

# **AMARILLO CONTINUUM OF CARE TX-611**

## **Emergency Solutions Grants Program (ESG) Notice of Funding Availability Federal Fiscal Year 2016**



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# Table of Contents

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I.	Overview.....	3
II.	ESG 2016 NOFA and Application Timetable .....	3
III.	Background.....	4
IV.	TDHCA’s ESG Strategic Goals.....	5
V.	Eligible Applicant Organizations.....	8
VI.	Grant Period.....	8
VII.	Eligible Program Participants.....	8
VIII.	Eligible Activities.....	9
IX.	Federal Program Requirements.....	9
	APPENDIX A: Website and Best Practice References.....	17

## I. Overview

In anticipation of receiving approximately \$143,324 in Emergency Solutions Grants funds (“ESG”) from the Texas Department of Housing and Community Affairs (“TDHCA”) for the Federal Fiscal Year (“FFY”) 2016, the Amarillo Continuum of Care (the “CoC”) is pleased to make available to local nonprofit organizations a Notice of Funding Availability (“NOFA”) to allocate these funds. The Catalog of Federal Domestic Assistance (“CFDA”) number for the ESG program is 14.231. The purpose of this program is to provide funding to local organizations to assist individuals experiencing homelessness or persons at risk of homelessness to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness.

This NOFA and its accompanying Application are posted on the City of Amarillo’s webpage at: [http://comdev.amarillo.gov/?page\\_id=476](http://comdev.amarillo.gov/?page_id=476)

**All parts of the ESG application are available for download on the website and must be submitted by application deadline:**

- Part I – Overview
- Part II – Description/Capacity
- Part III – Performance
- Part IV – Budget
- Att A – CoC Participation *(will be signed by CoC Chairman)*
- Att B – Audit Certification
- Att C – Language Access Plan
- Att D – Past Performance
- Att E – Certification
- Att F – Nonprofit Certification
- Att G – Previous Participation Report
  - *(Must complete 1 form for EACH board member and executive director)*
- Att H – Self Scoring Instrument

To promote local decision-making the TDHCA has offered Continuum of Care (“CoC”) Lead Agencies the opportunity to administer the Department’s local competition of 2016 ESG funding. The CoC Lead Agencies interested in doing so were required to apply to run a local competition. The City of Amarillo as the CoC Lead Agency has been approved to perform the local competition for TDHCA. **Entities interested in applying for ESG funding that are within any of the Amarillo CoC area are not able to submit an Application to TDHCA in response to this NOFA, but must submit an Application to the Amarillo CoC Lead Agency through the localized competition to be considered for ESG funding.**

## II. ESG 2016 NOFA and Application Timetable

Date	Activity
March 1, 2016	The NOFA and Application are available at: <a href="http://comdev.amarillo.gov/?page_id=476">http://comdev.amarillo.gov/?page_id=476</a>
March 25, 2016 5:00PM	Deadline to submit ESG Applications to the Amarillo CoC (Return to Community Development Department, 808 S. Buchanan)

March 26-April 1, 2016	Amarillo CoC Grant Review Subcommittee will review and rank applications and make recommendations to CoC Board for funding
April 11, 2016	Deadline for Amarillo CoC to submit list of local applicants and requested funding to TDHCA
May 9, 2016	Deadline for Amarillo CoC to upload and submit all application materials and decisions on awards to TDHCA
*July, 2016	TDHCA Board approval of 2016 ESG awards
*August, 2016	Contracts executed with ESG subrecipients
September 1, 2016	FY2016 ESG contract start date **
August 31, 2016	FY2016 ESG contract end date **

\*Dates may change depending on TDHCA’s receipt of HUD Grant Award Notification.

### III. Background

The Amarillo CoC is designated by the Texas Department of Housing and Community Affairs (TDHCA) to administer the ESG Program. For FFY 2015, Amarillo received \$129,307. For FFY 2016, Amarillo expects to receive \$143,324. Using an allocation formula, TDHCA makes available a certain percentage of the State’s ESG allocation to each CoC region to be awarded on a competitive basis within that region. The ESG funds can be used for the following purposes:

- The rehabilitation or conversion of buildings for use as emergency shelter for the homeless;
- The payment of certain expenses related to operating emergency shelters;
- Essential services related to emergency shelters and street outreach for the homeless; and,
- Homelessness prevention and rapid re-housing assistance.

