

# Appendix E – Lead Based Paint Hazard Reduction Requirements

## COMPLIANCE WITH FEDERAL REGULATIONS REGARDING LEAD-BASED PAINT

The U.S. Department of Housing and Urban Development has published a final rule entitled "Requirements for Notification, Evaluation and Reduction of Lead-based paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance". The regulation is being issued under sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992. Sections 1012 and 1013 of Title X amended the Lead-Based Paint Poisoning Prevention Act of 1971. The regulation appears within title 24 of the Code of Federal Regulations as part 35 (24 CFR 35). This rule, which updates and expands previous rules, directly effects federally assisted housing rehabilitation and Homebuyer Programs.

Rehabilitation of all housing constructed prior to 1978 is subject to these regulations (Subpart J). Additionally, all Home Buyer Programs where purchase of a pre-1978 unit is proposed must comply (Subpart K). Exempt properties are outlined on the following page.

### PROPERTY EXEMPTIONS UNDER THE LEAD-BASED PAINT REGULATION

#### A. Requirements

##### Disclosure:

1. Distribute EPA "Protect Your Family From Lead In Your Home" pamphlet within 60 days of rehabilitation activity. (It's a good idea to give out the pamphlet at the time of the application for assistance AND at contract signing).
2. Disclose results of all testing and risk assessment.
3. Disclose all planned Lead hazard reduction activities.
4. Disclose results of all clearance examinations

**Written verification of receipt of ALL OF THE ABOVE must be in the case file.**

##### Lead Hazard Evaluation:

1. Conduct visual assessment, paint testing and/or risk assessment, depending on activity.
2. Presume presence of Lead-Based Paint

##### Lead Hazard Reduction:

1. Conduct Lead hazard reduction activities including paint stabilization, interim controls, standard treatments, or abatement depending on the activity type.
2. Only Qualified Safe Work Practice Trained Contractors may perform paint stabilization, interim controls or standard treatment activities.
3. Only Georgia EPD Certified Abatement Contractors can perform abatement.
4. Conduct Clearance Examination to confirm that no lead-based paint hazards remain when work is complete.

#### B. Exemptions

Exemptions Still Applicable from the Current Regulations.

➤ Residential structures built after January 1, 1978.

➤ Emergency action activities

**NOTE: Elderly and disabled housing refers to units built for EXCLUSIVE use by these populations. It does not mean any housing occupied at present by this population.**

In summary, the rule requires the following:

1. Prohibits the use of lead-based paint.
2. For properties constructed prior to 1978, applicants for rehabilitation assistance and tenants of property to be rehabilitated must be notified:
  - a. that the property may contain lead-based paint;
  - b. of the hazards of lead-based paint;
  - c. of the symptoms and treatment of lead-based point poisoning;
  - d. of the precautions to be taken to avoid lead-based paint poisoning;
  - e. of the advisability and availability of blood lead level screening for children under seven years of age; and
  - f. that in the event lead-based paint is found on the property, appropriate hazard control methods will be used to remove identified hazards.
  - g. Copies of all reports (Inspection, work write-up, risk assessment, clearance) are provided to the owner. (Written evidence of receipt must be in the file.)
  - h. That the housing unit must pass clearance prior to re-occupancy of the unit.
3. Communities must complete the "Watch Out For Lead Paint Poisoning" disclosure notice for all heads of households and owners of vacant units and retain a signed copy at which time a copy of the EPA pamphlet "Protect Your Family from Lead in Your Home" shall be distributed to the occupant of each unit constructed prior to 1978 within 60 days of the start of rehabilitation work. (Written evidence of receipt must be in the file.)
4. For properties constructed prior to 1978, procedures are established to eliminate lead-based paint hazards. The elimination procedures, described below, include evaluation, testing and Hazard Control actions that must be implemented.

