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BULLETIN: 23-1
SUBJECT: Lead-Based Paint: 100-Day Inspection Requirement for Pre-1978 Dwelling Units Receiving Subsistence Payment Assistance
DATE: July 12, 2023
ATTENTION: All CDBG and CDBG-CV Grantees

The purpose of this Policy Bulletin is to reaffirm that all grantees awarded with Community Development Block Grant Coronavirus (CDBG-CV) funds under the NC CDBG-CV program must comply with 24 CFR Part 35 Lead-Based Paint requirements. If a household residing in a pre-1978 dwelling unit has or will be provided subsistence payment assistance over 100 consecutive days. The 100-day period begins at the time the actual assistance payment is made and then “counts” forward. Once the assistance period reaches 100-days, a visual lead-based paint inspection is required to continue providing funds past 100-days.

If subsistence payment assistance is being provided to a household that covers three months of arrears within the first month of assistance, the 100-days begins at the time of payment going forward. For example, three months of arrears are paid to a landlord on May 1st as subsistence payment assistance. This scenario would allow a household to still receive up to three months of assistance. For June 1st, July 1st, and August 1st without hitting the lead-based paint 100-day inspection requirement – even though technically the household is receiving 181-days of assistance.

If a grantee is unable to perform an onsite visual inspection of a pre-1978 dwelling unit tied to subsistence payment assistance and assistance will be provided past 100-days, the owner(s) or a surrogate may perform a remote visual inspection. Grantees are encouraged to ensure adopted policies and procedures permit compliance with the lead-based paint 100-day inspection requirement. These actions must be documented in the grantee’s file and will be reviewed by the Grants Management Representative during technical assistance or monitoring visits.

This bulletin applies to all projects awarded CDBG-CV funds and FY2019 or FY2020 CDBG funds to prevent, prepare for, or respond to coronavirus through subsistence payment assistance. CDBG is limited to three months of assistance and therefore does not exceed the 100-day grace period. Please refer to the following links on HUD Exchange for further guidance relate to this matter: <https://files.hudexchange.info/resources/documents/Using-CDBG-Emergency-Payments-for-Rental-Assistance-in-Coronavirus-Responses.pdf> and <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-and-CDBG-CV-Subsistence-Payments-Arrears-033021.pdf>.

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DATE: 7-12-2023



Community Development Block Grant Coronavirus (CDBG-CV)

Toolkit for Lead Safety Housing Rule (LSHR) Requirements for Pre-1978 Dwelling Units that have Received or will Receive Subsistence Payment Assistance

Subsistence Payment Assistance, also known as Emergency Grant Payments, are a popular CDBG-CV activity available to grantees, as they can help prevent an individual or family from being evicted and/or losing their home due to nonpayment of their rent or mortgage. These payments may also assist individuals or families with other essential costs, such as food, clothing, and utilities. Emergency payments may cover a series of up to six consecutive months of assistance for a household to help with rent, mortgage, utilities, and/or other subsistence support. Payment must be made to the provider (e.g., landlord, lender, or utility company) on behalf of an individual or family. Emergency grant payments cannot duplicate other assistance the household receives for the same time period and purpose.

This toolkit with hyperlinks provides guidance for CDBG-CV grantees that have or will provide Subsistence Payment Assistance to occupants of pre-1978 dwelling units.

Per CDBG Bulletin 23-1: If a household residing in a pre-1978 dwelling unit has or will be provided Subsistence Payment Assistance over 100 consecutive days, grantees must comply with 24 CFR Part 35 Lead-Based Paint requirements. The 100-day period begins at the time the actual assistance payment is made and then “counts” forward. Once the assistance period reaches 100-days, a visual lead-based paint inspection is required to continue providing funds past 100-days.

Activity	Requirement
Approach to Lead Hazard Evaluation and Reduction	Identify and stabilize deteriorated paint
Notification	Yes
Lead Hazard Evaluation	Onsite Visual Inspection, with the option to conduct a Remote Visual Inspection
Lead Hazard Reduction	Paint Stabilization – Safe Work Practices and Clearance
Ongoing Maintenance	Yes
Elevated Blood Lead Level (EBLL) Requirements	Yes
Options	Test deteriorated paint Use safe work practices only on lead-based paint (LBP) surfaces

Prepare to Participate and Manage Compliance in a Pre-1978 Dwelling Unit that has Received or will Receive Subsistence Payment Assistance Under CDBG-CV