For details on specific activities allowed under this grant refer to the *Eligible Activities* section of this NOFA.

Prior to submitting an Application, Applicants should read and carefully analyze all NOFA and program requirements. The Amarillo CoC expects Applicants to understand, and if funded, to comply with all the applicable ESG regulations. Capitalized terms in this NOFA are defined in the applicable federal or state regulations or rules. In particular, prior to applying, Applicants must understand the following regulations and program requirements:

- [Interim ESG Regulations: 24 CFR Part 576](#) – The ESG interim rule, published in the *Federal Register* on December 5, 2011, establishes the regulations for the ESG Program.
- [HEARTH Homeless Definition Final Rule: 24 CFR Parts 91, 582 and 583](#) – The final rule, published in the *Federal Register* on December 5, 2011, provides the homeless definition which applies to the ESG Program.
- [Defining Chronically Homelessness Final Rule](#) – The final rule, published in the *Federal Register* on December 4, 2015, goes into effect as of January 15, 2016. This rule redefines chronically homeless for use in HUD’s CoC Program and Community Planning and Development Programs, including ESG.

- [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule: 2 CFR Part 200](#) – sets standard requirements for federal awards and supersedes OMB Circulars A-21, A-87, A-89, A-110, A-102, A-122, A-133 and Uniform Grant Management Standards.
- [Texas Administrative Code: Administration and Enforcement](#) - The provisions in Title 10, Part 1, Chapters 1 and 2 apply to administrators of TDHCA programs.
- [Texas Administrative Code: General Provisions for Community Affairs Program](#) – The provisions in Chapter 5, Subchapter A apply to the Department’s Community Affairs Division programs including the ESG Program.
- [Texas Administrative Code: ESG Rules](#) - The provisions in Title 10, Part 1, Chapter 5, Subchapter K govern the administration of the Department’s ESG funds.
- Program Requirements – There are numerous grant requirements that will apply to 2016 ESG funds. Applicants should review these and understand the implications of complying with all grant requirements listed in the *Federal Program Requirements* section of this NOFA.

In addition, Applicants are expected to become familiar with all program requirements by watching the available webinars and reviewing all the material published on the ESG program guidance page:

<http://www.tdhca.state.tx.us/community-affairs/esgp/guidance-solutions.htm>

It should be noted that historically some ESG Subrecipients have found the regulations relating to documenting and calculating income, determining fair market rents, calculating utility allowances and preparing proper procurement to be challenging; it is strongly encouraged that before applying Applicants review the regulations governing these issues and feel confident in their ability to appropriately administer those activities.

**Elements of the ESG program, as identified in this NOFA, are subject to change once final or further interim regulations for 24 CFR Parts 91 and 576 are released by HUD. The most current guidance and rules and regulations issued by HUD for the ESG program will supersede what is in this NOFA. Program requirements may also be subject to change consistent with any changes to the rules for ESG in the Texas Administrative Code. The Amarillo CoC reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA during the Application period. If such an action occurs, the City of Amarillo will post revisions to the NOFA on its website (<http://www.amarillo.gov>)**

## IV. TDHCA’s ESG Strategic Goals

TDHCA has developed strategic goals to guide the use of 2016 ESG funds in the state of Texas. These priorities are based on HUD’s programmatic framework, as outlined in the [HEARTH Act](#), [the ESG Interim Rule](#), [the Continuum of Care \(“CoC”\) Interim Rule](#), as well as the priorities in Texas as outlined in the [Pathways Home: A Framework to Address Homelessness in Texas](#) and in the [2015-2019 State of Texas Consolidated Plan](#). TDHCA will prioritize Applications that align with these goals. These goals are embedded in the Application scoring criteria and Applications will be more competitive if they are designed to address these goals.

As mentioned in Section I. Overview of this document, TDHCA is permitting CoC Lead Agencies that meet certain criteria to administer a local competition of the Department’s ESG funding in 2016. The local competition model is based on the recognition that the CoC, as the local planning body, is better informed of local issues, needs and resources, and is in a better position than TDHCA to prioritize needs, coordinate the use of ESG, and select agencies that strategically align with its local needs. ESG applicants

should refer to Section I. Overview and Section VI. Application Review Process to determine whether they will apply to the Department or their Local CoC Lead Agency when applying for ESG funds.

