



Mammoth Lakes
CALIFORNIA

OWNER-INVESTOR HOUSING REHABILITATION PROGRAM GUIDELINES

Town of Mammoth Lakes, CA



CDBG APPROVED 2/24/15

**TOWN OF MAMMOTH LAKES
HOUSING REHABILITATION PROGRAM GUIDELINES**

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I. GENERAL INTRODUCTION

The Town of Mammoth Lakes hereinafter referred to as the Town, has entered into a contractual relationship with the California Department of Housing and Community Development (“HCD”) to administer a CDBG-funded Housing Rehabilitation Program. Mammoth Lakes Housing, Inc. (MLH) as the “Program Operator,” will administer the Housing Rehabilitation Program described herein, for the Town.

The Rehabilitation Program is designed to provide assistance to eligible owner-investors in updating homes and rental units, attending to deferred maintenance, and addressing energy efficiency. Eligible housing units must be located within the Program’s Targeted Area. The Rehabilitation Program provides this assistance in the form of deferred payment “silent” loans, below market interest rate loans, and grants.

Within the Town of Mammoth Lakes, 61.1% of housing units were built before 1980. These homes represent the maximum potential housing population in need of rehabilitation. While considering low inventory and high demand giving less incentive to update units, as well as the recent recession and severe weather conditions, many may only be in average to poor condition.

In 2005 and 2006, the Town undertook a visual survey of property conditions in Mammoth Lakes focusing on neighborhoods with a higher concentration of older properties, including the Old Mammoth area, Sierra Valley Sites, Main Street and Shady Rest Tract area. Based on the survey of exterior conditions an average of 5 to 7 percent of properties were identified as dilapidated or deteriorated. If applied community-wide, this would indicate that 500 to 600 homes in Mammoth may be in need of some degree of rehabilitation. However, since the visual inspection is not all inclusive, this number may be higher. Additionally, many renter-occupied units are owned by investors who have not made necessary improvements including double-pane windows, EPA-certified woodstoves, among other necessary updates in the cold climate of Mammoth Lakes (Town of Mammoth Lakes Housing Element Draft, 2007-2014, Adopted June 23, 2010).

II. DEFINITIONS

Area Median Income: The midpoint in the family-income range for a metropolitan statistical area or for the non-metro parts of a state. The figure often is used as a basis to stratify incomes into low, moderate and upper ranges. The Area Median Income used for the Town of Mammoth Lakes housing programs is that for Mono County (p. 12). Area Median Income is also adjusted for family size. See Attachment A for more information about qualifying incomes.

Below Market Interest Rate Loan: An amortized loan with a below market rate interest rate, secured by a deed of trust, with a fixed maximum term. Payments begin immediately. There is no prepayment penalty.

Deferred Payment Loan: A loan under which no payments are due until the property has transferred ownership, the primary loan is refinanced, or there is default on either loan.

Grant: A grant is an amount of money granted to an eligible household for qualifying rehabilitation which is not required to be repaid.

Household Income: The annual gross income of all adult household members that is projected to be received during the coming 12-month period, and will be used to determine Rehabilitation Program eligibility. For those types of income counted, gross amounts (before any deductions have been taken) are used; and the types of income that are not considered would be income of minors or live-in aides. Certain other household members living apart from the household also require special consideration. The household’s projected ability to pay must be used, rather than past earnings, when calculating income. Household income may include all amounts, monetary or not, which:

- 1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

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- 2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- 3) Derived (during the 12-month period) from assets to which any member of the family has access.

For more information, please see Attachment A: 24 CFR Part 5 Annual Income Inclusions and Exclusions.

Housing Quality Standards (HQS): A basic set of performance requirements defined by the Department of Housing and Urban Development. See Attachment C.

Owner Builder: An owner-builder is defined as a person who constructs or renovates a domestic building on his or her own land, who is not in the business of building. Please consult the Town of Mammoth Lakes Building Division at the outset to determine the requirements.

Town of Mammoth Lakes Building Division
(760) 934-8989 x274

Owner-investor: An owner-investor is an owner of a property that is for rent for profit. The owner-investor does not need to meet the income restriction requirements of the program; however, the tenants of the property do.

Owner Occupant: An owner-occupant is the primary owner of a property which is also their primary residence.

Targeted Income Group (TIG): All CDBG funds must benefit low and moderate income households. Low and moderate is defined as below 80% of the Area Median Income (p.12).

Targeted Area: The area that includes the Sierra Valley Sites.

Tenant: An individual who rents from an owner-investor and meets the income restriction requirements. The household must earn less than 80% of the area median income adjusted for household size in order for the owner-investor to qualify for the Rehabilitation Program.

III. APPLICANT ELIGIBILITY

A. Conflict of Interest

No member of the governing body of the locality and no other official, employee, or agent of the Town government who exercises policy, decision-making functions, or responsibilities in connection with the planning and implementation of the program shall directly or indirectly be eligible for this program, unless the application for assistance has been reviewed and approved according to applicable California Department of Housing and Community Development (HCD) guidelines. This ineligibility shall continue for one year after an individual's relationship with the Town ends.

A contractor with a vested interest in the property cannot bid on a rehabilitation job. Such a contractor may act as owner/builder, subject to standard construction procedures. Owner/builders are reimbursed for materials purchased which are verified by invoice/receipt and used on the job. Reimbursement occurs after the installation is verified by the Construction Supervisor to be part of the scope of work. Owner/builders are not reimbursed for labor. The Town reserves the right to determine if the owner is capable of owner/builder rehabilitation work.

B. Occupancy

No unit to be rehabilitated will be eligible if it is currently occupied by an HCD ineligible household. Rental households occupying such units will be allowed to remain in the units. To prevent owners from evicting ineligible tenants before applying for the program, the owner must certify that no tenant has been forced to move without cause during the previous six months.

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C. Temporary Relocation

Tenants will be informed of their eligibility for temporary relocation benefits if occupancy during rehabilitation constitutes a danger to health and safety of tenant or public danger or is otherwise undesirable because of the nature of the project. Relocated tenants will receive increased housing costs, payment for moving and related expenses and appropriate advisory services, as detailed in the Town of Mammoth Lakes' Residential Anti-displacement and Relocation Assistance Plan.

D. Fair Housing

This program will be implemented in ways consistent with the Town's commitment to Fair Housing. No person shall be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds on the basis of his or her religion or religious affiliation, age, race, color, ancestry, national origin, sex, marital status, familial status (children), physical or mental disability, sexual orientation, or other arbitrary cause.

IV. PROPERTY ELIGIBILITY

A. Location

In order to qualify for rehabilitation funds, units must be located within the targeted area.

B. Rehabilitation Standards

All repair work will meet Uniform Building Code standards. The priority will be the elimination of health and safety hazards. See Section V below for other eligible rehabilitation activities.

C. Property Improvements

All improvements must be physically attached to the property and permanent in nature. General property improvements should be limited to 15% of the rehabilitation loan amount. Luxury items are not permitted.

D. Lead-Based Paint

Program participants rehabilitating homes constructed prior to January 1, 1978 must be provided with the proper disclosure notification concerning lead-based paint (LBP) hazards. Whenever pre-1978 houses are rehabilitated under CDBG, please refer to Attachment D, CDBG Lead-Based Paint Requirements, for guidance. The costs associated with meeting these requirements are eligible to be paid for with CDBG funds, and should be considered during program design.

V. ELIGIBLE IMPROVEMENTS

Rehabilitation needs will be addressed in the following priority:

- 1. Health and Safety:** Examples include correcting plumbing, electrical, structural, mechanical and roof deficiencies, modifications for handicap accessibility, room additions to resolve overcrowding and any other Housing Quality Standards (HQS) items (see Attachment C). All units shall have working smoke detectors and carbon monoxide detectors. Overcrowded conditions will be considered to exist when parents and children must share a bedroom, when children of the opposite sex must share a bedroom, and when a disabled person is required to share a room. A bathroom addition may be considered when five or more persons occupy a unit with a single bathroom.
- 2. Converting to Current Uniform Building Code (UBC) and Other Standards:** All work that may bring the property into compliance with the Town of Mammoth Lakes Municipal Code or other code requirements is also eligible. Examples include moving bathroom access to hallways or off of kitchen, stairs, and porch upgrades. Also, paving driveways, creating covered parking, and other site work.
- 3. Energy Conservation:** Examples include insulation, reducing air infiltration through window and door replacement, weather-stripping and caulking, and replacing inefficient water heaters, refrigerators, clothes dryers, ovens, low flow water fixtures, and furnaces. Also the replacement of wood stoves not in compliance with the Environmental Protection Agency guidelines.

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4. **Extension of Useful Life:** Examples include repairing siding and sheet-rock, painting, new flooring, new cabinets, new interior doors, gutters, and foundation upgrades and repairs.
5. **General Property Improvements:** Only general property improvements that enhance the overall exterior appearance of the property will be allowed under this program. Examples include demolition of any unsightly structures, removal of debris, and repairing or replacing of fencing, carports and garages. A new garage or carport may be constructed if the property does not contain any sheltered parking. The conversion of a carport to a garage is also eligible. However, not more than fifteen percent (15%) of the rehabilitation loan may be used for general property improvements.

VI. OWNER INVESTOR

A. Eligible Individuals & Income Requirements

Owner-investor: There are no restrictions on the income of the owner-investor unless the owner-investor is a member of the Targeted Income Group (TIG) and is interested in qualifying for a Deferred Payment Loan.

Tenant: If a rental is currently occupied, the tenant's household income must be equal to, or less than, the applicable HCD income guidelines. Tenant will be asked to cooperate by providing income documentation.

B. Financing Options

i. *Loan Amount*

- An owner-investor may qualify for the full cost of the rehabilitation work needed to comply with Uniform Building Code standards. Maximum assistance from CDBG funds will be **\$75,000**. Housing and debt ratios are considered since the funding provided will create an additional monthly financial obligation. Two underwriting variables to consider are the loan-to-value ratio (does the property constitute sufficient value compared to the size of the loan the borrower is requesting to adequately secure the debt) and the debt-to-income ratio (the ability of the borrower to repay the debt). Total indebtedness against property will not exceed 100 percent of after rehabilitation value. Rehabilitation costs for CDBG funded jobs may be supplemented with personal financing or with other sources of leverage.

ii. *Maximum Loan-to-Value*

- The maximum encumbrance will be limited to 100% of the property's after-rehabilitated value.

iii. *Types of Financing & Terms*

- Below Market Interest Rate (BMIR) amortized loan at 0% interest, secured by a deed of trust and with a maximum term of 10 years, for a maximum of up to \$75,000. Payments begin immediately. The loan term may not extend beyond the Rental Limitation associated with the amount of funds borrowed (see Section VII below).
- If the owner-investor is a member of the Targeted Income Group, they may qualify for a Deferred Payment Loan upon agreement with the standard investor owner restrictions including a Maintenance Agreement and a Rent Limitation Agreement.

