

## FIRST MODIFICATION OF AGREEMENT

This supplemental Agreement made and entered into by and between Fort Bend County Women's Center, a non-profit corporation under the laws of the State of Texas (hereinafter referred to as Subrecipient) and Fort Bend County, a body corporate and politic under the laws of the State of Texas, hereinafter referred to as the County.

### RECITALS

A. County and Subrecipient entered into a written agreement on November 25, 2008, for rental assistance, which is eligible under the rules and regulations regarding Shelter Plus Care grant funds by and through the U.S. Department of Housing and Urban Development (HUD). A copy of the Agreement is attached as Exhibit A and is incorporated herein by reference for all purposes.

B. County and Subrecipient desire to modify the accomplishments and allocation of costs as follows:

### IT IS THEREFORE AGREED

1. Part IV, TIME OF PERFORMANCE is hereby deleted and replaced as follows:

Services of the Sponsor Agency shall start on the 1st day of December, 2008 and end on the 30th day of September 2014, or until all funds are expended, whichever occurs sooner, in accordance with the Grant Agreement between HUD and the Grantee dated September 10, 2008 and subsequent amendment. This Agreement may only be extended upon written approval from HUD.

2. Except for the modification of the Agreement made in Part IV of this Agreement, all provisions of the Agreement shall continue in full force and effect.

3. This modification shall become effective when executed in duplicate originals by the parties hereto as follows:

IN WITNESS WHEREOF, this instrument in duplicate originals has been executed by the parties hereto as follows:

- a. It has on the 8 day of October, 2013, been executed by the County Judge of Fort Bend County, on behalf of the County pursuant to an Order of the Commissioners Court of the Grantee so authorizing.
- b. It has on the 3rd day of October, 2013, been executed by the President and attested to by the Secretary on behalf of the organization.

This Agreement shall become effective upon execution by County.

FORT BEND COUNTY:

Robert E. Hebert

Robert E. Hebert, County Judge

10-8-2013  
Date

ATTEST:

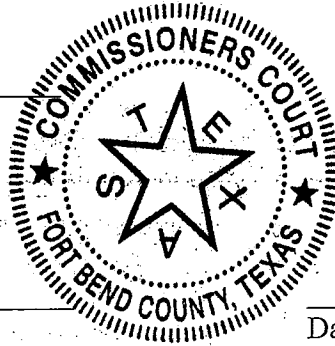
Dianne Wilson

Dianne Wilson, County Clerk

APPROVED AS TO FORM:

Mary E. Ruder

Assistant County Attorney



10/1/2013  
Date

APPROVED: COUNTY PROJECT MANAGER

Marilynn Kindell

Marilynn Kindell, Director  
Fort Bend County Community Development Department

FORT BEND COUNTY WOMEN'S CENTER

By R. Day

Chairman

10/3/13  
Date

ATTEST:

Debra Marshall

Secretary

**AGREEMENT BETWEEN FORT BEND COUNTY  
AND FORT BEND COUNTY WOMEN'S CENTER  
FOR THE 2007 SHELTER PLUS CARE PROGRAM  
TX24C700002**

**I. RECITALS**

THIS AGREEMENT is made and entered by and between Fort Bend County, a body politic and corporate under the laws of the State of Texas, herein called the "Grantee" and Fort Bend County Women's Center, Inc., a Texas non-profit corporation, herein called the "Sponsor Agency."

WHEREAS, the Grantee, acting pursuant to an order of its governing body, has entered into a Grant Agreement with the United States of America acting by and through its Department of Housing and Urban Development (HUD), for receipt of FY 2007 Shelter Plus Care (SPC) grant funds, through the Office of Special Needs Assistance Programs (SNAPS) under an amendment to the Stewart B. McKinney Homeless Assistance Act of 1988 (Public Law 100-77) by the National Affordable Housing Act (NAHA) (Public Law 101-625, approved November 28, 1990);

WHEREAS, the award of these funds was based on an application, including certifications and assurances and any information or documentation required to meet any grant award conditions, prepared and submitted by the Sponsor Agency through the Houston-Harris County Continuum of Care application process, herein called the "Application" and incorporated as a part of this Agreement; however, in the event of any conflict between the Application and any provision contained herein, this Agreement shall control;

WHEREAS, the Grantee desires to use these funds to provide rental assistance in connection with supportive services funded from sources other than the SPC program to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs or both, or have AIDS and related diseases);

WHEREAS, the Sponsor Agency, operating as a non-profit agency, is working to provide rental assistance in connection with supportive services to disabled homeless persons;

WHEREAS, the Grantee has determined that rental assistance and supportive services are needed by the disabled homeless citizens of Fort Bend County;

WHEREAS, the Grantee and the Sponsor Agency desire to enter into an agreement whereby the Sponsor Agency will match the grant with supportive services that are equal in value to the amount of assistance and appropriate to the needs of the population to be served, as may be eligible under the rules and regulations regarding SPC grant funds in accordance with the terms and conditions described herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is agreed between the parties hereto that:

## II. SCOPE OF SERVICES

### A. Eligible Activities

The Grantee and the Sponsor Agency agree to provide the activities described in **Exhibit "A,"** attached hereto and incorporated herein for all purposes, in accordance with the provisions of this Agreement and in compliance with any standards required by HUD and by the Grantee as a condition of providing these funds.

### B. Performance Monitoring

The Sponsor Agency also agrees to be cooperative with program and financial monitoring visits and/or investigations performed by Fort Bend County Community Development Department staff, the Fort Bend County Auditor's staff, and/or HUD. Substandard performance as determined by the Grantee and/or HUD will constitute non-compliance or breach of this Agreement. The Sponsor Agency's failure to correct substandard performance within a reasonable period of time after being notified by the Grantee will result in further corrective action by the Grantee including, but not limited to, termination of the Agreement, pursuant to 24 C.F.R. §84.62. Furthermore, the Sponsor Agency agrees to comply with any and all HUD findings.

### C. Matching Funds

The Sponsor Agency agrees to provide matching funds with supportive services that are equal in value to the amount of rental assistance provided by the SPC grant and must be appropriate to the needs of the population to be served, and as may be eligible under the rules and regulations of the SPC grant.

## III. PROJECT REQUIREMENTS

The Sponsor Agency will be responsible for the operation of the SPC Program (Grant Year 2007) in a manner satisfactory to the Grantee and consistent with any standards required by HUD and the Grantee as a condition to the provision of these funds. The Sponsor Agency will provide supportive services and rental assistance housing in Houston and Fort Bend County to homeless individuals with disabilities, in accordance with 24 C.F.R. Part 582, The SPC Program Rule.

The Sponsor Agency shall not change the population to be served, or make any other change inconsistent with the approved application without prior approval of the Grantee and HUD.

### A. Ongoing Assessment of Supportive Services

The Sponsor Agency must conduct an ongoing assessment of supportive services required by the participants of the Project and the availability of such services, and makes adjustments as appropriate.

B. Participation of Homeless Individuals

The Sponsor Agency must comply with the requirements of 24 C.F.R. Part 582.300, which states that the Sponsor Agency must provide for the consultation and participation of not less than one homeless individual or formerly homeless individual on the board of directors or other policy-making/recommending entity of the Sponsor Agency.

C. Confidentiality

The Sponsor Agency that provides family violence prevention or treatment services must develop and implement procedures to ensure the confidentiality of records pertaining to any individual services and that the address or location of any project assisted will not be made public, except with written authorization of the person or persons responsible for the operation of the project.

D. Termination of Housing Assistance

The Sponsor Agency may terminate assistance to a participant who violates the Program requirements of Subpart D of 24 C.F.R. §582, or conditions of occupancy set out in the Occupancy Agreement between the Sponsor Agency and participant. The Sponsor Agency must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination, so that a participant's assistance is terminated only in the most severe cases. The Sponsor Agency is not prohibited from resuming assistance to a participant whose assistance has been terminated.

In terminating assistance to a participant, the Sponsor Agency 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:

- (a) Written notice to the participant containing a clear statement of the reasons for termination;
- (b) A review of the decision in which the 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
- (c) Prompt written notice of the final decision to the participant.

Where necessary to facilitate the coordination of supportive services, the Sponsor Agency may require participants to live in a specific area for their entire period of participation or in a specific structure for their first year and in a specific area for the remainder of their period of participation. The Sponsor Agency may not define the area in a way that violates the Fair Housing Act, Title VIII of the Civil Rights Act of 1968 or the Rehabilitation Act of 1973.

E. Resident Rent

Residents are required to pay rent in an amount determined by the Sponsor Agency in accordance with section 3(a)(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(a)(1)). Rental assistance payments will be subject to the 50<sup>th</sup> percentile Fair Market Rents (FMR).

F. Housing Quality Standards

Housing that is assisted with SPC funds, at a minimum, must meet Housing Quality Standards (HQS) in 24 C.F.R. §882.109, and if applicable 24 C.F.R. §882.803(b). The Sponsor Agency shall notify the Grantee, of any and all units in need of HQS inspection. The Grantee shall perform HQS inspections for all units to be assisted with funds provided under this Agreement. Before any rental assistance will be provided, each unit shall be physically inspected and must meet HQS. Assistance will not be provided for units that fail to meet HQS, unless the owner/landlord corrects any deficiencies within thirty (30) days from the date of the lease agreement. HQS inspections performed by the Grantee shall not preclude the Sponsor Agency from its responsibility to ensure that units are in compliance with HQS between initial and annual inspections by the Grantee.

In addition, the Sponsor Agency must document rent reasonableness for each unit receiving assistance in accordance with 24 C.F.R. Part 582.305(b).

IV. TIME OF PERFORMANCE

Services of the Sponsor Agency shall start on the 1st day of December, 2008 and end on the 9th day of September 2013, or until all funds are expended, whichever occurs sooner, in accordance with the Grant Agreement between HUD and the Grantee dated September 10, 2008. This Agreement may only be extended upon written approval from HUD.

V. EXPENSES AND PAYMENT

A. Budget

The Sponsor Agency has submitted a detailed budget (see **Exhibit "B"**) in a form and content prescribed by the Grantee.

B. Requesting a Budget Revision

Any proposed reallocation of funds among various Budget line items or to new line items must be treated as an Agreement Amendment requiring approval of HUD. No more than two (2) budget revision requests shall be allowed each year. The Sponsor Agency will provide narrative justification for budget revision on letterhead and signed by the representative as stated in **Exhibit "A."** A budget revision is not approved for expenditure until the Sponsor Agency receives written approval from the Director of HCCSD, pursuant to approval by HUD. Additionally, the Sponsor

Agency will notify the Grantee promptly of any additional funding received for operation of the Program, and the Grantee reserves the right to amend the Program budget in such instances.