TDHCA's strategic goals for the 2016 ESG program are to:

**1. Increase coordination with local community wide homeless planning efforts to ensure strategic use of resources to prevent and end homelessness**

- State-funded ESG activities should contribute to the community's overall efforts to reduce homelessness and align with local priorities. ESG applicants and awardees should actively participate in the CoC governance and planning activities.
- Applicants must discuss their proposed ESG projects with their Continuum of Care and must submit with their Application a completed "Certification of CoC Coordination and Participation." Applicants should design ESG projects which meet CoC priorities, address the most critical needs, and positively impact the CoC's efforts in ending and preventing homelessness.

**PRIORITIES OF THE AMARILLO CONTINUUM OF CARE:**

The Amarillo Continuum of Care has established the following priorities for ranking eligible ESG activities in the FY2016 competition:

1. Emergency Shelter (Overnight and/or day shelter)
2. Street Outreach
3. Homeless Prevention
4. Rapid Re-Housing

***\*Note: A maximum of 60% of the total allocation may be used to fund emergency shelter and street outreach activities combined. A minimum of 40% must be used on homeless prevention and/or rapid re-housing activities.***

**2. Improve coordination of mainstream and targeted services, capitalizing on existing strengths and increasing efficiency**

- TDHCA has placed a high priority on funding Collaborative Applications. Collaborative Applications must be designed where each collaborative organization specializes in the services in which they have the greatest strength and capacity and where their collaboration creates increased and improved results as compared to what would be achieved by a single organization.
- Applicants must design and operate programs where ESG-funded activities are coordinated and integrated to the maximum extent practicable with other programs targeted to homeless people in the area covered by the CoC. Services must be coordinated to provide a strategic, community-wide system to prevent and end homelessness.
- Applicants must also design programs where ESG-funded activities are coordinated and integrated to the maximum extent practicable with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible.

- Applicants are encouraged to submit proposals that serve subpopulations that have high barriers to obtaining/maintaining housing stability that involve a multitude of issues. These may include persons with serious mental illness, persons released from an institution, persons with substance-use disorders, veterans, survivors of domestic violence, and youth aging out of foster care.

### **3. Ensure Affirmative Marketing Techniques and Fair Housing Goals are Achieved**

Applicants must design and operate programs in which ESG-funded activities proactively utilize affirmative outreach techniques so that solutions to end or prevent homelessness are provided equitably and all households receive information about and have the opportunity to benefit from available services, facilities, and assistance, regardless of race, color, national origin, religion, sex, familial status, or disability. Applicants are required to apply screening and eligibility criteria uniformly and in a manner consistent with local and Federal nondiscrimination laws, program guidelines, and TDHCA rules.

### **4. Design Programs based on Best Practices**

- ESG proposed projects must be designed to incorporate lessons learned from years of practice and/or innovative solutions supported by national and local research, so that ESG resources are utilized in recognized solutions to end or prevent homelessness. Refer to *Appendix A* of the NOFA for resources on best-practices.

- As Applicants review evidence-based best practices to create their program models, the Department recommends considering the following: using rapid re-housing models; targeting prevention to people who are most likely to become homeless; promoting collaborative outreach efforts that help people living on the streets to directly access housing; improving access to services by simplifying entry requirements; providing access to permanent housing quickly and then providing services as needed (Housing First); and realigning existing program and systems to focus on shortening homelessness, including reducing time spent in shelters.

- Applicants are encouraged to use a Coordinated Assessment System to help standardize access to the assessment process and streamline referrals across the CoC.

- Applicants are encouraged to design programs where homeless individuals will be involved in the provision of services through ESG, to the maximum extent feasible through employment, volunteerism, maintaining or operating facilities, and or providing direct services to occupants of facilities assisted with ESG funds.

### **5. Measure Program Outcomes**

- Applicants must design programs that create measurable and lasting results in reducing and preventing homelessness. As Applicants design their programs, they must carefully analyze how their resources will be used to produce program results and client outcomes rather than simply providing assistance.

- Organizations must have systems and procedures in place to regularly analyze performance data and continuously improve their program based on data analysis. Programs must be appropriately staffed to comply with the Homeless Management and Information System (“HMIS”) Data Standards and interface as required with the local HMIS Lead Agency.

## **V. Eligible Applicant Organizations**

All Applicants seeking funding under this NOFA must have a Dun and Bradstreet Universal Numbering System (“DUNS”) number. The Application document will provide instructions on where to list the Applicant’s DUNS number.

