



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

OFFICE OF HEALTHY HOMES
AND LEAD HAZARD CONTROL

Policy Guidance Number: 2013-01		DATE: April 22, 2013
SUBJECT:	Conducting Lead-Based Paint Inspections and Risk Assessments for Lead-Based Paint and Lead-Based Paint Hazards	
STATUS:	Current	
APPLICABILITY:	All grant programs of the Office of Healthy Homes and Lead Hazard Control	
RELATED GUIDANCE:	HUD <i>Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing</i>	
COMMENTS:	It is critical that grantees understand the lead evaluation requirements for OHHLHC grant programs in order to avoid issues that have been identified during grant monitoring visits and file audits.	

This policy guidance is being issued to define reporting requirements for lead-based paint inspections and risk assessments for lead-based paint hazards conducted for all grant programs of the Office of Healthy Homes and Lead Hazard Control (OHHLHC) that perform such activities.

The OHHLHC may require more restrictive evaluation and documentation requirements for any grantee that has not demonstrated full compliance with the requirements outlined below.

All OHHLHC grantees that conduct lead-based paint hazard control activities are required to conduct lead-based paint inspections (LI) and lead-based paint risk assessments (RA) in accordance with regulations and guidance of the Environmental Protection Agency (EPA)¹ or EPA-authorized states or tribes,² and the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (“HUD Guidelines,” revised in 2012).³

¹ EPA’s lead laws and regulations are at www.epa.gov/lead/laws-regs/policy.html; EPA’s answers to frequently asked questions on lead are at <http://toxics.supportportal.com/link/portal/23002/23019/ArticleFolder/614/Lead>.

² For the Abatement Rule, authorized states and tribes are listed at www.epa.gov/lead/abatement.html; for the Renovation, Repair and Painting Rule, www.epa.gov/lead/rrp/lscp-renovation-firm.html.

³ http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines.

Accordingly, and because OHHLHC funds are provided to control residential lead-based paint hazards rather than to rehabilitate housing, recipients of OHHLHC grant funds conducting lead evaluation activities must comply with the following requirements:

- 1) The Grantee must determine the lead-based paint classification of all surfaces by properly categorizing and testing each “testing combination” in each room equivalent in accordance with Chapter 7 of the HUD Guidelines. A testing combination is a unique combination of room equivalent, building component type, and substrate.⁴
 - a. All lead-based paint inspections and risk assessment reports must be conducted and documented in accordance with Chapter 5 and 7 of the HUD Guidelines.⁵
 - b. All lead-based paint inspections, risk assessments and hazard control work must be completed by firms certified for, and persons trained and certified for, the specific work conducted.
 - c. Consistent with the Guidelines, every room equivalent must be identified in the property sketch and every building component must be represented in the sampling scheme (identified in the XRF test result report) used to test a property.⁶
 - d. You must conduct a complete and full lead-paint inspection and risk assessment for each unit assisted with lead grant funds. Partial or limited lead-based paint inspections and risk assessments are not acceptable for OHHLHC grant programs and will not be reimbursed by HUD.
 - e. Composite sampling for the risk assessment and clearance of lead hazards is not authorized under OHHLHC grant programs.

- 2) The OHHLHC recognizes that windows are costly and therefore require clear justification when being replaced.
 - a. Testing of only a single window (or even a few windows) as representing a testing combination for the entire property (interior and exterior) is not allowable, even if all the windows are of identical construction and painting history. (This practice does not comply with the HUD Guidelines’ instructions in Chapter 7 for performing inspections.)
 - b. If the LI/RA requires that more than five (5) windows be replaced in a property with the cost charged to OHHLHC grant funds, you must document each window being replaced with either a) XRF readings from each window or b) a photo of each window, and must include these in the risk assessment report.

⁴ See the HUD *Guidelines*, Chapter 7, Lead-Based Paint Inspection, especially sections III.f, IV.A, and V.C.

⁵ For risk assessments, see, especially, Chapter 5, section VI.E, and Appendix 8.1, for all housing; for inspections, Chapter 7, sections IV.I.3 for single family housing, and V.E for multifamily housing. Also, see the attached testing template for required reporting criteria.

⁶ See the HUD *Guidelines*, Chapter 5, Risk Assessment and Reevaluation, especially sections I - V, and Chapter 7, Lead-Based Paint Inspection, especially section I.A, for single family housing, sections IV.A – C, and, for multifamily housing, sections V.A – D.