C. Maximum Amount to be Paid

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed the amount shown in **Exhibit "B"** in the section entitled "Maximum Amount to be Paid Under this Agreement." The Sponsor Agency will provide tenant-based and/or sponsor-based rental assistance to homeless participants with serious mental illness, chronic substance abuse problems, both serious mental illness and chronic substance abuse problems, and/or AIDS or related diseases, for a five-year period in an amount not to exceed the total amount to be paid by the Grantee under this Agreement. Such monies will be disbursed by the Grantee over a five year period, or until all funds are expended. The Sponsor Agency may not increase or decrease line item amount(s) in its budget for operation of the Program without the prior written approval of the Grantee.

D. Payment Contingent on Receipt of Funds from HUD

It is expressly understood that the Grantee has no County funds for the payment of services to be rendered under this Agreement, and the Grantee's payment obligation under this Agreement is contingent upon receipt of funds from HUD, by virtue of the above mentioned grant(s). Accordingly, notwithstanding anything herein to the contrary, the maximum liability of the Grantee under this Agreement shall not exceed the amount shown in **Exhibit "B"** in the section entitled "Maximum Amount to Paid Under this Agreement" or the amount actually received by the Grantee from HUD pursuant to the Grant, whichever is less; and the Sponsor Agency, by execution of this Agreement, acknowledges its understanding of this fact.

E. Payment for Eligible Expenses

The Sponsor Agency understands and agrees that the Grantee shall reimburse the Sponsor Agency for only those costs that are eligible under applicable federal rules, regulations, cost principles, and other requirements relating to reimbursement with HUD grant funds. The Grantee may reimburse the Sponsor Agency for the total costs, plus a fraction of the overhead costs, of those items that serve only eligible clients under this Agreement, provided that all reimbursements shall be limited to the actual out-of-pocket expenses incurred by the Sponsor Agency in the performance of this Agreement. No reimbursement shall be made for goods or services received by the Sponsor Agency as in-kind contributions from third parties for assistance to the Program.

F. Payment Procedures

The Grantee will reimburse the Sponsor Agency upon information submitted by the Sponsor Agency and consistent with the approved budget and the Grantee policy concerning payment. Drawdowns for the payment of eligible expenses and general administration shall be made against the line item budget attached hereto as Exhibit B, and in accordance with performance. Reimbursement requests must include an invoice with required source documentation on a form approved by the Grantee and submitted on or before the twentieth (20th) working day of the month for costs incurred during the preceding month. Prior to payment, HCCSD and the Fort Bend

County Auditor must approve all invoices. Invoices may be held for processing until all monthly participant data is entered into the Homeless Management Information System (HMIS). Payments will be adjusted in accordance with advance fund and program income balances available in Sponsor Agency accounts (when applicable).

In addition, the Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the Grantee on behalf of the Sponsor Agency. The disbursements shall be made in accordance with 24 CFR §582.105. The Grant amount will be reserved based on an estimate of the amount needed for rental assistance. The Sponsor Agency may make draws from the reserved amount to pay actual costs of rental assistance for Program participants on a reimbursable basis by submitting an invoice for the rental assistance amount to the Grantee.

G. Supplementing a Request for Payment

A Supplemental Request amending a payment or reimbursement request may be filed with the Grantee within thirty (30) days after the submission or receipt of the original request. Any Supplemental Request for payment or reimbursement submitted after thirty (30) days from the date of submission or receipt of the original request will not be approved. No more than one Supplemental Request shall be allowed per month.

H. Withholding Payments

If HUD initiates an investigation into any matter covered under this Agreement, the Grantee may withhold all payments until the results of the investigation have been revealed. Reimbursement to the Sponsor Agency will be determined upon resolution of the investigation by HUD.

I. Repayment of Ineligible Payments

**IN THE EVENT HUD DETERMINES THROUGH INVESTIGATIONS AND/OR MONITORING THAT ANY GRANTEE PAYMENT OR REIMBURSEMENT TO THE SPONSOR AGENCY IS INELIGIBLE OR DISALLOWED, THE SPONSOR AGENCY SHALL IMMEDIATELY AND WITHOUT DELAY FULLY REIMBURSE THE GRANTEE, AND THE GRANTEE WILL REIMBURSE HUD FOR DISALLOWED OR INELIGIBLE COSTS. IF HUD INFORMS THE GRANTEE THAT IT IS REQUIRED TO REFUND MONEYS PREVIOUSLY AWARDED OR DRAWN DOWN FROM THE U.S. TREASURY IN REFERENCE TO THIS AGREEMENT, THE SPONSOR AGENCY AGREES TO PAY AN EQUAL AMOUNT TO THE GRANTEE PRIOR TO THE DEMAND DATE OF PAYBACK.**

VI. NOTICES

Any communication concerning this Agreement shall be directed to the representatives of the Grantee and the Sponsor Agency as provided in **Exhibit "A,"** Scope of Services.



## VII. SPECIAL CONDITIONS

The Sponsor Agency agrees to comply with the requirements of 24 C.F.R. Part 582 and all Federal regulations and policies issued concerning the SPC program. The Sponsor Agency further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available. Failure to adhere to these conditions will result in termination of the Agreement.

## VIII. GENERAL CONDITIONS

### A. Compliance

The Sponsor Agency agrees to comply with all applicable federal, state and local laws and regulations governing the funds provided under this Agreement, including Executive Order 12372, governing the review and coordination of federally assisted programs and projects. Failure to adhere to these conditions or with any provision of this Agreement may result in the Grantee taking one of the following actions: (1) declaring the Sponsor Agency ineligible to participate for future awards; (2) withholding funds; and (3) termination of the Agreement.

### B. Independent Contractor

The Sponsor Agency shall at all times operate as an independent contractor and not as an officer, agent, servant or employee of the Grantee. The Sponsor Agency shall have exclusive control of, and the exclusive right to control, the details of the work and services performed and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, sub-Sponsor Agencies, program participants, licensees or invitees. The doctrine of *respondent superior* shall not apply as between the Grantee and the Sponsor Agency, its officers, members, agents, servants, employees, sub-Sponsor Agencies, program participants, licensees or invitees, and nothing herein shall be construed as creating a partnership or joint enterprise between the Grantee and the Sponsor Agency. It is expressly understood and agreed that no officer, member, agent, employee, sub-Sponsor Agency, licensee or invitee of the Sponsor Agency, nor any program participant hereunder, is in the paid service of the Grantee and that the Grantee does not have the legal right to control the details of the tasks performed hereunder by the Sponsor Agency, its officers, members, agents, employees, sub-Sponsor Agencies, program participants, licensees or invitees.

The Grantee shall in no way nor under any circumstances be responsible for any property belonging to the Sponsor Agency, its officers, members agents, employees, sub-Sponsor Agencies, program participants, licensees or invitees, which may be lost, stolen, destroyed or in any way damaged.

### C. Indemnity

**THE SPONSOR AGENCY COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND, AT ITS OWN EXPENSE, THE GRANTEE AND ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS FOR PROPERTY LOSS OR DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY**

AND ALL PERSONS, OF WHATSOEVER KIND OF CHARACTER, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH THE EXECUTION, PERFORMANCE, ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT AND/OR THE OPERATIONS, ACTIVITIES AND SERVICES OF THE PROGRAM DESCRIBED HEREIN, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SPONSOR AGENCIES OR SUB-SPONSOR AGENCIES OF THE GRANTEE; AND THE SPONSOR AGENCY HEREBY ASSUMES ALL LIABILITY AND RESPONSIBILITY OF THE GRANTEE AND ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FOR ANY AND ALL CLAIMS OR SUITS FOR PROPERTY LOSS OR DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH THE EXECUTION, PERFORMANCE, ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT AND/OR THE OPERATIONS, ACTIVITIES AND SERVICES OF THE PROGRAMS DESCRIBED HEREIN, WHETHER OR NOT CAUSED IN WHOLE OR IN PART, BY ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SPONSOR AGENCIES OR SUB-SPONSOR AGENCIES OF THE GRANTEE. THE SPONSOR AGENCY LIKEWISE COVENANTS AND AGREES TO AND DOES HEREBY INDEMNIFY AND HOLD HARMLESS THE GRANTEE FROM AND AGAINST ANY AND ALL INJURY, DAMAGE OR DESTRUCTION OF PROPERTY OF THE GRANTEE, ARISING OUT OF OR IN CONNECTION WITH ALL ACTS OR OMISSIONS OF THE SPONSOR AGENCY, ITS OFFICERS, MEMBERS, AGENTS, EMPLOYEES, SUB-SPONSOR AGENCIES, INVITEES, LICENSEES, OR PROGRAM PARTICIPANTS, OR CAUSED, IN WHOLE OR IN PART, BY ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SPONSOR AGENCIES OR SUB-SPONSOR AGENCIES OF THE GRANTEE.

D. Waiver of Immunity

If the Sponsor Agency, as a charitable or nonprofit organization, has or claims an immunity or exemption (statutory or otherwise) from and against liability for damages or injury, including death, to persons or property, the Sponsor Agency hereby expressly waives its rights to plead defensively such immunity or exemption as against the Grantee. This section shall not be construed to affect a governmental entity's immunities under constitutional, statutory or common law.

E. Insurance and Bonding

Subrecipient covenants and agrees to indemnify, hold harmless and defend, at its own expense, Grantee and its officers, agents, servants, and employees from and against any and all claims or suits for property loss or damage and/or personal injury, including death, to any and all persons of whatsoever kind of character, whether real or asserted, arising out of or in connection with the execution, performance, attempted performance or nonperformance of this Agreement and agreement and/or the operations activities and services of the Program described herein, whether or not caused, in whole or in part, by alleged negligence of officers, agents, servants, employees, Subrecipients, or subcontractors of Grantee; and Subrecipient hereby assumes all liability and responsibility of Grantee and its officers, agents, servants, and employees for any and all claims or suits for property loss or damage and/or personal injury, including death, to any and all persons, of

whatsoever kind or character, whether real or asserted, arising out of or in connection with the execution, performance, attempted performance, or nonperformance of this Agreement and/or the operations, activities and services of the programs described herein, whether or not caused in whole or in part, by alleged negligence of officers, agents, servants, employees, Subrecipients or subcontractors of Grantee. Subrecipient likewise covenants and agrees to and does hereby indemnify and hold harmless Grantee from and against any and all injury, damage or destruction of property of Grantee, rising out of or in connection with all acts or omissions of Subrecipient, its officers, members, agents, employees, subcontractors, invitees, licensees, or program participants, or caused, in whole or in part, by alleged negligence of officers, agents, servants, employees, Subrecipients, or subcontractors of Grantee.

