

## NOTICE OF FUNDING AVAILABILITY

### 2018-2019 EMERGENCY SOLUTIONS GRANT PROGRAM

#### A. Program Description:

The County of Riverside has opened the Online Application System for the FY 2018-2019 Emergency Solutions Grants (ESG) cycle. The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) amended the McKinney-Vento Homeless Assistance Act, revising the Emergency Shelter Grants Program in significant ways and renaming it the Emergency Solutions Grants (ESG) program. This interim rule, published in the Federal Register on December 5, 2011, revises the regulations for the Emergency Shelter Grants program by establishing the regulations for the Emergency Solutions Grants program, which replaces the Emergency Shelter Grants program. The change in the program's name, from Emergency Shelter Grants to Emergency Solutions Grants, reflects the change in the program's focus from addressing the needs of homeless people in emergency or transitional shelters to assisting people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness.

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), enacted into law on May 20, 2009, consolidates three of the separate homeless assistance programs administered by HUD under the McKinney-Vento Homeless Assistance Act into a single grant program, and revises the Emergency Shelter Grants program and renames it as the Emergency Solutions Grants (ESG) program. The HEARTH Act also codifies into law the Continuum of Care planning process, a longstanding part of HUD's application process to assist homeless persons by providing greater coordination in responding to their needs.

The nature of the program provides grants by formula to States, metropolitan cities, urban counties and U.S. territories for eligible activities, generally including essential services related to emergency shelter, rehabilitation and conversion of buildings to be used as emergency shelters, operation of emergency shelters, and homelessness prevention services. Emergency Solutions Grant (ESG) funds can be used to provide a wide range of services and supports under the five program **components**: Street Outreach, Emergency Shelter, Rapid Re-housing, Homelessness Prevention, and HMIS.

All activities funded with the County's ESG funds must provide funding to:

1. Engage homeless individuals and families living on the street;
2. Improve the number and quality of emergency shelters for homeless individuals and families;
3. Help operate these shelters;
4. Provide essential services to shelter residents;
5. Rapidly re-house homeless individuals and families utilizing housing first approach; and
6. Prevent families and individuals from becoming homeless

HUD allocates the fiscal year appropriation for ESG to eligible recipients in accordance with the percentage of ESG funding each jurisdiction was allocated for the previous fiscal year. However, where the ESG allocation for a metropolitan city or urban county would be less than .5 percent of the total fiscal year

appropriation for ESG, HUD adds that jurisdiction's allocation to the allocation for the State in which the jurisdiction is located.

Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378). Regulations are at 24 CFR part 576. Agreement is Emergency Solutions Grant (ESG) funds (CFDA 14.231).

**Note:** The Act to Prevent Mortgage Foreclosures and Enhance Mortgage Credit Availability Act was signed into law on May 20, 2009 (Public Law 111-22). Division B of this new law is the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act). The HEARTH Act amends Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371-11378) to rename the program the Emergency Solutions Grants program, expand the range of eligible activities under the program, and add or change certain program requirements. HUD is now in the process of revising the regulations at 24 CFR part 576 to implement these changes and make other refinements to the program and definitions.

As an Urban County in the Entitlement ESG program, the County receives an annual formula allocation of ESG funds from HUD. HUD determines the amount of each grant by using a formula comprised of several measures of community need, including the extent of poverty, population, housing overcrowding, age of housing, and population growth lag in relationship to other metropolitan areas.

The County's *Urban County ESG Program* includes all of the unincorporated areas of Riverside County as well as the "cooperating" cities of: Banning, Beaumont, Blythe, Canyon Lake, Coachella, Desert Hot Springs, Eastvale, Indian Wells, La Quinta, Murrieta, San Jacinto, and Wildomar.

## **B. ESG Award Information:**

Subject to Federal appropriations, the County anticipates receiving approximately \$995,000 in ESG funds for the FY 2018-2019 program. The actual amount of the County's allocation is determined by final funding appropriations from Congress and HUD's ESG allocation formula. Funds from this 2018-2019 ESG application cycle will be available to successful sub recipients no earlier than July 2018.

Depending upon the type of activity to be funded, a successful sub recipient will have one (1) year to complete, expend, and drawdown their ESG award.

