

South Dakota's Emergency Solutions Grant Program Desk Guide

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SECTION 1: PROGRAM OVERVIEW

The Emergency Solutions Grants Program (ESG), formerly known as the Emergency Shelter Grants Program is a federal block grant authorized by subtitle B of the McKinney Vento Homeless Assistance Act and administered by the U.S. Department of Housing and Urban Development (HUD). The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH) revised the Emergency Shelter Grants Program and renamed it the Emergency Solutions Grants Program.

As a result of the HEARTH Act, the new ESG expands the eligible activities for emergency shelter and homelessness prevention activities to include short- and medium-term rental assistance and services to stabilize and rapidly re-house individuals and households who are homeless or at risk of becoming homeless. One of the main changes to the ESG program is an increased focus on homelessness prevention services and rapid re-housing activities as evidenced with the emphasis on homelessness prevention and the addition of a new rapid re-housing activity.

The South Dakota's Emergency Solutions Grant Program Desk Guide is intended to assist sub-recipients with the administration of the ESG Program. Sub-recipients are encouraged to review 24 CFR Parts 91 and 576 for complete program information.

SECTION 2: POLICY

ELIGIBLE ACTIVITIES:

Subrecipients may use ESG funds for five program components: Street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS. The five program components and the eligible activities that may be funded under each are set forth in 576.101 through CFR 576.107.

Subject to the cost principles in OMB Circulars A-87 (2 CFR 225) and A-122 (2 CFR 230) and other requirements in this part, employee compensation and other overhead costs directly related to carrying out street outreach, emergency shelter, homelessness prevention, rapid rehousing, and HMIS are eligible costs of those program components. These costs are not administrative costs.

STREET OUTREACH COMPONENT

Subject to the expenditure limit in CFR 576.100(b), ESG funds may be used for costs of providing essential services necessary to reach out to unsheltered homeless people; connect them with emergency shelter, housing, or critical services; and provide urgent, non-facility based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility. For the purposes of this section, the term “unsheltered homeless people” means individuals and families who qualify as homeless under paragraph (1)(i) of the “homeless” definition under CFR 576.2. The eligible costs and requirements for essential services consist of:

Engagement

The costs of activities to locate, identify, and build relationships with unsheltered homeless people and engage them for the purpose of providing immediate support, intervention, and connections with homeless assistance programs and/or mainstream social services and housing programs. These activities consist of making an initial assessment of needs and eligibility; providing crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; and actively connecting and providing information and referrals to programs targeted to homeless people and mainstream social services and housing programs, including emergency shelter, transitional housing, community-based services, permanent supportive housing, and rapid rehousing programs. Eligible costs include the cell phone costs of outreach workers during the performance of these activities.

Case Management

The costs of assessing housing and service needs, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant. Eligible services and activities are as follows: using the centralized or coordinated assessment system as required under CFR 576.401(a), including verifying and documenting

eligibility; counseling; developing, securing and coordinating services, obtaining Federal, State, and local benefits; monitoring and evaluating program participant progress; providing information and referrals to other providers; and developing an individualized housing and service plan for permanent housing stability.

Emergency HEALTH Services

1. Eligible costs are for the direct outpatient treatment of medical conditions and are provided by licensed medical professionals operating in community-based settings, including streets, parks, and other places where unsheltered homeless people are living.
2. ESG funds may be used only for these services to the extent that other appropriate health services are inaccessible or unavailable within the area.
3. Eligible treatment consists of assessing a program participant's health problems and developing a treatment plan; assisting program participants to understand their health needs; providing directly or assisting program participants to obtain appropriate emergency medical treatment; and providing medication and follow-up services.

Emergency MENTAL Health Services

1. Eligible costs are the direct outpatient treatment by licensed professionals of mental health conditions, operating in community-based settings, including streets, parks, and other places where unsheltered people are living.
2. ESG funds may be used only for these services to the extent that other appropriate mental health services are inaccessible or unavailable with the community.
3. Mental health services are the application of therapeutic processes to personal, family, situational or occupational problems in order to bring about positive resolution of the problem of improved individual or family functioning or circumstances.
4. Eligible treatment consists of crisis interventions, the prescription of psychotropic medications, explanation about the use and management of medications, and combinations of therapeutic approaches to address multiple problems.

Transportation

The transportation costs of travel by outreach workers, social workers, medical professionals, or other service providers are eligible, provided that this travel takes place during the provision of services eligible under this section. The costs of transporting unsheltered people to emergency shelters or other service facilities are also eligible. These costs include the following:

1. The costs of a program participant's travel on public transportation;

- a. If service workers use their own vehicles, mileage allowance for service workers to visit program participants;
2. The travel costs of subrecipient staff to accompany or assist program participants to use public transportation.

Services for Special Populations

ESG funds may be used to provide services for homeless youth, victim services, and services for people living with HIV/AIDS, so long as the costs of providing these services are eligible. The term victim services means services that assist program participants who are victims of domestic violence, dating violence, sexual assault, or stalking, including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking. Eligible costs include:

1. Engagement
2. Case Management
3. Emergency Health Services
4. Emergency Mental Health Services
5. Transportation

EMERGENCY SHELTER COMPONENT

Subject to the expenditure limit in CFR 576.100(b), ESG funds may be used for costs of providing essential services to homeless families and individuals in emergency shelters, renovating building to be used as emergency shelter for homeless families and individuals, and operating emergency shelters. ESG funds may be used to provide essential services to individuals and families who are in an emergency shelter as follows:

Renovation

Eligible costs include labor, materials, tools and other costs for renovation (including major rehabilitation of an emergency shelter or conversion of a building into an emergency shelter). The emergency shelter must be owned by a government entity or private nonprofit organization.

Shelter Operations

Eligible costs are the costs of maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies necessary for the operations of the emergency shelter. Where no appropriate emergency shelter is available for a homeless family or individual, eligible costs may also include a hotel or motel voucher for that family or individual.

Essential Services

Case Management

The costs of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant is eligible. Component services and activities consist of:

1. Using the centralized assessment system intake;
2. Conducting the initial evaluation required under CFR 576.401(a), including verifying and documenting eligibility;
3. Counseling;
4. Developing, securing and coordinating services and obtaining Federal, State, and local benefits;
5. Monitoring and evaluating program participant's progress;
6. Providing information and referrals to other providers;
7. Providing on-going risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking, and;
8. Developing an individualized housing and service plan, including planning a path to permanent housing stability.

Child Care

The costs of child care for program participants, including providing meals and snacks, and comprehensive and coordinated sets of appropriate developmental activities, are eligible. The children must be under the age of 13, unless they are disabled. Disabled children must be under the age of 18. The child care center must be licensed by the State in order for its costs to be eligible.

Education Services

When necessary for the program participant to obtain and maintain housing, the costs of improving education, health education, substance abuse prevention, literacy, English as a Second Language, and General Educational Development (GED) are eligible. Component services or activities are screening, assessment and testing; individual or group instruction; tutoring; provision of books, supplies and instructional material; counseling; and referral to community resources.

Employment Assistance and Job Training

The costs of employment assistance and job training programs are eligible, including classroom, online and/or computer instruction; on-the-job instruction; and services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is an eligible cost. Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates. Services that assist individuals in securing employment consist of employment screening, assessment, or testing, structured job skills and job-seeking skills; special training and tutoring, including literacy training and prevocational training; books and instructional material; counseling or job coaching; and referral to community resources.

Outpatient Health Services

Eligible costs are for the direct outpatient treatment of medical conditions and are provided by licensed medical professionals. ESG funds may be used only for these services to the extent that other appropriate health services are unavailable within the community. Eligible treatment consists of assessing a program participant's health problems and developing a treatment plan; assisting program participants to understand their health needs; providing directly or assisting program participants to obtain appropriate medical treatment, preventative medical care, and health maintenance services, including emergency medical services; providing medication and follow-up services; and providing preventive and non-cosmetic dental care.

Legal Services

1. Eligible costs are the hourly fees for legal advice and representation by attorneys licensed and in good standing with the bar association of the State in which the services are provided, and by person(s) under the supervision of the licensed

attorney, regarding matters that interfere with the program participant's ability to obtain and retain housing.

