

General Administrative Requirements and Terms for HUD Financial Assistance Awards

1. Compliance with Non-discrimination and Other Requirements

Unless otherwise specified, the following non-discrimination provisions and other requirements apply to all HUD Program NOFAs. Please read the corresponding requirements in each Program NOFA carefully as there are some variations in requirements among HUD's programs.

a. Compliance with Fair Housing and Civil Rights Laws.

With some exceptions for federally recognized Indian tribes and their instrumentalities, recipients and their prospective subrecipients must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title II and Title III of the Americans with Disabilities Act of 1990. Section 109 of the Housing and Community Development Act of 1974 may also apply. *See* 24 CFR Part 6.

Recipients of HUD funding and their prospective sub-recipients, who are conducting programs or activities in a state or local jurisdiction that has passed a law prohibiting discrimination in housing based upon sexual orientation or gender identity, or a law prohibiting discrimination in housing based on lawful source of income, must comply with the law(s) of the state or locality in which the program activities are conducted.

Federally recognized Indian tribes and their instrumentalities must comply with non-discrimination requirements listed at 24 CFR 1000.12.

b. Affirmatively Furthering Fair Housing.

Section 808(e)(5) of the Fair Housing Act requires HUD to affirmatively further the purposes of the Fair Housing Act in its housing and urban development programs. HUD requires recipients of funds, including those awarded and announced under HUD's FY 2020 NOFAs not specifically exempted, to take meaningful actions that affirmatively further fair housing.

The application must discuss how the applicant will carry out the proposed activities in a manner that affirmatively furthers fair housing in compliance with the Fair Housing Act. If the applicant will carry out proposed activities in a jurisdiction with an accepted Assessment of Fair Housing (AFH), the proposed activities should be consistent with the AFH's fair housing goals and with fair housing strategies specified in the jurisdiction's Consolidated Plan.

Federally recognized Indian tribes are not subject to the requirement to affirmatively further fair housing in their use of certain HUD funds. Other tribal entities may also be exempt.

c. Economic Opportunities for Low- and Very Low-income Persons (Section 3).

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 CFR part 135 apply to this program. The regulations at 24 CFR part 135 implementing Section 3 ensure, to the greatest extent feasible, that training, employment, contracting and other economic opportunities be directed to low- and very low-

income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low-and very low-income persons where a proposed project is located.

HUD encourages recipients to search the national Section 3 Business Registry to find local businesses that prioritize hiring Section 3 residents.

d. Improving Access to Services for Persons with Limited English Proficiency (LEP).

Executive Order (E.O.) 13166 seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have LEP. Recipients of HUD funds shall take reasonable steps to ensure meaningful access to their programs and activities to LEP individuals. As an aid to recipients, HUD published Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance) in the Federal Register on January 22, 2007 (72 FR 2732). LEP guidance and LEP information is available here: [Federal Register](#).

e. Accessible Technology.

Section 508 of the Rehabilitation Act of 1973, as amended (Section 508) requires HUD to ensure, when developing, procuring, maintaining, or using electronic and information technology (EIT), that the EIT allows persons with disabilities to access and use information and data comparably to those without disabilities unless an undue burden would result to the Federal agency. HUD encourages its recipients to adopt the goals and objectives of Section 508 by ensuring comparable access whenever EIT is used. Recipients must also comply with Section 504 of the Rehabilitation Act and, where applicable, the ADA. These statutes also require effective communication with individuals with disabilities and prohibit EIT-imposed barriers to access information, programs, and activities for persons with disabilities. (See [Information on accessible technology](#).)

2. Equal Access to Housing Regardless of Sexual Orientation or Gender Identity.

The Equal Access Rule at 24 CFR 5.105(a)(2) requires that a determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by HUD shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity or marital status. Furthermore, under 24 CFR 5.106, any recipient, sub-recipient, owner, operator, manager or service provider funded in whole or part by any Community Planning and Development (CPD) program may not deny equal access to programs, activities, services, or facilities based on a person's gender identity. Thus, the aforementioned parties must comply with 24 CFR 5.105(a)(2) when determining eligibility for housing assisted by HUD or insured by FHA and, and, in addition, with 24 CFR 5.106 when receiving assistance from CPD programs.

HUD's definitions of sexual orientation and gender identity are at 24 CFR 5.100. HUD's definition of family is at 24 CFR 5.403.

3. Ensuring the Participation of Small Disadvantaged Businesses, and Women-Owned Business.

HUD is committed to ensuring that small businesses, small disadvantaged businesses, women-owned businesses, and Labor Surplus Area Firms participate fully in the direct contracting and contracting opportunities generated by HUD's financial assistance. Recipients (except States) and subrecipients are required by 2 CFR 200.321 to take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and Labor Surplus Area Firms are used whenever possible.