### **Units of general purpose local government**

Eligible units of general purpose local governments include cities, counties, and include metropolitan cities and urban counties that receive ESG funds directly from HUD and a consolidation of units of general purpose local governments, like a Council of Governments (“COG”). Other instrumentalities of a city or a county, like a Local Mental Health Authority (LMHA), may be eligible and may seek guidance from the Department before submitting an Application. Public Housing Authorities (“PHAs”) or their instrumentalities are not eligible due to the definition in the HEARTH Act and cannot apply directly for ESG funds. However, PHAs may be eligible to serve as a partner in a Collaborative Application but may not serve as the lead entity in that Application.

### **Private nonprofit organizations**

Eligible Applicant organizations also include private nonprofit organizations that are secular or religious organizations described in section 501(c) of the Internal Revenue Code of 1986, are exempt from taxation under subtitle A of the Code, have an accounting system and a voluntary board, and practice non-discrimination in the provision of assistance.

To be considered as a private nonprofit organization, an Applicant organization must document existing status as a 501(c) tax-exempt entity. Private nonprofit organizations applying for ESG funds must be established for charitable purposes and their activities include, but are not limited to, the promotion of social welfare and the prevention or elimination of homelessness. The entity’s net earnings may not benefit any individual(s) affiliated with the organization or its governing board.

Per 24 CFR §576.202(a)(2), private nonprofit organizations that plan to conduct emergency shelter activities must obtain a certification of approval from the unit of general purpose local government for the geographic area in which the ESG emergency shelter activities are to be carried out. The Application document of the NOFA includes the form called *Local Government Approval for Private Nonprofit Organizations Conducting Emergency Shelter Activities*. This is the only document that is due after March 31, 2016; the *Local Government Approval for Private Nonprofit Organizations Conducting Emergency Shelter Activities* is due April 29, 2016.

Faith-based organizations receiving ESG funds, like all organizations receiving HUD funds, must serve all eligible beneficiaries without regard to religion.

## **VI. Grant Period**

The contract period for the funds awarded under this NOFA is for one-year, and is intended to run from September 1, 2016 to August 31, 2017.

## **VII. Eligible Program Participants**

ESG funds may be used to serve persons that are either at risk of homelessness or experiencing homelessness as defined on 24 CFR §576.2.



## VIII. Eligible Activities

ESG funds may be used for six program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, HMIS, and administrative costs as defined on 24 CFR §576.100-109. Per 24 CFR §576.100(b), the total amount of an Applicant's budget for street outreach and emergency shelter cannot exceed 60% of their total grant amount. Within a Collaborative Application, the 60% limit for Street Outreach and Emergency Shelter applies to the entire Application and not to each partner within the Collaborative Application. Administrative funds for a Single Applicant cannot exceed 3.0% of the total budget; Administrative funds for a Collaborative Applicant cannot exceed 3.5% of the total budget.

## IX. Federal Program Requirements

All Applicants are expected to carefully read and analyze the following requirements and corresponding citation before completing an Application. Applicants selected to become Subrecipients must comply with the following requirements:

### 1. Area-wide systems coordination requirements - 24 CFR §576.400

#### **Coordination with other Targeted Homeless Services. - 24 CFR §576.400(b)**

Subrecipients must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with other programs targeted to homeless people in the area covered by the Continuum of Care or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area.

#### **System and Program Coordination with Mainstream resources - 24 CFR §576.400(c)**

Subrecipients must coordinate and integrate, to the maximum extent practicable, ESG funded activities with mainstream housing, health, social services, employment, education, and youth programs for which families and individuals at risk of homelessness and homeless individuals and families may be eligible. Refer to 24 CFR §576.400(b) for a list of mainstream resources to coordinate ESG activities.

#### **Centralized or Coordinated Assessment - 24 CFR §576.400(d)**

CoCs are required to establish a centralized or coordinated assessment system. Subrecipient will be required to participate in the centralized system. Subrecipient must maintain evidence of the use of, and written intake procedures for, the centralized or coordinated assessment systems(s) developed by the Continuum of Care. If the Subrecipient's CoC does not yet have a centralized or coordinated assessment system or procedures or if Subrecipient is a legal or a victim service provider choosing not to use the CoC centralized or coordinated assessment system, Subrecipient must have and consistently apply written standards for assessment.