Typical individual awards for ESG-funded activities range from \$10,000 to \$60,000 or more for emergency shelter, outreach services, rapid re-housing, and homelessness prevention eligible activities. For the 2017-2018 program years, the County received more than 12 eligible applications and made 10 grant awards.

All ESG awards made by the County will be in the form of a grant. Subrecipients will be required to execute an approved subrecipient agreement with the County; non-profit organizations, non-County governmental entities, and Tribal organizations will be required to execute an "ESG Agreement" with the County. A copy of template of the ESG Agreement is available upon request to EDA.

Please Note: organizations that have previously applied for County ESG funding are eligible to apply, and there is no limit on the number of applications an organization can submit.

## **C. Eligibility Information:**

### **1. Eligible Applicants:**

The County of Riverside will only accept ESG applications from the following organizations or entities:

1. Non-Profit organizations subject to 26 U.S.C. 501 (c)(3) of the tax code;
2. County of Riverside Agencies and Departments; and
3. Governmental agencies including Cities, Special Districts, and Tribes.

Individuals cannot apply for County ESG funding.

Non-profit organizations will be required to submit documentation as part of the ESG application pertaining to their incorporation, bylaws, and tax exempt status.

### **2. Cost Sharing and Leveraging:**

Applications for funding under the County's ESG allocation successfully demonstrate a matching contribution as provided under paragraph (a)(2) and (a)(3) of the ESG federal Regulations 24CFR 576, the recipient must make matching contributions to supplement the recipient's ESG program in an amount that equals the amount of ESG funds provided by HUD. Matching contributions, referred to as "leveraging", may be obtained from any eligible source, including any Federal source other than the ESG program, as well as state, local, and private sources. Additional requirements apply to matching contributions from a Federal source of funds. Matching contributions must be provided after the date that HUD signs the grant agreement. Applicants are encouraged to utilize the greatest amount of leveraging as possible to improve the competitiveness of their proposal.

### **3. Real Property Acquisition – Displacement of Tenants:**

Real Property Acquisition of an emergency shelter or drop-in-center is not eligible under ESG. In addition, ESG funds are ineligible activities including;

- Costs involved with preparation of work specifications or building inspection.
- Costs of renovating, rehabilitating, or converting buildings owned by religious organizations unless special conditions are met as outlined in the Code of Federal Regulations found at 24 CFR Part 576.21. Paraphrased, these regulations require that the building (or portion thereof) that is to be improved be leased to an existing or newly established wholly secular entity (which may be an entity established by the church). Further, the regulations require that the leased premises will be used exclusively for secular purposes available to all persons regardless of religion.
- Rehabilitation, conversion, or renovation of a property within a 100-year flood plain, as designated by the Federal Emergency management Agency.
- A project which is inconsistent with environmental standards as established by HUD.
- Emergency Solutions Grant amounts may not be used for activities other than those authorized under Section 576.21 (a) (2-4).

#### **4. Minimum Funding Level:**

In order to ensure the effective, efficient, and appropriate allocation and use of the County's ESG funding, the County may reject any proposed ESG activity in an amount less than \$10,000.

#### **5. Compliance with Laws and Regulations:**

##### **Compliance with Laws and Regulations:**

The successful applicants will be required to comply with all applicable federal, state, and local laws, regulations, and ordinances. Pursuant to an executed subrecipient agreement, the applicant will certify that it will adhere to and comply with the laws and regulations found in **Attachment 1** as they may be applicable to a subrecipient of funds granted pursuant to the Housing and Community Development Act of 1974, as amended.

#### **D. Application and Submission Information**

##### **Application Cycle for the 2018-2019 Program Year**

The County will begin accepting applications for the 2018-2019 ESG cycle starting August 8, 2017. **ALL APPLICATIONS must be submitted through the ONLINE APPLICATION SYSTEM no later than 5:00 PM (PST) on October 30, 2017.**

Applicants must visit EDA's website at [www.rivcoeda.org](http://www.rivcoeda.org) to begin the application process. The website offers a brief tutorial to assist applicants in the use of the online application system including setting-up an Online User Profile which is required to use the system.

The County will only accept ESG applications from 501 (c) (3) non-profit corporation, as well as governmental and Tribal entities.

##### **1. Questions and Technical Assistance**

For information or questions regarding the County's ESG program or the ESG application cycle, please contact Elizabeth Dearen at [edearen@rivco.org](mailto:edearen@rivco.org) or (951) 343-5618. For questions or assistance with the online application system, please contact Susana Orozco at [sorozco@rivco.org](mailto:sorozco@rivco.org) or (951) 343-5474.