Prior to commencement of service, the Subrecipient shall furnish the County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. The Subrecipient shall provide certified copies of insurance endorsements and/or policies if requested by the County. The Subrecipient shall maintain such insurance coverage from the time services commence until services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of service.

#### Commercial General Liability Insurance

Subrecipient shall maintain commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Limit amount will increase according to amount of contract or risk to the County. Policy shall cover the liability for bodily injury, personal injury and property damage and products/completed operations arising out of the business operations of the policyholder.

#### Business Automobile Liability Insurance

Subrecipient shall maintain Auto Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

#### Workers' Compensation Insurance

Subrecipient shall maintain workers' compensation insurance with statutory limits. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

#### Employers' Liability Insurance

Subrecipient shall maintain employers' liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

All Liability insurance policies shall name the County as an additional insured. Furthermore, the Workers Compensation and Liability Insurance carriers shall grant a waiver of subrogation in the County's favor.

If required coverage is written on a claims-made basis, Subrecipient warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the contract is completed.

F. Recognition of Grantee

The Sponsor Agency shall ensure recognition of the role of the Grantee in making services available through this Agreement. All facilities, publications and other items used, made available, or made possible through funds obtained pursuant to this Agreement shall be prominently labeled as having been funded by the Grantee. The Sponsor Agency shall maintain a "recognition file." Each instance of recognition shall be documented by including a copy or photograph of each such instance of recognition in the file. Original documents are the preferred means of documentation, but photocopies or photographs may be used when and where appropriate.

G. Travel

The Sponsor Agency must comply with Fort Bend County travel guidelines for any travel paid for with funds provided under this Agreement.

H. Relocation, Acquisition and Displacement

The Sponsor Agency agrees to comply with 24 C.F.R. §582.335 relating to the acquisition and disposition of all real property utilizing grant funds, and to the displacement of persons, businesses, non-profit organizations and farms occurring as a direct result of any acquisition of real property utilizing grant funds. The Sponsor Agency agrees to comply with the applicable Grantee Procedures and Policies concerning displacement of individuals from their residences, including The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

I. Copyright

If this Agreement results in any copyrightable material, the Grantee and/or the Grantor agency (HUD) reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes.

IX. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sponsor Agency agrees to (1) comply with Subpart C of OMB Circular A-110; (2) adhere to the accounting principles and procedures required therein; (3) utilize adequate internal controls; and (4) maintain necessary source documentation for all costs incurred. The Sponsor Agency shall administer its Program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," for all costs incurred whether charged on a direct or indirect basis.

B. Record-Keeping, Reports, and Audits

1. Records to be maintained

The Sponsor Agency shall maintain all records required by this Agreement, 24 C.F.R. §582.300 and records that are pertinent to the activities to be funded under this Agreement, including but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meet the requirements of the SPC program;
- c. Records required too determine the eligibility of activities;
- d. Records documenting compliance with the fair housing and equal opportunity components of the SPC program;
- e. Financial records as required by 24 C.F.R. §582.340, and OMB Circular A-110; and
- f. Prior to submitting reimbursement requests, all monthly participant data information **must** be entered by Sponsor Agency into Homeless Management Information System (HMIS).
- g. Other records necessary to document compliance with of 24 C.F.R. Part 582.

2. Property Records

The Sponsor Agency shall maintain real property inventory records, which clearly identify property purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 C.F.R. §582.405. The Sponsor Agency must insure that any independent audit required hereunder include a report on real property inventory as a supplemental schedule in the audit.

3. Retention

The Sponsor Agency shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement, or after the resolution of all Federal audit findings, which ever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person, as defined at 42 U.S.C. 4601, must be kept for five (5) years after he/she has received final payment.

4. Reports

The Sponsor Agency shall furnish the following reports to the Grantee:

- a. Household Characteristics Report will contain information on the total rent, the total subsidy, and the amount paid by each tenant-submitted to the Grantee on a monthly basis.
- b. Household Characteristics Summary detailing the number and types of rental units and categories of participants' disabilities submitted to the Grantee on a monthly basis.
- c. Project Status Report with certification signed by Sponsor Agency's authorized official that SPC participant data is current in HMIS on a monthly basis.
- d. Financial Reports (Reimbursement Request, Cost Control Report, Cost Worksheet) submitted to the Grantee on a monthly basis.
- e. Quarterly Operations Match/Share Reports.
- f. Persons Served Worksheet submitted to the Grantee on a quarterly basis. This form will summarize the number of persons actually served by the Program.
- g. Annual Progress Report (APR) summarizing the number of persons served during the year.
- h. Sufficient documentation to support any amounts requested through invoices to the Grantee including, but not limited to, lease agreements for each participant. The Grantee will be the sole determiner of "sufficient documentation."

#### 5. Deadlines

- a. Monthly reports are to be submitted within fifteen (15) working days of the end of the reporting periods.
- b. Quarterly Operations Match/Share and Persons Served Reports are due within thirty (30) days of the end of each quarter detailing the amount of match incurred by the Sponsor Agency during the previous three (3) months.
- c. The APR is due within one month after the end of the Agreement period.

#### 6. Audits & Inspections

All Sponsor Agency records relevant to any matters covered by this Agreement shall be made available to the Grantee, its designees or the Federal government, at any time during normal business hours, as often as the Grantee or other agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Sponsor Agency within thirty (30) days after receipt by the Sponsor Agency. The Sponsor Agency hereby agrees to have an annual agency audit conducted in accordance with OMB Circular A-133.

#### 7. Failure to Meet Record-keeping, Reporting, Audit, and/or Inspection Requirements

The Sponsor Agency's failure to comply with record-keeping, reporting, audits, and/or inspections as required by this Agreement is a breach of this Agreement and funding will be withheld from the Sponsor Agency until such time as the reports are timely and accurately submitted. The Grantee maintains the right to terminate this Agreement with the Sponsor Agency for failure to keep records properly, submit reports for three (3) consecutive months, and/or cooperate with audits/inspections.

C. Procurement

The Sponsor Agency shall comply with the (1) public notice and (2) award of contract to the lowest and most responsible bidder procedures of the County Purchasing Act, TEX. LOC. GOV'T CODE ANN. § 262.021 *et seq.*, concerning the purchase of equipment and services and shall maintain an inventory record of all non-expendable personal property, as defined by County policy, that may be procured with funds provided hereunder. The Sponsor Agency shall procure materials in accordance with the requirements of Subpart C of OMB Circular A-110, Procurement Standards, and shall subsequently follow Subpart C, Property Management Standards, covering utilization and disposal of property. Any real or personal property under the Sponsor Agency's control that was acquired or improved in whole or in part with SPC funds must either be:

- a. Used by the Sponsor Agency to meet the purpose and scope in 24 C.F.R. §582.1(a) until five (5) years after expiration or termination of the Grantee's SPC Grant Agreement with HUD; or
- b. Transferred to the Grantee; or
- c. Disposed of in a manner, consistent with 24 C.F.R. §84.32, which results in the amount of the then current fair market value of the property less any portion thereof attributable to expenditures of non- SPC funds for acquisition thereof, or improvements to, the property being reimbursed to the Grantee. Such reimbursement is not required if disposed of more than five (5) years after the expiration or termination of this Agreement.

Further, if within five (5) years of the termination or expiration of this Agreement, the Sponsor Agency ceases to use any or all personal property attributable to SPC funds to meet the purpose and scope of this Agreement, the personal property shall, in accordance with 24 C.F.R. §84.34, either revert to the Grantee or be disposed of in accordance with the applicable federal rules and regulations, including but not limited to OMB Circular A-110, Subpart C. After the expiration of five (5) years, the Sponsor Agency shall have no obligation to comply with this section regarding real or personal property.

Nothing contained herein shall be construed to conflict with the duties of the Sponsor Agency as set forth in the Texas Non-Profit Corporation Act (TEX. CIV. STAT. ANN. art.1396-1.01, *et seq.*) or any other applicable statute.

X. GENERAL LABOR AND PARTICIPANT REQUIREMENTS

A. Civil Rights

1. Compliance

The Sponsor Agency agrees to comply with Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 109 of Title 1 of the Housing and Community Development Act of 1974; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of

1975; Executive Order 11063; and Executive Order 11246 as amended by Executive Orders 11375 and 12086; and all other applicable requirements of 24 C.F.R. Part 582.

The Sponsor Agency agrees to comply with any federal regulations issued pursuant to Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in any federally assisted program. The Grantee shall provide the Sponsor Agency with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

2. Nondiscrimination

The Sponsor Agency will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age marital status, or status with regard to public assistance. The Sponsor Agency will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Sponsor Agency agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Sponsor Agency setting forth the provisions of this nondiscrimination clause. The Sponsor Agency shall also abide by Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), which prohibits sex discrimination in federally assisted education programs.

B. Affirmative Action

1. Approved Plan

The Sponsor Agency agrees that it shall be committed to carry out, pursuant to the Grantee's specifications, an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Grantee shall provide Affirmative Action guidelines to the Sponsor Agency to assist in the formulation of such program, upon request. The Sponsor Agency shall submit a plan for an Affirmative Action Program for approval prior to the award of funds, if applicable.

2. Women/Minority Business Enterprise

The Sponsor Agency will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The Sponsor Agency may rely on written representations by businesses regarding their status as minority and women business enterprises in lieu of an independent investigation.



3. Notifications

The Sponsor Agency will send to each labor union or representative of workers with which it has a collective bargaining agreement or other agreement or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Sponsor Agency's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. EEO/AA Statement

The Sponsor Agency will, in all solicitations or advertisements for employees placed by or on behalf of the Sponsor Agency; state that it is an Equal Opportunity or Affirmative Action Employer, as applicable.

5. Grievance

The Sponsor Agency agrees to establish and maintain written procedures to address grievances or complaints of employees or Program participants under this Agreement. The Sponsor Agency written procedures must identify the Grantee contact information, as provided at Section III., "Notice," in **Exhibit "A"** of this Agreement. The Sponsor Agency shall notify all employees and Program participants of its grievance procedure. Such notification must include the telephone number to reach the Grantee. The Sponsor Agency shall immediately notify HCCSD of all grievances or complaints received by the Sponsor Agency.

C. Labor Standards

1. Wages

The Sponsor Agency agrees to comply with the requirements of the Secretary of Labor issued in accordance with the provisions of Contract Work Hours and Safety Standards Act [40 U.S.C.A. 3701-3703] as supplemented by Department of Labor regulations, the Copeland "Anti-Kickback" Act [18 U.S.C.A. 874], the Davis-Bacon Act [40 U.S.C.A. 3141-3142], and all other applicable federal, state and local laws and regulations pertaining to labor standards, insofar as those acts apply to the performance of this Agreement. The Sponsor Agency shall maintain documentation that demonstrates compliance with hour and wage requirements of this section. Such documentation shall be made available to the Grantee for review upon request. The Sponsor Agency shall also abide by Chapter 11 of Title 18 of the U.S. Code (18 U.S.C.A. 201-224), which prohibits a number of criminal activities, including bribery, graft and conflict of interest.