2. ESG funds may be used only for these services to the extent that other appropriate legal services are unavailable or inaccessible within the community.
3. Eligible subject matters are child support, guardianship, paternity, emancipation, and legal separation, orders of protection and other civil remedies for victims of domestic violence, dating violence, sexual assault, and stalking, appeal of veterans and public benefit claim denials, and resolution of outstanding criminal warrants.
4. Component services or activities may include client intake, preparation of cases for trial, provision of legal advice, representation at hearings, and counseling.
5. Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's employees' salaries and other costs necessary to perform the services.
6. Legal services for immigration and citizenship matters and issues relating to mortgages are ineligible costs. Retainer fee arrangements and contingency fee arrangement are ineligible costs as well.

Life Skills Training

The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, substance use, and homelessness are eligible costs. These services must be necessary to assist the program participant to function independently in the community. Component life skills training are budgeting resources, managing money, managing a household, resolving conflict, shopping for food and needed items, improving nutrition, using public transportation, and parenting.

Mental Health Services

1. Eligible costs are the direct outpatient treatment by licensed professional of mental health conditions.
2. ESG funds may only be used for these services to the extent that other appropriate mental health services are unavailable or inaccessible within the community.
3. Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or

circumstances. Problem areas may include family and marital relationships, parent-child problems, or symptom management.

4. Eligible treatment consists of crisis interventions; individual, family or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.

Substance Abuse Treatment Services

1. Eligible substance abuse treatment services are designed to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors and are provided by licensed or certified professionals.
2. ESG funds may only be used for these services to the extent that other appropriate substance abuse treatment services are unavailable or inaccessible within the community.
3. Eligible treatment consists of client intake and assessment, and outpatient treatment for up to 30 days. Group and individual counseling and drug testing are eligible costs. Inpatient detoxification and other inpatient drug or alcohol treatment are not eligible costs.

Transportation

Eligible transportation costs consist of a program participant's travel to and from medical care, employment, child care, or other eligible essential services facilities. These costs include the following:

1. The cost of a program participant's travel on public transportation;
2. If subrecipient staff use their own vehicles, mileage allowance for staff to visit program participants; and
3. The travel costs of subrecipient staff to accompany or assist program participants to use public transportation.

Services for Special Populations

ESG funds may be used to provide services for homeless youth, victim services, and services for people living with HIV/AIDS, so long as the costs of providing these services are eligible. The term victim services means services that assist program participants who are victims of domestic violence, dating violence, sexual assault or stalking, including services offered by rape crisis centers and domestic violence shelters, and other organizations with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

HOMELESSNESS PREVENTION COMPONENT

ESG funds may be used to provide housing relocation and stabilization services and short- and/or medium-term rental assistance necessary to prevent an individual or family from moving into an emergency shelter or another place described in paragraph (1) of the “homeless” definition in CFR 576.2. This assistance, referred to as homelessness prevention, may be provided to individuals and families who meet the criteria under the “at risk of homelessness” definition or who meet the criteria in paragraph (2), (3), or (4) of the “homeless” definition in CFR 576.2 and have an annual income BELOW 30% traditional ESG/50% ESG-CV of median family income for the area, as determined by HUD. The costs of homelessness prevention are only eligible to the extent that the assistance is necessary to help the program participant regain stability in the program participant’s current permanent housing or move into other permanent housing and achieve stability in that housing. Homelessness prevention must be provided in accordance with the housing relocation and stabilization services requirements in CFR 576.105, the short-term and medium-term rental assistance requirements in 576.106, and the written standards and procedures established under CFR 576.400.

The following requirements apply to program participants assisted through the ESG for Homeless Prevention:

1. **Evaluations.** The subrecipient must conduct an initial evaluation to determine the eligibility of each individual or family’s eligibility for ESG assistance and the amount and types of assistance the individual or family needs to remain stably housed in permanent housing. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements set forth under CFR 4576.400(d) and the written standards established under CFR 576.400(e).
2. **Re-evaluations.** The subrecipient must re-evaluate the program participant’s eligibility and the types of and amounts of assistance the program participants needs not less than once every 3 months for program participants receiving homeless prevention funding. At a minimum, each re-evaluation of eligibility must establish that:
 - a. The program participant must have an annual income that is AT OR BELOW 30% traditional ESG/50% ESG-CV of median family income for the area, as determined by HUD; and
 - b. The program participant lacks sufficient resources and support networks necessary to retain housing without ESG assistance

The subrecipient may require each program participant receiving homelessness prevention assistance to notify the subrecipient regarding changes in the program participant’s income or other circumstances (e.g., changes in household composition) that affect the program participant’s need for assistance under ESG. When notified of a relevant change, the

subrecipient must re-evaluate the program participant's eligibility and the amount and types of assistance the program participant needs.

3. Individuals/households assisted under the homelessness prevention component must have an income below (30%) of family area median income as determined by HUD.
4. Individuals/households receiving funding under this program must qualify as at-risk household as further defined in (CFR 576.103) and the definitions contained in (CFR 576.2).
5. Individuals/households eligible for assistance are lacking sufficient resources or support networks, e.g. family, friends, faith-based organizations, or other social networks, immediately available to prevent them from moving into an emergency shelter or a primary nighttime residence that is not designed for or ordinarily used as a regular sleeping accommodation for human beings.
6. Homelessness Prevention gives priority to individuals and families, who are currently in housing, but are at risk of becoming homeless and temporary rent or utility assistance would prevent them from becoming homeless or, who need assistance to move to another unit; and fall into at least one of these secondary risk criteria:
 - a. Individual/family has moved 2 or more times due to economic reasons over a 60 day period;
 - b. Individual/family is living in a home of another or doubled-up due to economic hardship;
 - c. Individual/family lives in a hotel or motel not paid for by a government or charitable organization;
 - d. Individual/family lives in an overcrowded housing unit as defined by the US Census Bureau;
 - e. Individual/family is exiting a publicly funded institution or system of care;
 - f. Involvement with children and youth;
 - g. Domestic violence situations;
 - h. Individual/family experiencing persistent housing instability due to factors such as chronic physical health or mental health conditions, substance addiction, histories of domestic violence or abuse, the presence of a child with disabilities or having two or more barriers to employment.
7. The costs of homelessness prevention are only eligible to the extent necessary to help the program participant regain stability in their current permanent housing or move into other permanent housing and achieve stability in that housing.

Housing Relocation and Stabilization Services

Subject to the general restrictions under the Homelessness Prevention Component, ESG funds may be used to pay the costs of providing the following service(s). Subrecipient may set a maximum dollar amount and/or a maximum period of time that a program participant may receive for each type of financial assistance. The following financial assistance cannot be provided to a program participant who is receiving the same type of assistance through other public sources.

Services:

Housing Search and Placement: Services or activities necessary to assist program participants in locating, obtaining, and retaining suitable permanent housing, include the following:

- a. Assessment of housing barriers, needs, and preferences;
- b. Development of an action plan for locating housing;
- c. Housing search;
- d. Outreach to and negotiation with owners;
- e. Assistance with submitting rental applications and understanding leases;
- f. Assessment of housing for compliance with Emergency Solutions Grant (ESG) requirements for habitability, lead-based paint, and rent reasonableness;
- g. Assistance with obtaining utilities and making moving arrangements; and
- h. Tenant Counseling

Housing Stability Case Management: ESG funds may be used to pay cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a program participant who resides in permanent housing or to assist a program participant in overcoming immediate barriers to obtaining housing. This assistance cannot exceed 30 days during the period the program participant is seeking permanent housing and cannot exceed 24 months during the period the program participant is living in permanent housing. Component services and activities consist of:

- a. Using the centralized or coordinated assessment system as required under CFR 576.400(d), to evaluate individuals and families applying for or receiving homelessness prevention or rapid re-housing assistance;
- b. Conducting the initial evaluation required under CFR 576.401(a), including verifying and documenting eligibility, for individuals and families applying for homelessness prevention or rapid re-housing assistance;

- c. Counseling;
- d. Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;
- e. Monitoring and evaluating program participant progress;
- f. Providing information and referrals to other providers;
- g. Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
- h. Conducting re-evaluations required under CFR 576.401(b).