CDBG-CV grantees must create and maintain records to document compliance. Use the tools here as a guide through the process. **Check for Exemptions:** Some properties and situations create exemptions to various parts of the rules for the property that has received or will receive Subsistence Payment Assistance under the CDBG-CV program. **Please note reference material that speak to Tenant-Based Rental Assistance (TBRA) similarly applies to the Subsistence Payment Assistance under CDBG-CV.**

Tool	Description
LSHR Screening on Exemption or Limited Exemption	Determines if all assisted dwelling units are partially or fully exempt. **Complete and retain in records, mandatory.**

Unless the dwelling unit receiving Subsistence Payment Assistance under CDBG-CV is exempt, the Lead Safety Housing Rules (LSHRs) apply only to assisted dwelling units occupied by children under the age of 6 years old. No different from TBRA, Subsistence Payment Assistance under the CDBG-CV program basic approach is to ensure dwelling units are inspected, paint is properly maintained, and to respond if a child has an EBLL. Being familiar with the rules and keeping good records from the 100-day inspection requirement to closeout is essential.

Tool	Description
TBRA Requirements and Responsible Party	Provides an overview of TBRA responsibilities that tools will describe in further detail.
Guide for Review of Lead-Based Paint Compliance in Properties Receiving TBRA	Provides an overview of TBRA responsibilities that tools will describe in further detail. Select Chapter 24, Exhibit 24-3. Remember TBRA is the equivalent to Subsistence Payment Assistance under CDBG-CV program.
Checklist – Required TBRA File Documents	Complete list of documents administrators and owners must complete and retain. **This is an important document for grantees to utilize.**

The following list provides: (1) activities that may be required in pre-1978 dwelling units occupied by households receiving Subsistence Payment Assistance with children under the age of 6 years old and (2) the corresponding responsible party. According to 35.1200(b)(2)(ii), for purposes of the CDBG-CV program's Subsistence Payment Assistance, the CDBG-CV grantee shall be the Designated Party. The Owner shall be the party(s) that have legal ownership of the dwelling unit(s) that Subsistence Payment Assistance is tied back too.

Activity	Responsible Party When Subsistence Payment Assistance is Provided After 100 Consecutive Day
Visual assessment at initial and periodic inspections	Designated Party
Paint stabilization	Owner
Clearance	Designated Party
Notice of clearance	Owner
Incorporation of ongoing lead-based paint maintenance into regular building operations	Owner must perform the ongoing leadbased paint maintenance. Designated party must ensure that an owner incorporates ongoing maintenance into regulator building operations. As long as Subsistence Payment Assistance is being provided after the 100-day threshold, up to six consecutive months of assistance for a household to help with rent, mortgage, utilities, and/or other subsistence support.
Attempt to obtain from health department names and/or addresses of children with environmental intervention blood lead level	Designated Party
Report to health department addresses of assisted dwelling units, unless health department states it does not want such a report	Designated Party
Match information from health department on names and/or addresses of children with names or addresses of assisted families	Designated party, unless Health Department does it

The following is a list of activities that are required in a dwelling unit occupied by a child of less than 6 years of age with an environmental intervention blood lead level:

Activity	Responsible Party When Subsistence Payment Assistance is Provided After 100 Consecutive Day
Risk assessment within 15 days after notification.	Designated Party, unless public health department has already done it
Verification of blood lead level, if initial source of information is not a medical health care provider	Designated Party must obtain written documentation of the child's blood lead level from the health department or other medical health care provider
Hazard reduction of lead-based paint hazards identified in the risk assessment	Owner
Clearance	Designated Party
Notice of evaluation and hazard reduction	Owner

Reporting to health department the presence of child with environmental intervention blood lead level if health department is not source of information	Designated Party
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Implement Tenant and Owner Occupancy, Onsite Visual Inspection, with the Option to Conduct a Remote Visual Inspection, and Ongoing Maintenance for CDBG-CV


Unless the dwelling unit is exempt, the CDBG-CV grantees must provide a pamphlet and document that the owner of the dwelling unit provides a disclosure form and disclose all known information about lead-based paint (LBP), LBP hazards, and mitigation steps. **Please note reference material that speak to Tenant-Based Rental Assistance (TBRA) similarly applies to the Subsistence Payment Assistance under CDBG-CV.**

Communicate with Household Receiving Assistance

Tool Name	Description
Protect Your Family from Lead in Your Home Pamphlet	Ensures the household is aware of lead safety. The applicant(s) who signs the grantee’s application for assistance should receive this pamphlet and it should be retained with a signed copy of the disclosure form in the applicant file (property owner keeps original).
Sample Disclosure Form for Rental English Spanish	Provides disclosure form to tenant to show lead hazard activities undertaken. This is given by the owners/landlords. Owners use the form to disclose all known information, including no knowledge, of the presence of lead-based paint and hazard reduction work and tenants must acknowledge receipt of the owner’s information.