### C. Lead Hazard Control for Rehabilitation Programs

The amount of federal assistance that will be provided in a unit is the key to determining the minimum level of Lead Hazard Control required. The amount used for this determination should include only the hard costs involved in the rehabilitation disregarding lead hazard reduction costs and soft costs (administration, relocation, environmental review, etc). The minimum required level of Hazard Control is broken down into three categories according to the amount of Federal assistance per unit. The following chart describes the three levels of activity:

<b>REHABILITATION</b> Subpart J			
<b>Amount of Federal Assistance</b>	<b>&lt;\$5000</b>	<b>\$5000-\$25,000</b>	<b>&gt;\$25,000</b>
<b>Approach to Lead Hazard Evaluation and Reduction</b>	DO NO HARM	Identify and Control Lead Hazards	Identify and Abate Lead Hazards
<b>Notification</b>	YES	YES	YES
<b>Lead Hazard Evaluation</b>	Paint Testing (on surfaces to be disturbed only)	Paint Testing and Risk Assessment	Paint Testing and Risk Assessment
<b>Lead Hazard Reduction</b>	Repair Surfaces Disturbed During Rehabilitation	Interim Controls	Abatement (Interim controls on Exterior Surfaces not Disturbed by Rehabilitation)
<b>Clearance Requirement</b>	Clearance of work Site	Clearance of Unit	Clearance of Unit

**Clearance Standards for Federally assisted projects:**

<b>Floors</b>	<b>40µg/SF</b>
<b>Interior window sill (stool)</b>	<b>250µg/SF</b>
<b>Window trough</b>	<b>400µg/SF</b>
<b>Exterior Concrete Surfaces</b>	<b>800µg/SF</b>
<b>Soil*</b>	<b>1200µg/SF - <u>in child play area</u></b>
	<b>400µg/SF</b>

\*Applies only to risk assessment

**Level I:** For units where the amount of Federal assistance provided will total up to (and including) \$5000, the painted surfaces that will be disturbed during rehabilitation need to be evaluated (tested for presence of lead-based paint) before rehabilitation activities begin. *This must include all defective paint surfaces.* If lead-based paint is discovered, the contractor must use safe work practices in the areas that lead-based paint is found. *The contractor must provide documentation that they have attended and passed the HUD Safe Work Practices Training Course.* Safe work practices include wet scraping, wet-sanding, repair (painted components to be repaired should be thoroughly wetted prior to repair), HEPA vacuum sanding, HEPA vacuum needle gun, or covering defective surfaces with durable materials (wallboard or vinyl siding) with all joints sealed and caulked. Safe work practices are required on surfaces larger than 2 ft<sup>2</sup> in any one interior room or space and on exterior surfaces totaling more than 20 ft<sup>2</sup>. If all painted surfaces to be disturbed (or in deteriorated condition) are going to be repaired, the assumption can be made that lead-based paint is present and testing can be skipped. Safe work practices must be used since presence of lead is assumed. Regardless of which approach is used, a clearance examination must be conducted (and passed) at the worksite(s) where lead-based paint is found or assumed. A **clearance examination is defined** as an activity conducted by a Georgia EPD Certified Lead-based Paint Inspector or Risk Assessor following lead-based paint hazard reduction activities to determine that no soil-lead hazard or settled dust-lead hazards exist in the dwelling unit or worksite (as applicable). Clearance must be performed by a "neutral" third party not otherwise involved in the actual hazard control work. In no cases can the contractor performing work in the unit in any capacity or any designee of the contractor perform the clearance examination. The clearance process includes a visual assessment and collection and analysis of environmental samples, and a report detailing hazard control methods used and sample information. Clearance is not required if rehabilitation did not disturb painted surfaces measuring total surface area parameters listed above.

**Level II:** For units where the amount of Federal assistance provided falls between \$5000 and \$25000, the entire unit must be visually inspected for presence of deteriorated paint. Deteriorated paint and all coated surfaces that will be disturbed by rehabilitation activities must be tested for lead-based paint and, if present, a risk assessment must be completed. The rehab advisor may choose to have a lead-based paint inspection done, especially for a unit requiring extensive rehab. Generally, an inspection will be less costly than a risk assessment and if inspection results are negative, will preclude a risk assessment since no lead-based paint is present. If inspection reveals presence of lead-based paint a risk assessment is necessary. Provided that the person performing the inspection is a certified Risk Assessor, they may be instructed to complete a Risk Assessment while still at the property.