Mediation: ESG funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

Legal Services: ESG funds may pay for legal services, as set forth in 576.102(a)(1)(vi), except that the eligible subject matters also include landlord/tenant matters, and the services must be necessary to resolve a legal problem that prohibits the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing in which they currently resides.

Credit Repair: ESG funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.

Financial Assistance:

Rental Application Fees: ESG funds may pay for the rental housing application fee that is charged by the owner to all applicants.

Security Deposit: Per South Dakota Law, ESG funds may pay for a security deposit that is equal to one month rent. A larger deposit may be collected by mutual agreement where special conditions pose a danger to maintenance of the premises. Security Deposit is a one-time benefit.

Last Month's Rent: If necessary to obtain housing for a program participant, the last month's rent may be paid from ESG funds to the owner of that housing at the time the owner is paid the security deposit and the first month's rent. This assistance must not exceed one month's rent and must be included in calculating the program participant's total rental assistance, which cannot exceed 24 months during any 3-year period.

Utility Deposits: ESG funds may pay for a standard utility deposit required by the utility company for all customers for the utilities listed in this section. This is a one-time benefit per utility type.

Utility Payments: ESG funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided for the program participant or a member of the same household who has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.

Moving costs: ESG funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.

Rental Assistance:

Short-Term and Medium-Term Rental Assistance

For homelessness prevention short-term and medium-term rental assistance, ESG funds may provide a program participant with up to 24 months of rental assistance during any 3 year period. This assistance may be short-term rental assistance, medium-term rental assistance, payment of rental arrears, or any combination of this assistance.

- a. Short-term rental assistance is assistance for up to 3 months of rent;
- b. Medium-term rental assistance is assistance for more than 3 months but not more than 24 months of rent;
- c. Payment of rental arrears consists of a onetime payment for up to 6 months of rent in arrears, including any late fees on those arrears;
- d. Rental assistance may be tenant-based or project-based;

Discretion of Set Caps and Conditions. The subrecipient may set a maximum amount or percentage of rental assistance that a program participant may receive, a maximum number of months that a program participant may receive rental assistance, or a maximum number of times that a program participant may receive rental assistance. The subrecipient may also require program participants to share in the costs of rent. All units must meet Fair Market Rent requirements as established by HUD.

Use with Other Subsidies. Except for a one-time payment of rental arrears on the tenant's portion of the rental payment, rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance through other public sources. Rental assistance

may not be provided to a program participant who has been provided with replacement housing payments under the URA during the period of time covered by the URA payments.

Program participant who receives tenant-based rental assistance may select a housing unit in which to live and may move to another unit or building and continue to receive rental assistance, as long as the program participant continues to meet the program requirements.

For tenant-based rental assistance, the subrecipient may require that all program participants live within a particular area for the period in which the rental assistance is provided.

Changes in Household Composition. The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family.

Rental Assistance Agreement. The subrecipient may make rental assistance payments only to an owner with whom the subrecipient has entered into a rental assistance agreement. The rental assistance agreement must set forth the terms under which rental assistance will be provided, including the requirements that apply under this section. The rental assistance agreement must provide that, during the term of the agreement, the owner must give the subrecipient a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant.

For project-based rental assistance, the rental assistance agreement may cover one or more permanent housing units in the same building. The program participant's lease must not contain the term of occupancy to the provision of rental assistance payments. The rental assistance agreement must have an initial term of one year. Under no circumstances may the subrecipient commit ESG funds to be expended beyond the expenditure deadline in CFR 576.203 or commit funds for a future ESG grant before the grant is awarded.

For tenant-based, a rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if:

- a. The program participant moves out of the housing unit for which the program participant has a lease;
- b. The lease terminates and is not renewed; or
- c. The program participant becomes ineligible to receive ESG rental assistance.

Late Payments. The subrecipient must make timely payments to each owner in accordance with the rental assistance agreement. The rental assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The subrecipient is solely responsible for paying late payment penalties that it incurs with non-ESG funds.

Lease. Each program participant receiving rental assistance must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the assistance is solely for arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks. For program participants living in housing with ESG project-based rental assistance, the lease must have an initial term of one year.

Assistance to eligible persons/families funded the ESG cannot exceed 24 months of rental assistance, 24 months of utility payment assistance including up to 6 months of arrears (utility/rent) during any three year period.

RAPID RE-HOUSING ASSISTANCE COMPONENT

ESG funds may be used to provide housing relocation and stabilization services and short-and/or medium-term rental assistance as necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing. This assistance, referred to as rapid re-housing assistance, may be provided to program participants who meet the criteria under paragraph (1) of the “homeless” definition in CFR 576.2 or who meet the criteria under paragraph (4) of the “homeless” definition and live in an emergency shelter or other place described in paragraph (1) of the “homeless” definition. The rapid re-housing assistance must be provided in accordance with the housing relocation and stabilization service requirements of CFR 576.105, the short-and medium-term rental assistance requirements of CFR 576.108, and the written standards and procedures established under CFR 576.400

Evaluations. The subrecipient must conduct an initial evaluation to determine the eligibility of each individual or family’s eligibility for ESG assistance and the amount and types of assistance the individual or family needs to remain stably housed in permanent housing. These evaluations must be conducted in accordance with the centralized assessment requirements set forth under 4576.400(d) and the written standards established under CFR 576.400(e).

Re-evaluations. The subrecipient must re-evaluate the program participant’s eligibility and the types of and amounts of assistance the program participant needs annually. At a minimum, each re-evaluation of eligibility must establish that:

- a. The program participant must have an annual income that is AT OR BELOW 30% traditional ESG/50% ESG-CV of median family income for the area, as determined by HUD; and
- b. The program participant lacks sufficient resources and support networks necessary to retain housing without ESG assistance

The subrecipient may require each program participant receiving rapid re-housing assistance to notify the subrecipient regarding changes in the program participant’s income or other circumstances (e.g., changes in household composition) that affect the program participant’s need for assistance under ESG. When notified of a relevant change, the subrecipient must re-evaluate the program participant’s eligibility and the amount and types of assistance the program participant needs.

Housing Relocation and Stabilization

Subject to the general restrictions under the Rapid Re-Housing Component, ESG funds may be used to pay the costs of providing the following services. Subrecipient may set a maximum dollar amount that and/or a maximum period of time that a program participant may receive for each type of financial assistance. The following financial assistance cannot be provided to a program participant who is receiving the same type of assistance through other public sources.

Services:

Housing Search and Placement: Services or activities necessary to assist program participants in locating, obtaining, and retaining suitable permanent housing, include the following:

- a. Assessment of housing barriers, needs, and preferences;
- b. Development of an action plan for locating housing;
- c. Housing search;
- d. Outreach to and negotiation with owners;
- e. Assistance with submitting rental applications and understanding leases;
- f. Assessment of housing for compliance with Emergency Solutions Grant (ESG) requirements for habitability, lead-based paint, and rent reasonableness;
- g. Assistance with obtaining utilities and making moving arrangements; and
- h. Tenant Counseling

Housing Stability Case Management: ESG funds may be used to pay cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to facilitate housing stability for a program participant who resides in permanent housing or to assist a program participant in overcoming immediate barriers to obtaining housing. This assistance cannot exceed 30 days during the period the program participant is seeking permanent housing and cannot exceed 24 months during the period the program participant is living in permanent housing. Component services and activities consist of:

- a. *Using the centralized or coordinated assessment system as required under 576.400(d), to evaluate individuals and families applying for or receiving homelessness prevention or rapid re-housing assistance;*
- b. Conducting the initial evaluation required under 576.401(a), including verifying and documenting eligibility, for individuals and families applying for homelessness prevention or rapid re-housing assistance;
- c. Counseling;
- d. Developing, securing, and coordinating services and obtaining Federal, State, and local benefits;
- e. Monitoring and evaluating program participant progress;
- f. Providing information and referrals to other providers;
- g. Developing an individualized housing and service plan, including planning a path to permanent housing stability; and
- h. Conducting re-evaluations required under 576.401(b).

Mediation: ESG funds may pay for mediation between the program participant and the owner or person(s) with whom the program participant is living, provided that the mediation is necessary to prevent the program participant from losing permanent housing in which the program participant currently resides.