2. OSHA

Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participant's health or safety.

### 3. Drug Free Workplace

All profit or non-profit agencies or organizations receiving state or federal grant funds under the official sponsorship of Fort Bend County must certify on an annual basis their compliance with the requirements of the "Drug Free-Workplace Act of 1988." Employees are specifically prohibited from manufacturing, distributing, possessing, purchasing, and using illegal drugs or controlled substances in the workplace or in any other facility, location or transport in which the employee is required to be present in order to perform his or her job function.

#### D. Prohibited Activity

The Sponsor Agency is prohibited from using SPC funds or personnel employed in the administration of the program for political activities, sectarian/religious activities, lobbying, political patronage, and/or nepotism activities.

##### 1. Hatch Act

The Sponsor Agency agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

##### 2. Religious Organization

The Sponsor Agency agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 C.F.R. §582.115(c).

#### E. Conflict of Interest

The Sponsor Agency agrees to abide by the provisions of 24 C.F.R. §582.340 (b) with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sponsor Agency further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Sponsor Agency hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or the Sponsor Agencies that are receiving funds under the SPC program.

In applying for funds, the Sponsor Agency provided the Grantee with disclosure of the nature of any perceived or actual conflict of interests. If at any time during the course of the term of this Agreement any actual or perceived conflict of interest arises, the Sponsor Agency agrees to provide a new Conflict of Interest form (**Exhibit "D"**) to the Grantee. Failure to disclose any perceived or actual conflicts of interest may result in termination of this Agreement.

F. False Claims

The Sponsor Agency also agrees to abide by 18 U.S.C.A. 492, which provides for conspiracy to defraud the Federal Government with Respect to Claims. In addition, the Sponsor Agency will also abide by the False Claims Act (31 U.S.C.A. 3729 et seq.); Cr. Proc. R. 41 (a), (b), (f), relating to False, Fictitious and Fraudulent Claims; 18 U.S.C.A. 245 Federally Protected Activities; 18 U.S.C.A. 1001 regarding General Statements or Entries; the Program Fraud Civil Remedies Act (31 U.S.C.A. 3801-3812); the Federal Claims Collection Act of 1966 (31 U.S.C.A. 3701, 3711, 3717, 3718) as amended by the Derby Collection Act of 1982; the Meritorious Claims Act (31 U.S.C.A. 3702); the Tucker Act (28 U.S.C.A. 1346, 1491, and 2501); the Wunderlich Act (41 U.S.C.A. 321-322); the Anti-Deficiency Act (31 U.S.C.A. 1341); and Section 208(a) of the Intergovernmental Personnel Act of 1970, as amended.

G. "Section 3" Clause

1. Compliance

The Sponsor Agency agrees to comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, the regulations set forth in 24 C.F.R. Part 135, and all applicable rules and orders. The Sponsor Agency understands that compliance shall be a condition of the federal assistance provided under this Agreement and binding upon the Grantee, the Sponsor Agency and any sub-Sponsor Agencies. Failure to comply with these requirements shall subject the Grantee, the Sponsor Agency and any sub-Sponsor Agencies, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided, and as set out in 24 C.F.R. Part 135, Subpart O. The Sponsor Agency agrees that no contractual or other disability exists which would prevent compliance with these requirements. The Sponsor Agency shall include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this contract is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the areas of the project."

2. Notifications

The Sponsor Agency shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

### 3. Subcontracts

The Sponsor Agency shall include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the sub-Sponsor Agency is in violation of regulations issued by the Grantee. The Sponsor Agency will not subcontract with any sub-Sponsor Agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. Part 135 and will not let any subcontract unless the sub-Sponsor Agency has first provided it with preliminary statement of ability to comply with the requirements of these regulations.

## H. Subcontracts

### 1. Approvals

The Sponsor Agency shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the Grantee prior to the execution of such agreement.

### 2. Monitoring

The Sponsor Agency will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

### 3. Content

The Sponsor Agency shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

### 4. Selection Process

The Sponsor Agency shall insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair, open, and competitive manner. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process. The Sponsor Agency must adopt and utilize written selection criteria for use in the selection of subcontractors, which selection criteria must conform to the procurement requirements of 24 C.F.R. §84.44.

## XI. ENVIRONMENTAL CONDITIONS

### A. Air and Water

The Sponsor Agency agrees to comply with the following regulations insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C.A 7401 et seq.
- Clean Water Act, 33 U.S.C.A 1368
- Executive Order 11738
- Federal Water Pollution Control Act, as amended, 33 U.S.C.A 1251, et seq., and 1318, relating to inspection, monitoring, entry, reports, and information, and all regulations guidelines issued there under
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended
- National Environmental Policy Act of 1969 (42 U.S.C.A 4321 et seq.; as amended)
- HUD Environmental Review Procedures (24 C.F.R., Part 58).

B. Flood Disaster Protection

The Sponsor Agency agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (P.L.-2234) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.

C. Lead-Based Paint

The Sponsor Agency agrees to comply with HUD Lead-Based Paint Regulations at 24 C.F.R.:Part 35, and in particular Sub-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning, and of the advisability and availability of blood-level screening for children under 7 years of age.

D. Historic Preservation

The Sponsor Agency agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 C.F.R., Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general this requires concurrence from the Texas Historical Commission and Antiquities Committee for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, State, or local historic property list.

E. Wildlife Protection

The Sponsor Agency agrees to comply with the requirements of the Endangered Species Act of 1973 as listed in 50 C.F.R. §17.11 and 50 C.F.R. Part 451; the Lacey Act (18 U.S.C. 42); the Migratory Bird Treaty Act (16 U.S.C. 703-12); the Fish and Wildlife Coordination Act (16 U.S.C.A. 661-667e); Section 4(f) of the Department of Transportation Act (49 U.S.C.A 1653(f)); the Federal Water Pollution Control Act (33 U.S.C.A. 1251 et seq.); the Coastal Zone Management Act of 1972, as amended (16 U.S.C.A. 1451); and the Safe Drinking Water Act of 1974 (42 U.S.C.A. 300f to j-10), insofar as they apply to the performance of this Agreement.

## XII. ASSIGNMENTS AND AMENDMENTS

### A. Assignability

The Sponsor Agency shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee. Notice of any such permitted assignment or transfer shall be furnished promptly to the Grantee.

### B. Amendments

Occasionally, it may be necessary for the Grantee or the Sponsor Agency to alter the program to accommodate unanticipated changes, such as (1) a change in sponsor, (2) a change in project site, or (3) a change in target population. If these changes are necessary, the Grantee or the Sponsor Agency may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are approved in writing by HUD. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or the Sponsor Agency from its obligations under this Agreement.

Additionally, the Grantee may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment results in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be affected only by written amendment signed by both the Grantee and the Sponsor Agency.

## XIII. TERMINATION OF AGREEMENT

### A. Automatic Termination

This Agreement automatically terminates at the end of the time of performance as specified in paragraph IV, TIME OF PERFORMANCE of this Agreement.

### B. Termination Without Cause

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. In the event of termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sponsor Agency under this Agreement shall become the property of the Grantee, and the Sponsor Agency shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination, unless HUD has determined through monitoring and/or investigative practices, that the Sponsor Agency is not entitled to such compensation.

C. With Cause

The Grantee may terminate this Agreement for cause, in whole or in part, if the Sponsor Agency fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the Grantee may declare the Sponsor Agency ineligible for any further participation in the Grantee SPC Agreements, in addition to other remedies as provided by law. If the Grantee has cause to believe the Sponsor Agency is in noncompliance with this Agreement or any applicable rules and regulations, the Grantee may withhold up to twenty-five (25) percent of said Agreement funds until such time as the Sponsor Agency is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

D. Partial Terminations

Partial terminations of the Scope of Services in **Exhibit "A"** may only be undertaken with the prior approval of the Grantee and/or HUD.

E. Breach of the Agreement

Termination of this Agreement shall not relieve the Sponsor Agency of liability for any breach of this Agreement that occurs prior to such termination or expiration.

F. Close-outs

The Sponsor Agency's obligation to the Grantee shall not end until all closeout requirements described in 24 C.F.R. §84.71 are completed to the satisfaction of the Grantee and the Fort Bend County Auditor. Activities during this close-out period shall include, but are not limited to, making final payments, disposing of Program assets, including the return to the Grantee of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable, and determining the custodianship of records.

G. Reversion of Assets

Upon expiration or termination of the term of this Agreement, the Sponsor Agency shall transfer to the Grantee any funds on hand at the time of expiration and any accounts receivable attributable to the use of these funds. For any year following the expiration or termination of this Agreement that the Sponsor Agency holds personal property attributable to funds hereunder, the Sponsor Agency shall submit an Annual Report of Personal Property identifying the property and its location, with such report being filed with the Grantee and the Fort Bend County Auditor.

XIV. AGREEMENT REQUIREMENTS

Notwithstanding any provision of this Agreement, the Sponsor Agency is required to comply with the federal, state, and local regulations applicable to the specific federally assisted program associated with this Agreement.

XV. INCORPORATION OF EXHIBITS

The following documents shall be part of this Agreement:

- |           |  |
|-----------|--|
| Exhibit A | Scope of Services  |
| Exhibit B | Budget   |
| Exhibit C | Certification of Contracts, Grants, Loans and Cooperative Agreements |
| Exhibit D | Conflict of Interest   |
| Exhibit E | Occupancy Agreement  |
| Exhibit F | Resident Rent Calculation Worksheet                                  |



IN WITNESS WHEREOF, this instrument in duplicate originals, has been executed by the parties hereto as follows:

- a. It has on the 25 day of November, 2008, been executed by the County Judge of Fort Bend County, on behalf of the County pursuant to an Order of the Commissioners Court of the County so authorizing.

It has on the 6th day of NOVEMBER, 2008, been executed by the Chairman and attested to by the Secretary on behalf of the organization pursuant to a resolution of the governing body so authorizing.

ATTEST

Dianne Wilson  
County Clerk

ATTEST:

Shirley McKinney  
Secretary

FORT BEND COUNTY

By Robert E. Hebert  
ROBERT E. HEBERT  
County Judge

FORT BEND COUNTY  
WOMEN'S CENTER, INC.

By [Signature]  
CHAIRMAN

APPROVED AS TO FORM:

Roy L. Cordes, Jr.  
ROY L. CORDES, JR.  
County Attorney

**AUDITOR'S CERTIFICATION**

1,029,096.00 RAL

I hereby certify that funds are available in the amount of \$1,062,600.00 to pay the obligation of Fort Bend County under this Agreement.