**Lead-based paint inspection is defined as** a surface by surface investigation to determine the presence and location of lead-based paint on all painted, varnished or coated surfaces performed by a Georgia certified Lead Inspector and provision of a report detailing results of the investigation.

**Risk assessment is defined as** an on site investigation by a Georgia certified risk assessor to determine the existence, nature, severity, and location of lead-based paint hazards; and provision of a report by the firm or individual conducting the risk assessment detailing results of the investigation and options for reducing the lead-based paint hazards.

Using the risk assessment report as a guide, the Rehab advisor must make a decision as to the implementation of the recommendations using cost, long-term benefits, effectiveness and rehab goals as some of the factors. Interim control measures are allowed to reduce lead hazards in this category. **Interim controls are defined as a**

set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, paint-film stabilization, temporary containment, specialized cleaning, clearance activities and operation of management and resident education programs. Generally speaking, interim controls will be less expensive than abatement (see level III below) and will provide more flexibility to the rehab advisor when completing the work write-up but cannot be used in all situations. If planned rehab activities include replacement of components that test positive for lead-based paint, such activity *may be* deemed abatement and the rules for abatement are triggered. Similarly, some interim controls cannot be used on defective substrate materials such as rotted wood or damaged drywall. In these instances, the cause of the damage should be corrected then the damaged component should be replaced.

*On April 19, 2001 EPA and HUD issued a joint notice that basically states that only activity intended as abatement shall be covered by the strict abatement guidelines. Intent is defined as "when "abatement" is specified in work specifications, job write-ups, cost allocation or similar documents or when abatement is specifically ordered by responsible state or local agency or court order".* A copy of this letter is available through DCA or on the HUD website. **However, Georgia EPD is the agency responsible for regulating lead-based paint activity. They have indicated that any work that can be deemed an abatement technique (e.g., component removal regardless of intent) must be performed by a certified lead contractor. In order to avoid a non certified contractor from violating the EPD regulations, it is advised that questions regarding this issue should be directed to EPD prior to instituting interim control activity.**

In all cases where interim controls are used, the contractor **MUST** utilize safe work practices. The contractor must provide documentation of a "Notice of Completion" of the HUD approved one day safe work practices training course. Only a certified abatement contractor can perform abatement activity. The rehab advisor may use a combination of abatement and interim controls to eliminate the lead hazards in the property. Clearance of the entire unit must be achieved after work is completed. The contract language should contain a clause making the contractor responsible for costs associated with failure to pass clearance (i.e.: re-cleaning, additional testing, additional relocation etc.).

**Level III:** For average per unit cost above \$25000 abatement of all lead hazards is required. **Abatement is defined as** a set of measures designed to *permanently* eliminate lead-based paint or lead-based paint hazards. (Permanent means an expected design life of at least 20 years.) Abatement includes: (1) The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and (2) all preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures. Abatement activities can only be performed by Georgia certified lead firms and individuals. Only Georgia certified lead contractors may perform abatement work. A listing of certified lead contractors is available through the Internet site: '<http://www.ganet.org/dnr/environ/>'. All abatement work is governed by rules and regulations promulgated by the Georgia Department of Natural Resources, Environmental Protection Division. EPD requires notification of all abatement work and issues fee based permits for abatement work. Abatement activities can be subcontracted to a certified contractor for completion of the lead abatement activities.

An example of work specifications for lead hazard control are included in this appendix.

All contractors working in rehab for CHIP are encouraged to attend HUD approved Safe Work Practices training (This training is **MANDATORY** for contractors hired to perform interim

controls). Contractors interested in becoming Certified Lead Abatement firms must attend EPA certified training and pass a Georgia EPD certification exam. Further information on the availability of training is available through DCA.

**Hazard Control without testing:** The grantee may forego testing and control all interior and exterior surfaces covered by the rule in accordance with the methods described above. Under this assumption, all coated surfaces are assumed to have lead-based paint and all surfaces must be treated accordingly. **A risk assessment is required prior to rehabilitation activities in all units receiving over \$5000 in Federal assistance (levels II and III) even if lead-based paint is presumed (24 CFR part 35 § 35.930).** Presumption of lead-based paint in units receiving under \$5000 in Federal assistance requires that all defective paint and all coated surfaces to be disturbed are assumed lead-based paint, and approved hazard control methods must be utilized and clearance passed.