Legal Services: ESG funds may pay for legal services, as set forth in CFR 576.102(a)(1)(vi), except that the eligible subject matters also include landlord/tenant matters, and the services must be necessary to resolve a legal problem that prohibits the program participant losing the permanent housing in which the program participant from obtaining permanent housing or will likely result in the program participant losing the permanent housing currently resides.

Credit Repair: ESG funds may pay for credit counseling and other services necessary to assist program participants with critical skills related to household budgeting, managing money, accessing a free personal credit report, and resolving personal credit problems. This assistance does not include the payment or modification of a debt.

Financial Assistance:

Rental Application Fees: ESG funds may pay for the rental housing application fee that is charged by the owner to all applicants.

Security Deposit: Per South Dakota Law, ESG funds may pay for a security deposit that is equal to one month rent. A larger deposit may be collected by mutual agreement where special conditions pose a danger to maintenance of the premises. Security deposit is a one-time benefit.

Last Month's Rent: If necessary to obtain housing for a program participant, the last month's rent may be paid from ESG funds to the owner of that housing at the time the owner is paid the security deposit and the first month's rent. This assistance must not exceed one month's rent and must be included in calculating the program participant's total rental assistance, which cannot exceed 24 months during any 3-year period.

Utility Deposits: ESG funds may pay for a standard utility deposit required by the utility company for all customers for the utilities list in the next section. This is a one-time benefit per utility type.

Utility Payments: ESG funds may pay for up to 24 months of utility payments per program participant, per service, including up to 6 months of utility payments in arrears, per service. A partial payment of a utility bill counts as one month. This assistance may only be provided for the program participant or a member of the same household who has an account in his or her name with a utility company or proof of responsibility to make utility payments. Eligible utility services are gas, electric, water and sewage. No program participant shall receive more than 24 months of utility assistance within any 3-year period.

Moving Costs: ESG funds may pay for moving costs, such as truck rental or hiring a moving company. This assistance may include payment of temporary storage fees for up to 3 months, provided that the fees are accrued after the date the program participant begins receiving assistance and before the program participant moves into permanent housing. Payment of temporary storage fees in arrears is not eligible.

Rental Assistance:

Short-Term and Medium-Term Rental Assistance:

For rapid re-housing short-term and medium-term rental assistance, ESG funds may provide a program participant with up to 24 months of rental assistance during any 3 year period. This assistance may be short-term rental assistance, medium-term rental assistance, payment of rental arrears, or any combination of this assistance.

- a. Short-term rental assistance is assistance for up to 3 months of rent;
- b. Medium-term rental assistance is assistance for more than 3 months but not more than 24 months of rent;
- c. Payment of rental arrears consists of a onetime payment for up to 6 months of rent in arrears, including any late fees on those arrears;
- d. All units must meet Fair Market Rent requirements as established by HUD;

Discretion of Set Caps and Conditions. The subrecipient may set a maximum amount or percentage of rental assistance that a program participant may receive a maximum number of months that a program participant may receive rental assistance, or a maximum number of times that a program participant may receive rental assistance. The subrecipient may also require program participants to share in the costs of rent. All units may be tenant-based or project-based.

Use with Other Subsidies. Except for a one-time payment of rental arrears on the tenant's portion of the rental payment, rental assistance cannot be provided to a program participant who is receiving tenant-based rental assistance through other public sources. Rental assistance may not be provided to a program participant who has been provided with replacement housing payments under the URA during the period of time covered by the URA payments.

Program participant who receives tenant-based rental assistance may select a housing unit in which to live and may move to another unit or building and continue to receive rental assistance, as long as the program participant continues to meet the program requirements.

For tenant-based rental assistance, the subrecipient may require that all program participants live within a particular area for the period in which the rental assistance is provided.

Changes in Household Composition. The limits on the assistance under this section apply to the total assistance an individual receives, either as an individual or as part of a family.

Rental Assistance Agreement. The subrecipient may make rental assistance payments only to an owner with whom the subrecipient has entered into a rental assistance agreement. The rental assistance agreement must set forth the terms under which rental assistance will be provided, including the requirements that apply under this section. The rental assistance agreement must provide that, during the term of the agreement, the owner must give the subrecipient a copy of any notice to the program participant to vacate the housing unit, or any complaint used under state or local law to commence an eviction action against the program participant.

The rental assistance agreement with the owner must terminate and no further rental assistance payments under that agreement may be made if:

- a. The program participant moves out of the housing unit for which the program participant has a lease;
- b. The lease terminates and is not renewed; or
- c. The program participant becomes ineligible to receive ESG rental assistance.

A rental assistance agreement must be in place for each unit assisted. The agreement must specify the terms and conditions under which rental assistance will be provided and conditions of the units occupied.

Late Payments. The subrecipient must make timely payments to each owner in accordance with the rental assistance agreement. The rental assistance agreement must contain the same payment due date, grace period, and late payment penalty requirements as the program participant's lease. The subrecipient is solely responsible for paying late payment penalties that it incurs with non-ESG funds.

Lease. Each program participant receiving rental assistance must have a legally binding, written lease for the rental unit, unless the assistance is solely for rental arrears. The lease must be between the owner and the program participant. Where the assistance is solely for arrears, an oral agreement may be accepted in place of a written lease, if the agreement gives the program participant an enforceable leasehold interest under state law and the agreement and rent owed are sufficiently documented by the owner's financial records, rent ledgers, or canceled checks.

Assistance to eligible persons/families funded the ESG cannot exceed 24 months of rental assistance, 24 months of utility payment assistance or 6 months of arrears (utility/rent) during any three year period.

HMIS Component

The HEARTH Act makes the Homeless Management Information System (HMIS) participation a statutory requirement for ESG subrecipients. Victim service providers cannot, and legal services organizations may choose to not, participate in HMIS. Providers that do not participate in HMIS must instead use a comparable database that produces unduplicated, aggregate reports. A domestic violence database (SDDVD) has been created for all victim service providers to enter their data.

Eligible Costs:

- a. The subrecipient may use ESG funds to pay the costs of contributing data to the HMIS/SDDVD designated by the Continuum of Care for the area, including the costs of:
 - i. Purchasing software or software licenses;
 - ii. Obtaining technical support;
 - iii. Paying charges for high-speed internet necessary to operate or contribute data to the HMIS;
 - iv. Paying salaries for operating HMIS, including:
 1. Completing data entry;
 2. Monitoring and reviewing data quality;
 3. Completing data analysis;
 4. Reporting to the HMIS Lead;
 5. Training staff on using the HMIS; and
 6. Implementing and complying with HMIS requirements;
 - v. Paying costs of staff to travel to and attend HUD-sponsored and HUD approved training on HMIS and programs authorized by Title IV of the McKinney-Vento Homeless Assistance Act;
 - vi. Paying staff travel costs to conduct intake; and
 - vii. Paying participation fees charged by the HMIS Lead, if the subrecipient is not the HMIS Lead. The HMIS Lead is the entity designated by the Continuum of Care to operate the area's HMIS.
- b. *General restrictions.* Activities funded under this section must comply with HUD's standards on Participation, data collection, and reporting under a local HMIS.
- c. If subrecipient is a victim services provider or a legal service provider, client-level data will be collected in the SD Domestic Violence Database (SDDVD) to generate aggregate reports based on the data.

SECTION III – PROGRAM REQUIREMENTS & GRANT ADMINISTRATION

Affirmatively Furthering Fair Housing: Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funding recipients. Subrecipients will have a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act. Protected classes include race, color, national origin, religion, sex, disability, and familial status. Subrecipients must take appropriate steps to ensure effective communication with persons with disabilities and limited English proficiency (LEP) persons.

State of South Dakota Grant Subrecipient Attestation: By signing this agreement, you, the Subrecipient, attest to meeting the following requirements per South Dakota Codified Law (SDCL) 1-56-1:

- a. A conflict of interest policy is enforced within the Subrecipient's organization;
- b. The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the Subrecipient's website;
- c. An effective internal control system is employed by the Subrecipient's organization; and
- d. If applicable, the Subrecipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the Subrecipient's website.