Individuals with hearing or speech disabilities may contact the CDBG program staff by utilizing the California Relay Service (711).

##### **2. Paper Application Submittals**

Because the County does provide technical assistance to organizations wishing to submit ESG applications through the Online Application System, it is unlikely that prospective applicants will not be able to effectively use the system. However, the County will consider requests to receive and submit paper copies of the 2018-2019 ESG application for those applicants that can document the need for a paper application.

Requests for paper applications can be submitted to:

Elizabeth Dearen, Program Manager

5555 Arlington Ave.

Riverside, CA 92504

(951) 343-5618

(951) 343-5609 FAX

[edearen@rivco.org](mailto:edearen@rivco.org)

### **Online Application System:**

Applicants for the County's 2018-2019 ESG application must use the Online Application System which can be accessed at [www.rivcoeda.org](http://www.rivcoeda.org). All forms necessary to submit an application are available on line with the exception of the documents required to be uploaded by the applicant (e.g., bylaws, authorizations, back up information, etc.).

The ESG application consists of eleven (11) primary sections:

Applicant Profile	General Information
Organizational History	Project Activity
Residential Service Section	Financial Information (Budget)
Leveraging – Matching Funds	Fiscal Year Projected Budget
Proposal Narrative	Application Certification and Authorization
Attachments (upload)	

Applicants are limited to the space available for each required response in the application. Applicants can upload additional supporting documentation, including third party verifications, if desired.

Please Note: because the application is submitted online, the applicant must certify that he or she has been authorized to submit the application on behalf of the organization applying for ESG funds. This electronic certification **MUST** be accompanied by a minute order, resolution, or other official authorization to submit the application.

### **Additional Information:**

Successful applicants may be required to submit additional documentation to the County, prior to the receipt of their ESG grant award. This documentation may include evidence or documentation related to:

- Liability Insurance
- Workmen's Compensation Insurance
- Legible copy of current IRS letter indicating 501(c) (3) status
- Current Board roster, names, addresses, telephone numbers, and professions or organizations represented
- Organizational chart listing all staff names, positions, and job descriptions

- Include your agency shelter policy statement, sign-in sheet, and intake form
- Copies of Agreements, letters and/or MOUs for all off-site essential services provided
- Documentation of commitment for ESGP matching funds (e.g. award/commitment letters, etc.)
- Organization's most recent fiscal report
- Most current annual audit and most recent Single Audit in accordance with 2 CFR Part 200.500 (formerly A-133), if applicable, including any exceptions
- Incorporation Documents

### **3. Dun and Bradstreet Data Universal Number System (DUNS) and System for Award Management (SAM)**

Pursuant to Federal regulations, all applicants for ESG funds must comply with the following requirements **prior to submitting** their ESG application to the County for the 2018-2019 program years:

1. Be registered in the System for Award Management (SAM) system;
2. Provide a valid DUNS number in the application; and
3. Must maintain an active SAM registration, with current information, at all times during the performance period of the ESG grant.

The County will not make any ESG grant awards to any organization or government entity that fails to comply with the SAM and DUNS requirements.

#### **System for Award Management (SAM):**

The System for Award Management (SAM) is combining federal procurement systems and the Catalog of Federal Domestic Assistance into one new system. This consolidation is being done in phases. The first phase of SAM includes the functionality from the following systems:

1. Central Contractor Registry (CCR)
2. Federal Agency Registry
3. Excluded Parties List (EPLS)
4. Online Representations and Certifications Application

How does SAM benefit organizations? The overarching benefits of SAM include streamlined and integrated processes, elimination of data redundancies, and reduced costs while providing improved capability.

<https://www.sam.gov/portal/SAM/#1>

#### **Data Universal Number System (DUNS):**

The Federal government requires all applicants for Federal grants have a DUNS number. The Federal government uses the DUNS number to better identify related organizations that are receiving funding under Federal grants and to provide consistent name and address data for electronic grant application systems.

If you do not already have a DUNS number, contact Dun and Bradstreet toll free at 1-866-705-5711.

#### **4. Application Submission Date and Time**

The County of Riverside utilizes an Online Application System for the 2018-2019 ESG grant applications. All applications must be submitted through the online system unless an applicant has been previously authorized by the County to submit a paper application.