4. Equal Participation of Faith-based Organizations in HUD Programs and Activities.

HUD's regulations on the equal participation of faith-based organizations are at 24 CFR 5.109. These regulations provide, among other things, that a faith-based organization that participates in a HUD-funded program or activity retains its independence, and may continue to carry out its mission provided that it does not use direct Federal financial assistance to support or engage in any explicitly religious activities; an organization that engages in explicitly religious activities must separate those activities, in time or location, from activities supported by direct Federal financial assistance and participation must be voluntary; a faith-based organization that carries out programs or activities with direct Federal financial assistance from HUD must provide beneficiaries and prospective beneficiaries with a written notice of certain protections; beneficiaries and prospective beneficiaries may object to the religious character of an organization, upon which the organization must undertake reasonable efforts to identify and refer the beneficiary or prospective beneficiary to an alternative provider; and an organization that receives Federal financial assistance under a HUD program or activity may not discriminate against a beneficiary or prospective beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. (See 24 CFR 5.109).

5. Real Property Acquisition and Relocation.

HUD-funded programs or projects are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601-4655), and the government-wide implementing regulations issued by the Federal Highway Administration at 49 CFR part 24. The URA applies to acquisitions of real property and relocation occurring as a direct result of the acquisition, rehabilitation, or demolition of real property for Federal or federally funded programs or projects. With certain limited exceptions, real property acquisition for a program or project that receives federal financial assistance from HUD must comply with 49 CFR part 24, subpart B.

To be exempt from the URA's acquisition requirements, real property acquisitions must satisfy the applicable requirements of 49 CFR 24.101(b)(1) through (5), commonly referred to as "voluntary acquisitions," which generally are those conducted without the threat or use of eminent domain.

The relocation requirements of the URA and its implementing regulations at 49 CFR part 24, cover any person who moves from real property or moves personal property from real property as a direct result of acquisition, rehabilitation, or demolition for a program or project receiving

HUD assistance. While there are no URA statutory provisions for “temporary relocation”, the URA regulations recognize that there are circumstances where a person will not be permanently displaced but may need to be moved from a project for a short period of time. Appendix A of the URA regulation (49 CFR 24.2(a)(9)(ii)(D)) explains that any tenant who has been temporarily relocated for a period beyond one year must be contacted by the displacing agency and offered URA permanent relocation assistance. Some HUD program regulations provide additional protections for temporarily relocated tenants. Before planning their project, applicants must review the regulations for the programs to which they are applying. Individual NOFAs may have additional relocation guidance and requirements.

Additional resources and guidance pertaining to real property acquisition and relocation for HUD-funded programs and projects are available on HUD’s Real Estate Acquisition and Relocation website at www.hud.gov/relocation. Applicable laws and regulations, policy and guidance, publications, training resources, and a listing of HUD contacts are also available for applicants who have questions or need assistance.

6. Participation in a HUD-Sponsored Program Evaluation.

As a condition of the receipt of the award under a NOFA, the recipient is required to cooperate with all HUD staff, contractors, or designated grantees performing research or evaluation studies funded by HUD.

7. OMB Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, set forth in 2 CFR part 200, apply to this program. If the total amount of all active Federal awards exceeds \$10,000,000 for any time during the period of performance of the award under this program, you must report as required by Appendix XII to Part 200 Award Terms and Condition for Recipient Integrity and Performance.

8. Drug-Free Workplace.

Recipients and subrecipients receiving funds from HUD are subject to [24 CFR Part 24](#), which implements the Drug-Free Workplace Act of 1988, as amended (41 U.S.C. 701, et seq.) and required to provide a drug-free workplace. Compliance with this requirement means that the recipient will:

a. Publish a statement notifying employees that it is unlawful to manufacture, distribute, dispense, possess, or use a controlled substance in the applicant’s workplace and such activities are prohibited. The statement must specify the actions that will be taken against employees for violation of this prohibition. The statement must also notify employees that, as a condition of employment under the federal award, they are required to abide by the terms of the statement and that each employee must agree to notify the employer in writing if the employee is convicted for a violation of a criminal drug statute occurring in the workplace, no later than 5 calendar days after such conviction.

b. Establish an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The applicant's policy of maintaining a drug-free workplace;
- 3) Available drug counseling, rehabilitation, or employee assistance programs; and
- 4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Notify HUD and other federal agencies providing funding in writing within 10 calendar days after receiving notice from an employee of a drug abuse conviction or otherwise receiving actual notice of a drug abuse conviction. The notification must be provided in writing to HUD's Office of Business Transformation, Grants Management & Oversight Division, Department of Housing and Urban Development, 451 7th Street, SW, Room 10156, Washington DC 20410-3000, along with the following information:

- 1) The program title and award number for each HUD award covered;
- 2) The HUD staff contact name, telephone and fax numbers;
- 3) A grantee contact name, telephone and fax numbers; and
- 4) The convicted employee's position and title.

d. Require that each employee engaged in the performance of the federally funded award be given a copy of the drug-free workplace statement required in item (a) above and notify the employee that one of the following actions will be taken against the employee within 30 calendar days of receiving notice of any drug abuse conviction:

- 1) Institution of a personnel action against the employee, up to and including termination consistent with requirements of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended; or
- 2) Imposition of a requirement that the employee participates satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

e. Identify to the agency making the award all known workplaces under the award. The workplace identification must include the actual address of buildings or other sites where work under the award will take place. The applicant must also inform the agency of any workplace changes during the performance of the award. The identification of the workplaces must occur either:

- 1) At the time of application or upon award; or
- 2) In documents the applicant keeps on file in its offices during performance of the award, in which case the applicant must make the information available for inspection upon request by the agency.

10. Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L.109-282) (Transparency Act), as amended.

Prime Grant Awardee Reporting. Prime recipients of HUD's financial assistance are required to report certain subawards in the [Federal Funding Accountability and Transparency Act Subaward System \(FSRS\)](#) or its successor system for all prime awards listed on the FSRS website. Prime financial assistance awardees receiving funds directly from HUD are required to report subawards and executive compensation information both for the prime award and subaward

recipients, including awards made as pass-through awards or awards to vendors. For reportable subawards, if executive compensation reporting is required and subaward recipients' executive compensation is reported through the SAM system, the prime recipient is not required to report this information. The reporting of subaward and executive compensation information shall be in accordance with the requirements of the Transparency Act, as amended, and Appendix A to 2 CFR part 170. Information on requirements under the Transparency Act and OMB guidance is available at www.fsrs.gov.

11. Eminent Domain.

Section 407 of Div. L, Title III of the Consolidated Appropriations Act, 2018 (Public Law 115-141) prohibits the use of appropriated funds to support any Federal, state, or local project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use. Public use shall not be construed to include economic development that primarily benefits private entities. Use of funds for mass transit, railroad, airport, seaport, or highway projects, and utility projects which benefit or serve the general public (including energy-related, communication-related, water-related, and waste water-related infrastructure), other structures designated for use by the general public or with other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields, as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. 107-118), will be a public use for Section 407 purposes. Applicants for FY assistance may be subject to this restriction if it is incorporated in HUD's FY appropriation. A notice will be published if this provision no longer applies following passage of HUD's FY appropriation.

12. Accessibility for Persons with Disabilities.

For all HUD-funded activities:

- a. All meetings must be held, and services provided in facilities that are physically accessible to persons with disabilities. Where physical accessibility is not achievable, successful applicants must give priority to alternative methods of product or information delivery that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate in accordance with HUD's implementing regulations for section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) at 24 CFR part 8, subpart C; and,
- b. All notices of and communications during all training sessions and public meetings shall be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities or provide other means of accommodation for persons with disabilities consistent with section 504 of the Rehabilitation Act of 1973 and HUD's Section 504 regulations. Recipients must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible websites, and other electronic communications. [See 24 CFR Section 8.6; 28 CFR 35.160, 36.303.](#)

14. Conducting Business in Accordance with Ethical Standards

A. Code of Conduct for Procuring Property and Services. All Federal award recipients, except states, and all subrecipients under Federal awards must have a code of conduct (or written standards of conduct) for procurements that meets all requirements in 2 CFR 200.318(c). Before entering into an agreement with HUD, each applicant selected for award (other than a state) must ensure an up-to-date copy of the organization's code of conduct, dated and signed by the Executive Director, Chair, or equivalent official, of the governing body of the organization, is available in Code of Conduct e-library. Applicants can check the [Code of Conduct List](#) to confirm HUD has determined their Code of Conduct complies with 2 CFR 200.318(c).

HUD does not collect or review state codes of conduct for compliance with 2 CFR 200.318(c). Instead, each state must follow the same policies and procedures for procurements under Federal awards that the state uses for procurements from its non-Federal funds, as provided in 2 CFR 200.317.

B. Other Conflicts of Interest

In all cases not governed by 2 CFR 200.317 and 200.318(c), all recipients and subrecipients must comply with the conflict of interest requirements in the applicable program regulations. If there are no program-specific regulations for the award, the following conflict of interest requirements apply in all cases not governed by 2 CFR 200.317 and 200.318(c):

i. *General prohibition.* No person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or subrecipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

ii. *Exceptions.* HUD may grant an exception to the general prohibition in paragraph (i) upon the recipient's written request and satisfaction of the threshold requirements in paragraph (iii), if HUD determines the exception will further the Federal purpose of the award and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effects of the factors in paragraph (iv).

iii. *Threshold requirements for exceptions.* HUD will consider an exception only after the recipient has provided the following documentation:

- a. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- b. An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

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

- a. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- b. Whether an opportunity was provided for open competitive bidding or negotiation;
- c. Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- d. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- e. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (i);
- f. Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- g. Any other relevant considerations.

Recipients must disclose in writing any potential conflict of interest to HUD.