Subrecipient further represents that any and all concerns or issues it had in complying with the foregoing attestations were provided to the Grantee and resolved to their satisfaction prior to signing this agreement.

Audits: If the Subrecipient expends \$750,000 or more in federal awards (ESG, VOCA, etc.) during the Subrecipient's fiscal year, the Subrecipient must have an audit conducted in accordance with 2CFR Part 200, Subpart F-Audit Requirements. If the Subrecipient expends less than \$750,000 during any Subrecipient fiscal year, the Grantee may perform a more limited program or performance audit related to the completion of the Agreement, the eligibility of service or costs and adherence to Agreement provisions.

Calculating Annual Income: When determining the annual income of an individual or family, the subrecipient must use the standard for calculating annual income under 24 CFR 5.609 as follows:

- a. Annual income means all amounts, monetary or not, which:
 - (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
 - (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
 - (3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

b. Annual income includes, but is not limited to:

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);
- (6) Welfare assistance payments.
 - (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, financial assistance does not include loan proceeds for the purpose of determining income.

c. Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide (as defined in 24 CFR 5.403);

(6) Certain increases in income of a disabled member of qualified families residing in HOME assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.671(a))

(7) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(8) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(9) Self-Sufficiency Program Income (i-v)

i. Amounts received under training programs funded by HUD;

ii. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

iii. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

iv. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time; (ESG cannot provide a stipend)

v. Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs

(including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(10) Temporary, nonrecurring or sporadic income (including gifts);

(11) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(12) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(13) Adoption assistance payments in excess of \$480 per adopted child;

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that include assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

- a. Annualization of income. If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the subrecipient believes that past income is the best available indicator of expected future income, the subrecipient may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

Case Management: Case management is essential to the success of the Street Outreach, Essential Services, Homeless Prevention and Rapid Re-Housing Components of the ESG program. Meetings with a case manager are **REQUIRED** in order to receive ESG funding.

Effective case management is a core component of ESG services. The case manager assesses household needs, determines the best plan of action to address those needs, and facilitates access to the service and resources necessary for long-term housing stabilization.

The Housing Stabilization Plan is a tool that will be used to assess and develop a strategy to achieve a program participant's stability within the timeframe established by program regulations. Each subrecipient should develop and adopt a format to be used for a Housing Stabilization Plan. This Housing Stabilization Plan should be used to actively assist clients in meeting established outcomes based upon individual client need and should be referenced, revised and updated weekly throughout a client's participation in the program.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:

Subrecipient certifies that neither it nor its principals is presently disbarred, suspected, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or any state or local government department or agency. Subrecipient further agrees that it will immediately notify the Grantee if during the term of this Agreement it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

Coordinated Entry System (CES): The Continuum of Care (CoC), in conjunction with ESG subrecipients, developed a coordinated entry process in accordance with requirements established by HUD. This system allows for coordinated screening, assessment and referrals for ESG projects. This system guarantees coordinated entry processes to ensure that housing crisis response systems end current homelessness for all households and ensure that future homelessness is rare, brief and non-recurring.

Confidentiality: Each subrecipient must develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided with ESG assistance.

Conflicts of Interest:

1. *Organizational Conflicts of Interest:* The provision of any type of amount of ESG assistance may not be conditioned on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the subrecipient, or a parent or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent or subsidiary of the subrecipient, carry out the initial evaluation required under CFR 576.401 or administer homelessness prevention assistance under CFR 576.103.
2. *Individual Conflicts of Interest:* For the procurement of goods and services, the recipient and subrecipients must comply with the codes of conduct and conflict of interest requirements under 24 CFR 85.36 (for governments) and 24 CFR 84.42 (for private non-profit organizations).

In the event of a significant change in the conflict of interest policy, subrecipient agrees to provide immediate notice of such change to the Grantee, and provide a copy of the new conflict of interest policy. Subrecipient understands that any change in the conflict of interest policy may result in a change in their monitoring or other performance requirements under the grant and expressly agrees to comply with those changes and to facilitate any additional monitoring as required by the Grantee.

Consultation with Continuum of Care (Housing for the Homeless Consortium): The subrecipient must consult with the Housing for the Homeless Consortium in determining how to allocate ESG funds each program year; developing the performance standards for, and evaluating the outcomes of, projects and activities assisted by ESG funds, and developing funding, policies, and procedures for the administration and operation of the HMIS.

Coordination with Mainstream Resources: The subrecipient must coordinate and integrate, to the maximum extent practicable, ESG funded activities with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible.

Drug-Free Workplace Requirements: The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD's implementing regulations at 24 CFR part 21 apply to ESG.

Equal Access: On September 21, 2016, HUD published a final rule in the Federal Register entitled "Equal Access in Accordance with an individual's Gender Identity in Community Planning and Development Programs." Through the final rule, HUD ensures equal access to individuals in accordance with their gender identity in programs and shelter funded under programs administered by HUD's Office of Community Planning and Development (CPD). This rule builds upon HUD's February 2012 final rule entitled "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity", which aimed to ensure that HUD's housing programs would be open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status. The final rule requires that recipients and subrecipients of CPD funding, as well as owners, operators, and managers of shelters, and other buildings and facilities and providers of services funded in whole or in part by any CPD program to grant equal access to such facilities, and other building and facilities, benefits, accommodations and services to individuals in accordance with the individual's gender identity, and in a manner that affords equal access to the individual's family.

Faith-Based Organizations: Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to receive ESG funds. Neither the Federal Government nor a State or local government receiving funds under ESG shall discriminate against an organization on the basis of the organization's religious character or affiliation.

Organizations that are directly funded under the ESG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under ESG. If an organization conducts these activities, the

activities must be offered separately, in time or location, from the programs or services funded under ESG, and participation must be voluntary for program participants.

Any religious organization that receives ESG funds retains its independence from Federal, State, or local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ESG funds to support any inherently religious activities, such as worship, religious instructions or proselytization. Among other things, faith-based organizations may use space in their facilities to provide ESG funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an ESG funded religious organization retains its authority over its internal governance, and the organization may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statement and other governing documents.

An organization that receives ESG funds shall not, in providing ESG assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.

ESG funds may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. ESG funds may be used for the rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under the ESG program

Funds Disbursement: Subrecipient may request reimbursement as frequently as once a month, but in no case less than once a quarter, by submitting a Draw Request Form with a budget which details itemized ESG expenditures by activity and cost categories. No ESG funds will be disbursed until all required reports and substantiating documentation are submitted. Grantee will provide Subrecipient a copy of the draw request form. Also, returning remaining grant year funds to start utilizing a new grant year funding is prohibited.

Habitability Standards: Subrecipients **MUST** conduct a Habitability Standards Inspection on any unit that is receiving ESG funds. Subrecipients must certify that the unit has passed habitability standards before any ESG funds may be released. In addition, an annual habitability standards inspection must be conducted for any unit in which ESG funds are being used.

Hold Harmless: The Subrecipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or non-performance of the services or subject matter called for in this Agreement

Homeless Participation: The subrecipient must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policymaking entity of the subrecipient, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under the ESG program.

If the subrecipient is unable to meet this requirement, it must instead develop and implement a plan to consult with homeless or formerly homeless individuals in considering and making policies and decisions regarding any facilities, services, or other assistance that receive funding under the ESG Program. SDHDA will review the subrecipients plan during each on-site monitoring visit.

To the maximum extent practicable, the subrecipient must involve homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under ESG, in providing services for occupants of facilities assisted under ESG. This involvement may include employment or volunteer services.

Housing Waiver: In cases where a subrecipient wants to assist a program participant to reside in housing owned by the subrecipient, SDHDA must seek a waiver from HUD to allow the use of this housing for ESG participants. The subrecipient must submit a letter to SDHDA, who will submit a letter to the CPD Director of the local HUD office requesting a waiver for good cause, including a description of the benefit(s) to ESG participants. If HUD approves the waiver, the grantee will be notified of additional information or requirements necessary to ensure the use of housing is appropriate.

Insurance: The Subrecipient shall obtain and maintain in force insurance coverage of the types listed below. In the event of a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Subrecipient agrees to provide immediate notice to the Grantee and provide a new certification of insurance showing continuous coverage.