- c. Failure to clearly and accurately document the need to replace windows under this policy guidance will result in the disallowance of associated expenses.
 - d. Windows replaced with lead grant funds must contain lead-based paint hazards not merely lead-based paint. You may not expend grant funds to address intact lead-based paint. This distinction is critical and must be clearly outlined in the LI/RA.
 - e. As always, if the window replacement is to be conducted using funds other than OHHLHC grant funds, the documentation requirements for justification of the use of the other funding source (e.g., Community Development Block Grant or weatherization funds) must be met.
- 3) Allowable lead-based paint hazard control costs include addressing lead-based paint hazards only. Lead-based paint is any paint, varnish, shellac, or other coating that contains lead equal to or greater than 1.0 mg/cm² as measured by X-ray fluorescence (XRF), or 0.5 percent by weight (5000 µg/g, 5000 ppm, or 5000 mg/kg) as measured by laboratory analysis⁷ (although state or local definitions are to be used if they are more stringent). Therefore, lead present in items other than coatings, such as unpainted ceramic tile and porcelain bathtubs, is not lead-based paint; therefore, removing or treating such items is outside the scope of the authorizing statute for the lead hazard control grants program,⁸ and is not eligible for reimbursement to the OHHLHC grant as a lead hazard control activity.
 - 4) Specifications (scopes of work) for lead hazard control must be established directly from the inspection and risk assessment (reports), and must address all identified lead-based paint hazards in the property.⁹ In addition, only those lead-based paint hazards identified and clearly documented in the LI/RA report are eligible for reimbursement.
 - 5) You may combine rehabilitation work with lead hazard control under an OHHLHC grant, but the two activities **MUST** be clearly separated in the scope of work and the subsequent bid.
 - 6) LHC grants may cover “minimal rehabilitation” activities when those activities are specifically required to perform effective hazard control, and without which the hazard control could not be completed, maintained, and sustained.¹⁰ Minimal rehabilitation activities **MUST** be identified and documented in the LI/RA.

⁷ Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), known as "Title X," section 1004(14) (§ 4851b(14), which cites § 4822(c)).

⁸ Title X, especially, its section 1011, Grants for lead-based paint hazard reduction in target housing (42 U.S.C. § 4852), subsection (a), General authority, and subsection (e), Eligible activities, particularly that subsection's paragraphs (2) and (3) authorizing interim control and abatement of lead-based paint hazards in housing.

⁹ OHHLHC Policy Guidance 2002-03, Elimination or Control of all Identified Lead-Based Paint Hazards; http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_38169.pdf.

¹⁰ OHHLHC Policy Guidance 2008-02; Undertaking minimal rehabilitation using OHHLHC grant funds; http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_38179.pdf.

- 7) Bids must be based on the scope of work and be awarded competitively according to federal and applicable state/tribal/local procurement requirements.¹¹
- 8) Risk assessments used (along with lead-based paint inspections) as part of scoping the work are valid for no more than 12 months from the date completed.^{12,13} However, the OHHLHC strongly recommends that risk assessments be conducted within six months before the hazard control work because the results are more current and more accurate; this timing also fits with the six-month blood lead level testing period preceding the lead hazard control work, as recommended in the grant programs' NOFA.
- 9) Properties whose lead-based paint evaluation report documents (inspection/risk assessment) do not contain the required information per the HUD Guidelines and this policy guidance will not be eligible for reimbursement of evaluation or control activities by OHHLHC grant funds.

¹¹ See, for non-governmental grantees, 24 CFR 84.40 – 84.48, Procurement Standards, especially section 84.43, Competition; and, for governmental grantees, 24 CFR 85.36, Procurement, especially paragraph (c), Competition.

¹² HUD Guidelines, Chapter 5, Risk Assessment and Reevaluation, section I.A.1, Risk Assessment, p. 5-11. See, also LSHR § 35.165, Prior evaluation or hazard reduction, subsection (b), Risk assessment. (Note that “no more than 12 months” means that the completed report must have been signed by the risk assessor no more than 365 calendar days before the hazard control work is conducted (366 days if a leap day is included), because a risk assessment includes “provision of a report”(Title X; 42 U.S.C. § 4851b(25)(e).)

¹³ An inspection conducted before the risk assessment may be used if it was in done accordance with the LSHR § 35.165, Prior evaluation or hazard reduction, subsection (a), Lead-based paint inspections; such an inspection does not expire. In deciding whether to use a significantly older lead-based paint inspection, the grantee should note that some of the lead-based paint may have been removed since such an inspection, so using it may result in overstating the scope of lead hazard control work. The grantee must obtain approval from the GTR before using an inspection older than 12 months before hazard control work is conducted, including a justification for why the scope of work will not be overstated by its use.