**Exemptions: *De Minimus Levels.*** Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total no more than:

(1) 20 square feet (2 square meters) on exterior surfaces; (2) 2 square feet (0.2 square meters) in any one interior room or space; or (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. (examples included window sills, baseboards and trim).

These lead-based paint regulations require that CHIP recipients utilize certain housing rehabilitation forms and procedures:

1. A "Watch Out for Lead-Based Paint" disclosure receipt form must be completed. It or an equivalent notice with the required disclosure must be completed for every owner and tenant (where applicable) of a pre 1978 unit.
2. A copy of the EPA pamphlet "Protect Your Family from Lead in Your Home" shall be distributed to the occupant of each unit constructed prior to 1978. Copies of this publication are available through DCA. The "Watch Out for Lead-Based Paint" disclosure receipt will serve as the signed acknowledgement of receipt of the pamphlet.
3. Applications for Rehabilitation Assistance should contain applicant certifications that:
  - a. they received a copy of the "Watch Out for Lead-Based Paint" form and a copy of the EPA pamphlet "Protect Your Family from Lead in Your Home", and
  - b. the unit will or will not be occupied by a child under seven years of age; a pregnant woman; or an EBL child.
1. Work write-up procedures should indicate whether the unit: (a) has been built prior to 1978; (b) that a lead-based paint inspection and risk assessment has been performed; (c) whether hazard control measures are required and are included. If hazard control procedures are required, the write-up should reflect what method will be used. A sample of lead hazard control specifications is included in this appendix.
5. The Certificate of Final Inspection should show that the property conforms to the Federal and State Lead-Based Paint Regulations and Policies.
6. Bid Document Specifications must require that the Contractor has completed a HUD approved safe work practices training course. Contact DCA for further guidance in this subject.
7. Minimum Property Standards must include the following verbatim:

***"Inspection and Testing: Local government is required to perform lead-based paint inspection and risk assessment in all units constructed prior to 1978. Elimination of lead-based paint hazards***

by recognized hazard control methods shall be included in the work write-up. If testing reveals presence of lead-based paint hazards, elimination those hazards will be a part of the work write-up and bid document specifications. **Testing is required for all units constructed prior to 1978.**

**Compliance Standards:**

1. Testing of paint surfaces and Hazard Control activities to eliminate the hazard of lead-base paint poisoning shall be in compliance with HUD lead-base paint regulations (24 CFR, Parts 35 and 570).
2. The dwelling unit shall be in compliance with HUD Lead-Based Paint regulations, 24 CFR, Part 35 and 570 (Subpart "J") issued pursuant to the Lead-Based Paint Poisoning Prevention Act. Also, the Local Government shall provide a certification that the dwelling is in accordance with such HUD Regulations and the Georgia Department of Community Affairs Policies and Procedures on Lead-Based Paint Poisoning and Prevention. )
3. If the property was constructed prior to 1978, the Family upon occupancy shall have been furnished the notice required by HUD Lead-Based Paint regulations and procedures regarding the hazards of lead-based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning.

## D. Testing

Testing must be performed by a Georgia EPD Certified Inspector or Risk Assessor:

1. **Method.** Lead concentrations must be determined either (1) on-site using a portable X-ray fluorescence (XRF) analyzer or (2) by taking paint samples and having them analyzed in a laboratory.
2. **Standards.** Test readings of 1.0 milligrams per square centimeter (mg/cm<sup>2</sup>) or greater, using an XRF, shall be considered positive for presence of lead-based paint. This standard can be used with laboratory analysis, if it is possible to take a paint sample of known area. If not, the standard for presence of lead-based paint shall be a level equal to or greater than 0.5 percent by weight (equal to 5,000 parts per million).
3. **Paint samples.** Paint samples for laboratory analysis must include all layers of paint down to the substrate material (e.g., plaster or wood). If the paint sample is not of known area, it must not include any substrate material. Inclusion of substrate material dilutes the lead concentration of the sample. This method of testing is destructive and is not recommended (in most cases) as the primary means of performing a lead-based paint inspection.
4. **Qualifications** of testers and laboratories. An inspector or risk assessor certified by the State of Georgia Environmental Protection Division must conduct testing. Documentation of current certification is required. The U.S. Environmental Protection Agency (NLLAP) must accredit all laboratories used for analysis by the inspector, for analysis of heavy metals.