- Commercial General Liability Insurance
- Business Automobile Liability Insurance
- Worker’s Compensation Insurance
- Professional Liability Insurance

Lead Based Paint Inspection: Lead-Based Paint requirements apply for all pre-1978 units in which a child under age of six or pregnant woman resides, regardless of whether ESG assistance is being provided for the program participant to move into. This also applies to all shelters assisted under the ESG program as well as all housing occupied by program participants

Lobbying and Disclosure Requirements: The disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the Byrd Amendment), and implementing regulations at 24 CFR part 87, apply to ESG. Applicants must disclose, using Standard Form LLL (SF-LLL), “Disclosure of Lobbying Activities,” any funds, other than federally appropriated funds, that will be or have been used to influence federal employees, members of Congress, or congressional staff regarding specific grants or contracts.

Minimum Standards for Emergency Shelters: Any building for which Emergency Solutions Grant (ESG) funds are used for conversion, major rehabilitation, or other renovation, must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any emergency shelter that receives assistance for shelter operations must also meet the following minimum safety, sanitation, and privacy standards.

1. Structure and materials. The shelter building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents. Any renovation (including major rehabilitation and conversion) carried out with ESG assistance must use Energy Star and WaterSense products and appliances.
2. Access. The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C 794) and implementing regulations at 24 CFR part 8; the Fair Housing Act (42 U.S.C 3601 et seq.) and implementing regulations at 24 CFR part 100; and Title II of the Americans with Disability Act (42 U.S.C 12131 et seq.) and 24 CFR part 35, where applicable.
3. Space and Security. Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.
4. Interior air quality. Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.
5. Water supply. The shelter's water supply must be free of contamination.
6. Sanitary facilities. Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition, are private and are adequate for personal cleanliness and the disposal of human waste.
7. Thermal environment. The shelter must have any necessary heating/cooling facilities in proper operating condition.
8. Illumination and electricity. The shelter must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.
9. Food preparation. Food preparation area, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.
10. Sanitary conditions. The shelter must be maintained in a sanitary condition.
11. Fire safety. There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.

Monitoring: SDHDA will conduct a property review and on-site monitoring review. Notice of date and time of the reviews will be provided to Subrecipient 30 days prior. During the on-site monitoring review and at all times Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, representatives of the Federal Government and their designees, at any time during normal business hours, as often as the Grantee deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Actions required to resolve any concerns or discrepancies noted during the on-site review must be agreed upon by the Subrecipient within 30 days after receipt of the review report. Failure of the Subrecipient to comply with the above requirements will constitute a violation of this Agreement and may result in loss of ESG funding.

Nondiscrimination and Equal Opportunity Requirements: Subrecipients must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a). In addition, Subrecipients must make known that ESG rental assistance and services are available to all on a nondiscriminatory basis and ensure that all citizens have equal access to information about ESG and equal access to the financial assistance and services provided under this program. Among other things, this means that each subrecipient must take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency (LEP), pursuant to Title VI of the Civil Rights Act of 1964.

Procurement: Subrecipient shall comply with the procurement policies and requirements of the State of South Dakota and HUD concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income) shall revert to the Grantee upon termination of this Agreement.

HUD procurement policies and requirements for non-profit Subrecipients are contained in 24 CFR Part 84 and for States and local governments in 24 CFR Part 85.

Recordkeeping: Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of four (4) years after the termination of this Agreement. Notwithstanding the above, if there are litigations, claims, audits, negotiations or other actions that involve any of the records, the records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

Rent Reasonableness and Fair Market Rent (FMR): Subrecipients **MUST** ensure that ESG funds used for rental assistance be provided to eligible program participants only when the rent, including utilities (gross rent), for the housing unit:

1. Does not exceed the Fair Market Rent (FMR) established by HUD for each geographic area, as provided under 24 CFR 888 and 24 CFR 982.503; AND
2. Complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507

If the gross rent is at or below both the FMR **and** the rent reasonableness standard for a unit of comparable size, type, location, amenities, etc., ESG funds may be used to pay the rent amount

for the unit. SDHDA encourages subrecipients to ensure the financial sustainability of all rental units.

Reports: Subrecipients will be required to submit quarterly performance reports on outputs and outcomes including information on participants served to date, subpopulation information, funds drawn or expended, and match documentation. This format tracks the information the Grantee is required to report to HUD. One copy, per program, shall be submitted to Denise Albertson, Program Coordinator, at denise@sdhda.org by the 10th of the month following the end of each quarter for the period of program operation. Subrecipients will be able to print these reports from HMIS and the SDDVD.

Subrecipients are required to run the Universal Data Quality report at the end of each month. The subrecipient needs to review this report and correct any data quality errors. This report is available in HMIS and the domestic violence database.

Subrecipients will be required to upload a CSV (comma separated value) report to Sage yearly to complete HUD reporting requirements. Request for this report will be generated by the Program Coordinator and emailed via the Sage system, sage@sagehmis.info.

Sanctions: If SDHDA determines that a subrecipient is not complying with the requirements of this guide, the ESG plan or other applicable federal laws, SDHDA will take appropriate actions, which may include;

- Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;
- Direct the subrecipient to cease incurring costs with ESG funds;
- Require that some or all of the ESG funds amounts be remitted to SDHDA; or
- Reduce (de-obligate) the level of funds the subrecipient would otherwise be entitled to receive; or
- Elect to make the subrecipient ineligible for future SDHDA funding.

SDHDA reserves the right to review a subrecipient's balance of funds quarterly and re-allocate unused funds. Any ESG funds that become available to SDHDA as a result of a sanction will be made available (as soon as practicable) to other private non-profit organizations or units of general local government located in the state for use within specific time periods.

Termination of Housing Assistance: Subrecipients may terminate assistance to a program participant who violates program requirements. Subrecipients may also resume assistance to a program participant whose assistance was previously terminated. In terminating assistance to a program participant, subrecipients must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process, at a minimum, must consist of:

- Written notice to the program participant containing a clear statement of the reasons for termination;

- A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
- Prompt written notice of the final decision to the program participant.

Uniform Administrative Requirements: The requirements of 24 CFR Part 85 apply to the subrecipient that are units of general purpose local government except that 24 CFR 85.24 and 85.42 do not apply, and program income is to be used as match under 24 CFR 85.25(g). The requirements of 24 CFR part 84 apply to subrecipients that are private nonprofit organizations, except that 24 CFR 84.23 and 84.53 do not apply, and program income is to be used as the nonfederal share under 24 CFR 84.24(b). These regulations include allowable costs and non-Federal audit requirements.

VAWA Reauthorization Act: On November 16, 2016, HUD released a final rule regarding the implementation of housing protections authorized in the Violence Against Women Reauthorization Act of 2016 (VAWA) was published in the Federal Register. This final rule is a critical step in protecting housing of survivors of domestic and dating violence, sexual assault and stalking. The rule became effective on December 16, 2016. Please note that covered housing providers will have 180 days from the effective date to develop emergency transfer plans. Emergency transfer provisions were effective June 14, 2017.

- Extension of the core protections to CoC, ESG and HOPWA - The rule codifies the core protection across HUD's covered programs ensuring survivors are not denied assistance as an applicant, or evicted or have assistance terminated as a tenant, because the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault and stalking.
- Emergency Transfers - One of the key elements of VAWA's housing protections is the emergency transfer plan which allows for survivors to move to another safe and available unit if they fear for their life and safety. The final rule includes a model emergency transfer plan, which was required in VAWA 2013, and an emergency request form.
- Protections against denials, terminations and eviction that directly result from being a victim of domestic violence, dating violence, sexual assault and stalking – Survivors often face denial, termination or eviction from housing for a reason that seems unrelated to being a survivor (such as poor rental history or poor credit), but is actually a direct result of being a survivor of domestic violence, dating violence, sexual assault and stalking. For example, as part of an act of domestic violence an abuser may cause damage to the survivor's apartment, which in turn may cause the survivor to be evicted and have a poor rental history. To protect survivors in situations like these, the final rule prohibits any denial, termination or eviction that is "a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault and stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation or occupancy."
- Low-barrier certification process – The final rule makes it clear that under most circumstances, a survivor need only to self-certify in order to document the domestic

violence, dating violence, sexual assault or stalking, ensuring third party documentation does not cause a barrier in a survivor expressing their rights and receive the protections needed to keep themselves safe. The rule includes a certification form that may be used by covered housing providers.