### 2. Written Standards for Providing ESG assistance - 24 CFR §576.400(e)

Subrecipients must establish and consistently apply within the Subrecipient's program, written standards for providing ESG assistance. If an Applicant is awarded funds, the selected Subrecipient must provide to the Amarillo CoC a copy of the written standards for providing ESG assistance prior to contract execution. Refer to 24 CFR §576.400(d) for a discussion of the written standards. The standards must include at a minimum:

- Standard policies and procedures for evaluating individuals' and families' eligibility for ESG assistance;

- Standards for targeting for persons experiencing homelessness and providing essential services related to street outreach;
- Policies and procedures for admission, diversion, referral, and discharge by emergency shelters assisted under ESG, including standards regarding length of stay, if any, and safeguards to meet the safety and shelter needs of special populations, *e.g.*, victims of domestic violence, dating violence, sexual assault, and stalking; and individuals and families who have the highest barriers to housing and are likely to be homeless the longest;
- Policies and procedures for assessing, prioritizing, and reassessing individuals' and families' needs for essential services related to emergency shelter;
- Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers; other homeless assistance providers; and mainstream service and housing providers listed on 24 CFR §576.400(b) and (c);
- Policies and procedures for determining and prioritizing which eligible families and individuals will receive homelessness prevention assistance and rapid re-housing assistance;
- Standards for determining what percentage or amount of rent and utilities costs each program participant must pay, when applicable, while receiving homelessness prevention or rapid re-housing assistance;
- Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time;
- Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to be provided to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant may receive assistance; or the maximum number of times the program participant may receive assistance; and
- The utilization of a Limited English Proficiency Plan.

### **3. Participation in HMIS 24 CFR §576.400(f)**

Subrecipients will be required to ensure that data on all persons served and all activities provided under ESG are entered into the community-wide HMIS system designated by the CoC for the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. Subrecipients are required to enter into an agreement with the local HMIS Administrator for reporting.

If the Subrecipient is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (*i.e.*, longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into HMIS or provided to an HMIS administrator.

The comparable database must comply with all current HMIS standards including data information, security, data quality, and processing standards, as established by HUD in its latest HMIS Data Standards guide. Victim Service Providers or Legal Services Providers that are awarded ESG funds must consult with the CoC and the HMIS administrator for the continuum of care area to ensure that the comparable database uses all the HMIS standards.

### **4. Evaluation of Program Participant Eligibility and Needs - 24 CFR §576.401**

Subrecipients must conduct an initial evaluation to determine the eligibility of each individual or family's eligibility for ESG assistance and the amount and types of assistance the individual or family needs to

regain stability into permanent housing. These evaluations must be conducted in accordance with the centralized or coordinated assessment requirements set forth under 24 CFR §576.400(d) and the written standards established under 24 CFR §576.400(e) and all the guidelines outlined on 24 CFR §576.401(a).

Subrecipients must re-evaluate the program participant's eligibility and the types and amounts of assistance the program participant needs according to the requirements outlined in 24 CFR §576.401(a). Furthermore, each program participant receiving homelessness prevention or rapid-re-housing assistance is required to meet regularly with a case manager (except where prohibited by Violence Against Women Act ("VAWA") and the Family Violence Prevention and Services Act ("FVPSA")) and the assistance provider must develop an individualized plan to help that program participant retain permanent housing after the ESG assistance ends. These requirements are intended to help ensure that the ESG-funded emergency, short-term or medium-term assistance will be effective in helping program participants regain long-term housing stability and avoid relapses into homelessness.

#### **5. Terminating Assistance - 24 CFR §576.402**

If a program participant who receives ESG assistance violates program requirements, the Subrecipient may terminate the assistance in accordance with a formal process established by the Subrecipient that protects the rights of the individuals affected. Therefore, a formal process must be in place. This applies to all forms of ESG assistance. For more information, refer to the guidelines outlined in 24 CFR §576.402.

#### **6. Shelter and Housing Standards - 24 CFR §576.403**

Subrecipients are responsible for the performance of inspections to ensure that shelter and housing occupied by ESG participants meets the following standards.

##### **Lead Based Paint Act - 24 CFR §576.403(a)**

Lead-based paint remediation and disclosure applies to all ESG-funded shelters and all housing occupied by ESG participants. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C 4851-4856), and the relevant subparts of the implementing regulations at 24 CFR Part 35, Subparts A, B, H, J, K, M and R apply to activities under this grant program. The Subrecipient must also comply with the Lead, Renovation, Repair, and Painting Program Final Rule, 40 CFR Part 745, where applicable.