## E. Occupant Protection

The dwelling unit occupants and environment must be protected from contamination from lead-containing materials during hazard reduction activities.

1. Occupants shall not be permitted to enter worksite during hazard reduction activities and not permitted to re-occupy until all hazard control work has been completed and clearance has been achieved.
2. Occupants shall be temporarily relocated before and during hazard control activities. (Certain exemptions to this requirement may apply. Contact DCA for guidance on this

- subject.)
3. The dwelling unit and the worksite shall be secured against unauthorized entry, and occupant belongings protected from contamination from dust-lead hazards and debris during hazard reduction activities.
  4. Occupant belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.
  5. The worksite shall be prepared to prevent the release of leaded-dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed.
  6. Warning signs shall be posted in accordance with 24 CFR Part 35 Section 35.1345(b)(2).

## F. Clearance

All lead hazard control activity **MUST** pass clearance. **Clearance is defined as** an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards exist in the unit (or, if Federal Assistance is less than \$5000, worksite only). In all cases, the clearance examination must be performed by a Georgia EPD certified inspector or risk assessor. In most cases this will be the same personnel that conducted the risk assessment. While this is not mandatory, the clearance examination **MUST** be performed by a certified individual who is a “neutral third party” that has no relationship with the contractor who performed the hazard control activity. In **NO** case should the contractor or their designee perform the examination. The lead hazard control contract should have provisions that make the contractor responsible for any costs associated with failure to pass clearance (additional cleaning, continued relocation, additional testing, etc.).

The rehabilitation advisor should keep in mind that for Level II and III activity, the **ENTIRE** unit must pass clearance, even if work was not performed in the entire unit. This means that write-ups for these units must include the specification of specialized cleaning in preparation for clearance testing that must be performed for the entire unit, including any outbuildings or other appurtenances.

**The Inspection/Risk Assessment Reports along with the Lead AND General Work Write Ups must be submitted to DCA PRIOR to soliciting bids from contractors. DCA will review each submission and provide a “Notice to Accept Bids” to the grantee. The Notice to Accept Bids must be retained in each case file.**

### **The following forms are included in this appendix:**

Lead Based Paint Statement

Lead Based Paint Work Write-Up

Lead Safe Housing Rule Checklist for General Compliance Documentation

Lead Safe Housing Rule Applicability Form

Library of Model Specifications Lead Hazard Evaluation and Relocation

Notice that Lead Based Paint or Lead Based Paint Hazards are Presumed to be Present

Post Construction Safe Work Practices Certification

Protect Your Family from Lead in Your Home Brochure

Relocation Screening for Occupant Protection from Lead Hazard Activities

Summary Notice of Completion of Lead Based Paint Hazard Reduction Activity

Summary Notice of Lead Based Paint Inspection

Summary Notice of Lead Based Paint Risk Assessment

Threshold Determination for Training and Lead Hazard Reduction Work

Watch Out for Lead Based Paint Disclosure Receipt

## Appendix F – Fair Housing and Equal Opportunity

Whenever the State Recipient (SR), administrative agent, or Sub-recipient operates a loan program on behalf of homeowners or homebuyers, all federal Fair Lending and Equal Credit Opportunity laws are in effect. In addition, depending on the type of financial assistance being offered, the following lending regulations may apply to the CHIP program:

- A. The Truth in Lending Act (Regulation Z), Title I of the Consumer Credit Protection Act, 15 U.S.C.A. 1601. This federal law requires lenders (including SR's) to fully disclose, in writing, the terms and conditions of a mortgage, including the annual percentage rate and other charges. A Truth in Lending Statement must be conveyed to the borrower within three (3) business days after the lender's (including SRs) receipt of a written application. This is considered "early disclosure." A final disclosure statement is provided at the time of loan closing. These statements must provide an accurate statement of the terms of the loan, especially the amount of interest paid over the life of the loan.
  