**ALL online applications MUST be completely submitted through the Online Application System no later than 5:00 PM (PST) on Friday, October 30, 2017.**

**All pre-authorized paper applications must be delivered to the County by either method listed below:**

**I. Postmarked no later than Friday , October 30, 2017, and addressed to:**

Riverside County EDA  
ATTN: ESG Program  
5555 Arlington Ave.  
Riverside, CA 92504

**II. Delivered to the County, no later than 5:00 PM (PST) at the following address:**

Riverside County EDA  
ATTN: ESG Program  
5555 Arlington Ave.  
Riverside, CA 92504

**ESG applications for the 2018-2019 program years that are received after the deadline date and time, whether submitted through the Online Applications System or delivered to the County, will not be accepted.**

Applicants submitting their applications through the Online Application System will receive an electronic receipt at the time of submission. Applicant submitting a paper application in person or through a third-party courier can request a receipt at the time of delivery.

#### **5. Intergovernmental Review**

Applications submitted under the County's Urban County ESG program are not subject to intergovernmental review pursuant to Executive Order 12372.

## **6. Funding Restrictions**

Federal awards will not allow reimbursement of pre-Federal award cost.

## **7. Other Submission Requirements**

Not applicable

### **E. APPLICATION REVIEW INFORMATION**

The County of Riverside uses a Priority Evaluation and Project Rating System for all ESG proposals. As part of the review and evaluation process, EDA staff will review and evaluate all proposals utilizing the following checklist:

#### **I. ACTIVITY EVALUATION:**

Does the activity address an established need?

Is the proposed activity eligible (24 CFR 576.101-104) under the ESG program?

Does the proposed activity meet one or more of the six (6) activities?

- Engage homeless individuals and families living on the street;
- Improve the number and quality of emergency shelters for homeless individuals and families;
- Help operate these shelters;
- Provide essential services to shelter residents;
- Rapidly re-house homeless individuals and families; and
- Prevent families and individuals from becoming homeless

Has the applicant provided sufficient explanation concerning their ability to adequately and accurately document the benefit to low and moderate income persons?

Can the project be implemented and completed within a reasonable amount of time (County policy is (1) one year)?

Has the applicant identified all the major tasks or components that will be required in carrying out the activity? Are there any potential issues or concerns?

Has the applicant provided a reasonable estimate of the resources necessary for each component of the project, and has it developed a realistic budget that reflects these resources? Are other sources of funds (leveraging) committed to this project?

Is the proposed budget for the ESG-funded activity separate from other activities undertaken by the applicant?



## **II. APPLICANT (ORGANIZATIONAL) EVALUATION**

Has the applicant ever undertaken the proposed activity before? What were the results?

Does the applicant have experience with ESG or other Federal programs? Has the applicant conducted a Single Audit (formerly OMB Circular A-133) within the last two years?

Do the applicant and prospective staff understand the additional requirements associated with Federal funding?

Does the applicant have qualified staff for all the necessary functions associated with the proposed activity? Is there adequate staff time available?

Does the applicant possess adequate administrative structures, management systems, and policies & procedures?

Does the applicant possess adequate financial stability? Will the applicant be overly dependent upon ESG funding?

## **III. ELIGIBLE ACTIVITIES**

Applicants should refer to HUD regulations found at 24 CFR Part 576.101-104 regarding eligible uses of ESG funding. Participation use is required in HMIS database or a comparable database if the sub-recipient is a victim services or a legal services provider. Comparable database must be able to collect client-level data over time and generate unduplicated aggregate reports based on the data. In addition, record sharing is required.

## **IV. MINIMUM ACTIVITY FUNDING LEVEL**

In an effort to ensure effective, efficient, and appropriate allocation and use of ESG funds, the County may reject any proposed ESG activity in an amount less than \$10,000.

## **V. LEVERAGE/MATCHING FUNDS**

Recipient must make matching contributions to supplement the recipient's ESG program in an amount that equals the amount of ESG funds provided by HUD.

Matching contributions may be obtained from any eligible source, including any Federal source other than the ESG program, as well as state, local, and private sources. Additional requirements apply to matching contributions from a Federal source of funds.