Robert E. Sturdivant  
ROBERT E. STURDIVANT  
County Auditor

## **Exhibit A, SCOPE OF SERVICES**

### **I. Application**

This Scope of Services is based on the approved Application prepared and submitted by the Sponsor Agency through the Houston-Fort Bend County Continuum of Care application process. However, in the event of any conflict between the Application and any provision contained herein, this Agreement shall control. In addition to the activities listed below, the Sponsor Agency agrees to operate this SPC program consistent with the program delivery stated in the approved Application.

### **II. Activities**

**Activity #1:** The Sponsor Agency will administer rental housing assistance in the Houston and Fort Bend County service area for 20 participants who have provided documentation of homelessness and disability. In accordance with 24 C.F.R. Part 582 for each participant served, the Sponsor Agency will execute an Occupancy Agreement between itself and the participant as well as ensure an acceptable lease is executed between the participant and landlord.

**Activity #2:** The Sponsor Agency will provide case management and other supportive services for 20 participants; services include but are not limited to: access to employment assistance and job training services, mental health and counseling services, life skills services, mentoring, education and instruction services, and transportation in an amount equal to or greater than the value of the SPC funds in accordance with 24 C.F.R. Part 582.

In addition to the normal administrative services required as part of this Agreement, the Sponsor Agency agrees to document progress using reporting requirements specified in Paragraph IX. B., parts 4 and 5 of this Agreement by providing the above levels of program services.

The Scope of Services to be provided by the Sponsor Agency may be amended to include other activities authorized under Federal law that are approved in writing by the Director of the Fort Bend County Community Development Department or the Grantee as applicable, and within the same general type of services described herein.

### **Responsibilities**

#### **Sponsor Agency**

The responsibilities of the Sponsor Agency shall include but not be limited to client intake, initial rent calculations, income determination, initial housing quality inspections, recertifying after the initial year and preparing required reports.

## Grantee

The responsibilities of the Grantee shall include but not be limited to reviewing client intake, reviewing income determination, reviewing rent calculations, final housing quality inspections, reviewing recertifications and submitting required reports.

### III. Notice

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

#### Grantee

Marilynn Kindell, Director  
Fort Bend County Community Development  
Department  
4520 Reading Road, Suite A  
Rosenberg, Texas 77471

#### Sponsor Agency

Vita Goodell, Executive Director  
Fort Bend County Women's Center Inc.  
P.O. Box 183  
Richmond, TX 77406

## Exhibit B, BUDGET

Fort Bend County Women's Center, Inc.

for the

2007 SPC Program TX24C700002

### Maximum Amount to be paid under this Agreement

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed One Million Sixty-Two Thousand Six Hundred Dollars and 00/100 (\$1,062,600.00).

	Shelter + Care	Shelter + Care	Match	Project Budget
	Grantee	Sponsor Agency	Sponsor Agency	Total
SPC Rental Assistance	\$0	\$977,592.00	\$0	\$977,592.00
Delivery Cost *	\$42,504.00	\$42,504.00	\$0	\$85,008.000
Supportive Services	\$0	\$0	\$977,592.00	\$977,592.00
<b>Total Budget</b>	<b>\$42,504.00</b>	<b>\$1,020,096.00</b>	<b>\$977,592.00</b>	<b>\$2,040,192.00</b>

\*An amount up to 8% of the grant may be used for administrative costs.

The Sponsor Agency shall administer rental assistance to 20 disabled homeless individuals and their families. The amount of rental assistance is calculated as follows:

### Rental Assistance

Bedroom Size	Number of Requested Units	FMR	Number of Months
SRO	0	0	0
0	0	0	0
1	5	\$714	60
2	10	\$866	60
3	5	\$1154	60
4	0	0	0
<b>Total</b>	<b>20</b>		

### Exhibit C, Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Sponsor Agencies shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this 6<sup>th</sup> day of November, 2008.

By

Vita Goodell  
(Signature)

Vita Goodell  
(Type or Print Name)

Executive Director  
(Title)

Covered Action: 2007 SPC Program TX24C700002  
(Program, Project or Activity)

## EXHIBIT D, CONFLICT OF INTEREST

### All Applicants

The standards in OMB Circular A-110, Subpart C, provide that no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selection for an award.

### Shelter Plus Care

The Shelter Plus Care rule at 24 C.F.R. §582.340 (b) provides that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient and sponsor agency (1) who exercises or has exercised any functions or responsibilities with respect to assisted activities or (2) who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest from the activity, or have any interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. Participation by homeless individuals who also are participants under the program in policy or decision making under 24 C.F.R. §582.300 of this part does not constitute a conflict of interest.

A disclosure of the nature of any perceived or actual conflict must be made prior to the execution of agreements utilizing SPC.

### **IF NO CONFLICT EXISTS, COMPLETE THE FOLLOWING:**

- ☒ I certify that no conflict of interest exists between Fort Bend County and Fort Bend County Women's Center, Inc.
- ☒ I certify that no conflict of interest exists between the subcontractors of and Fort Bend County Women's Center, Inc.

### **IF A CONFLICT EXISTS, COMPLETE THE FOLLOWING:**

- ☐ I certify that a conflict of interest does exist between Fort Bend County and Fort Bend County Women's Center, Inc.
- ☐ I certify that a conflict of interest does exist between the subcontractors and Fort Bend County Women's Center, Inc.

Describe the nature of the conflict of interest below. Identify the individual, employment and the conflict or potential conflict, and their affiliation with your organization.

Uta Goodall  
Signature of Authorized Agency Official

11/6/08  
Date

Uta Goodall, Executive Director  
Typed Name and Title

**EXHIBIT E**

**SHELTER PLUS CARE PROGRAM  
OCCUPANCY AGREEMENT  
PROJECT TITLE TX24C700002**

This Agreement made and entered into on \_\_\_\_\_ (month/day/year),  
by and between Fort Bend County Women's Center, Inc. and its representatives, and

\_\_\_\_\_  
the Tenant/Participant in the Shelter Plus Care Program,

for the dwelling unit # \_\_\_\_\_ at

\_\_\_\_\_  
Name of Apartment Complex

\_\_\_\_\_  
Street Address, City, State, Zip Code (must be located in Fort Bend County)

The following person (s) will be occupying this unit and are included in this Agreement and in the Lease:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Tenant/Participant will enter into a Shelter Plus Care (SPC) Agreement for rental housing assistance with the Sponsor Agency under the SPC Housing Program of the U.S. Department of Housing and Urban Development.

This Occupancy Agreement shall remain in effect as long as all requirements of the SPC Program are adhered to, including but not limited to, housing units meeting Housing Quality Standards and Rent Reasonableness. The duration of this Agreement shall be for the time period that funds under this agreement for SPC grant TX24C700051 are made available to the Sponsor Agency.

The Tenant/Participant will be responsible for paying a portion of the rent to the Landlord based on SPC regulations which require use of the Resident Rent Calculation Worksheet, Exhibit F. The Sponsor Agency will seek reimbursement for the remainder of the total monthly rent from the SPC grant TX24C700051.

\_\_\_\_\_  
*Tenant/Participant Signature*

\_\_\_\_\_  
*Date Signed*

\_\_\_\_\_  
*Sponsor Agency Representative Signature*

\_\_\_\_\_  
*Date Signed*

## EXHIBIT F, Resident Rent Calculation Worksheet

(1)	Annual Income from all sources
(2)	Income Exclusions
(3)	\$ - Annual Income

### Calculating Adjusted Income

#### Dependent Allowance

(4)	Number of Dependents
(5)	\$ - Multiply Line 4 by \$480

#### Child Care Allowance

(6)	Anticipated Un-reimbursed Expenses for Care of Children
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#### Disabled Assistance Allowance

(7)	Disabled Assistance Expenses
(8)	\$ - Multiply Line 3 by 0.03
(9)	\$ - Subtract Line 8 from Line 7
(10)	Family Member Earnings which were dependent on the disabled assistance
(11)	\$ - Lesser of Lines 9 or 10

#### Medical Expenses/Elderly Family Allowances

(12)	List Total for Medical Expenses
(13)	\$ - If Line 9 > 0, enter amount from Line 12, otherwise add Line 7 and 12 and subtract Line 8.
(14)	Elderly Disabled Allowance (Enter \$400, if applicable)

#### Adjusted Income

(15)	\$ - Total Income Adjustments (Add Lines 5, 6, 11, 13, and 14)
(16)	\$ - Adjusted Income (Subtract Line 15 from Line 3)

#### Resident Rent Determination

(17)	\$ - 30% of Monthly Adjusted Income (Divide Line 16 by 12 and multiply by .03)
(18)	\$ - 10% of Monthly Income (Divide Line 3 by 12 and multiply by 0.1)
(19)	Portion of welfare payment designated by the agency to meet the family's
	Enter the Largest of Lines 17, 18 or 19.
(20)	\$ - <b>This is the Maximum amount per month that must be charged as resident rent</b>

#### Determining Resident Rent for Units where Utilities are not included in Rent

(21)	Utility Allowance
(22)	\$ - Resident Rent (Subtract Line 21 from Line 20)
(23)	\$ - Utility Reimbursement (Only if Line 22 < 0, This is the amount paid as a utility reimbursement.)



THE STATE OF TEXAS       §  
                                     §  
COUNTY OF FORT BEND   §

On this the \_\_\_\_\_ of \_\_\_\_\_, 2008, at a regular meeting of Commissioners Court sitting as the governing body of Fort Bend County, Texas, upon motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, duly put and carried,

**IT IS ORDERED** that the Fort Bend County Judge execute the Agreement between Fort Bend County and Fort Bend County Women's Center, Inc. for federal funding of a Shelter Plus Care Program, said Agreement being incorporated herein by reference for all purposes as though fully set forth herein word for word.

United States Department of Housing and Urban  
Development (HUD)  
Attachment 1

[Code of Federal Regulations]

[Title 24, Volume 3]

[Revised as of April 1, 2003]

From the U.S. Government Printing Office via GPO Access

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[Page 234-236]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER V--OFFICE OF ASSISTANT SECRETARY  
FOR COMMUNITY PLANNING AND  
DEVELOPMENT, DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT

PART 582--SHELTER PLUS CARE--Table of Contents

Subpart A--General

Sec. 582.1 Purpose and scope.

(a) General. The Shelter Plus Care program (S+C) is authorized by title IV, subtitle F, of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 11403-11407b). S+C is designed to link rental assistance to supportive services for hard-to-serve homeless persons with disabilities (primarily those who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome (AIDS) and related diseases) and their families. The program provides grants to be used for rental assistance for permanent housing for homeless persons with disabilities. Rental assistance grants must be matched in the aggregate by supportive services that are equal in value to the amount of rental assistance and appropriate to the needs of the population to be served. Recipients are chosen on a competitive basis nationwide.