##### **Minimum Standards for Emergency Shelters and for permanent housing 24 CFR §576.403(b)&(c)**

Emergency shelters that receive assistance for shelter operations are required to meet habitability standards. If ESG funds are used to help a program participant remain in or move into permanent housing, that housing must also meet habitability standards. The minimum standard for emergency shelters and permanent housing include standards for structure and material, access, space and security, interior air quality, water supply, sanitary facilities, thermal environment, illumination and electricity, food preparation, sanitary conditions and fire safety. Shelters renovated with ESG funds are also required to meet state or local government safety and sanitation-standards as applicable, and use energy-efficient materials including Energy Star and WaterSense products and appliances. Refer to 24 CFR §576.403 for details on the housing standards.

## **Access**

Shelters receiving ESG funds must also meet the accessibility standards under Section 504 of the Rehabilitation Act of 1973 (5 U.S.C. 794), The Fair Housing Act (42 U.S.C. 3601 et seq.) and Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189; 47 U.S.C. 155, 201, 218 and 255). A Subrecipient shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. Subrecipients are also required to provide reasonable accommodations for persons with disabilities in order to enable program participants with a disability to have an equal opportunity to participate in the program or activity. Subrecipients that undertake alterations to shelters may be subject to additional accessibility requirements in accordance with 24 CFR Part 8. In certain instances, Subrecipients undertaking alterations may be required to ensure that 5 percent of the total sleeping areas, such as 5 percent (or at least one) of the sleeping rooms where a number of sleeping rooms are provided, and 5 percent (or at least one) of the total number of sleeping areas, such as beds, where a number of beds are provided in a room, are accessible for persons with mobility impairments and that an additional 2 percent of the total individual sleeping areas are accessible for persons with visual impairments. The 2010 Americans with Disabilities Act Standards apply and require an additional level of accessibility in certain shelters.

## **7. Conflicts of Interest - 24 CFR §576.404**

Subrecipients will be expected to follow the conflict of interest standards outlined in 24 CFR §576.404 related to the provision of ESG assistance, and procurement of goods and services. All contractors of the Subrecipient must comply with these same requirements.

## **8. Homeless Participation - 24 CFR §576.405**

The provisions requiring homeless participation on boards or in an advisory capacity do not apply to a recipient that is a State and the State may choose to pass down the requirement to its Subrecipients. For PY2016 ESG funds, TDHCA is opting to not pass this requirement to its Subrecipients. However, to the maximum extent practicable, Subrecipients should involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities, in providing services assisted under the ESG program, and in providing services for occupants of facilities assisted with ESG.

## **9. Faith-Based Activities 24 CFR §576.406**

Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to receive ESG funds. The State will not discriminate against an organization on the basis of the organization's religious character or affiliation.

Organizations that are directly funded under the ESG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under ESG. If an organization conducts these activities, the activities must be offered separately, in time or location, from the programs or services funded under ESG, and participation must be voluntary for program participants.

Any religious organization that receives ESG funds retains its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ESG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization.

Among other things, faith-based organizations may use space in their facilities to provide ESG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an ESG-funded religious organization retains its authority over its internal governance, and the organization may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

An organization that receives ESG funds shall not, in providing ESG assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief. When using ESG funds for the rehabilitation of structures, faith-based organizations will be expected to follow the guidelines outlined in 24 CFR §576.406.

#### **10. Environmental Review Responsibilities - 24 CFR §576.407(d)**

The ESG Interim Rule required using 24 CFR Part 50 to comply with environmental requirements and guidance was initially issued by HUD using 24 CFR Part 50. However, after the passage of legislation on July 5, 2012 that amends certain provisions of the HEARTH Act, 24 CFR Part 58 must be followed by all ESG subrecipients to comply with environmental requirements.

All ESG activities will require some level of environmental review & clearance. Subrecipients, or any contractor of the subrecipient, will not be able to commit or expend any ESG funds until an environmental review that meets the standards outlined in 24 CFR Part 58 has been reviewed and approved by TDHCA. Based on the level of review, some activities may be environmentally cleared quickly, and the funds budgeted for those activities can then be expended after clearance. Other eligible activities will require a more in depth review and will require more time to obtain clearance. Subrecipients will not be able to expend any ESG funds or any matching funds on these activities until the Department clears these activities.

