
Special Attention of:

All Secretary's Representatives
State Coordinators
All CPD Division Directors
All HOME Participating Jurisdictions
All CDBG Grantees

Notice: OHHLHC - 05

Issued: 1/12/01

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Cross Reference:

SUBJECT: Availability of Funds for Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) Grantees for Clearance Testing Required by HUD's New Lead Safety Regulation

Purpose: This Notice provides information for Community Planning and Development (CPD) field staff and to CDBG and HOME grantees about the availability of additional funding to help pay for clearance testing that is required by Title X of the Housing and Community Development Act of 1992, as implemented at 24 CFR Part 35. HUD expects to provide this funding to eligible CDBG and HOME grantees by paying up to \$150 for the initial clearance test in each housing unit after lead hazard control activities.

Background: On September 15, 1999, HUD published a final regulation that imposed new requirements on certain housing units receiving CDBG and HOME assistance. Among other requirements, the new lead safety regulation requires CDBG or HOME grantees providing funds for rehabilitation, acquisition, and tenant-based rental assistance to perform clearance testing (or clearance examination) after certain lead hazard control activities. The clearance test ensures that all lead hazard control work required in a unit was completed and that no lead-based paint hazards remain. The effective date of this rule is September 15, 2000.

In response to concerns regarding grantee capacity and the availability of qualified personnel to undertake the required work, HUD published a transition assistance policy in the Federal Register on September 11, 2000 to assist grantees with implementing the new Part 35 requirements (the transition assistance notice and related documents are available at www.hud.gov/lea). As part of its transition policy, HUD is providing additional funds to eligible CDBG and HOME grantees. These funds for lead clearance testing are for grantees that implement the new regulations, in recognition of the costs grantees incur for the newly required clearance testing.

Eligible grantees and Eligible Clearance Tests: Eligible recipients for this assistance are CDBG and HOME grantees that incur costs for clearance testing required by 24 CFR Part 35 for housing receiving CDBG assistance or for HOME projects, when the clearance test was conducted after the written agreement is provided to the grantees by the HUD contractor. Funding will be provided for the actual costs of the test up to \$150 per test.

Fund Allocation: HUD is setting aside \$11,000,000 [subject only to the availability of appropriations] for this offer to pay for clearance testing, under the conditions set forth in this Notice. HUD believes the amount set-aside to be sufficient to pay clearance testing costs incurred for at least a 12-month period. HUD will make the funds available to eligible grantees for at least 12 months or, at HUD's option, until the funds are exhausted. The 12 month period will begin as soon as the written agreement formats are provided to the grantees by the HUD contractor.

Funding Mechanism: HUD is arranging with a contractor to provide funds directly to the grantee. The grantee will obtain a written commitment obligating the HUD contractor to pay the costs of clearance testing (not to exceed \$150 per unit) for a specified number of units (provided that the testing meets the conditions of this Notice) when the grantee is ready to sign one or more contracts for clearance testing. To obtain payment, the grantee will certify to the conditions of this Notice and provide data to the HUD contractor. The HUD contractor will then pay the grantee promptly. If CDBG or HOME funds were originally used to pay for the clearance test then the funds from the HUD contractor must be deposited in the CDBG or HOME program account and accounted for as an applicable credit.

If the grantee is using its staff to conduct the testing, the grantee will obtain a written commitment obligating the HUD contractor to pay the costs of clearance testing (not to exceed \$150 per unit) for a specified number of units (provided that the testing meets the conditions of this Notice) which the grantee estimates will be tested during a specified period. To obtain payment, the grantee will certify to the conditions of this Notice and provide data to the HUD contractor. The HUD contractor will then pay the grantee promptly.

Data needed for each clearance testing performed by the grantee's contractor will include address of the property, date clearance report issued, and a copy of the contractor's invoice. Data needed for clearance testing performed by grantee staff are the salary costs, the employee name(s), hourly pay, number of hours worked on the test, and for lab tests, a copy of the invoice. Submissions may be batched but each clearance test must be documented individually.

Further Information: To find clearance testing firms, grantees may wish to use the "Lead Listing" which can be reach from www.hud.gov/lea or call HUD's Lead Compliance Assistance Center at (866) HUD-1012.

Additional information about HUD's Lead Safe Housing Rule and HUD's transition assistance policy is available on the Office of Lead Hazard Control's website at www.hud.gov/lea, or from HUD's Lead Compliance Assistance Center at (866) HUD-1012.

HUD Field Office staff can obtain additional information by contacting the Office of Block Grant Assistance, the Office of Affordable Housing Programs, or the Office of Healthy Homes and Lead Hazard Control. Further details on procedures will be issued when the HUD contractor is chosen.