Grantees must track occupants under the age of 6 and instruct households to inform owners/landlords of deteriorated paint and occupancy by children under the age of 6.

Tool Name	Description
Owner’s Guide to Identifying and Tracking Occupants and Expected Occupants under 6 Years Old	Helps track dwelling units that are subject to the LSHR for visual assessment for TBRA and risk assessment for project-based assistance (PBA), hazard reduction, clearance, and response to EBLL.
TBRA and PBA Resident Instructions	Helps residents understand their responsibility and protections to ensure lead safety in pre-1978 dwelling units.



State and Local Rules Many states and localities have their own rules for lead evaluation and hazard reduction. These may be more stringent or just different from the federal rules, but in all cases at least the items above must be completed.

Communicate with Public Health Department

Grantees will have to communicate with the public health department on a quarterly basis to coordinate which dwelling units have or may have a child with an EBLL. As long as Subsistence Payment Assistance is being provided after the 100-day threshold, up to six consecutive months of assistance for a household to help with rent, mortgage, utilities, and/or other subsistence support.

Tool Name	Description
Request for EBLL Children Addresses - Sample Letter	Requests addresses of children with an EBLL in your jurisdiction on a quarterly basis from the local or State Health Department.
Providing Addresses of Dwelling Units Receiving TBRA to Health Department - Sample Letter	Provides addresses of children with an EBLL in your jurisdiction on a quarterly basis to the local or State Health Department.

Initial Visual Assessment and Ongoing Inspections

All dwelling units occupied by households with one or more children under 6 years of age must receive initial and periodic [Visual Assessment\(s\)](#) to identify deteriorated painted surfaces, including exterior and common areas. Owners must have and implement an ongoing LBP maintenance plan.

Tool Name	Description
Log of Visual Assessment and Resolution Report	Records when the inspector, trained in visual assessment techniques, performed the Visual Assessment, and documents the location, how much (area) deteriorated paint was found, and owner's responsibility to treat and clear the hazards.
Sample Certification for Ongoing Monitoring and Maintenance - Visual Assessment	Certifies ongoing maintenance requirements are met when only visual assessment is needed for evaluation.

Repair Work and Ongoing Maintenance

For deteriorated painted surfaces above the HUD LSHR [de minimis](#) level, the owner is responsible for paint stabilization that must be performed by a certified Environmental Protection Agency (EPA) or State Renovator Firm and by certified Renovators. View the [Hazard Reduction Module](#) for more information on these procedures. If small repair meets the HUD standard for de minimis or an emergency exists, complete Part 2 of the [LSHR Screening on Exemption or Limited Exemption](#). A dwelling unit can only be fully exempt if no paint will be disturbed.

Tool Name	Description
Log of Visual Assessment and Resolution Report	Records when the inspector, trained in visual assessment techniques, performed the visual assessment, and documents the location, how much (area) deteriorated paint was found, and owner's responsibility to treat and clear the hazards.

When repair work and ongoing maintenance is complete, clearance must be completed. Watch the [Clearance Examination Highlights video](#) to learn the basics of how to complete a clearance examination.

Maintenance work in dwelling units without occupants under 6 years of age

The EPA requires that all work disturbing paint in pre-1978 residential properties above the Renovation, Repair, and Painting (RRP) rule de minimis level (different from HUD LSHR) follow certain requirements, similar to, but separate from the LSHR requirements. [See the LSHR-RRP Handout](#) for more information. For dwelling units with children under 6 please see the [Hazard Reduction Module](#).

Respond to a Child with an EBLL

Any report of a child under 6 years of age with an EBLL requires following the guidance in [Respond to a Child with an EBLL](#).

Keep Records

Grantees and nonprofits must ensure they, and participating owners, compile records during the process of preparing dwelling units for rent, leasing the dwelling units, maintaining them, and responding to any report of a child with an EBLL. They ensure that all records pertaining to LBP in all pre-1978 dwelling units are securely stored and available for inspection and disclosure. Property owners and managers need to double check documentation to ensure the supporting documentation clearly establishes that all work was done in accordance with [HUD Guidelines](#). Records must be retained for at least three years past the end of any assistance contract, or longer according to the specific rules of the funding program.

Watch the [Lead-Based Paint Reports Highlights video](#) to learn about reports used for lead hazard evaluation and clearance.

Should you have any questions concerning this toolkit, please contact your assigned Grants Management Representative.