C. Residency Requirements

If an owner-investor sells or transfers title of the rehabilitated property for any reason, the loan is due and payable.

An owner-investor may convert a rental property to his or her personal residence if all conditions below exist:

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- He or she can prove that the previous tenant was not evicted without cause.
- He or she is income eligible.
- He or she requests approval from the Town.

If an owner-investor converts a rental property, rehabilitated with CDBG funds, to his or her personal residence, but he or she is not income eligible, the loan is due and payable.

If an owner wants to convert the rehabilitated property to any commercial or non-residential use, the loan is due and payable.

D. Rent Limitation Agreement (RLA)

An owner-investor who elects to rehabilitate a rental unit with CDBG financing must sign an RLA, which will be recorded. This agreement will specify:

In no instance shall rents exceed the U.S. Department of Housing and Urban Development (HUD) Fair Market Rent (FMR) schedule while the RLA is in effect.

i. Terms

If BMIR financing is utilized, adherence to the following rent limitations from the date of Notice of Completion of construction shall apply.

Rent Limitation Requirements for Owner-investors	
Amount of loan financed with BMIR	Length of Rent Restriction Requirement
≤ \$37,500	5 years
> \$37,500	10 years

ii. Monitoring

Owner-investors will be required to submit to the Program Operator between May 1 and July 31 of each year for the term of the loan:

- Proof of occupancy in the form of a copy of a current utility bill for each tenant;
- Proof of income per Attachment A for each tenant.

iii. Compliance

Failure to comply with these terms and conditions will result in the loan becoming due and payable. If necessary, foreclosure proceedings will be instituted.

iv. Base Rent -- Vacant Unit

If the house is vacant, rent charges shall not exceed 30 percent of 80 percent of Mono County's median income for the appropriate household size in that unit. Owner-investor shall affirmatively

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seek TIG households by contacting the local housing authority. Where such contact does not result in eligible TIG tenants, the owner-investor shall contact Mammoth Lakes Housing, Inc. for guidance.

v. *Base Rent -- Occupied Unit*

If the house is occupied, rent charges shall not exceed 30 percent of the existing tenants' household income; or, where, before rehabilitation, rents already exceed 30 percent of the existing tenants' income, no rent increases shall be allowed which provide for rents plus utilities over 30 percent of the tenants' income.

vi. *Lead-Based Paint*

Program participants, including tenants, rehabilitating homes constructed prior to January 1, 1978 must be provided with the proper disclosure notification concerning lead-based paint (LBP) hazards. Whenever pre-1978 houses are rehabilitated under CDBG, please refer to Attachment D, Lead-Based Paint Requirements for guidance. The costs associated with meeting these requirements are eligible to be paid for with CDBG funds, and should be considered during program design

vii. *Maintenance Agreement*

As specified in the Rehabilitation Loan Agreement, an owner-investor who participates in the program must maintain the property at post-rehabilitation conditions for a minimum of five years. Should the property not be maintained accordingly, the loan will become due and payable and if necessary, foreclosure proceedings will be initiated.

VII. RECEIVING LOAN PAYMENTS

Homebuyer Program Loan payments will be made to:

Town of Mammoth Lakes
c/o Mammoth Lakes Housing, Inc.
P.O. Box 260
587 Old Mammoth Road, Suite #4
Mammoth Lakes, CA 93546

The Rehabilitation Program will be the recipient of loan payments or recapture funds and will maintain a financial record-keeping system to record payments and file statements on payment status. Payments shall be deposited and accounted for in the CDBG Program Income Account, as required by HCD. The Rehabilitation Program Lender (the administrator) will accept loan payments from borrowers paying BMIR loans, prepaying deferred loans, and from borrowers making payments in full upon sale or transfer of the property. All loan payments are payable to the Sponsor.

VIII. DEFAULT AND FORECLOSURE

If an owner defaults on a loan, and foreclosure procedures are instituted, they shall be carried out according to the policies adopted in the Town of Mammoth Lakes Rehabilitation Loan Policies and Procedures (Attachment B).

IX. INSURANCE

Fire Insurance

The applicant shall maintain fire insurance on the property for the duration of the loan(s). This insurance must be an amount adequate to cover all encumbrances on the property. The insurer must identify the Town as Loss Payee for the amount of the loan(s). A binder shall be provided to the Town.

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In the event the applicant fails to make the fire insurance premium payments in a timely fashion, the Town of Mammoth Lakes at its option, may make such payments for a period not to exceed 60 days. The Town may, in its discretion and upon the showing of special circumstances, make such premium payments for a longer period of time. Should the Town of Mammoth Lakes make any payments, it may, in its sole discretion, add such payments to the principal amount that the applicant is obligated to repay the Town under this program.

Flood Insurance

In areas designated by HUD as flood prone, the owner is required to maintain flood insurance in an amount adequate to secure the Rehabilitation Loan. This policy must designate the Town as Loss Payee. The premium may be paid by the Rehabilitation Loan for one year.

X. LOAN OR GRANT APPROVAL

All loans and grants must be approved by a Town Planning Department staff member, the Town Manager, or his/her designees. In order to obtain CDBG financing, applicants must meet all property and eligibility guidelines in effect at the time of loan approval. Applicants will be provided written notification of approval or denial.

XI. REPAIR CALLBACKS

In the event that a contractor must be called back to make corrections on rehabilitation work items that are not covered by the one year warranty, the Town has the option to cover the costs through the current CDBG construction budget.

XII. PROGRAM COMPLAINT AND APPEAL PROCEDURE

Complaints concerning the CDBG Program should be made in writing and filed with the Town. The Town will then schedule a meeting with the CDBG Loan Review Committee. Their written response will be made within fifteen (15) working days. If the applicant is not satisfied with the committee's decision, a request for an appeal may be filed with the Town Council. Final appeal may be filed in writing with HCD within one year after denial or the filing of the Project Notice of Completion.

XIII. GRIEVANCES BETWEEN PARTICIPANTS AND CONSTRUCTION CONTRACTOR

Contracts signed by the contractor and the participant include the following clause, which provides a procedure for resolution of grievances:

Any controversy arising out of or relating to this Contract, or the breach thereof, shall be submitted to binding arbitration in accordance with the provisions of the California Arbitration Law, Code of Civil Procedure 1280 et seq., and the Rules of the American Arbitration Association. The arbitrator shall have the final authority to order work performed, to order the payment from one party to another, and to order who shall bear the costs of arbitration. Costs to initiate arbitration shall be paid by the party seeking arbitration. Notwithstanding, the party prevailing in any arbitration proceeding shall be entitled to recover from the other all attorney's fees and costs of arbitration.

XIV. CONTRACTING PROCEDURES

- All housing rehabilitation work must be carried out using the CDBG adopted housing rehabilitation guidelines.
- The Town will prepare, advertise the bid package and assist the homeowner in negotiating the contract.
- The homeowner will select the contractor.

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- All contractors must be checked and cleared with HUD’S federal debarred list of contractors.
- All contractors must be actively licensed and bonded with the State of California.
- All contractors must have public liability insurance to the Town required limits, Workmen’s Compensation Insurance, unemployment and disability insurance.
- All contractors must comply with CDBG federal and state regulations.
- A Notice of Completion must be recorded with the County Recorder.

XV. SWEAT EQUITY

Participants who wish to perform sweat equity will sign a written commitment itemizing the work they will perform, a time schedule for completion and a dollar value of the contribution.

Owners that contribute sweat equity that involves painting will not participate in activities that include the abatement or mitigation of lead paint hazards without first being trained on Safe Work Practices as required by HUD and provide documentation of such in the project file.

XVI. AMENDMENTS

Amendments to these guidelines may be made by the Town and submitted to HCD for approval.

XVII. EXCEPTIONS

Exceptions to these guidelines will require Town Manager and HCD approval.

XVIII. HUD INCOME LIMITS ADJUSTED FOR FAMILY SIZE FOR MONO COUNTY

2014 Mono County 80% Area Median Income (AMI) Adjusted for Household Size *Eligible tenants cannot earn more than these limits <i>Effective June 6, 2016</i>	
Household Size	80% AMI
1 person	\$41,550
2 person	\$47,450
3 person	\$53,400
4 person	\$59,300
5 person	\$64,050
6 person	\$68,800
7 person	\$73,550
8 person	\$78,300

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XIX. ATTACHMENTS

The following documents are attached and form part of these guidelines:

- **ATTACHMENT A:** 24 CFR Part 5 Annual Income Inclusions and Exclusions
- **ATTACHMENT B:** Town of Mammoth Lakes Rehabilitation Loan Servicing Policies and Procedures
- **ATTACHMENT C:** HUD Housing Quality Standards
- **ATTACHMENT D:** CDBG Lead Based Paint Requirements

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ATTACHMENT A:

24 CFR Part 5 Annual Income Inclusions and Exclusions for Federal Programs

As of May 27, 2010

CODE OF FEDERAL REGULATIONS

Title 24: Housing and Urban Development

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

Subpart F—Section 8 and Public Housing, and Other HUD Assisted Housing Serving Persons with Disabilities: Family Income and Family Payment; Occupancy Requirements for Section 8 Project-Based Assistance

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, and 3535(d).

Source: 61 FR 54498, Oct. 18, 1996, unless otherwise noted.

§ 5.601 Purpose and applicability.

This subpart states HUD requirements on the following subjects:

- (a) Determining annual and adjusted income of families who apply for or receive assistance in the Section 8 (tenant-based and project-based) and public housing programs;
- (b) Determining payments by and utility reimbursements to families assisted in these programs;
- (c) Additional occupancy requirements that apply to the Section 8 project-based assistance programs. These additional requirements concern:
 - (1) Income-eligibility and income-targeting when a Section 8 owner admits families to a Section 8 project or unit;
 - (2) Owner selection preferences; and
 - (3) Owner reexamination of family income and composition;
- (d) Determining adjusted income, as provided in §5.611(a) and (b), for families who apply for or receive assistance under the following programs: HOME Investment Partnerships Program (24 CFR part 92); Rent Supplement Payments Program (24 CFR part 200, subpart W); Rental Assistance Payments Program (24 CFR part 236, subpart D); Housing Opportunities for Persons with AIDS (24 CFR part 574); Shelter Plus Care Program (24 CFR part 582); Supportive Housing Program (McKinney Act Homeless Assistance) (24 CFR part 583); Section 202 Supportive Housing Program for the Elderly (24 CFR 891, subpart B); Section 202 Direct Loans for Housing for the Elderly and Persons with Disabilities (24 CFR part 891, subpart E) and the Section 811 Supportive Housing for Persons with Disabilities (24 CFR part 891, subpart C). Unless specified in the regulations for each of the programs listed in paragraph (d) of this section or in another regulatory section of this part 5, subpart F, the regulations in part 5, subpart F, generally are not applicable

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to these programs; and

- (e) Determining earned income disregard for persons with disabilities, as provided in §5.617, for the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (McKinney Act Homeless Assistance) (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

[66 FR 6222, Jan. 19, 2001]

§ 5.603 Definitions.