Matching contributions must be provided after the date that HUD signs the grant agreement. Eligible applicants are units of general local government and private non-profit organizations. Because of the limited amount of public funds available, applicants are required to have proof of matching funds. Applicants are also encouraged to create linkages with other organizations that will insure comprehensive supportive services for the homeless who are sheltered and/or receiving services.

## **VI. APPLICATION RATING**

Each complete ESG application is rated by ESG program staff to determine if the proposal meets the minimum score rating. The County uses a 200 point rating system with four (4) rating criteria with a minimum rating score of at least 100 points. The rating criteria are:

- Quality of Program Design/ four sub-criteria (40 points)
- Service Priority of Needs / four sub-criteria (60 points)
- HMIS /Comparable database Reporting/four sub-criteria (40 points)
- Participation and Leveraging /five sub-criteria (60 points)

There are three (3) threshold sub-criteria that all applications must receive at least five (5) points each, or the proposal will not be funded:

- Does the proposed program/project comply with the overall regulations, goals and objective of CoC and ESG? Is Project in Alignment with CoC Priorities?
- Applicant complies with HMIS policy and procedures?
- Match Requirement (Dollar-for-Dollar) Will the proposed activity leverage meet project budget?

In addition, the Continuum of Care provides recommendations through a priority evaluation ranking document identifying priorities of need in the county based on the Housing Inventory Count (HIC) and Point-in-Time Count.

## **VII. APPLICATION REVIEW AND SELECTION PROCESS**

For the County's allocation, each ESG application is received, reviewed, evaluated, and rated. ESG program staff and EDA management then meet with the individual District Supervisors for their ESG funding decisions. EDA staff will provide background information on each proposals, answer questions, and provide funding recommendations if requested.

### **F. ANTICIPATED ANNOUNCEMENT, AWARD DATE, AND NOTICE**

#### **1. FEDERAL AWARD NOTICE**

The Board of Supervisors for the County of Riverside will approve all final ESG funding decisions for the County's 2018-2019 ESG allocation. This is anticipated to occur in early May 2018 during a regular meeting of the Board of Supervisors when the Board approves the 2017-2018 One Year Action Plan.

After the approval date, applicants will be notified by mail of the Boards funding decisions. The One Year Action Plan is then submitted to the U.S. Department of Housing and Urban Development (HUD) for review and approval.

Those applicants that have been approved for ESG funding will be notified by mail. The letter will clearly indicate the amount of their award, and that this is not a notification to proceed or to incur costs. The letter will inform the successful applicants that a sub recipient agreement will be prepared and forwarded to them in the near future with further instructions.

## **2. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS**

All ESG awards made by the County and the cooperating cities will be in the form of a grant, excluding projects funded under economic development. Sub recipients will be required to execute an approved sub recipient agreement with the County. Non-profit organizations, non-County governmental entities, and Tribal organizations will be required to execute an “ESG Agreement” with the County. A copy of the template of the ESG Agreement is available upon request to EDA.

### **POST AWARD REPORTING REQUIREMENTS**

To ensure compliance with the ESG program requirements, all sub recipients of ESG funds will be required to comply with the applicable ESG reporting requirements. The type, amount, frequency, format (paper or electronic), and detail of the reporting requirements depends upon the specific use of the ESG funds and HMIS requirements. All specific reporting requirements will be stated in the sub recipient agreement.

## **G. POINTS OF CONTACT**

For information about the ESG program or the 2018-2019 application cycle, please contact the following:

Sterlon Sims, CDBG/ESG Program Manager  
Arlington Ave.  
Riverside, CA 92504  
(951) 343-5482  
(951) 343-5609 FAX  
[ssims@rivco.org](mailto:ssims@rivco.org)

Elizabeth Dearen, CDBG Program Manager 5555  
5555 Arlington Ave.  
Riverside, CA 92504  
(951) 343-5618  
(951) 343-5609 FAX  
[edearen@rivco.org](mailto:edearen@rivco.org)

## Additional Federal Requirements

Whereas, the work under this Agreement is subject to applicable Federal, State, and local laws and regulations, including but not limited to the regulations pertaining to the Community Development Block Grant (24 CFR Part 570) and the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR 200). All contractors, sub-contractors, consultants, and sub-consultants agree to comply with, and are subject to, the following Federal requirements (if applicable):

1. ***Equal Employment Opportunity*** - Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). The Contractor/Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor/Consultant will ensure that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin. The Contractor/Consultant will take affirmative action to ensure that applicants are employed and the employees are treated during employment, without regard to their race color, religion, sex, or national origin. Such actions shall include, but are not limited to, the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor/Consultant agrees to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this non-discriminating clause.