- B. Equal Credit Opportunity Act, 15 U.S.C. 1601 et seq. Regulation B was issued by the Board of Governors of the Federal Reserve System to implement the provision of the Equal Credit Opportunity Act (ECOA). The law was enacted in 1974 to make it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of sex or marital status. In 1976, through amendments to the Act, it became unlawful to also discriminate on the basis of race, color, religion, national origin, age, receipt of public assistance and the good faith exercise of rights under the Consumer Credit Protection Act.

The primary purpose of the ECOA is to prevent discrimination in the granting of credit by requiring banks and other creditors to make extensions of credit equally available to all creditworthy applicants with fairness, impartially and without discrimination on any prohibited basis. The regulation applies to consumers and other types of credit transactions.

- C. Real Estate Settlement Procedures Act (RESPA). RESPA requires the use of the HUD 1 Settlement Statement, and requires lenders to give borrowers advance notice of closing costs.

Additionally, DCA recommends that all loan closing documents be reviewed (can be an initial review of form documents as part of program start-up) by a local attorney knowledgeable about real estate and lending transactions. Real estate transactions involving Security Deeds, Restrictive Covenants, and other forms of secured loans must be conducted by a closing attorney who is acceptable to both the local government and the borrower. In order to gain financial efficiency, DCA recommends that the attorney selected to close any leveraged financing also be retained to simultaneously close the CHIP loan.

## ***Fair Housing and Equal Opportunity (FH&EO)***

There are several federal laws and executive orders which address discrimination and economic opportunity. SRs must certify that they will conduct program activities in accordance with these federal mandates. The following federal requirements apply to CHIP programs:

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d. Title VI and implementing regulations, as amended, prohibits discrimination on the basis of race, color, national origin, religion, or sex, in program participation or the receipt of program benefits which are funded in whole or in part with federal funds, including CHIP.
- B. Title VIII of Civil Rights Act of 1968, 42 U.S. C. 3601 et seq. Title VIII and implementing regulations as amended, prohibits discrimination in the sale, rental, or financing of a dwelling to any person because of race, color, religion, sex, national origin, handicap, or family status.
- C. The Federal Fair Housing Act, 42 U.S.C. 3601 et seq. (1968 and the Georgia Fair Housing Act, O.C.G.A. 8-3-200 et seq.) The Fair Housing Acts requires SRs to affirmatively further fair housing and provide protection against the following acts, if they are based on handicap, race, color, religion, sex, national origin, or family status:
  1. Refusing to sell or rent to, deal or negotiate with any person per Section 804(a);
  2. Discriminating in terms or conditions for buying or renting Housing per Section 804(b);
  3. Discriminating by advertising that housing is available only to persons of certain family status, race, color, religion, sex or national origin per Section 804(c);
  4. Denying that housing is available for inspection, sale or rent when it really is available per Section 804(d).
  5. “Blockbusting” – persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood per Section 804(e);
  6. Denying to anyone the use of or participation in any real estate services, such as broker’s organizations, multiple listing services or other facilities related to the selling or renting of housing per Section 806;
  7. Denying or making different terms or conditions for home loans by commercial lenders, such as banks, savings and loan associations and insurance companies per Section 805;

In addition, the Federal Fair Housing Act requires that all new rental housing be made accessible (ground floors minimally) to persons with disabilities in compliance with the Americans National Standard (ANSI A117.1), a copy of which can be obtained from the EEOC by calling (404) 331-4276.

- D. Affirmative Marketing. In order to affirmatively further fair housing practices in accordance with the HOME Act and 24 CFR 92.351, SRs must comply with the following requirements:

1. Develop and adopt an Affirmative Marketing Plan outlining marketing procedures and requirements which provide information and otherwise attract eligible persons (tenants or buyers) in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability;
2. Require developers and owners of five (5) or more units of rental or homeowner housing to develop and adopt an Affirmative Marketing Plan (see D.1 above); and,
3. All SRs must develop an Affirmative Marketing Plan which conforms to the guidelines in the CHIP Recipients' Manual.