As used in this subpart:

- (a) *Terms found elsewhere in part 5* —

- (1) *Subpart A.* The terms *1937 Act*, *elderly person*, *public housing*, *public housing agency (PHA)*, *responsible entity* and *Section 8* are defined in §5.100.
- (2) *Subpart D.* The terms “disabled family”, “elderly family”, “family”, “live-in aide”, and “person with disabilities” are defined in §5.403.

- (b) The following terms shall have the meanings set forth below:

Adjusted income: See §5.611.

Annual income: See §5.609.

Child care expenses: Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Dependent: A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses: Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Economic self-sufficiency program: Any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

Extremely low-income family: A family whose annual income does not exceed 30 percent of the median-income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the median income for the area if

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HUD finds that such variations are necessary because of unusually high or low family incomes.

Full-time student: A person who is attending school or vocational training on a full-time basis.

Imputed welfare income: See §5.615.

Low-income family: A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

Medical expenses: Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

Monthly adjusted income: One twelfth of adjusted income.

Monthly income: One twelfth of annual income.

Net family assets:

- (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.
- (2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- (3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.
- (4) For purposes of determining annual income under §5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

Owner has the meaning provided in the relevant program regulations. As used in this subpart, where appropriate, the term "owner" shall also include a "borrower" as defined in part 891 of this title.

Responsible entity: For §5.611, in addition to the definition of "responsible entity" in §5.100, and for §5.617, in addition to only that part of the definition of "responsible entity" in §5.100 which addresses the Section 8 program covered by §5.617 (public housing is not covered by §5.617), "responsible entity" means:

- (1) For the HOME Investment Partnerships Program, the participating jurisdiction, as defined in 24 CFR 92.2;

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- (2) For the Rent Supplement Payments Program, the owner of the multifamily project;
- (3) For the Rental Assistance Payments Program, the owner of the Section 236 project;
- (4) For the Housing Opportunities for Persons with AIDS (HOPWA) program, the applicable “State” or “unit of general local government” or “nonprofit organization” as these terms are defined in 24 CFR 574.3, that administers the HOPWA Program;
- (5) For the Shelter Plus Care Program, the “Recipient” as defined in 24 CFR 582.5;
- (6) For the Supportive Housing Program, the “recipient” as defined in 24 CFR 583.5;
- (7) For the Section 202 Supportive Housing Program for the Elderly, the “Owner” as defined in 24 CFR 891.205;
- (8) For the Section 202 Direct Loans for Housing for the Elderly and Persons with Disabilities), the “Borrower” as defined in 24 CFR 891.505; and
- (9) For the Section 811 Supportive Housing Program for Persons with Disabilities, the “owner” as defined in 24 CFR 891.305.

Tenant rent: The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). (This term is not used in the Section 8 voucher program.)

Total tenant payment. See §5.613.

Utility allowance: If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement: The amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (This definition is not used in the Section 8 voucher program, or for a public housing family that is paying a flat rent.)

Very low income family: A family whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Welfare assistance: Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

Work activities: See definition at section 407(d) of the Social Security Act (42 U.S.C. 607(d)).

[61 FR 54498, Oct. 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000; 65 FR 55161, Sept. 12, 2000; 66 FR 6223, Jan. 19, 2001; 67 FR 47432, July 18, 2002]

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Family Income

§ 5.609 Annual income.

- (a) Annual income means all amounts, monetary or not, which:
- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
 - (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
 - (3) Which are not specifically excluded in paragraph (c) of this section.
 - (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
- (b) Annual income includes, but is not limited to:
- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
 - (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
 - (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
 - (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
 - (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);
 - (6) Welfare assistance payments: (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
 - (A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
 - (B) Are not otherwise excluded under paragraph (c) of this section.

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- (ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
 - (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
 - (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
 - (8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).
 - (9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.
- (c) Annual income does not include the following:
- (1) Income from employment of children (including foster children) under the age of 18 years;
 - (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
 - (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
 - (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
 - (5) Income of a live-in aide, as defined in §5.403;
 - (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
 - (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
 - (8) (i) Amounts received under training programs funded by HUD;
 - (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside

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for use under a Plan to Attain Self-Sufficiency (PASS);

- (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
 - (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;
 - (v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
 - (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
 - (11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
 - (12) Adoption assistance payments in excess of \$480 per adopted child;
 - (13) [Reserved]
 - (14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
 - (15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;
 - (16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
 - (17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.
- (d) Annualization of income: If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a

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redetermination at the end of the shorter period.

[61 FR 54498, Oct, 18, 1996, as amended at 65 FR 16716, Mar. 29, 2000; 67 FR 47432, July 18, 2002; 70 FR 77743, Dec. 30, 2005]

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined by the responsible entity, defined in §5.100 and §5.603) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

- (a) *Mandatory deductions:* In determining adjusted income, the responsible entity must deduct the following amounts from annual income:
 - (1) \$480 for each dependent;
 - (2) \$400 for any elderly family or disabled family;
 - (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family; and
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
 - (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.
- (b) *Additional deductions:*
 - (1) For public housing, a PHA may adopt additional deductions from annual income. The PHA must establish a written policy for such deductions.
 - (2) For the HUD programs listed in §5.601(d), the responsible entity shall calculate such other deductions as required and permitted by the applicable program regulations.

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ATTACHMENT B:

Town of Mammoth Lakes Rehabilitation Loan Servicing Policies and Procedures

Mammoth Lakes Housing, Inc., on behalf of the Town of Mammoth Lakes, here after called "Lender," has adopted these policies and procedures in order to preserve its financial interest in properties, who's "Borrowers" have been assisted with public funds. The Lender will to the greatest extent possible follow these policies and procedures but each loan will be evaluated and handled on a case-by-case basis. The Lender has formulated this document to comply with state and federal regulations regarding the use of these public funds and any property restrictions which are associated with them.

The policies and procedures are broken down into the follow areas: 1) making required monthly payments or voluntary payments on a loan's principle and interest; 2) required payment of property taxes and insurance; 3) required Request for Notice of Default on all second mortgages; 4) required Rent Limitation Agreement and monitoring of investor properties; 5) loans with annual occupancy restrictions and certifications; 6) required noticing and limitations on any changes in title or use of property; 7) required noticing and process for requesting a subordination during a refinance; 8) process of foreclosure in case of default on the loan.

1. Loan Repayments:

The Lender will collect monthly payments from those borrowers who are obligated to do so under Notes, which are amortized promissory notes. Late fees will be charged for payments received after the assigned monthly date.

For Notes associated with deferred payment loans, the Lender may accept voluntary payments on the loan. Loan payments will be credited to the interest first and then to principal. The borrower may repay the loan balance at any time with no penalty.

2. Payment of Property Taxes and Insurance:

As part of keeping the loan from going into default, borrower must maintain property insurance coverage naming the Lender as loss payee in first position or additional insured if the loan is a second mortgage. If borrower fails to maintain the necessary insurance, the Lender may take out forced place insurance to cover the property while the Borrower puts a new insurance policy in place. All costs for installing the necessary insurance will be added to the loan balance at time of installation of Borrower's new insurance.

When a property is located in a 100 year flood plain, the Borrower will be required to carry the necessary flood insurance. A certificate of insurance for flood and for standard property insurance will be required at close of escrow. The lender may check the insurance on an annual basis.

Property taxes must be kept current during the term of the loan. If the Borrower fails to maintain payment of property taxes then the lender may pay the taxes current and add the balance of the tax payment plus any penalties to the balance of the loan. Wherever possible, the Lender encourages Borrower to have impound accounts set up with their first mortgagee wherein they pay their taxes and insurance as part of their monthly mortgage payment.

3. Required Request for Notice of Default:

When the Borrower's loan is in second position behind an existing first mortgage, it is the Lender's policy to prepare and record a "Request for Notice of Default" for each senior lien in front of Lender's loan. This document requires any senior lien holder listed in the notice to notify the lender of initiation of a foreclosure action. The Lender will then have time to contact the Borrower and assist them in bringing the first loan current. The Lender can also monitor the foreclosure process and go through the necessary analysis to determine if the loan can be made whole or preserved. When the Lender is in a third position and receives notification of foreclosure from only

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one senior lien holder, it is in their best interest to contact any other senior lien holders regarding the status of their loans.

4. Required Rent Limitation Agreement for Investor Properties:

All owner-investor properties which receive loans from the Lender will be required to enter into a rent limitation agreement which restricts the tenants and the rents on the property for a fixed period of time, depending on the public funds used. The rent limitation agreement will be recorded on title of the property and non-compliance with this agreement can lead to foreclosure action by the Lender. The rent limitation agreement will be monitored annually to ensure that low or very low-income households occupy the assisted investor units and that the rents charged to those households is affordable. In some cases the units must be inspected annually to ensure that they are up to minimum health and safety standards. At the end of the designated affordability period, the Lender will release the Borrower from the rent limitation agreement.

5. Annual Occupancy Restrictions and Certifications:

On some owner occupant loans the Lender may require that Borrowers submit utility bills and/or other documentation annually to prove occupancy during the term of the loan. Other loans may have income and housing cost evaluations, which require a household to document that they are not able to make repayments, typically every five years. These loan terms are incorporated in the original note and deed of trust.

6. Required Noticing and Restrictions on Any Changes of Title or Occupancy:

In all cases where there is a change in title or occupancy or use, the Borrower must notify the Lender in writing of any change. Lender and borrower will work together to ensure the property is kept in compliance with the original program terms and conditions such that it remains available as an affordable home for low income families. These types of changes are typical when Borrowers do estate planning (adding a relative to title) or if a Borrower dies and property is transferred to heirs or when the property is sold or transferred as part of a business transaction. In some cases the Borrower may move and turn the property into a rental unit without notifying the Lender. Changes in title or occupancy must be in keeping with the objective of benefit to the Targeted Income Group (TIG) families.

Change from owner-occupant to owner-occupant occurs at a sale. When a new owner-occupant is not low-income, the loan is not assumable and the loan balance is immediately due and payable. If the new owner-occupant qualifies as low-income, the purchaser may either pay the loan in full or assume all loan repayment obligations of the original owner-occupant, subject to the approval of the Lender's Loan Committee.

If a transfer of the property occurs through inheritance, the heir (as owner-occupant) may be provided the opportunity to assume the loan at an interest rate based on family size and household income, provided the heir is in the TIG. If the heir intends to occupy the property and is non-TIG, the balance of the loan is due and payable. If the heir intends to act as an owner-investor, the balance of the loan may be converted to an owner/investor interest rate and loan term and a rent limitation agreement is signed and recorded on title. All such changes are subject to the review and approval of the Lender's Loan Committee.