Written Standards for Providing ESG Assistance. The subrecipient must establish and consistently apply written standards for providing ESG assistance, Administrative Plan. At a minimum these written standards must include:

- a. Standard policies and procedures for evaluating individuals' and families' eligibility for assistance under ESG
- b. Standards for targeting and providing essential services related to street outreach;
- c. Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, e.g., victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;
- d. Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
- e. Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers; other homeless providers; and mainstream service and housing providers. (See CFR 576.400(b) and (c) for a list of programs with which ESG funded activities must be coordinated and integrated to the maximum extent practicable);
- f. Policies and procedures for determining and prioritizing which eligible individuals and families will receive homelessness prevention assistance and which eligible families and individuals will receive rapid re-housing assistance;
- g. Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and
- h. Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months, or the maximum number of times the program participant may receive assistance.

SECTION IV: PROCEDURES

PROGRAM ADMINISTRATION:

Any subrecipient receiving ESG funds shall be subject to all of the requirements that apply to the grantee under the HUD ESG Interim Rules.

Subrecipients MUST:

- Assess every program applicant for risk of homelessness or verification of current homelessness, and to determine income and program eligibility.
- Use a clear documented process to determine the type, level, and duration of assistance for each program participant.
- Review and verify documents and payments to ensure compliance with HUD regulations and to avoid and prevent fraud.
- Certify eligibility at least once every 3 months for all program participants receiving homeless prevention and rapid re-housing assistance.
- Provide on-going case management or support services, as needed, to all program participants receiving Street Outreach, Essential Services, Homelessness Prevention and Rapid Re-Housing assistance in order to transition them to independence.
- Adhere to all data collection and reporting requirements.

MATCH REQUIREMENTS

Each subrecipient must match its ESG funds with an equal amount of funds received from sources other than this program. Matching funds may be obtained from any source, including any Federal source other than the ESG Program, as well as state, local and private sources. However, the subrecipient must ensure the laws governing any funds to be used as matching contributions do not prohibit those funds from being used to match ESG funds. Other criteria for matching funds follow:

1. The matching funds must be provided **AFTER** the date that SDHDA signs the grant agreement.
2. Matching funds used to match a previous ESG grant may not be used to match a subsequent ESG grant.
3. Matching funds that have been or will be counted as satisfying a match requirement of another Federal grant or award may not count as satisfying the match requirement of this program.
4. To count as match, cash distributions must be expended and noncash contributions must be made within the term of the ESG grant agreement.

Eligible Types of Matching Contributions: The matching requirement may be met by one or both of the following:

1. Cash contributions
2. Non-cash contributions – The value of any real property, equipment, goods or services, as well as the purchase value of any donated building.

****Special Note:** ESG funding under the CARES Act does not require match

MONITORING AND COMPLIANCE:

Subrecipients are expected to make available all client's, financial and program records for periodic review on a schedule established by SDHDA. In addition, subrecipients will maintain client files with all of the required documentation from HUD and SDHDA.

REIMBURSEMENT REQUESTS:

ESG subrecipients will submit monthly draw requests for reimbursement of program expenditures to SDHDA. Request will be reviewed in the order they are received by SDHDA. Lack of documentation or explanation may result in disallowance of expenses until appropriate documentation is submitted.

- Monthly draw requests will not be accepted by fax or email.
- Subrecipients are encouraged to send only one draw request per month.
- Clients must be entered into the HMIS System or DV Database prior to any reimbursement of their activities.
- Only incurred expenses are eligible for reimbursement. Expenses that are incurred prior to the contract date are not eligible.

Once a monthly draw request is received:

- Each client is verified in the HMIS System or DV Database.
- Each expense request is reviewed for accuracy and eligibility.
- If an expense item is missing documentation or SDHDA has a question regarding the expense and/or documentation that item will be disallowed. An explanation of why it was disallowed will be included in the return letter and notation as to whether the item can be resubmitted with a future draw. The remainder of the draw request will be processed.
- A letter along with an updated Requisition Form will be included with each reimbursement check.

A detailed list of instructions, an Itemization Form and a set of Financial Assistance and Housing Relocation & Stabilization forms are sent to each subrecipient for their use in submitting their monthly draw requests.

Subrecipients will submit, at a minimum annually, any additional reporting requirements by the Federal Government or SDHDA.

REALLOCATION AND RECAPTURE:

Subrecipients **MUST EXPEND 100%** of their funds within **18 months** from the date the grant agreement was signed by SDHDA.

SDHDA and HUD will closely track subrecipient expenditures in order to meet requirements and allow for reallocation if subrecipients have not spent their funds within the 18 month period.

SDHDA reserves the right to review a subrecipient's balance of funds quarterly and re-allocate funds if necessary.

ADMINISTRATIVE COSTS:

Only those agencies awarded administrative awards may be compensated for applicable administrative costs.

Administrative costs may be used for accounting for the use of grant funds; preparing reports for submission to SDHDA; and subrecipient staff salaries associated with these administrative costs. Administrative costs also include training for staff who will administer the program or case managers who will serve program participants, as long as this training is directly related to learning about ESG.

Administrative costs *do not* include the costs of issuing financial assistance, providing housing relocation and stabilization services, or carrying out eligible data collection and evaluation activities, as specified above, such as subrecipient staff salaries, costs of conducting housing inspections, and other operating costs. These costs should be included under one of the other eligible activity categories.

DOCUMENTATION AND FILE CONTENTS:

If a client is found to be eligible and appropriate for the ESG program after the initial interview, certain documents must be obtained and placed in the client file. Below is a list of general items. A sample of the Client Intake Form Checklist can be found under the "forms" tab in your binder.

1. ESG Centralized Intake Assessment
2. ESG Assessment Form (completed for each member of the household)
3. Identification: Copy of government issued proof of citizenship (birth certificate, social security card, driver's license, and passport).
4. ESG Housing Stabilization Plan
5. Non-housing Referrals (to mainstream resources and other agencies)
6. Housing Referrals (to permanent housing)
7. HMIS/SDDVD Client Consent to Release Information form
8. Correspondence & Case Notes
9. Follow-up after discharge documentation
10. Documentation of non-eligibility
11. If not eligible for assistance, documentation as to other assistance applicant was referred to
12. Income Verifications (third party documentation preferred)
13. Zero Income Affidavits (self-declaration documentation)
14. Other Income Correspondence
15. Rent Calculations

SECTION V: GLOSSARY

At Risk of Homelessness Definition:

CATEGORY ONE - An individual or family who:

- a. CONDITION ONE - Has an annual income BELOW 30% of median family income for the area, as determined by HUD; AND
- b. CONDITION TWO - Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “homeless” definition in this section; AND
- c. CONDITION THREE - Meetings one of the following seven (7) RISK factors:
 1. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance; OR
 2. Is living in the home of another because of economic hardship; OR
 3. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance; OR
 4. Lives in a hotel or motel and the costs of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals; OR
 5. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there resides more than 1.5 persons reside per room, as defined by the U.S> Census Bureau; OR
 6. Is exiting a publicly funded institution or system of care; OR
 7. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient’s approved Con Plan.

DOCUMENTATION REQUIREMENTS FOR CATEGORY ONE

CONDITION DOCUMENTATION

CONDITION TWO – documentation will require a self-certification, supported by other documentation when practicable (termination notice, employment compensation statement and health care/utility bill showing arrears).

CONDITION THREE – Self certification AND supporting documentation (third-party or oral or intake observation or documentation of due diligence.

RISK FACTOR DOCUMENTATION

RISK FACTOR ONE –

Notice of termination;
Health care bills indicating arrears;
Utility bills indicating arrears;

INTAKE OBSERVATION IS NOT APPROPRIATE.