(b) Components. Rental assistance is provided through four components described in Sec. 582.100. Applicants may apply for assistance under any one of the four components, or a combination.

[58 FR 13892, Mar. 15, 1993, as amended at 61 FR 51169, Sept. 30, 1996]

Sec. 582.5 Definitions.

The terms **Fair Market Rent (FMR)**, **HUD**, **Public Housing Agency (PHA)**, **Indian Housing Authority (IHA)**, and **Secretary** are defined in 24 CFR part 5.

As used in this part: **Acquired immunodeficiency syndrome (AIDS)** and related diseases has the meaning given in section 853 of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

**Applicant** has the meaning given in section 462 of the McKinney Act (42 U.S.C. 11403g).

**Eligible person** means a homeless person with disabilities (primarily persons who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have AIDS and related diseases) and, if also homeless, the family of such a person. To be eligible for assistance, persons must be very low income, except that low-income individuals may be assisted under the SRO component in accordance with 24 CFR 813.105(b). Homeless or homeless individual has the meaning given in section 103 of the McKinney Act (42 U.S.C. 11302).

**Indian tribe** has the meaning given in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

**Low-income** means an annual income not in excess of 80 percent of the median income for the area, as determined by HUD. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

**Nonprofit organization** has the meaning given in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704). The term nonprofit organization also includes a community mental health center established as a public nonprofit organization.

**Participant means** an eligible person who has been selected to participate in S+C.

**Person with disabilities** means a household composed of one or more persons at least one of whom is an adult who has a disability.

(1) A person shall be considered to have a disability if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that such ability could be improved by more suitable housing conditions.

(2) A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that-- (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) Is manifested before the person attains age 22; (iii) Is likely to continue indefinitely; (iv) Results in substantial functional limitations in three or more of the following areas of major life activity: (A) Self-care; (B) Receptive and expressive language; (C) Learning; (D) Mobility; (E) Self-direction; (F) Capacity for independent living; and (G) Economic self-sufficiency; and (v) Reflects the person's need for a combination and sequence of

special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(3) Notwithstanding the preceding provisions of this definition, the term person with disabilities includes, except in the case of the SRO component, two or more persons with disabilities living together, one or more such persons living with another person who is determined to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this definition who were living, in a unit assisted under this part, with the deceased member of the household at the time of his or her death. (In any event, with respect to the surviving member or members of a household, the right to rental assistance under this part will terminate at the end of the grant period under which the deceased member was a participant.)

**Recipient** means an applicant approved to receive a S+C grant.

**Seriously mentally ill** has the meaning given in section 462 of the McKinney Act (42 U.S.C. 11403g).

**Single room occupancy (SRO) housing** means a unit for occupancy by one person, which need not but may contain food preparation or sanitary facilities, or both.

**Sponsor** means a nonprofit organization which owns or leases dwelling units and has contracts with a recipient to make such units available to eligible homeless persons and receives rental assistance payments under the SRA component.

**State** has the meaning given in section 462 of the McKinney Act (42 U.S.C. 11403g).

**Supportive service provider, or service provider**, means a person or organization licensed or otherwise qualified to provide supportive services, either for profit or not for profit.

**Supportive services** means assistance that-- (1) Addresses the special needs of eligible persons; and (2) Provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health treatment, alcohol and other substance abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. (Inpatient acute hospital care does not qualify as a supportive service.)

**Unit of general local government** has the meaning given in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

**Very low-income** means an annual income not in excess of 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

[61 FR 51169, Sept. 30, 1996; 62 FR 13539, Mar. 21, 1997]

[Page 236-239]

## TITLE 24--HOUSING AND URBAN DEVELOPMENT

### CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### PART 582--SHELTER PLUS CARE--Table of Contents

##### Subpart B--Assistance Provided

##### Sec. 582.100 Program component descriptions.

(a) Tenant-based rental assistance (TRA). Tenant-based rental assistance provides grants for rental assistance which permit participants to choose housing of an appropriate size in which to reside. Participants retain the rental assistance if they move. Where necessary to facilitate the coordination of supportive services, grant recipients may require participants to live in a specific area for their entire period of participation or in a specific structure for the first year and in a specific area for the remainder of their period of participation. Recipients may not define the area in a way that violates the Fair Housing Act or the Rehabilitation Act of 1973. The term of the grant between HUD and the grant recipient for TRA is five years.

(b) Project-based rental assistance (PRA). Project-based rental assistance provides grants for rental assistance to the owner of an existing structure, where the owner agrees to lease the subsidized units to participants. Participants do not retain rental assistance if they move. Rental subsidies are provided to the owner for a period of either five or ten years. To qualify for ten years of rental subsidies, the owner must complete at least \$3,000 of eligible rehabilitation for each unit (including the unit's prorated share of work to be accomplished on common areas or systems), to make the structure decent, safe and sanitary. This rehabilitation must be completed within 12 months of the grant award.

(c) Sponsor-based rental assistance (SRA). Sponsor-based rental assistance provides grants for rental assistance through contracts between the grant recipient and sponsor organizations. A sponsor may be a private, nonprofit organization or a community mental health agency established as a public nonprofit organization. Participants reside in housing owned or leased by the sponsor. The term of the grant between HUD and the grant recipient for SRA is five years.

(d) Moderate rehabilitation for single room occupancy dwellings (SRO). (1) The SRO component provides grants for rental assistance in connection with the moderate rehabilitation of single room occupancy housing units.

Resources to initially fund the cost of rehabilitating the dwellings must be obtained from other sources. However, the rental assistance covers operating expenses of the rehabilitated SRO units occupied by homeless persons, including debt service to retire the cost of the moderate rehabilitation over a ten-year period. (2) SRO housing must be in need of moderate rehabilitation and must meet the requirements of 24 CFR 882.803(a). Costs associated with rehabilitation of common areas may be included in the calculation of the cost for assisted units based on the proportion of the number of units to be assisted under this part to the total number of units. (3) SRO assistance may also be used for efficiency units selected for rehabilitation under this program, but the gross rent (contract rent plus any utility allowance) for those units will be no higher than for SRO units (i.e., 75 percent of the 0-bedroom Moderate Rehabilitation Fair Market Rent). (4) The requirements regarding maintenance, operation, and inspections described in 24 CFR 882.806(b)(4) and 882.808(n) must be met. (5) Governing regulations. Except where there is a conflict with any requirement under this part or where specifically provided, the SRO component will be governed by the regulations set forth in 24 CFR part 882, **subpart H**.

#### Sec. 582.105 Rental assistance amounts and payments.

(a) Eligible activity. S+C grants may be used for providing rental assistance for housing occupied by participants in the program and administrative costs as provided for in paragraph (e) of this section, except that the housing may not be currently receiving Federal funding for rental assistance or operating costs under other HUD programs. Recipients may design a housing program that includes a range of housing types with differing levels of supportive services. Rental assistance may include security deposits on units in an amount up to one month's rent.

(b) Amount of the grant. The amount of the grant is based on the number and size of units proposed by the applicant to be assisted over the grant period. The grant amount is calculated by multiplying the number of units proposed times the applicable Fair Market Rent (FMR) of each unit times the term of the grant.

(c) Payment of grant. (1) The grant amount will be reserved for rental assistance over the grant period. An applicant's grant request is an estimate of the amount needed for rental assistance. Recipients will make draws from the reserved amount to pay the actual costs of rental assistance for program participants. For TRA, on demonstration of need, up to 25 percent of the total rental assistance awarded may be spent in any one of the five years, or a higher percentage if approved by HUD, where the applicant provides evidence satisfactory to HUD that it is financially committed to providing the housing assistance described in the application for the full five-year period. (2)

A recipient must serve at least as many participants as shown in its application. Where the grant amount reserved for rental assistance over the grant period exceeds the amount that will be needed to pay the actual costs of rental assistance, due to such factor as contract rents being lower than FMR's and participants are being able to pay a portion of the rent, recipients may use the remaining funds for the costs of administering the housing assistance, as described in paragraph (e) of this section, for damage to property, as described in paragraph (f) of this section, for covering the costs of rent increases, or for serving a great number of participants.

(d) Vacancies. (1) If a unit assisted under this part is vacated before the expiration of the occupancy agreement described in Sec. 582.315 of this part, the assistance for the unit may continue for a maximum of 30 days from the end of the month in which the unit was vacated, unless occupied by another eligible person. No additional assistance will be paid until the unit is occupied by another eligible person. (2) As used in this paragraph (d), the term "vacate" does not include brief periods of inpatient care, not to exceed 90 days for each occurrence.

(e) Administrative costs. (1) Up to eight percent of the grant amount may be used to pay the costs of administering the housing assistance. Recipients may contract with another entity approved by HUD to administer the housing assistance. (2) Eligible administrative activities include processing rental payments to landlords, examining participant income and family composition, providing housing information and assistance, inspecting units for compliance with housing quality standards, and receiving into the program new participants. This administrative allowance does not include the cost of administering the supportive services or the grant (e.g., costs of preparing the application, reports or audits required by HUD), which are not eligible activities under a S+C grant.

(f) Property damage. Recipients may use grant funds in an amount up to one month's rent to pay for any damage to housing due to the action of a participant.

[58 FR 13892, Mar. 15, 1993, as amended at 61 FR 51170, Sept. 30, 1996]

#### Sec. 582.110 Matching requirements.

(a) Matching rental assistance with supportive services. To qualify for rental assistance grants, an applicant must certify that it will provide or ensure the provision of supportive services, including funding the services itself if the planned resources do not become available for any reason, appropriate to the needs of the population being served and at least equal in value to the aggregate amount of rental assistance funded by HUD. The supportive services may be newly created for the program or already in operation, and may be provided or funded by other Federal, State, local, or private programs. Only services

that are provided after the execution of the grant agreement may count toward the match.

(b) Availability to participants. Recipients must give reasonable assurances that supportive services will be available to participants for the entire term of the rental assistance. The value of the services provided to a participant, however, does not have to equal the amount of rental assistance provided that participant, nor does the value have to be equal to the amount of rental assistance on a year-to-year basis.

(c) Calculating the value of supportive services. In calculating the amount of the matching supportive services, applicants may count: (1) Salaries paid to staff of the recipient to provide supportive services to S+C participants; (2) The value of supportive services provided by other persons or organizations to S+C participants; (3) The value of time and services contributed by volunteers at the rate of \$10.00 an hour, except for donated professional services which may be counted at the customary charge.

(b) Amount of assistance provided within a jurisdiction. HUD will limit the amount of assistance provided within the jurisdiction of any one unit of local government to no more than 10 percent of the amount available.