Change from owner-occupant to owner-investor occurs when an owner-occupant decides to move out and rent the assisted property, or if the property is sold to an investor. If the owner converts any assisted unit from owner occupied to rental, the loan is due in full. If the Borrower or new owner-investor requests that the existing loan be assumed and agrees to the current Lender rates and terms for owner-investor properties and the rent limitation agreement, then the outstanding balance may be refinanced, subject to the review and approval of the Lender's Loan Committee.

Conversion to use other than residential use is not allowable where the full use of the property is changed from residential to commercial or other. In some cases, Borrowers may request that the Lender allow for a partial conversion where some of the residence is used for a business but the family still resides in the property. Partial conversions can be allowed if it is reviewed and approved by any and all agencies required by local statute. If the use of the property is converted to a fully non-residential use, the loan balance is due and payable.

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7. Requests for Subordinations:

When a Borrower wishes to refinance the property, they must request a subordination request to the Lender. The Lender will only subordinate their loan when there is no "cash out" as part of the refinance. Cash out means there are no additional charges on the transaction above loan and escrow closing fees. There can be no third party debt pay offs or additional encumbrance on the property above traditional refinance transaction costs. Furthermore, the refinance should lower the housing cost of the family with a lower interest rate and the total indebtedness on the property should not exceed the current market value.

Upon receiving the proper documentation from the refinance agency, the request will be considered by the loan committee for review and approval. Upon approval, the escrow company will provide the proper subordination document for execution and recordation by the Lender.

8. Process for Loan Foreclosure:

Upon any condition of loan default: 1) nonpayment; 2) lack of insurance or property tax payment; 3) violation of rent limitation agreement; 4) change in title or use without approval; 5) default on senior loans, the Lender will send out a letter to the Borrower notifying them of the default situation. If the default situation continues then the Lender may start a formal process of foreclosure.

When a senior lien holder starts a foreclosure process and the Lender is notified via a Request for Notice of Default, the Lender, who is the junior lien holder, may cancel the foreclosure proceedings by "reinstating" the senior lien holder. The reinstatement amount, or payoff amount must be obtained by contacting the senior lien holder. This amount will include all delinquent payments, late charges and fees to date. Lender must confer with Borrower to determine if, upon paying the senior lien holder current, the Borrower can provide future payments. If this is the case then the Lender may cure the foreclosure and add the costs to the balance of the loan with a Notice of Additional Advance on the existing note.

If the Lender determines, based on information on the reinstatement amount and status of borrower, that bringing the loan current will not preserve the loan, then staff must determine if it is cost effective to protect their position by paying off the senior lien holder in total and restructure the debt such that the unit is made affordable to the Borrower. If the Lender does not have sufficient funds to pay the senior lien holder in full, then they may choose to cure the senior lien holder and foreclose on the property themselves. As long as there is sufficient value in the property, the Lender can afford to pay for the foreclosure process and pay off the senior lien holder and retain some or all of their investment.

If the Lender decides to reinstate, the senior lien holder will accept the amount to reinstate the loan up until five (5) days prior to the set "foreclosure sale date." This "foreclosure sale date" usually occurs about four (4) to six (6) months from the date of recording of the "Notice of Default." If the Lender fails to reinstate the senior lien holder before five (5) days prior to the foreclosure sale date, the senior lien holder would then require a full pay off of the balance, plus costs, to cancel foreclosure. If the Lender determines the reinstatement and maintenance of the property not to be cost effective and allows the senior lien holder to complete foreclosure, the Lender's lien may be eliminated due to insufficient sales proceeds.

9. Lender As Senior Lien Holder:

When the Lender is first position as a senior lien holder, active collection efforts will begin on any loan that is 31 or more days in arrears. Attempts will be made to assist the homeowner in bringing and keeping the loan current. These attempts will be conveyed in an increasingly urgent manner until loan payments have reached 90 days in arrears, at which time the Lender may consider foreclosure. Lender's staff will consider the following factors before initiating foreclosure:

- A. Can the loan be cured and can the rates and terms be adjusted to allow for affordable payments such that foreclosure is not necessary?

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- B. Can the Borrower refinance with a private lender and pay off the Lender?
- C. Can the Borrower sell the property and pay off the Lender?
- D. Does the balance warrant foreclosure? (If the balance is under \$5,000, the expense to foreclose may not be worth pursuing.)
- E. Will the sales price of home "as is" cover the principal balance owing, necessary advances, (maintain fire insurance, maintain or bring current delinquent property taxes, monthly yard maintenance, periodic inspections of property to prevent vandalism, etc.) foreclosure, and marketing costs?

If the balance is substantial and all of the above factors have been considered, the Lender may opt to initiate foreclosure. The Borrower must receive, by certified mail, a thirty-day notification of foreclosure initiation. This notification must include the exact amount of funds to be remitted to the Lender to prevent foreclosure (such as, funds to bring a delinquent BMIR current or pay off a DPL).

At the end of thirty days, the Lender should contact a reputable foreclosure service or local title company to prepare and record foreclosure documents and make all necessary notifications to the owner and junior lien holders. The service will advise the Lender of all required documentation to initiate foreclosure (Note and Deed of Trust usually) and funds required from the owner to cancel foreclosure proceedings. The service will keep the Lender informed of the progress of the foreclosure proceedings.

When the process is completed, and the property has "reverted to the beneficiary" at the foreclosure sale, the Lender could sell the home themselves under a homebuyer program or use it for an affordable rental property managed by a local housing authority or use it for transitional housing facility or other eligible use. The Lender could contract with a local real estate broker to list and sell the home and use those funds for program income eligible uses.

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ATTACHMENT C:

HUD Housing Quality Standards (HQS)

The Department of Housing and Urban Development (HUD) established Section 8 housing choice vouchers so that low-income individuals could find quality housing in the open market. To make sure that any unit rented to a tenant with a housing choice voucher is up to standard, a housing inspection is conducted on the unit by the local Public Housing Authority.

HUD has established certain Housing Quality Standards that are the basis for these inspections. These standards ensure that all units that are rented to tenants with housing choice vouchers meet certain requirements.

Thirteen performance requirements encompass the Housing Quality Standards. These requirements include:

1. Sanitary Facilities
2. Food Preparation and Refuse Disposal
3. Space and Security
4. Thermal Environment
5. Illumination and Electricity
6. Structure and Materials
7. Interior Air Quality
8. Water Supply
9. Lead-Based Paint
10. Access
11. Site and Neighborhood
12. Sanitary Conditions
13. Smoke Detectors

These performance requirements are guidelines for home inspectors. The Housing Quality Standards also include acceptability standards for each performance requirement which can help an inspector determine if an item meets HUD's standards. The inspectors must use their own judgment and discretion to interpret these rules in certain cases.

Here are some sample criteria for each performance requirement to give you an idea of what the inspector is looking for. For the complete requirements and standards, please refer to Chapter 10: Housing Quality Standards, of HUD's Housing Choice Voucher Guidebook.

1. Sanitary Facilities

Sample Criteria:

- The bathroom must be located in a private room within the residence.
- The bathroom must contain a flushing toilet, a shower or tub and a sink.
- The shower or tub and the sink must have functioning hot and cold water.

2. Food Preparation and Refuse Disposal

Sample Criteria:

- The unit must have an oven and a stove or a range. A microwave oven can be substituted.
- The unit must have a kitchen sink with hot and cold water and a proper sink trap.

3. Space and Security

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Sample Criteria:

- The unit must have a living room, a kitchen and a bathroom.
- Any doors or windows that are accessible from the outside must be able to be locked.

4. Thermal Environment

Sample Criteria:

- The heating system must safely provide heat to each room. The local PHA will determine what temperature is considered adequate during each month of the year.
- The cooling system must safely cool each room.

5. Illumination and Electricity

Sample Criteria:

- The living room and each bedroom must have at least one window.
- The kitchen must have at least one working outlet.
- The living room and each bedroom must have at least two working outlets.

6. Structure and Materials

Sample Criteria:

- All ceilings, walls and floors must not show any signs of bulging, buckling and must not contain large holes.
- The roof must be structurally sound.
- Handrails are required when there are four or more steps.

7. Interior Air Quality

Sample Criteria:

- Bathrooms must have a window that can be opened or must have other adequate ventilation.
- The unit must be free from dangerous pollutants, such as carbon monoxide.

8. Water Supply

Sample Criteria:

- The water supply must be free from contamination.
- Plumbing pipes and fixtures must be free from leaks.

9. Lead-Based Paint

Sample Criteria:

- Units constructed before 1978 must be free from lead-based paint hazards.
- There must be no chipping, cracking or peeling paint or other hazards.

10. Access

Sample Criteria:

- There must be two ways to exit the unit. A fire escape is considered an alternate means of exit.
- The fire escape or other emergency exit cannot be blocked.

11. Site and Neighborhood

Sample Criteria:

- There must not be excessive noise or trash accumulation in the neighborhood.
- There must not be an abnormal amount of air pollution.

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12. Sanitary Conditions

Sample Criteria:

- There must not be a rodent or vermin infestation.

13. Smoke Detectors

Sample Criteria:

- There must be at least one working smoke detector on each level of the unit, including the basement. Local codes may have stricter requirements, such as placing a smoke detector outside of each bedroom.
- All smoke detectors must be operational.

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ATTACHMENT D:

CDBG Grant Management Manual: CHAPTER 20

LEAD BASED PAINT REQUIREMENTS

[HTTP://WWW.HCD.CA.GOV/FA/CDBG/MANUAL/CHAPTER20.HTML](http://www.hcd.ca.gov/fa/cdbg/manual/chapter20.html)

A. INTRODUCTION

The purpose of this chapter is to provide information and guidelines on the Federal lead-based paint (LBP) regulations. Additional program related information is also located in the following chapters: Chapter 12 – Monitoring, Chapter 14 – Program Income, Chapter 16 – Housing Rehabilitation, and Chapter 17 -- Home Buyer Assistance.

HUD issued these regulations to protect adults and young children from LBP hazards in housing built prior to 1978 that is financially assisted or sold by the Federal government. Children six and under are particularly vulnerable since lead poisoning can cause significant injury, including permanent brain damage, reduced intelligence, and behavioral problems. A large percentage of children with lead poisoning are in low-income families living in older homes with heavy concentrations of LBP. The most common source of lead exposure is dust from deteriorated LBP and lead contaminated soil. Due to increased understanding of the harmful effects of lead exposure on children and adults, Federal LBP requirements have become more stringent.

B. GRANTEE RESPONSIBILITIES

All CDBG grantees are required to follow the Federal LBP regulations as listed in 24 CFR 35 in implementing their activities. Part J is for Housing Rehabilitation Programs, and part K is for Homebuyer Assistance Programs. Essentially, grantees are responsible to inform residents of the potentials of LBP hazards in their home, evaluate the degree of LBP hazards, mitigate these hazards, provide clearance on the rehabilitated areas affected by the LBP work, and provide all appropriate notices.