RISK FACTOR TWO –

Eviction notice from tenant/homeowner
Documentation of termination from employment OR unexpected medical costs OR inability to maintain housing including utilities

RISK FACTOR THREE

Eviction Notice/Court Order from landlord/homeowner (**Only third party documentation allowed**)

RISK FACTOR FOUR

Letter from hotel/motel manager
Intake observation
Documentation of participant's payment for hotel/motel stay

RISK FACTOR FIVE

Lease
Unit details from Tax Assessor's Office
Intake Observation
(Must document the number of rooms in the unit AND the number of individuals living in the unit)

RISK FACTOR SIX

Discharge paperwork
Referral letter

RISK FACTOR SEVEN

Appropriate documentation depends on the characteristics identified in SDHDA's Consolidated Plan

Policies and procedures must establish documentation requirements in line with HUD's required order.

CATEGORY TWO - A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C.5732a(3)), section 637(11) of the Head Start Act (42 U.S.C.9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C.14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C1786(b)(15)); or

DOCUMENTATION REQUIREMENTS FOR CATEGORY TWO

Third Party – **WRITTEN ONLY**

Certification of homeless status (letter or standardized form)

CATEGORY THREE - A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardians(s) of that child or youth if living with her or him.

DOCUMENTATION REQUIREMENTS FOR CATEGORY THREE

Documentation from family or agency administering the Federal Program in which the youth resides.

Must confirm that family/guardian is residing with children/youth

Chronically Homeless Definition:

- (6) An individual who:
 - a. Is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - b. Has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least one year or on at least four separate occasions in the last 3 years, where each homeless occasion was at least 15 days; and

- c. Can be diagnosed with one or more of the following conditions: substance abuse disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000 (42 U.S.C 15002)), posttraumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability;
- (7) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) before entering that facility; and
- (8) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1); including a family whose composition has fluctuated while the head of household has been homeless.

Emergency Shelter means any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and which does not require occupants to sign leases or occupancy agreements.

Homeless Definition

1. CATEGORY ONE: Any individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - a. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camp ground;
 - b. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low income individuals); or
 - c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

DOCUMENTATION REQUIREMENTS FOR CATEGORY ONE

- (a) Written observation by the outreach worker; OR
 - (b) Written referral by another housing or service provider; OR
 - (c) Certification by the individuals or head of household seeking assistance stating that (s)he was living on the streets or in shelter;
 - (d) For individuals exiting an institution – one of the forms of evidence above AND:
 - 1. Discharge paperwork or written/oral referral, OR
 - 2. Written record of intake worker's due diligence to obtain above evidence AND certification by individual that they exited institution
2. CATEGORY TWO: An individual or family who will imminently lose their primary nighttime residence, provided that:
- a. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - b. No Subsequent residence has been identified; and
 - c. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.

DOCUMENTATION REQUIREMENTS FOR CATEGORY TWO

- a. A court order resulting from an eviction action notifying the individual or family that they must leave; OR
 - b. For individual and families leaving a hotel or motel – evidence that they lack the financial resources to stay; OR
 - c. A documented and verified oral statement; AND
 - d. Certification that no subsequent residence has been identified; AND
 - e. Self-certification or other written documentation that they individual lacks the financial resources and support necessary to obtain permanent housing.
3. CATEGORY THREE: Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- a. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C 2012),

section 17(b) of the Child Nutrition Act of 1995 (42 U.S.C 1786(b)) or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C 11434a);

- b. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
- c. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance, and
- d. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

RECORDING KEEPING REQUIREMENTS FOR CATEGORY THREE

- a. Certification by the nonprofit or state or local government that the individual or head of household seeking assistance met the criteria of homelessness under another federal statute; AND
 - b. Certification of no permanent housing in the last 60 days; AND
 - c. Certification by the individual or head of household, and any available supporting documentation, that (s)he has moved two or more times in the past 60 days; AND
 - d. Documentation of special needs OR 2 or more barriers.
4. CATEGORY FOUR: An individual or family who:
- a. Is fleeing, or is attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
 - b. Has no other residence; and
 - c. Lack the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

DOCUMENTATION REQUIREMENTS FOR CATEGORY FOUR

- a. For Victim Service Providers:
 - i. An oral statement by the individual or head of household seeking assistance which states: *they are fleeing; they have no subsequent residence; and they lack resources*. Statement must be documented by a self-certification or a certification by the intake worker;

- b. For Non-Victim Service Providers:
 - i. Oral statement by the individual or head of household seeking assistance that they are feeling. This statement is documented by a self-certification or by the caseworker. Where the safety of the individual or family is not jeopardized, the oral statement must be verified; AND

 - ii. Certification by the individual or head of household that no subsequent residence has been identified; AND

 - iii. Self-certification or other written documentation that the individual or family lacks the financial resources and support networks to obtain other permanent housing.

Homeless Management Information System (HMIS) means the information system designated by the Housing for the Homeless Consortium to comply with the HUD's data collection, management, and reporting standards and used to collect client level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness.

Homelessness Prevention means funds may be used to provide housing relocation and stabilization services and short-or medium-term assistance necessary to prevent an individual or family from moving into an emergency shelter and prevent incidences of homelessness.

Housing for the Homeless Consortium means the group composed of representatives of relevant organizations, which includes non-profit homeless providers; victim service providers; faith-based organizations; governments; businesses; advocates; public housing agencies; school districts; social service providers; mental health agencies; organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons that are organized to plan for and provide, as necessary, a system of outreach, engagement, and assessment; emergency shelter; rapid re-housing; transitional housing; permanent housing; and prevention strategies to address the various needs of homeless persons and persons at risk of homelessness for the State of South Dakota.

Housing Inventory Count (HIC): This is a point-in-time inventory of projects within the CoC that provide beds and units dedicated to serving persons who are homeless. It is intended to provide HUD and the CoC with information about the shelter and housing capacity of homeless crisis response systems. It should reflect the number of beds and units available on the night designated for the count that are dedicated to serve persons who are homeless.

Housing Status and Documentation: Each household served with housing relocation and stabilization services or short - medium term rental assistance is determined to be either homeless (for rapid re-housing assistance) or at risk of losing housing (for homelessness prevention assistance) through a housing status determination process that includes documentation of the household's current and past living situation. Documentation in the household file meets HUD's ESG Eligibility Determination and Documentation Guidance.

(RAPID RE-HOUSING)

Literally Homeless – Category 1 and 4 (see homeless definition above)

At-Imminent Risk of Literal Homelessness – Categories 2 and 4 (see homeless definition above)

At-Risk of Literal Homelessness – Category 3 (see homeless definition above)

(HOMELESS PREVENTION)

At-Risk of Homelessness – Category 1, 2 and 3 (see At-Risk Homeless Definition above)

Point-in-Time (PIT): Each project recorded in the HIC must provide a PIT count. This number should be the unduplicated number of persons served on the night of the count in the beds reported for the project. This includes all person who entered the project or exited after the date of the count. Rapid re-housing projects should only count person who are residing in permanent housing and being assisted by the RRH project on the night of the count.

Program Income shall have the meaning provided in 24 CFR 85.25. Program income includes any amount of a security or utility deposit returned to the subrecipient. THIS IS NOT AN ALLOWABLE COST IN THE ESG PROGRAM.

Program Participant means an individual or family who is assisted under the ESG program.

Rapid Re-Housing means ESG funds may be used to provide housing relocation and stabilization services and short-or medium-term rental assistance necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing.

Recipient means any State, territory, metropolitan city, or urban county, or in the case of reallocation, any unit of general purpose local government that is approved by HUD to assume financial responsibility and enters into a grant agreement with HUD to administer assistance under this part.

Sage: Reporting repository for the Consolidated Annual Performance Evaluation Report (CAPER). The CAPER is the primary mechanism for ESG Program accomplishment reporting.

SD Domestic Violence Database (SDDVD): SDHDA has created a separate database module for victim service providers to use to comply with HUD's data collection, management and reporting standards. SDDVD is used to collect client level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness.

Subrecipient means a unit of general purpose local government or private nonprofit organization to which a recipient makes available ESG funds.

Street Outreach means funds may be used for costs of providing essential services necessary to reach out to unsheltered homeless people; connect them with emergency shelter, housing, or critical services; and provide urgent non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing or an appropriate health facility.

Victim Service Provider means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault or stalking. This term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.