#### **11. Procurement of Recovered Materials - 24 CFR §576.407(f)**

Subrecipients and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

#### **12. Displacement, Relocation, and Acquisition 24 CFR §576.408**

Consistent with the other goals and objectives of ESG, the Subrecipient must assure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under ESG. Subrecipients must follow the requirements in 24 CFR §576.408 related to temporary relocation (not permitted), relocation assistance for displaced persons and real property acquisition requirements, and appeals, and the requirements identified in the Department's Consolidated Plan. , ESG funds must comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (49 CFR Part 24) and policy guidance in Real Estate Acquisition and Relocation Policy and Guidance (HUD Handbook 1378).

### **13. Recordkeeping and Reporting Requirements - 24 CFR §576.500**

Subrecipients will be required to show compliance with the program's regulations through the appropriate records, including documentation of homeless status, at risk of homelessness status and program participants' income. The Subrecipient must have policies and procedures to ensure the requirements outlined in 24 CFR §576.500 are met. In addition, sufficient records must be established and maintained for a minimum of five years to enable the Department and HUD to determine whether ESG requirements are met.

### **14. Matching Requirements 24 CFR §576.201**

ESG Subrecipients must match their award amount with an equal or greater amount of resources from other than ESG funds. ESG Applicant organizations must demonstrate access to resources that may be used as match after the start date of the grant award. Matching funds used for this ESG project may not be used to match any other project or grant.

Along with the report of the number of clients assisted with ESG funds, ESG Subrecipients must report the number of clients assisted through match contributions, as applicable. This reporting will be accomplished on a monthly basis through the Department's Community Affairs Contract System.

#### Eligible Sources of Match

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

- The Subrecipient must ensure the laws governing any funds to be used as matching contributions do not prohibit those funds from being used to match ESG funds; and
- If ESG funds are used to satisfy the matching requirements of another Federal program, then funding from that program may not be used to satisfy the matching requirements as described in 24 CFR §576.201.

**15. Applicability of OMB Circulars** – Subrecipients must follow the policies, guidelines and requirements established in 2 CFR Part 200.

### **16. Single Audit Requirement -**

For fiscal years that begin after December 26, 2014, the audit requirements of 2 C.F.R 200.501 apply to the audit performed for that fiscal year including the higher federal audit threshold of \$750,000. If a single audit is required for an organization, a portion of the audit cost may be included in the proposed ESG budget.

An Applicant organization that *does not exceed* the required Single Audit threshold in federal expenditures is exempt from federal single audit requirements; however they are still required to submit audited financial statements as part of the Application. In this case, audit costs may **not** be included in the proposed ESG budget.

An Applicant organization must include its most recent complete audit report and if applicable, a management letter as part of the financial documentation for this Application. If your agency is not required to have a single audit performed, the Application must include the end-of-the-year financial statements (balance sheet, income statement, and statement of cash flow). For details on financial attachments to include as part of the Application, follow instructions in the Application document.

## **17. Financial Accountability 2 CFR Part 200**

Selected awardees will be expected to have a functioning accounting system that provides for each of the following:

- Accurate, current, and complete disclosure of the financial results of each federally sponsored project;
- Records that identify adequately the source and Application of funds for federally sponsored activities;
- Effective control over and accountability for all funds, property, and other assets;
- Comparison of outlays with budget amounts;
- Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the use of the funds for program purposes;
- Written procedures for determining the reasonableness, allocability, and allowability of costs; and
- Accounting records, including cost accounting records, which are supported by source documentation.

## **18. Program Income**

Program income includes any amount of a security or utility deposit returned to the Subrecipient. Program income received during the contract period must be applied as match. Program income received by the Subrecipient during the two years following the end of the contract period must be returned to the Department. Except for income received from the sale of an Emergency Shelter during the use restriction period, income received by the Subrecipient two years after the end of the contract period is not program income.

## **19. Compliance with Fair Housing and Civil Rights in ESG Programs**

ESG Subrecipients must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title II and Title III of the American With Disabilities Act of 1990; Executive Order 13166 – Improving Access to Persons with Limited English Proficiency, the Equal Access to Housing Rule in HUD Programs Regardless of Sexual Orientation or Gender Identity, the Architectural Act of 1968, and the Age Discrimination Act of 1975.

- **Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity.** On February 3, 2012 HUD revised its program regulations (77 FR 5662) to ensure that individuals and families have access to HUD assisted and insured housing programs, regardless of sexual orientation, gender identity, or marital status. Applicants are encouraged to become familiar with this rule.