C. EFFECTIVE DATE –CDBG STATE PROGRAM

There have recently been two phases of reform in the LBP hazard regulations. Regulations regarding “working safely” with lead took effect on November 15, 1999. The second phase occurred when HUD published new regulations streamlining all LBP hazard requirements for CDBG grants. CDBG grants with award letters dated on or after September 15, 2000 are subject to the new regulations; however, implementation was delayed until January 10, 2002. Jurisdictions with an award letter prior to September 15, 2000 are not subject to the LBP regulations. Once a jurisdiction receives an award after September 15, 2000 for an activity subject to the LBP regulations, then all activities subject to LBP rules, including PI are subject to the LBP regulations.

Each set of regulations are in effect for houses and residences built prior to January 1, 1978 (As of January 1, 1978, LBP was banned nationwide for residential use). For the CDBG program, these new regulations largely apply to housing acquisition and rehabilitation of residences.

These new regulations may be found in Title 24, Part 35 of the Code of Federal Regulations (24 CFR 35) or on the Internet at www.access.gpo.gov/nara/cfr/waisidx_01/24cfr35_01.html

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D. CRITICAL LAWS OR REGULATIONS PERTAINING TO LBP

If other Federal, State, tribal or local law, ordinances, codes or regulations are applicable to the CDBG activity, the more protective definition shall apply. Following are critical state and Federal laws and regulations pertaining to LBP hazards.

1) Federal

- 24 CFR Part 35 – Lead Based Paint Prevention in Certain Residential Structures (HUD)
- Toxic Substances Control Act Section 406 - Requirements of Hazard Education Before Renovation for Target Housing
- 40 CFR Part 745 – Identification of Dangerous Levels of Lead (EPA)

2) State

- Title 17 Sec. 35000 – Accreditation, Certification, and Work Practices for LBP and Lead Hazards (DHS)
- Cal/OSHA Title 8 Sec. 1532.1 – Construction Safety Orders – Lead
- Cal/OSHA Title 8 Sec. 5194 – Hazardous Communication
- Civil Code 1102-1102.16 –Real Estate Lead Hazard Disclosure Requirements (HUD also has its own disclosure requirements. See next section.)
- Proposition 65 – Safe Drinking Water and Toxic Enforcement Act of 1986

3) Local

- Check with your city or county for applicable local codes.

E. SIGNIFICANT EXEMPTIONS (24 CFR 35.115)

HUD's LBP requirements do not apply to:

- Dwellings completed on or after 1/1/78.
- Housing exclusively for the elderly or person with disabilities, unless a child under age six resides (100 days or longer) or is expected to reside there.
- Zero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks.
- Housing found by certified inspection to be free of LBP.
- Housing in which all LBP has been properly identified, removed, and cleared (This does not apply where enclosure or encapsulation has been used as a method of abatement).
- Unoccupied reconstruction housing that will remain vacant until it is demolished to the foundation.
- Non-residential property: Property or part of a property that will not be used for human residential habitation. Not exempt are common use areas, such as entryways, hallways, corridors, passageways, stairways or building exterior in a mixed-use building.
- Rehabilitation that does not disturb a painted surface.

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- Emergency repair action, which are those needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage.
- Historical sites/dwellings may use interim controls instead of abatement, under certain conditions.

For a complete list of exemptions see 24 CFR Part 35.115, referenced in the Appendix VI-A of this chapter.

F. WORKING SAFELY WITH LEAD (24 CFR 35.1350)

HUD's LBP regulations establish *safe work* practices which must be followed at all times. The exception to this rule is if the painted area to be affected falls within the de minimis levels. These are:

- 20 sq. ft. (2 sq. meters) on exterior surfaces;
- 2 sq. ft. (0.2 sq. meters) in any one interior room or space; or
- 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

The intent of work safe methods is to minimize the spread of leaded paint dust, paint chips, and debris. The following are the major provisions in the safe work practices regulations:

1) Qualifications to Perform Safe Work Practices

Workers must be trained in Safe Work Practices. For additional information on this training, contact: <http://www.leadlisting.org>.

2) Occupant Protection

The occupant and the environment must be protected from lead-contaminated or lead-containing materials during hazard reduction activities. The areas of concern are:

- *No Occupants At Worksite: Occupants shall not be permitted to enter the worksite during hazard reduction activities until after hazard reduction work has been completed and clearance, if required, has been achieved.*
- *Protection of Occupants Belongings: The dwelling and worksite shall be secured against unauthorized entry, and occupants' belongings shall be protected from contamination during hazard reduction activities by relocating or covering and sealing them.*
- *Temporary Relocation: Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible unit free of LBP hazards, except if:*
 - *Treatment will not disturb LBP, dust-lead hazards or soil lead hazards.*
 - *Interior: Treatment of the interior will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health, or environmental hazards.*
 - *Building exterior: The windows, doors, ventilation intakes and other openings near the worksite are sealed during hazard control work and cleaned afterward; and a lead free entry is provided.*

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- *Treatment will be completed within five calendar days; the work area is sealed; the area within 10 feet of the containment area is cleared of debris at the end of the day; occupants have safe access to sleeping areas, bathroom, and kitchen facilities; and treatment does not create other safety, health, or environmental hazards.*

3) Worksite Preparation and Containment

The worksite for lead hazard reduction activities must be prepared to prevent the release of leaded dust and debris.

Workers must use practices that minimize the spread of leaded dust, paint chips, soil, and debris.

Warning signs are required at each entry to a room where lead hazard reduction activities are conducted when occupants are present, at the main and secondary entryways to a building from which occupants have been relocated, and at exterior worksites at a size and type readable from 20 feet (six meters) from the edge of the worksite. Signs need to be in the occupants' primary language to the extent practicable.

4) Prohibited Methods

The methods identified below may not be used at any time for work on surfaces known or suspected to contain LBP:

- Open flame burning or torching.
- Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
- Abrasive blasting or sandblasting without HEPA local exhaust control.
- Heat guns operating above 1,100 degrees Fahrenheit, or those that operate high enough to char the paint.
- Dry sanding or dry scraping.
- Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations.

5) Worksite Cleanup

Good cleanup is critical to passing clearance and leaving the unit safe for habitation. The worksite shall be cleaned using methods, products, and devices that are successful in cleaning lead-contaminated dust, such as vacuum cleaners with HEPA filters or equivalent equipment and household or lead specific detergents or equivalent products.

6) Safe Work Practice Exemptions

- *Safe work practices are not required if paint has been tested and found to be lead-free.*
- *Safe work practices are not required in houses completed after 1978.*

7) Clearance (24 CFR 35.1340)

Clearance is performed to determine whether the lead hazard reduction process is complete and that no lead-dust or soil hazards remain in the areas of concern. The clearance report requires DHS Form 8552. A clearance examination involves a visual assessment, dust, and soil testing to determine if the unit is safe for occupancy. A certified inspector/risk assessor must perform clearance.

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The clearance examiner must prepare a clearance report in accordance with (24 CFR Part 35.1340) if lead hazard reduction activities other than abatement are performed. Use DHS form 8552. If abatement is conducted, a certified supervisor or project designer must prepare an abatement report in accordance with 40 CFR 745.227(e)(10). Essentially, this requires DHS form 8551 (that was previously filled out) to be attached to the clearance form (DHS 8552). The clearance notice must note each failed clearance.

G. LEAD HAZARD EVALUATION (24 CFR 35.110 and 35.1320)

Lead Hazard Evaluation methods involve an examination of a dwelling to check for lead hazards for every activity. Evaluation methods include risk assessments, lead hazard screenings, visual assessments, presumption of LBP, and paint testing. In California, the Department of Health Services certifies workers/supervisors/inspectors/risk assessors. Refer to the Department's website, www.dhs.ca.gov/childlead/ for more information. Below is a brief description of each evaluation method.

- **Risk Assessment:** Risk Assessment is a comprehensive investigation of a dwelling to identify LBP hazards that includes paint testing, dust and soil sampling, and a visual evaluation. Risk assessment results are summarized in a written report with recommendations for actions. Risk assessments are conducted by inspectors/risk assessors certified by the Department of Health Services.
- **Lead Hazard Screening:** Lead Hazard Screening is similar to a risk assessment. While the sampling is less extensive, the requirements are more stringent. If LBP hazards are detected, a full risk assessment must then be conducted. Lead hazard screens are conducted by certified risk assessors.
- **Visual Assessment:** A Visual Assessment of deteriorated paint consists of a visual search for cracking, scaling, peeling, or chipped paint. A visual assessment does not require notification of lead hazard evaluation since the assessment does not evaluate lead-based paint and/or lead hazards. However, if hazards are discovered and addressed, the contractor must still meet the hazard reduction activity notification requirement. Visual assessments are conducted those who have taken the HUD online test at: <http://www.hud.gov/offices/lead/training>.
- **Presumption:** Presumption is an administrative decision, and no formal training is required. It makes a determination of LBP and/or LBP hazards based on non-testing information and is an alternative to performing lead hazard evaluation activities. In some cases, by presuming LBP and/or LBP hazards, hazard evaluations may not be required, but contractors must still conduct lead hazard reduction activities as required.
- **Paint Testing:** Paint Testing entails testing painted surfaces to determine if they contain LBP using methods such as an x-ray fluorescence (XRF) analyzer or laboratory analysis. Paint testing must be conducted by certified inspectors/risk assessors.

H. LEAD HAZARD REDUCTION METHODS (24 CFR 35.1330, 35.1325, and 35.1335)

Lead hazard reduction methods refer to specific types of treatment to address LBP hazards. Nothing precludes contractors from conducting additional lead hazard reduction methods beyond the minimum established for each activity. Lead hazard reduction methods include:

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1) Interim Controls

Interim controls temporarily reduce exposure to LBP hazards through repairs, painting, maintenance, special cleaning, occupant protection measures, clearance, and education programs. A detailed description of interim controls are in 24 CFR 35.1330. Interim control methods include, but are not limited to:

- Paint Stabilization: Repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.
- Treatment For Friction And Impact Surfaces: If LBP is found and exceeds acceptable levels or is presumed, the conditions creating friction or impact with surfaces with LBP such as those that rub, bind, or crush must be corrected. Examples of this work include hanging/binding doors, installing doorstops, or reworking windows.
- Safe Work Practices: All interim controls shall incorporate the use of safe work practices.
- Treatment For Chewable Surfaces: If a child under age six has chewed surfaces known to contain LBP or if LBP is presumed, these surfaces must be enclosed or coated, so they are impenetrable.
- Lead-Contaminated Dust Control: All horizontal surfaces that are rough, pitted, or porous such as bare floors, stairs, window sills, and window troughs must be covered with a smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane, or linoleum. Carpeting must be vacuumed, or rugs must be removed and vacuumed on both sides. Vacuuming must be done using HEPA vacuums.
- Lead-Contaminated Soil Control: If soil is lead-contaminated, interim controls that may be used include impermanent surface coverings such as gravel, bark, and sod as well as land use controls such as fencing, landscaping, and warning signs.