NOTE: The Affirmative Marketing Plan requirement is a Special Condition of the CHIP Award and SRs may not draw down any CHIP funds until such plan has been submitted to DCA for approval. See Appendix A for the Affirmative Marketing Guide Form.

- E. Executive Order 11063 – Equal Housing Opportunity, as amended by Executive Order 12259. SRs must take all action necessary and appropriate to prevent discrimination based on race, color, religion, creed, sex, national origin, familial status or disability in the sale, rental, leasing or other disposition of residential property and related facilities, or in the use or occupancy thereof, where such property or facilities are owned or operated by the Federal Government, or provided with CHIP funds and in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured, guaranteed or purchased by the U.S. Department of Housing and Urban Development (HUD).
- F. Executive Order 11246 – Equal Employment Opportunity, as amended by Executive Order 11375. The SR must agree to the following provisions:
1. Take affirmative action to ensure that applicants and employees are not discriminated against on the basis of race, color, religion, sex, or national origin;
  2. Post government supplied notices containing the provisions of this Section;
  3. State in all advertising that applicants will be considered without regard to race, color, religion, sex, or national origin;
  4. Send notices to appropriate labor unions advising them of the SR's commitments and to post copies of these notices;
  5. Comply with all the provisions of this Order along with all of the rules, regulations and relevant Orders of the Secretary;
  6. Furnish information and reports as required by the Order and the relevant rules, regulations and Order of the Secretary and permit access to materials for the purposes of investigating the employer's compliance with the rules, regulations and order;

7. Submit to the possible cancellation, termination, or suspension of the CHIP program, or to being declared ineligible for future government contracts in the event of noncompliance with this Section or the applicable regulations;
  8. Submit to the other sanctions provided for by this Order and the applicable rules, regulations and orders of the Secretary or as otherwise provided by law; and,
  9. Include this Section in all non-exempt subcontracts.
- G. Minority Business Enterprise Executive Orders 11625, 12432 and 12138. SRs must make reasonable efforts to encourage the use of minority and women owned business enterprises (MBE/WBE) in CHIP funded projects. As a special condition to the CHIP award, the SR is required to complete and submit to DCA for approval, an MBE/WBE Outreach Plan.

NOTE: The MBE/WBE Outreach Plan requirement is a Special Condition of the CHIP Award and until submitted and approved (condition cleared), SRs may not draw down any CHIP funds.

- H. The Age Discrimination Act of 1975, 42 U.S.C. 6101-07. This Act and its implementing regulations, as amended, prohibit discrimination against any person on the basis of age;
- I. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. SRs must comply with Section 504 of the Rehabilitation Act of 1973, as amended. HUD published implementing regulations (24 CFR Part 8) as a Final Rule on June 2, 1988. The general requirement is that no otherwise qualified individual with handicaps shall, because an SR's facilities are inaccessible to or unusable by individuals with handicaps, be excluded for participation in, denied benefits, or otherwise be subjected to discrimination under any program or activity that receive CHIP assistance. The definition of handicapped includes physical and mental factors and also includes those who may be regarded as handicapped. Building accessibility and employment practices are governed by Section 504.
- J. Americans With Disabilities Act of 1990 (ADA., 42 U.S.C. 12116 et seq.) Prohibits discrimination in employment on the basis of disability (Title I) and prohibits discrimination on the basis of disability in state and local government services (Title II). Transitional housing must be in compliance with Title III of the ADA including but not limited to the Americans with Disabilities Act Accessibility Guidelines (ADAAG).
- K. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 171U et seq.) which requires that, to the greatest extent feasible, opportunities for training and employment arising in connection with planning and carrying out any project assisted with HOME funds that receives in excess of \$200,000 (or in excess of \$100,000 to a single contractor) in Federal Funds, be given to low-income persons residing within the program service area. In addition, to the greatest extent feasible, contracts for work (of all types) to be performed in connection with any project must be awarded to business concerns, including but not limited to individuals or firms doing business in

the field of planning, consulting, design, maintenance or repair, which are located in or owned in substantial part by persons residing in the program service area.

**Included in this appendix are the following:**

**Equal Housing Opportunity Logos**  
**Fair Housing Certification**  
**HUD Fair Housing Brochure**