(c) Primarily religious organizations. HUD will provide assistance to a recipient that contracts with a primarily religious organization, or a wholly secular organization established by a primarily religious organization, to provide, manage, or operate housing and supportive services if the organization agrees to provide the housing and services in a manner that is free from religious influences and in accordance

with the following principles: (1) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion; (2) It will not discriminate against any person applying for housing or supportive services on the basis of religion and will not limit such housing or services or give preference to persons on the basis of religion; (3) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of housing and supportive services.

(d) Maintenance of effort. No assistance received under this part (or any State or local government funds used to supplement this assistance) may be used to replace funds provided under any State or local government assistance programs previously used, or designated for use, to assist persons with disabilities, homeless persons, or homeless persons with disabilities.

#### Sec. 582.120 Consolidated plan.

(a) Applicants that are States or units of general local government. The applicant must have a HUD-approved complete or abbreviated consolidated plan, in accordance

for the service provided (professional services are services ordinarily performed by donors for payment, such as the services of health professionals, that are equivalent to the services they provide in their occupations); (4) The value of any lease on a building used for the provision of supportive services, provided the value included in the match is no more than the prorated share used for the program; and (5) The cost of outreach activities, as described in Sec. 582.325(a) of this part.

#### Sec. 582.115 Limitations on assistance.

(a) Current occupants. Current occupants of the real property are not eligible for assistance under this part. However, as described in Sec. 582.335, persons displaced as a direct result of acquisition, rehabilitation, or demolition for a project under the S+C program are eligible for and must be provided relocation assistance at Uniform Relocation Act levels.

with 24 CFR part 91, and must submit a certification that the application for funding is consistent with the HUD-approved consolidated plan. Funded applicants must certify in a grant agreement that they are following the HUD-approved consolidated plan. If the applicant is a State, and the project will be located in a unit of general local government that is required to have, or has, a complete consolidated plan, or that is applying for Shelter Plus Care assistance under the same Notice of Fund Availability (NOFA) and will have an abbreviated consolidated plan with respect to that application, the State also must submit a certification by the unit of general local government that the State's application is consistent with the unit of general local government's HUD-approved consolidated plan.

(b) Applicants that are not States or units of general local government. The applicant must submit a certification by the jurisdiction in which the proposed project will be located that the jurisdiction is following its HUD-approved consolidated plan and the applicant's application for funding is consistent with the jurisdiction's HUD-approved consolidated plan. The certification must be made by the unit of general local government or the State, in accordance with the consistency certification provisions of the consolidated plan regulations, 24 CFR part 91, **subpart F**.

(c) Indian tribes and the Insular Areas of Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands. These entities are not required to have a consolidated plan or to make consolidated plan certifications. An application by an Indian tribe or other applicant for a project that will be located on a reservation of an Indian tribe will not require a certification by the tribe or the

State. However, where an Indian tribe is the applicant for a project that will not be located on a reservation, the

requirement for a certification under paragraph (b) of this section will apply.

(d) Timing of consolidated plan certification submissions. Unless otherwise set forth in the NOFA, the required certification that the application for funding is consistent with the HUD-approved consolidated plan must be submitted by the funding application submission deadline announced in the NOFA.

[60 FR 16379, Mar. 30, 1995]

[Page 239-241]

## **TITLE 24--HOUSING AND URBAN DEVELOPMENT**

### **CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

#### **PART 582--SHELTER PLUS CARE--Table of Contents**

##### **Subpart C--Application and Grant Award**

##### **Sec. 582.200 Application and grant award.**

(a) Review. When funds are made available for assistance, HUD will publish a notice of fund availability in the Federal Register in accordance with the requirements of 24 CFR part 4. Applications will be reviewed and screened in accordance with the guidelines, rating criteria and procedures published in the notice.

(b) Rating criteria. HUD will award funds based on the criteria specified in section 455(a)(1) through (8) of the McKinney Act (42 U.S.C. 11403d(1)--11403d(8)) and on the following criteria authorized by section 455(a)(9) of the McKinney Act (42 U.S.C. 11403d(9)): (1) The extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable; (2) Extent to which the project targets homeless persons living in emergency shelters, supportive housing for homeless persons, or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; (3) Quality of the project; and (4) Extent to which the program will serve homeless persons who are seriously mentally ill, have chronic alcohol and/or drug abuse problems, or have AIDS and related diseases.

(Approved by the Office of Management and Budget under control number 2506-0118)

[61 FR 51170, Sept. 30, 1996]

##### **Sec. 582.230 Environmental review requirements.**

(a) Responsibility for review. (1) HUD will perform the environmental review, in accordance with part 50 of this title, for conditionally selected applications received from PHA applicants and from IHA applicants. HUD is not permitted to approve such applications prior to its completion of this review, nor is the PHA or IHA permitted to enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of this review and approval of the application, except under the SRO component.

(2) Applicants that are States, units of general local government, or Indian tribes must assume responsibility as "responsible entities" for environmental review, decision-making, and action for each application for assistance in accordance with part 58 of this title. In addition, for PHA projects and IHA projects under the SRO component, environmental reviews will be performed by State, local government, Indian tribe, or Alaska native village "no recipient responsible entities" as provided under part 58 of this title. HUD is permitted to approve such applications subject to the completion of reviews by the applicant in accordance with part 58 of this title. Applicants performing these reviews may adopt relevant and adequate prior reviews conducted by HUD or another governmental entity if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and only under certain conditions (e.g., a determination that no environmentally significant changes have occurred since the review was done). Applicants who adopt such relevant and adequate prior reviews may include the environmental certification and Request for Release of Funds with their applications.

(b) Environmental review by HUD. With regard to the environmental effects of applications for which HUD performs the review, HUD will undertake its review in accordance with the provisions of NEPA and the related authorities listed in 24 CFR 50.4. HUD may eliminate an application from consideration where the application would require an Environmental Impact Statement (EIS). PHA applicants and IHA applicants (other than under the SRO component) must include in their application an assurance that the applicant will: (1) Not enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of the review and approval of the application; (2) Supply HUD with information necessary for HUD to perform any applicable environmental review when requested under Sec. 582.225(a); and (3) Carry out mitigating measures required by HUD or ensure that alternate sites are utilized.

(c) Environmental review by applicants or nonrecipient responsible entities. (1) An applicant that is required under

paragraph (a)(2) of this section to assume environmental review responsibility must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR 58.5. A PHA or IHA applicant under the SRO component must include in its application an assurance by the non-recipient responsible entity that the entity will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR 58.5. (2) For applicants required to assume environmental review responsibility and for PHAs and IHAs under the SRO component, the award of funding is subject to completion of the environmental responsibilities set out in 24 CFR part 58 within a reasonable time period after notification of the award. (This provision does not preclude

[Page 241-246]

## **TITLE 24--HOUSING AND URBAN DEVELOPMENT**

### **CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

#### **PART 582--SHELTER PLUS CARE--Table of Contents**

##### **Subpart D--Program Requirements**

##### **Sec. 582.300 General operation.**

(a) Participation of homeless individuals. (1) Each recipient must provide for the consultation and participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of the recipient, to the extent that the entity considers and makes policies and decisions regarding any housing assisted under this part or services for the participants. This requirement is waived if the applicant is unable to meet the requirement and presents a plan, which HUD approves, to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions. Participation by such an individual who also is a participant under the program does not constitute a conflict of interest under Sec. 582.340(b) of this part.

(2) To the maximum extent practicable, each recipient must involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing or rehabilitating housing assisted under this part and in providing supportive services required under Sec. 582.215 of this part.

the applicant from enclosing its environmental certification and Request for Release of Funds with its application.) (i) Upon completion of the requirements in 24 CFR part 58: (A) Applicants required to assume environmental review responsibility must certify the completion; (B) PHA and IHA applicants under the SRO component must submit the non-recipient responsible entities' certification of completion; and (C) All applicants must submit a Request for Release of Funds. This submission is not required in cases in which the applicant determines, in accordance with part 58 that its program components are totally exempt. (ii) HUD will not release grant funds if the recipient or any other party commits grant funds (i.e., incurs any costs or expenditures to be paid or reimbursed with such funds) before the grantee submits and HUD approves its Request for Release of Funds (when such submission is required).

[61 FR 51170, Sept. 30, 1996]

(b) Ongoing assessment of housing and supportive services. Each recipient of assistance must conduct an ongoing assessment of the housing assistance and supportive services required by the participants, and make adjustments as appropriate.

(c) Adequate supportive services. Each recipient must assure that adequate supportive services are available to participants in the program.

(d) Records and reports. (1) Each recipient must keep any records and, within the timeframe required, make any reports (including those pertaining to race, ethnicity, gender, and disability status data) that HUD may require. (2) Each recipient must keep on file, and make available to the public on request, a description of the procedures used to select sponsors under the SRA component and buildings under the SRO, SRA, and PRA components. (3) Each recipient must develop, and make available to the public upon request, its procedures for managing the rental housing assistance funds provided by HUD. At a minimum, such procedures must describe how units will be identified and selected; how the responsibility for inspections will be handled; the process for deciding which unit a participant will occupy; how participants will be placed in, or assisted in finding appropriate housing; how rent calculations will be made and the amount of rental assistance payments determined; and what safeguards will be used to prevent the misuse of funds.

(Approved by the Office of Management and Budget under control number 2506-0118)

[58 FR 13892, Mar. 15, 1993, as amended at 61 FR 51171, Sept. 30, 1996]

Sec. 582.305 Housing quality standards; rent reasonableness.

(a) Housing quality standards. Housing assisted under this part must meet the applicable housing quality standards (HQS) under Sec. 982.401 of this title--except that Sec. 982.401(j) of this title does not apply and instead part 35, subparts A, B, K and R of this title apply--and, for SRO under Sec. 882.803(b) of this title. Before any assistance will be provided on behalf of a participant, the recipient, or another entity acting on behalf of the recipient (other than the owner of the housing), must physically inspect each unit to assure that the unit meets the HQS. Assistance will not be provided for units that fail to meet the HQS, unless the owner corrects any deficiencies within 30 days from the date of the lease agreement and the recipient verifies that all deficiencies have been corrected. Recipients must also inspect all units at least annually during the grant period to ensure that the units continue to meet the HQS.

(b) Rent reasonableness. HUD will only provide assistance for a unit for which the rent is reasonable. For TRA, PRA, and SRA, it is the responsibility of the recipient to determine whether the rent charged for the unit receiving rental assistance is reasonable in relation to rents being charged for comparable unassisted units, taking into account the location, size, type, quality, amenities, facilities, and management and maintenance of each unit, as well as not in excess of rents currently being charged by the same owner for comparable unassisted units. For SRO, rents are calculated in accordance with 24 CFR 882.805(g).