2) Standard Treatments (24 CFT 35.1335)

Under certain conditions, if LBP is presumed, then the standard treatment method is triggered. Standard treatments apply to all applicable surfaces, including soil, to control LBP hazards that may be present. These methods include:

- Paint Stabilization: All deteriorated paint on exterior and interior surfaces must be stabilized through repairs, safe paint removal, and repainting. Or abatement may be performed.
- Smooth and Cleanable Horizontal Surfaces: All horizontal surfaces that are rough, pitted, or porous such as bare floors, stairs, windowsills, and window troughs must be covered with a smooth, cleanable covering or coating such as metal coil stock, plastic, polyurethane, or linoleum.
- Correcting Dust-Generating Conditions: All conditions that generate lead-contaminated dust such as those that rub, bind, or crush surfaces with LBP must be corrected. Examples include re-hanging doors, installing doorstops, or reworking windows.
- Bare Residential Soil: Soil is addressed using interim control methods including impermanent surface covering such as gravel, bark, and sod as well as land use controls such as fencing, landscaping, and warning signs.
- Safe Work Practices: All standard treatments shall incorporate the use of safe work practices.

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- Clearance: A clearance examination shall be performed at the conclusion of lead hazard reduction activities.
- Qualifications: An individual performing standard treatments must meet the training and/or supervision requirements.

3) **Abatement (24 CFR 35.1325)**

Abatement permanently (for at least 20 years) removes lead based paint and LBP hazards by a variety of measures, including removing LBP and its dust, encapsulating or enclosing the LBP, replacing components containing LBP, or removing or covering lead-contaminated soil. All abatement methods shall incorporate the use of safe work practices. Abatement shall then be conducted on all applicable surfaces, including soil, and completed when clearance is achieved.

4) **Qualifications To Perform Lead Hazard Reduction**

Paint Stabilization, Interim Controls, and Standard Treatments require certification as workers or supervisors.

Abatement must be conducted by certified workers and supervisors certified by California's Department of Health Services.

I. **REHABILITATION**

Requirements in the regulations for rehabilitation activities are found in 24 CFR Part 35, Subpart J. Rehabilitation activities require lead hazard evaluation and reduction activities be carried out for all projects constructed prior to 1978. Sections 6 through 11 of this chapter pertain directly to CDBG rehabilitation.

1) **Federally Rehabilitation Assistance Categories (24 CFR 35.930)**

a) **Rehabilitation Projects Less Than Or Equal To \$5000**

Rehabilitations of Residential property receiving an average of up to and including \$5,000 per unit in Rehabilitation Assistance are required to complete the following:

- i. Lead Hazard Evaluation: Paint testing must be conducted to identify lead based paint on all painted surfaces that will be disturbed or replaced.
- ii. The grantee may presume that LBP exists on all painted surfaces that will be disturbed or replaced and skip paint testing.
- iii. Lead Hazard Reduction: Grantees must repair all paint that will be disturbed during rehabilitation. If LBP is detected or assumed, safe work practices must be used during rehabilitation.
- iv. Noticing is required.
- v. Clearance is required only for the work area.

b) **Rehabilitation Projects: Over \$5,000 to \$25,000 Per Unit**

- i. There are two requirements for the Lead Hazard Evaluation:
 - Paint testing: Paint testing must be conducted to identify lead based paint on all painted surfaces that will be disturbed or replaced. *Interim controls are used on LBP hazards.*

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- Risk Assessment: A risk assessment must be conducted prior to rehabilitation to find LBP hazards in assisted units, in common areas that service those units, and on exterior surfaces.
- ii. There are four options in determining the hazards of LBP:
- In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces to be disturbed or replaced and *use interim controls*. A risk assessment is still required.
 - In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces. The grantee must *perform standard treatments*. A risk assessment is not required.
 - When using interim controls, the grantee is permitted to conduct paint testing on all non-intact paint surfaces. If no LBP is detected, then no interim controls are required on that surface. A risk assessment is still required.
 - The grantee is permitted to conduct a lead hazard screen instead of a risk assessment. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates the presence of lead levels that exceed interior lead dust standards, then a risk assessment must be conducted.
- iii. Lead Hazard Reduction: If LBP or LBP hazards are detected during the evaluations on interior surfaces in the dwelling units, and the common areas that service those units or on exterior surfaces to be disturbed by rehabilitation, interim controls must be implemented to reduce LBP hazards. See options above for exemptions.
- iv. Notice is required.
- v. Clearance is required.
- c) Rehabilitation Projects Over \$25,000 Per Unit
- i. There are two requirements for the Lead Hazard Evaluation:
- Paint testing must be conducted to identify lead based paint on deteriorated painted surfaces or surfaces that will be disturbed or replaced.
 - A risk assessment must be conducted prior to rehabilitation to find LBP hazards in assisted units, in common areas that service those units, and on exterior surfaces, or grantees may assume that LBP hazards exist.
- ii. There are three options in the Lead Hazard Evaluation:
- In lieu of paint testing, the grantee is permitted to presume that LBP hazards exist on all painted surfaces to be disturbed or replaced and abate these surfaces.
 - In lieu of paint testing, the grantee is permitted to assume that LBP or LBP hazards are present on all painted surfaces. Abatement is required on these surfaces. In such cases, evaluation is not required.

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- The grantee is permitted to conduct a lead hazard screen instead of conducting a risk assessment. If the lead hazard screen indicates that there is no lead contamination, no lead hazard reduction is required. If the lead hazard screen indicates that lead is present, then a risk assessment must be conducted.
- iii. *Lead Hazard Reduction: If LBP hazards are detected during the evaluations on interior surfaces in the dwelling units and the common areas that service those units or on exterior surfaces, including soil, to be disturbed by rehabilitation, abatement must be completed to permanently reduce LBP hazards.*

If LBP hazards are detected on the exterior surfaces that are not disturbed by rehabilitation during the risk assessment, interim controls may be completed instead of abatement to reduce these hazards.
- iv. *Noticing is required.*
- v. *Clearance is required.*

2) **Calculating the Level of Federal Rehabilitation Assistance (24 Cfr 35.930)**

The lead hazard evaluation and reduction activities required for rehabilitation projects depend on the level of Federal Rehabilitation Assistance (FRA) projected for each project. The FRA breaks up into three categories:

- FRA of up to and including \$5,000 per unit,
- FRA of more than \$5,000 per unit, up to and including \$25,000,
- FRA of more than \$25,000 per unit.

The FRA is determined by comparing the per unit rehabilitation *hard costs* and the overall per unit *Federal Assistance*. The lower of these calculations is used as the FRA amount.

Hard Costs: Rehabilitation hard costs are calculated using the actual costs associated with the physical development of a unit, regardless of the source of these funds. These do not include soft costs, such as administration, relocation, environmental review, and acquisition costs. Soft costs include financing fees, credit reports, title binders and insurance, recordation fees, transaction taxes, impact fees, legal and accounting fees, appraisals, and architectural and engineering fees.

Federal Assistance: Federal Assistance is determined by tabulating all Federal funds provided to the project for housing assistance. This also includes funds from program income, but excludes funding such as low-income housing tax credit funds (LIHTC) or non-Federal Home Program match funds which are not consider housing assistance.

For determining which level is used in multiple family units to be rehabilitated, an average is used. See 24 CFR 35.915 and HUD's April 2001 Interpretive Guidance for specific details.

3) **Intent: Abatement, Rehabilitation Or Weatherization**

Pursuant to a joint letter from HUD and EPA, dated April 19, 2002, jurisdictions have an additional option when rehabilitating dwellings in which LBP may be present. This provision impacts dwellings below the \$25,000 Federal rehabilitation assistance category.

If a jurisdiction's "intent" is to rehabilitate or weatherize a dwelling without mitigating any LBP hazards, then it is not required to perform interim controls in *the area to be rehabilitated*. *Intent* is shown in the work write up. If only rehabilitation aspects are included in the write up, then the

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intent is to rehabilitate and not mitigate LBP hazards. However, “work safe” practices must still be used. If LBP mitigation measures are included in the work write up, then the *intent* is to mitigate LBP hazards, and all usual mitigation rules apply.

Additionally, if your intent is to abate LBP hazards, then you must follow the abatement worker rules as indicated in the LBP rehabilitation matrix, regardless of the hard cost level of your project.

4) **Construction Waste**

According to a January 23, 2001 EPA Policy Guidance letter, #2001-02, “...all wastes generated from lead hazard control activities at residential properties are household wastes which are excluded from the hazardous waste requirements of the Resource Conservation and Recover Act. As a result, residential LBP waste may be discarded in a municipal solid waste landfill or combustor, but not dumped nor open-burned. Certain LBP waste (such as large quantities of concentrated waste—paint chips, dust, or sludge) from residential de-leading may be subject to more stringent State, local, and/or tribal requirements.” As a result of this guidance, check with your local waste site to determine how they want to deal with the waste being generated from your LBP mitigation activities.

J. DISCLOSURES AND NOTICES (24 CFR 35.92 and 24 CFR 35.125)

1) **Disclosures**

Notification is required on all rehabilitation and first time homebuyer activities, regardless of the level of assistance.

- *Lead Hazard Information Pamphlet: Residents and purchasers of a residential property must receive a copy of the EPA/HUD/Consumer Product Safety Commission Lead Hazard Information Pamphlet, “How to Protect your Family from Lead in Your Home.” Have the recipient acknowledge receipt of this pamphlet in writing and retain this acknowledgment in the rehabilitation files.*
- *Disclosure of LBP and Hazards: Property owners must provide purchasers and lessees with available information or knowledge regarding the presence of LBP and hazards prior to selling or leasing a residence. In the contract or lease, sellers and leasers of pre-1978 housing must include disclosure and acknowledgement language and a warning statement about the dangers of LBP. Sellers must allow purchasers 10 days to inspect the dwelling for LBP or lead based paint hazards. The appropriate contractual addendum on this waiting period must be part of the contract documents. See Matrices and Checklists Section in this chapter for sample language.*

2) **Notices**

- *Paint Testing, Lead Hazard Evaluation, Visual Assessment, or Presumption: Use DHS form 8552. When an evaluation results in findings of LBP hazards or if a presumption of LBP hazards is made, then contractors must provide to the residents and post notice no later than 15 days after this report has been received. These notices shall be posted for four weeks.*

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- Abatement: Use DHS form 8551, Abatement of Lead Hazards Notification in conjunction with DHS form 8552.
- Clearance: Use DHS form 8552. Notice of Lead Hazard Reduction Activity: When lead hazard reduction activities have been completed (clearance has been achieved), a contractor must provide to the residents or post a notice of these lead hazard reduction activities no later than 15 days after completion. The notices shall be updated if additional work is required. Any failed clearances must be described in the notice. These notices shall be posted for four weeks.
- Availability of Notices: Notices of evaluation, presumption, and hazard reduction shall:
 - Be of a size and type easily read by occupants.
 - To the extent practicable, be made available upon request in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).
 - Be provided in the occupants' primary language or in the language of the occupants' contract or lease.
 - Be provided to the occupants by posting and maintaining it in centrally located common areas and distributing it to any dwelling unit, if necessary, because the head of household is a person with a known disability.
 - Be distributed to each occupied dwelling affected by the evaluation. If the notice is for a lead hazard in a common area that is used by those in the dwelling unit, the occupants of the dwelling unit shall also receive notice.

