to deduct costs incident to the generation or management of income from gross income for purposes of determining program income.

A. Definition of Program Income. Program income is gross income received by a grantee or State recipient (or by another party at the direction of the grantee or State recipient) which is directly generated from the use of rental rehabilitation grant amounts.

1. Program income includes, but is not limited to, the following:

- a. Repayments of principal (whether in installments or a lump-sum) and any interest or penalty assessments in connection with the loan or grant, under the terms of the commitment or other project assistance agreement between the owner and the grantee or State recipient, including repayments, pursuant to 511.11(d)(3), of the rental rehabilitation grant assistance by the owner after completion of rehabilitation; and
- b. Interest earned on program income pending its disposition.

2. Program income excludes:
- a. Governmental fees and taxes, including income taxes, property taxes, special assessments, transfer taxes, recording fees and other normal governmental revenues, do not constitute program income if they are imposed by generally applicable law, regulation, or ordinance and are not imposed in consideration of the project's receipt of assistance under the RRP.
 - b. Program income also does not include grant amounts required to be returned to HUD as a result of cancellation of a project before completion, or interest on those grant amounts, or any interest earned by the grantee or State recipient on grant funds after drawdown and before disbursement for eligible costs. (For disposition of such interest, see 24 CFR 85.21(i)).

B. Eligible uses. Program income may be used only as prescribed below:

- 1. Project Costs. Program income may be used for any activity which is eligible under 24 CFR 511 except that program income may not be used to pay for administrative costs, as described at 24 CFR 511.71. In particular, the total of rental rehabilitation grant amounts and Rental Rehabilitation Program income used for any project (except under 511.76(c)(2)) may not exceed the amount per unit allowed under 511.11(e)(2) or 50 percent of the total eligible project costs (except as noted in 511.11(e)(1)).
- 2. Rental Assistance. Program income may also be used to provide rental assistance to lower income tenants in properties rehabilitated through the RRP. This includes the use of program income to pay for administrative costs associated with the provision of rental assistance but not to exceed the amount allowed for administrative fees in the housing voucher program authorized under Section 8(o) of the United States Housing Act of 1937, 42 U.S.C. 1437f. In order to use program income for rental assistance, the grantee or State recipient must:

- a. Use the funds to assist lower income tenants who initially occupy properties rehabilitated with rental rehabilitation grant amounts or RRP income;
 - b. Have a written policy which is available to the public stating that program income will be so used and specify who is eligible to receive such assistance; and
 - C. Have an agreement with the PHA stating that the PHA will utilize the program income to provide rental assistance in accordance with the written policy.
- C. Timing the use of program income. Grantees and State recipients shall not commit available rental rehabilitation grant amounts to specific local projects if sufficient program income is on hand and available to fund the project, or a substantial portion of the project. In order to avoid possible over commitment of funds, grantees and State recipients shall not anticipate the receipt of program income and enter into binding commitments with owners cumulatively exceeding the total amount of program income on hand plus uncommitted rental rehabilitation grant amounts. (See Chapter 11 of this Handbook for information on how to set-up projects with Program Income in the C/MIS.)
- D. Accounting for and Reporting Program Income. Program income shall be accounted for and reported in the grantee's Annual Performance Report under 24 CFR 511.81(b) and in the Cash and Management Information (C/MI) System under 24 CFR 511.75, in the manner prescribed by HUD. (See Chapter 11 for further information on reporting program income in the C/Mi System and Chapter 8, Paragraph 8-2 for further information on the APR.)
- E. Authority of State grantees. States administering rental rehabilitation grants have discretion to choose whether program income is to be earned at all or is to be paid to or retained by the State or paid to or retained by the State recipient. The State's determination should be contained in a written agreement between the State and its State recipients. However, once earned, program income must be used and accounted for in accordance with this Subparagraph by the State or by the State recipient, as applicable.

1. Exception to State Discretion. The exception to the State's discretion is that when the State itself is closing out a State recipient and that State recipient is no longer participating in the State's program, the State must have the recipient return the program income on hand and that to be generated in the future to the State. Alternately, if the recipient is permitted to retain the program income, the State must assure that the State recipient expends such program income only for RRP purposes as described in Subparagraph B above. If the State chooses to allow the State recipient to retain the program income, it must include the conditions under which this can occur in its written agreement with the recipient. The written agreement must also require the recipient to provide an accounting of any such funds earned and the purposes for which it was expended no less than annually in time for the State to include this information in its Annual Performance Report.
- F. Authority of Urban Counties. Because the configuration of an urban county may change from time to time, particularly at the time of requalification of an urban county in the Community Development Block Grant program, special provisions must be made for urban county program income. The urban county may determine whether program income generated by a project located in a unit of general local government which, for whatever reason, no longer participates in the urban county shall be retained by the urban county for its RRP or by the unit of general local government. If retained by the unit of general local government, the urban county must specify in its written agreement that such program income on hand at the time of closeout or subsequently earned must be used for RRP purposes as described in Subparagraph B above. The agreement must also require the unit of general local government to provide an accounting of all program income earned and the purposes for which it was expended at least annually in time for the urban county to include this information in its Annual Performance Report.
- G. Program Closeout and Disposition of Program Income. Program income must be accounted for by the grantee when a rental rehabilitation program is completely closed out for all years. Program "Closeout" will occur when the following conditions have been met: all grant funds from all program years (excluding

program income) have been expended; funds from the grant year being closed out are no longer available for obligation; and the annual performance report covering the last program year has been submitted to HUD. Program income shall be treated in the following manner before and after closeout:

1. Program income in the amount of \$5,000 or more shall be used for activities eligible under 24 CFR 511; and
2. Program income of less than \$5,000 on hand at program closeout or any program income received after program closeout is not subject to the provisions of 24 CFR 511, but must be used for activities that would be eligible under the CDBG Program (24 CFR Part 570) or 24 CFR 511.76(c).

9-11 AUDIT. The financial management systems used by grantees, and where applicable, State recipients shall provide for audits in accordance with 24 CFR Part 44.