[58 FR 13892, Mar. 15, 1993, as amended at 61 FR 51171, Sept. 30, 1996;  
64 FR 50226, Sept. 15, 1999]

#### Sec. 582.310 Resident rent.

(a) Amount of rent. Each participant must pay rent in accordance with section 3(a)(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(a)(1)), except that in determining the rent of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act, the gross income of this person is the same as if the person were being assisted under title XVI of the Social Security Act.

(b) Calculating income. (1) Income of participants must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a).

(2) Recipients must examine a participant's income initially, and at least annually thereafter, to determine the amount of rent payable by the participant. Adjustments to a participant's rental payment must be made as necessary. (3) As a condition of participation in the program, each participant must agree to supply the information or documentation necessary to verify the participant's income. Participants must provide the recipient information at any time regarding changes in income or other circumstances

that may result in changes to a participant's rental payment.

[66 FR 6225, Jan. 19, 2001]

#### Sec. 582.315 Occupancy agreements.

(a) Initial occupancy agreement. Participants must enter into an occupancy agreement for a term of at least one month. The occupancy agreement must be automatically renewable upon expiration, except on prior notice by either party.

(b) Terms of agreement. In addition to standard lease provisions, the occupancy agreement may also include a provision requiring the participant to take part in the supportive services provided through the program as a condition of continued occupancy.

#### Sec. 582.320 Termination of assistance to participants.

(a) Termination of assistance. The recipient may terminate assistance to a participant who violates program requirements or conditions of occupancy. Recipients must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination, so that a participant's assistance is terminated only in the most severe cases. Recipients are not prohibited from resuming assistance to a participant whose assistance has been terminated.

(b) Due process. In terminating assistance to a participant, the recipient 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: (1) Written notice to the participant containing a clear statement of the reasons for termination; (2) A review of the decision, in which the 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 (3) Prompt written notice of the final decision to the participant.

#### Sec. 582.325 Outreach activities.

Recipients must use their best efforts to ensure that eligible hard-to-reach persons are served by S+C. Recipients are expected to make sustained efforts to engage eligible persons so that they may be brought into the program. Outreach should be primarily directed toward eligible persons who have a nighttime residence that is an emergency shelter or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (e.g., persons living in cars, streets, and parks). Outreach activities are considered to be a supportive service, and the value of such activities that occur after the execution of the grant



agreement may be included in meeting the matching requirement.

Sec. 582.330 Nondiscrimination and equal opportunity requirements.

(a) General. Recipients may establish a preference as part of their admissions procedures for one or more of the statutorily targeted populations (i.e., seriously mentally ill, alcohol or substance abusers, or persons with AIDS and related diseases). However, other eligible disabled homeless persons must be considered for housing designed for the target population unless the recipient can demonstrate that there is sufficient demand by the target population for the units, and other eligible disabled homeless persons would not benefit from the primary supportive services provided.

(b) Compliance with requirements. (1) In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, recipients serving a designated population of homeless persons must, within the designated population, comply with the prohibitions against discrimination against handicapped individuals under section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 41 CFR chapter 60-741. (2) The nondiscrimination and equal opportunity requirements set forth at part 5 of this title are modified as follows: (i) The Indian Civil Rights Act (25 U.S.C. 1301 et seq.) applies to tribes when they exercise their powers of self-government, and to IHAs when established by the exercise of such powers. When an IHA is established under State law, the applicability of the Indian Civil Rights Act will be determined on a case-by-case basis. Projects subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations. (ii) [Reserved]

(c) Affirmative outreach. (1) If the procedures that the recipient intends to use to make known the availability of the program are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for assistance, the recipient must establish additional procedures that will ensure that interested persons can obtain information concerning the assistance. (2) The recipient must adopt procedures to make available information on the existence and locations of facilities and services that are accessible to persons with a handicap and maintain evidence of implementation of the procedures.

(d) The accessibility requirements, reasonable modification, and accommodation requirements of the Fair Housing Act and of section 504 of the Rehabilitation Act of 1973, as amended.

[58 FR 13892, Mar. 15, 1993, as amended at 61 FR 5210, Feb. 9, 1996]

Sec. 582.335 Displacement, relocation, and real property acquisition.

(a) Minimizing displacement. Consistent with the other goals and objectives of this part, recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of supportive housing assisted under this part.

(b) Relocation assistance for displaced persons. A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR part 24.

(c) Real property acquisition requirements. The acquisition of real property for supportive housing is subject to the URA and the requirements described in 49 CFR part 24, **subpart B**.

(d) Responsibility of recipient. (1) The recipient must certify (i.e., provide assurance of compliance) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and must ensure such compliance notwithstanding any third party's contractual obligation to the recipient to comply with these provisions. (2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid for with local public funds or funds available from other sources. (3) The recipient must maintain records in sufficient detail to demonstrate compliance with provisions of this section.

(e) Appeals. A person who disagrees with the recipient's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient. A low-income person who is dissatisfied with the recipient's determination on his or her appeal may submit a written request for review of that determination to the HUD field office.

(f) Definition of displaced person. (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property permanently as a direct result of acquisition, rehabilitation, or demolition for supportive housing project assisted under this part. The term "displaced person" includes, but may not be limited to: (i) A person that moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice or refuses to renew an expiring lease, if the move occurs on or after: (A) The date that

the recipient submits to HUD an application for assistance that is later approved and funded, if the recipient has control of the project site; or (B) The date that the recipient obtains control of the project site, if such control is obtained after the submission of the application to HUD.

(ii) Any person, including a person who moves before the date described in paragraph (f)(1)(i) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project.

(iii) A tenant-occupant of a dwelling unit who moves permanently from the building/complex on or after the date of the "initiation of negotiations" (see paragraph (g) of this section) if the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions must include a monthly rent and estimated average monthly utility costs that do not exceed the greater of: (A) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or (B) 30 percent of gross household income. If the initial rent is at or near the maximum, there must be a reasonable basis for concluding at the time the project is initiated that future rent increases will be modest.

(iv) A tenant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either: (A) A tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or (B) Other conditions of the temporary relocation are not reasonable.

(v) A tenant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another unit in the same building/complex, if either: (A) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or (B) Other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if: (i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local or tribal law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; (ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved; (iii) The person is ineligible under 49 CFR

24.2(g)(2); or (iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The recipient may request, at any time, HUD's determination of whether a displacement is or would be covered under this section.

(g) Definition of initiation of negotiations. For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the recipient and HUD, or selection of the project site, if later.

#### Sec. 582.340 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, the following requirements apply to this program:

(a) OMB Circulars.\1\ (1) The policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 apply to the acceptance and use of assistance under the program by governmental entities, and OMB Circular Nos. A-110 (Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations) and 24 CFR part 84 and A-122 (Cost Principles Applicable to Grants, Contracts and Other Agreements with Nonprofit Institutions) apply to the acceptance and use of assistance by private nonprofit organizations, except where inconsistent with provisions of the McKinney Act, other Federal statutes, or this part.

\1\ Copies of OMB Circulars may be obtained from E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7332. (This is not a toll-free number.) There is a limit of two free copies.

(2) The financial management systems used by recipients under this program must provide for audits in accordance with the provisions of 24 CFR part 44. Private nonprofit organizations who are Sponsor Agency's are subject to the audit requirements of 24 CFR part 45. HUD may perform or require additional audits as it finds necessary or appropriate.

(b) Conflict of interest. (1) In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in

any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter. Participation by homeless individuals who also are participants under the program in policy or decision-making under Sec. 582.300 of this part does not constitute a conflict of interest. (2) Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b)(1) of this section on a case-by-case basis when it determine that the exception will serve to further the purposes of the program and the effective and efficient administration of the recipient's project. An exception may be considered only after the recipient has provided the following: (i) For States, units of general local governments, PHAs and IHAs, a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and (ii) For all recipients, an opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law. (3) In determining whether to grant a requested exception after the recipient has satisfactorily met the requirement of paragraph (b)(2) of this section, HUD will consider the cumulative effect of the following factors, where applicable: (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the project which would otherwise not be available; (ii) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class; (iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question; (iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b)(1) of this section; (v) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and (vi) Any other relevant considerations.

[58 FR 13892, Mar. 15, 1993, as amended at 61 FR 5210, Feb. 9, 1996; 61 FR 51171, Sept. 30, 1996; 62 FR 13539, Mar. 21, 1997]

[Page 246-247]

## **TITLE 24--HOUSING AND URBAN DEVELOPMENT**

### **CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

## **PART 582--SHELTER PLUS CARE--Table of Contents**

### **Subpart E--Administration**

#### **Sec. 582.400 Grant agreement.**

(a) General. The grant agreement will be between HUD and the recipient. HUD will hold the recipient responsible for the overall administration of the program, including overseeing any Sponsor Agencies or contractors. Under the grant agreement, the recipient must agree to operate the program in accordance with the provisions of this part and other applicable HUD regulations.

(b) Enforcement. HUD will enforce the obligations in the grant agreement through such action as may be necessary, including recapturing assistance awarded under the program.

#### **Sec. 582.405 Program changes.**

(a) Changes. HUD must approve, in writing, any significant changes to an approved program. Significant changes that require approval include, but are not limited to, a change in sponsor, a change in the project site for SRO or PRA with rehabilitation projects, and a change in the type of persons with disabilities to be served. Depending on the nature of the change, HUD may require a new certification of consistency with the CHAS (see Sec. 582.120).

(b) Approval. Approval for such changes is contingent upon the application ranking remaining high enough to have been competitively selected for funding in the year the application was selected.

#### **Sec. 582.410 Obligation and deobligation of funds.**

(a) Obligation of funds. When HUD and the applicant execute a grant agreement, HUD will obligate funds to cover the amount of the approved grant. The recipient will be expected to carry out the activities as proposed in the application. After the initial obligation of funds, HUD is under no obligation to make any upward revisions to the grant amount for any approved assistance.

(b) Deobligation. (1) HUD may deobligate all or a portion of the approved grant amount if such amount is not expended in a timely manner, or the proposed housing for which funding was approved or the supportive services proposed in the application are not provided in accordance with the approved application, the requirements of this part, and other applicable HUD regulations. The grant agreement may set forth other circumstances under which funds may be deobligated, and other sanctions may be imposed. (2) HUD may readvertise, in a notice of fund availability, the availability of funds that have been deobligated, or may reconsider applications that were submitted in response to the most recently published notice

of fund availability and select applications for funding with the deobligated funds. Such selections would be made in accordance with the selection process described in Sec. 582.220 of this part. Any selections made using deobligated funds will be subject to applicable

appropriation act requirements governing the use of deobligated funding authority.

(Approved by the Office of Management and Budget under control number 2506-0118)