K. ACQUISITION AND SUPPORT SERVICES (24 CFR 35.1000)

The lead-based paint requirements for acquisition, leasing, support services or operations is found in 24 CFR Part 35, Subpart K.

1) Acquisition

These regulations are intended to provide assurances that the LBP paint in homes purchased with CDBG funds have been stabilized, and that the unit is "lead safe" when it is occupied by the assisted household. Key requirements for LBP in Homebuyer Assistance are LBP hazard evaluation, treatment, and clearance. The following is required to identify deteriorated paint in homes:

- Visual Assessment: An inspection of all interior painted surfaces, including common areas such as hallways, laundry rooms or garages, and exterior surfaces of the building in which the dwelling unit is located must be conducted to identify deteriorated paint. Notification is only required if LBP hazards are identified.

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- Paint Stabilization: All deteriorated paint surfaces must be stabilized before the homebuyer moves into the home. If paint testing of a deteriorated surface reveals no LBP, then paint stabilization is not required on that surface.
- Safe Work Practices: The owner/contractor must use safe work practices when conducting paint stabilization. Safe work practices include safe work methods, occupant protection, worksite preparation, and cleanup.
- Clearance: After the completion of work, the home must pass clearance. Clearance must happen before occupancy if the home is vacant or immediately after receipt of Federal assistance for a home currently occupied.
- Costs: In order to provide maximum flexibility, the party responsible for paying for lead hazard evaluation and reduction in homebuyer programs depends upon program design and local requirements. Costs may be borne by the administering agency, the seller, the homebuyer, or a combination of the preceding.
- Notification: The notification process is the same as for rehabilitation activities.

2) Support Services and Operations

Support Services and Operations programs that assist in buying, renting, improving, operating or maintaining housing are covered by these regulations. Programs that provide services, such as medical care, education, or food service are not considered housing assistance and are not covered by the regulations. However, HUD recommends that efforts be made to assure that facilities providing these types of support services are lead-safe, if they are frequented by children less than 6 years of age.

3) Exemptions

If the housing assistance being provided is for less than 100 days, the assistance is exempt. For example, if a transitional housing unit that does not meet the definition of a zero-bedroom exemption, provides housing to several families for no more than 100 days, it is exempt from the provisions of Subpart K. The 100-day time limit applies to the dwelling, not the individuals or families.

L.RECORDKEEPING

Notices, evaluation, clearance and abatement reports must be kept at least three years and must be made available for Department review.

Records must be kept for at least three years, but it is recommended that lead-based paint records be kept indefinitely. The following records should be kept:

- Information on age of property, age of children living at property, existing information on Children's blood lead levels, existing information on lead-based paint.
- Inspection report or documentation of Visual Assessment.
- Disclosure statement.

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- Clearance report.
- All notifications.

- Documentation of required certifications or training.

- Documentation indicating receipt of the pamphlet.

M. QUESTIONS

Q1. How does sweat equity come into play when a homeowner opts to paint the house as part of the rehabilitation? What is the homeowner's responsibility in minimizing LBP hazards?

A. The homeowner must receive training on and use work safe requirements, including containment, practices, and clearance. Contact HUD's Lead Based Paint Training Specialist, Rachael Riley at (202) 755-1785 x 107 for materials to hold your own work safe course.

Q2. Are there other options to using sweat equity without the owners taking classes?

A. The options are: Homeowners performing sweat equity may 1) take the one-day HUD work safe class (or for projects over \$25,000 in hard costs, take the DHS three-day course); 2) work on homes completed after 1/1/78; 3) work on homes that are certified LBP-free or abated (as long as LBP hazards are not created); or 4) only work in cleared areas accessible without exposure to LBP hazards on tasks without disturbing LBP or creating LBP hazards.

Q3. When is abatement required?

A. When the intent is to permanently eliminate the LBP hazard (abate), and when the FRA is over \$25,000.

Q4. When do you have to "work safe?"

A. Always, unless the area to be worked on is less than the de minimis levels.

Q5. How can I get information on certified training?

A. Check out DHS at their website: <http://www.dhs.ca.gov/childlead/html/materials.html> You may also contact the CDBG program at (916) 263-0485 for updated information.

Q6. Do the LBP hazard regulations apply to public service activities?

A. Only to the extent that these services are considered housing assistance, e.g., housing operations assistance.

Q7. Do LBP hazard regulations apply to mixed use activities?

A. Only for the residences and in common use areas served by residents, e.g., exterior areas, entryways, laundry rooms, hallways, etc.

Q8. If a window and frame painted with LBP needs to be removed as part of the rehab, is this a rehab or lead hazard cost?

A. If the component of the rehab would have been done regardless of the LBP, then it is considered a rehab cost.

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Q9. Is LBP an activity delivery or construction cost?

- A. LBP evaluation/clearance costs are the same category as pest control inspections, i.e., you can count them as activity delivery, construction costs and roll them into the loan, grant them, etc. LBP mitigation is a construction cost. These costs can either be grants or loans

Q10. We need a list of certified LBP contractors in our area.

- A. Certified workers, supervisors, inspectors/risk assessors:
www.dhs.ca.gov/childlead/html/GENclist.html

Q11. We need a list of those qualified to work safe (workers only) in our area.

- A. www.leadlisting.org/leadlisting/leadlisting.nsf/RenovatorForViews?OpenForm&CA

Q12. Which certifications are required to address LBP hazards?

- A. It depends upon which level of LBP mitigation is taken. See Housing Rehabilitation or Homebuyer's Assistance matrices in table of contents.

Q13. We need more funding to pay for certified contractor classes. Are any funds available?

- A. No Federal funds are currently available. However, the National Association of Attorneys General has information on its website about work safe trainings to begin in September 2003. Reference: www.naag.org/news/pr-20030512-lead_paint.php

Q14. Who fills out the forms and notices?

- A. For DHS forms, the certified risk assessor/inspector fills out forms #8551 and #8552, except in the case of visual assessments and presumptions. Visual assessments only require the online HUD training while the presumptions are an administrative task and may be filled out by any appropriate jurisdiction official.

Q15. What certifications are required on tribal land?

- A. EPA certification for LBP.

Q16. Does a contractor, certified in another state, still have to take the California DHS certified test to work in State?

- A. Yes. California does not recognize other states' certifications.

Q17. If a city is to purchase a 4-plex and rehabilitate it, do the Housing Acquisition or Housing Rehabilitation LBP rules apply?

- A. In cases of multiple coverage for LBP rules, use the most restrictive rules. In this case, the housing rehabilitation rules would apply.

Q18. In performing a visual assessment on a home for a first time homebuyers program, you find that the home is very old and likely has LBP. In the backyard is an obvious play area that has bare soil. There is no evidence of chipping paint on the ground. Should the bare soil be noted in the visual assessment as a LBP hazard?

- A. We urge a conservative approach and recommend that the area be covered in sod, or re-landscaped to cover the bare dirt.

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N. DEFINITIONS

Abatement: Any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of "permanent"). Abatement includes the removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards.

Bare soil: Soil or sand not covered by grass, sod, other live ground covers, wood chips, gravel, artificial turf, or similar covering.

Certified: DHS licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision.

Chewable surface: An interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

Clearance Examination: An activity conducted following lead-based paint hazard education activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards exist in the dwelling unit or worksite.

Common Area: A portion of a residential property that is available for use by occupants of more than one dwelling unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, garages and boundary fences.

Containment: The physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown or tracked from inside to outside of the worksite.

Dwelling Unit: (1) Single-family dwelling, including attached structures such as porches and stoops; or (2) Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.

Encapsulation: The application of a covering or coating that acts as a barrier between the lead-based paint and the environment. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of "permanent").

Enclosure: The use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of "permanent").

Evaluation: A risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint.

Federally Rehabilitation Assistance: The amount used to determine which rehabilitation category used to address LBP hazards. This figure is calculated by taking the lower of the total Federal assistance in a dwelling and the total hard costs to rehab the dwelling.

Hazard reduction: Measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

HEPA vacuum: A vacuum cleaner device with an included high-efficiency particulate air (HEPA) filter.

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Housing for the elderly: Retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more or other age if recognized as elderly by a specific Federal housing assistance program.

Impact Surface: An interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

Interim Controls: A set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

Lead-Based Paint: Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead-Based Paint Hazard: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Lead Hazard Information Pamphlet: "How to Protect Your Child From Lead in Your Home." The HUD pamphlet used to notice a resident who is about to participate in a LBP activity.

Lead Hazard Reduction Activity: The activity chosen to address the existence of LBP and/or LBP hazards.

Lead Hazard Screen: A limited risk assessment activity that involves paint testing and dust sampling and analysis. If lead hazards are found, then a full risk assessment is required.

Multifamily property: A residential property containing five or more dwelling units.

Noticing: Notifying the occupants (or potential occupants) of a dwelling of LBP related actions or history pertaining to that dwelling. This noticing may take the form of a pamphlet or posted notices regarding LBP hazards found, treated, and cleared in a dwelling.

Paint Stabilization: Repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

Paint Testing: The process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.

Permanent: An expected design life of at least 20 years.

Play Area: An area of frequent soil contact by children of less than 6 years of age, as indicated by the presence of play equipment (e.g. sandboxes, swing sets, sliding boards, etc.) or toys or other children's possessions, observations of play patterns, or information provided by parents, residents or property owners.

Presumption: An administrative decision to presume LBP is present. At times, this presumption may not require a risk assessment.

Risk Assessment: An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and the provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint

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hazards.

Risk Assessor/Inspector: This person performs risk assessments and clearance examinations. This person must take and pass the 40 hour Risk Assessor/Inspector class. DHS registration AND testing is required.

Safe Work Practices: A system of working to remove LBP that minimizes spreading LBP dust and debris which would contaminate the workers and residents of a dwelling.

Single Family Property: A residential property containing one through four dwelling units.

Single Room Occupancy (SRO) Housing: Housing consisting of zero-bedroom dwelling units that may contain food preparation or sanitary facilities or both (see Zero-bedroom dwelling).

Soil-Lead Hazard: Bare soil on residential property that contains excessive amounts of lead.

Standard Treatments: A series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation.

Substrate: The material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, concrete, brick or metal.

Supervisor: This person supervises certified and non-certified LBP workers. This person must have taken and passed the 40 hour LBP Supervisor class. DHS registration AND testing is required.