2. ***Copeland "Anti-Kickback" Act*** (18 U.S.C. 874 and 40 U.S.C. 276c: All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to HUD.

3. ***Davis-Bacon Act, as amended*** (40 U.S.C. 276a to a-7: When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay

wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to HUD.

4. ***Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 333)***: Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. ***Rights to Inventions Made Under a Contract or Agreement***— Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by HUD.

6. ***Rights to Data and Copyrights*** – Contractors and consultants agree to comply with all applicable provisions pertaining to the use of data and copyrights pursuant to 48 CFR Part 27.4, Federal Acquisition Regulations (FAR).

7. ***Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.)***, as amended—Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to HUD and the Regional Office of the Environmental Protection Agency (EPA).

8. ***Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)***— Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-

Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

**9. *Debarment and Suspension (E.O.s 12549 and 12689)***—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, “Debarment and Suspension,” as set forth at 24 CFR Part 24. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

**10. *Drug-Free Workplace Requirements***—The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Each potential recipient must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR Part 24, subpart F.

**11. *Access to Records and Records Retention***: The Consultant or Contractor, and any sub-consultants or sub-contractors, shall allow all duly authorized Federal, State, and/or County officials or authorized representatives access to the work area, as well as all books, documents, materials, papers, and records of the Consultant or Contractor, and any sub-consultants or sub-contractors, that are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions. The Consultant or Contractor, and any sub-consultants or sub-contractors, further agree to maintain and keep such books, documents, materials, papers, and records, on a current basis, recording all transactions pertaining to this agreement in a form in accordance with generally acceptable accounting principles. All such books and records shall be retained for such periods of time as required by law, provided, however, notwithstanding any shorter periods of retention, all books, records, and supporting detail shall be retained for a period of at least four (4) years after the expiration of the term of this Agreement.

**12. *Federal Employee Benefit Clause***: No member of or delegate to the congress of the United States, and no Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit to arise from the same.

**13. *Energy Efficiency***: Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).

**14. *Procurement of Recovered Materials (2 CFR 200.322.)*** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery;

and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

15. The Housing and Community Development Act of 1974, as amended, and the regulations issued thereto;
16. Executive Order 11063, as amended by Executive Order 12259, and implementing regulations at 24 CFR Part 107;
17. Section 504 of the Rehabilitation Act of 1973 (PL 93-112), as amended, and implementing regulations;
18. The Age Discrimination Act of 1975 (PL 94-135), as amended, and implementing regulations;
19. The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the implementing regulations at 24 CFR Part 42;
20. The labor standard requirements as set forth in 24 CFR Part 570, Subpart K and HUD regulations issued to implement such requirements;
21. Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;
22. The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (PL 93-234);
23. Title VI of the Civil Rights Act of 1964 (PL 88-352) and implementing regulations issued at 24 CFR Part 1;
24. Title VIII of the Civil Rights Act of 1968 (PL 90-284) as amended; and
25. The lead-based paint requirements of 24 CFR Part 35 issued pursuant to the Lead-based Paint Poisoning Prevention Act (42 USC 4801, et seq.);
26. The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), Public Law 111-22, Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.), and the Housing and Community Development Act of 1974, as amended, and the regulations issued thereto;
27. Executive Orders 11625, 12432 and 12138. Consistent with HUD's responsibilities under these Orders, the SUBRECIPIENT must make efforts to encourage the use of minority and women's business enterprises in connection with ESG activities;
28. SUBRECIPIENT shall establish and maintain a procedure through which homeless individuals will be informed that use of the facilities and services is available to all on a nondiscriminatory basis.

29. SUBRECIPIENT agrees to abide by and include in any subcontracts to perform work under this Agreement, the following clause:

"During the performance of this Agreement SUBRECIPIENT and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. SUBRECIPIENT and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. SUBRECIPIENT and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this Agreement by reference and made a part hereof as if set forth in full. SUBRECIPIENT and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement."

30. During the term of this Agreement, SUBRECIPIENT and its subcontractors, if any, shall not deny the benefits rendered hereunder to any person on the basis of religion, color, ethnic group identification, sex, age, or physical or mental disability.