Under the Equal Access Rule, ESG Subrecipients are not allowed to limit ESG assistance to only women and children, regardless of whether or not the Subrecipient is a Domestic Violence or Faith-Based provider. HUD has clarified that while it is acceptable for a shelter or housing program to limit assistance to households with minor children, it may not limit assistance to only women with children. To be in compliance with the Equal Access Rule, a shelter/program serving only households with minor children must also serve the following family types, should they present: 1) single male head of household with minor child(ren); and 2) any household made up of two or more adults, regardless of sexual orientation, marital status, or gender identity, presenting with minor child(ren). ESG-funded emergency shelters serving families with children are also prohibited from denying assistance to or separating members of a

family with children based on gender or age. Gender separation is only acceptable in ESG-funded single-sex shelter environments which only serve individuals.

- **Economic Opportunities for Low and Very-Low Income and Homeless Persons (Section 3) - 24 CFR §576.407(a)**

To the extent that any housing assistance funded through this NOFA is used for housing rehabilitation or housing construction or other public construction, then it is subject to Section 3 of the Housing and Urban Development Act of 1968, and the implementing regulations at 24 CFR Part 135.

Section 3 requires that employment, training, and contracting opportunities generated by certain HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

The requirements in 24 CFR Part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR §5.105(a). Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. § 1701u, and implementing regulations at 24 CFR Part 135 apply, except that homeless individuals have priority over other Section 3 residents in accordance with 24 CFR §576.405(c).

- **Affirmative Outreach - 24 CFR §576.407(b)**

Subrecipient must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis and must take appropriate steps to ensure effective communication with persons with disabilities. Affirmative outreach activities may include: (a) marketing programs to groups living in or receiving services in your service area that are under-represented as shown by your program data, (b) creating partnerships with community based agencies or non-profits that work with underrepresented and non-majority groups in your service area, and (c) translating documents advertising assistance, services and contact information into other languages prevalent in the community. Subrecipients must follow the requirements outlined in 24 CFR §576.407(b).

- **Improving Access to Services for Persons with Limited English Proficiency (LEP) - 24 CFR §576.407(b)**

Executive Order 13166 seeks to improve access to federally assisted programs and activities for individuals who, as a result of national origin, are limited in their English proficiency. Organizations obtaining ESG funds shall take reasonable steps to ensure meaningful access to their programs and activities by individuals with limited English proficiency, regardless of the language spoken. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subrecipients must follow the requirements outlined in 24 CFR §576.407(b). HUD published Final Guidance to Federal Financial Assistance Requirements Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons in the Federal Register on January 22, 2007 (72 F.R. 2732).



## Appendix A: Website and Best Practice References

- ESG Application and Required Forms  
[http://comdev.amarillo.gov/?page\\_id=476](http://comdev.amarillo.gov/?page_id=476)
- Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH ACT)  
<https://www.hudexchange.info/resource/1717/s-896-hearth-act/>
- Interim ESG Regulations: 24 CFR Part 576  
<https://www.hudexchange.info/resource/1927/hearth-esg-program-and-consolidated-plan-conforming-amendments/>
- HEARTH Homeless Definition Final Rule: 24 CFR Parts 91, 582 and 583  
<https://www.hudexchange.info/resource/1928/hearth-defining-homeless-final-rule/>
- Texas Administrative Code ○ Administrative Policies and Procedures for TDHCA  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=4&ti=10&pt=1&ch=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=1)
- General Provisions for Community Affairs Program  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=5&sch=A&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=5&sch=A&rl=Y)
- ESG Rules  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=5&sch=K&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=5&sch=K&rl=Y)
- Community Affairs Compliance Monitoring Rules  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=5&sch=L&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=5&sch=L&rl=Y)
- Texas Continuum of Care Contact List  
<http://www.thn.org/resources>

### Best Practices Resources

- Solutions and Best Practices to Ending Homelessness  
<http://www.endhomelessness.org/pages/solutions>
- The Solutions Database  
<https://www.usich.gov/solutions>
- Federal Strategic Plan to Prevent and End Homelessness  
<https://www.usich.gov/opening-doors>
- Pathways Home: A Framework to Address Homelessness in Texas.  
<http://www.tdhca.state.tx.us/tich/pathways-home.htm>
- What Gets Measured, Gets Done: A Toolkit on Performance Measurement for Ending Homelessness  
<http://www.endhomelessness.org/content/article/detail/2039>