Visual Assessment: Looking for deteriorated paint, visible surface dust, debris and residue which may be a part of a risk assessment or clearance examination. A person must have taken the HUD VA test on the web. www.hud.gov/offices/lead/training/visualassessment/h00100.htm

Worker: There are two types of workers, certified and non-certified.

- Certified: A person who has taken the DHS, 3-day, 24 hour certified LBP certified worker class. While no DHS test is required, DHS registration is required. This person may work on any LBP project, but only under supervision.
- Non-Certified: A person who has taken the HUD 1 day, 8 hour "Work Safe" class. This worker may not work on abatement projects.

Zero-Bedroom Dwelling: Any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings (see Single room occupancy (SRO)).

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O. MATRICES AND CHECKLISTS

CDBG LBP Housing Rehabilitation Matrix

		0 → \$5,000	\$5,001 → \$25,000	\$25,001+
Lead Hazard Evaluation	Type	Paint Testing on surfaces affected by rehabilitation		
		No Risk Assessment Required	In addition to Paint Testing, Risk Assessment (RA)	
	Cert. Required	DHS certified RA/Inspector		
<i>Notices/Reports</i>		LBP Pamphlet Renter's LBP Disclosure Form, if applicable Paint testing/Risk Assessment: DHS form 8552 Presumption: CDBG LBP-1 Hazard notification: DHS form 8551 prior to work start Clearance: DHS form 8552 LBP Hazard Reduction Activity: CDBG LBP-1		
Lead Hazard Reduction	<i>Type</i>	Safe work practices	Interim Controls	-Interior/Exterior paint disturbed by HR: Abatement -Exterior paint not disturbed by HR: Interim Controls
	Certificate Required	Worker	1) Workers (including sweat equity) must be "work safe" trained, and no supervisor required, or 2) Workers supervised by DHS certified Supervisor or 3) Workers have taken DHS certified worker class.	See "Under \$5,000" category.
				Int/Ext: 3 Day DHS certified worker required
	Supervisor	See above.	See above.	Int./Ext.: Required
Ext. w/Interim: Required				
Clearance Required		Yes, but only in the areas of rehab. Use DHS form 8552. Certified Risk Assessor or Project Monitor	Yes. Use DHS form 8552. Certified Risk Assessor or Project Monitor on all clearances	

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

CDBG LBP Homebuyers Assistance Matrix

Lead Hazard Evaluation	Type	Visual Assessment
	Level of Cert. Required	HUD Online Test: http://www.hud.gov/offices/lead/training/visualassessment/h00100.htm
<u>E. Notices/ Reports</u>		-Pamphlet -Seller's LBP Disclosure Form -Visual Assessment: CDBG Form LBP-1 -Clearance: DHS form 8552 -Prior to LBP work: Notification DHS 8551 -LBP Hazard Reduction Activity, CDBG LBP-1
Lead Hazard Reduction	<i>Type</i>	Paint Stabilization of each deteriorated paint surface.
	Training required for workers/ supervisor	1) Workers (including sweat equity) must be "work safe" trained, and no supervisor required, or 2) Workers supervised by DHS certified Supervisor, or 3) Workers have taken DHS 3-day certified class.
Clearance Required		Yes. Use DHS form 8552. Certified Risk Assessor or Project Monitor on all clearances

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

CDBG LBP Presumptions/Options

By Federal Rehabilitation Assistance Category	
\$0-\$5000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. No RA is required. Use safe work practices.
Over \$5,000 to \$25,000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. RA is required. Use interim controls on hazards revealed by the RA or created by the rehabilitation.
Over \$25,000	In lieu of paint testing on surfaces to be disturbed by the rehabilitation, presume LBP on all surfaces affected by rehabilitation. RA is required. Abate all hazards revealed by the RA or created by the rehabilitation. On external areas not disturbed by the rehabilitation, may use interim controls.

<u>E.</u> <u>G. By Evaluation Type</u>	
Lead Hazard Screen	When RA are required, may use this abbreviated version, lead hazard screen. If LBP hazards are found, then full RA is required.
Paint Testing	When paint stabilization or interim controls, may opt to do paint testing on all surfaces with non intact paint. If no LBP then stabilization/interim controls not required.

<u>H.</u> <u>I. By Mitigation Method</u>	
Interim Controls	When interim controls are required, may presume LBP or LBP hazards exist throughout property and then enact standard treatments on hazards. No RA is required.
Abatement	When abatement is required, may presume that LBP or LBP hazards are present throughout, then abate hazards. No RA is required.

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

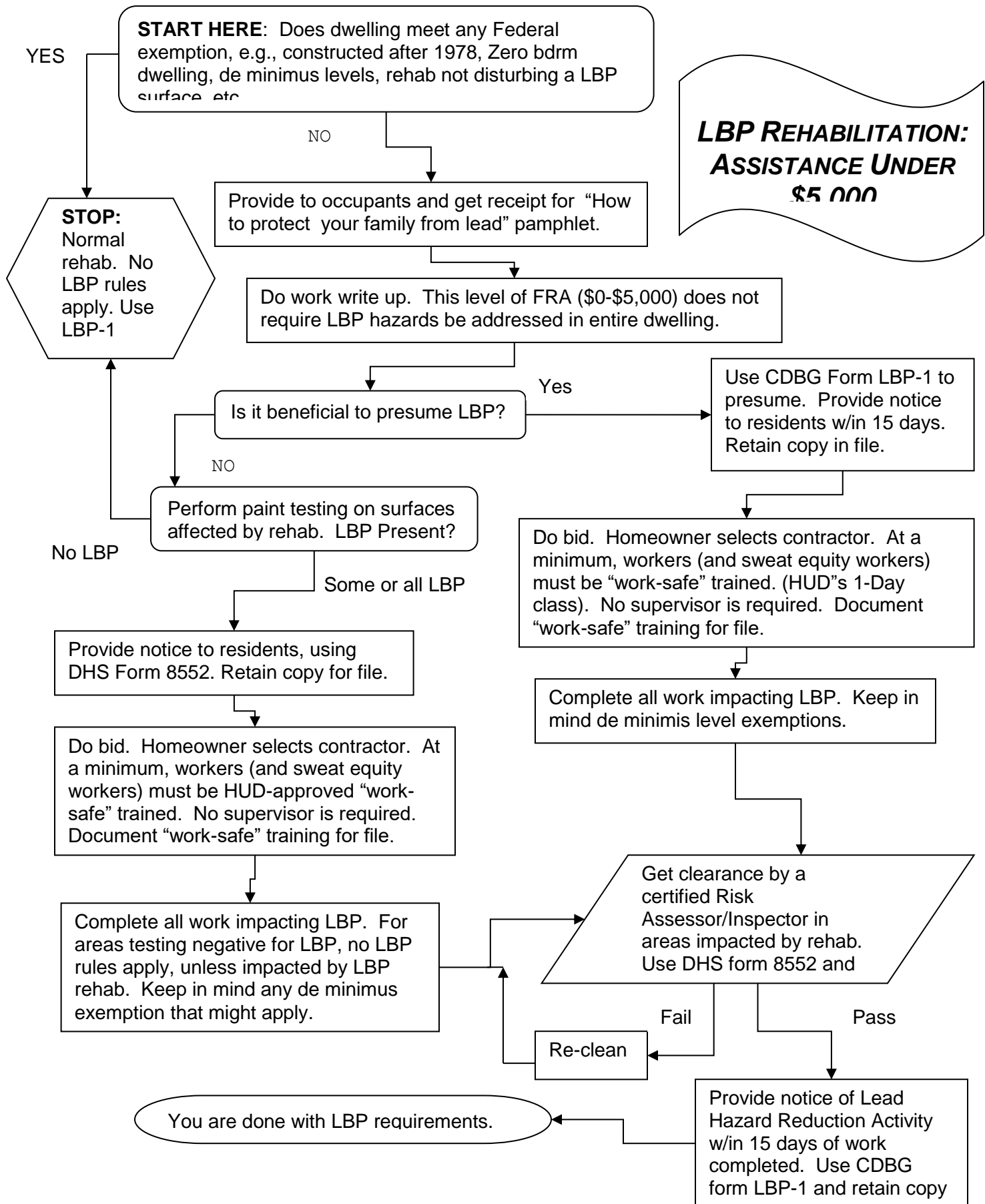
CDBG LBP Checklist for Rehabilitation

Name of Applicant: _____ Date: _____

Address: _____

1. If the house was completed prior to 1/1/78, go on to #2. If the house was completed on or after 1/1/78, **STOP**, you are done w/your LBP. Provide proof of age. Use certificate of insurance, final sign off, or occupancy date.
2. Does the dwelling meet any of the exemptions listed in chapter 20 of the Grant Management Manual? If so, **STOP**, you are done w/your LBP requirements. Use LBP-1 to document. List exemption below: _____ . If not, proceed to #3.
3. Provide "How to Protect Your Family From Lead" pamphlet to recipients/occupants and retain proof of receipt. For tenants, use "Renter's Lead-Based Paint Disclosure" form found in Section 19 of this chapter. Use renter form, at a minimum, as long as the RLA is effective.
4. Obtain work write up. **Intent Policy:** Any LBP hazards identified outside work write up subject to mitigation controls required by Federal Rehabilitation Assistance Categories (see p.20-17), and must "work safe" on activities in work write up. Determine if a presumption strategy is beneficial for this dwelling. (see p.20-19) If presuming LBP, notice using Notice of Presumption, CDBG form LBP-1, and no RA required. If RA opted for, go to #5.
5. Procure DHS certified risk assessor/inspector for the RA and obtain proof of certification. Note: May proceed with RA, or proceed with abbreviated evaluation, the Lead Hazard Screen (LHS). LHS is property-wide, not for one portion of the dwelling. If LHS results are negative for LBP, then may begin the rehab w/o LBP concerns. If the LHS results are positive for LBP, then must proceed with an RA. In either case, within 15 days, notice and retain copies of the appropriate notice. Use DHS form 8552.
6. Address any relocation due to LBP work. See GMM, chapter 6.
7. Procure rehab contractor for work write up and use appropriate workers/supervisor (pp.20-17 & 20-20 (a)-(c)). At a minimum, must "work safe."
8. For identified LBP hazards called out in the RA, procure DHS certified LBP contractor and determine which LBP mitigation method(s) to use in the home.
9. Prior to work starting, notice and retain copy of DHS form 8551, Abatement of Lead Hazards Notification, which provides information about LBP work to be done.
10. Have the rehab and LBP work done and obtain proof of training (DHS certification for supervisor and all workers, work safe training, etc.). See p.20-17 & 20-20 (a)-(c).
11. Obtain clearance report, using DHS form 8552, Lead Hazards Evaluation Report (and DHS form 8551, when clearing abatement projects). Clearance report cannot be done by the same business entity that performed any evaluated component. Obtain proof of DHS RA certification.
12. Within 15 days of LBP hazard work being finalized, notice and retain copy of Notice of Hazard Reduction Activity. Use CDBG form LBP-1.

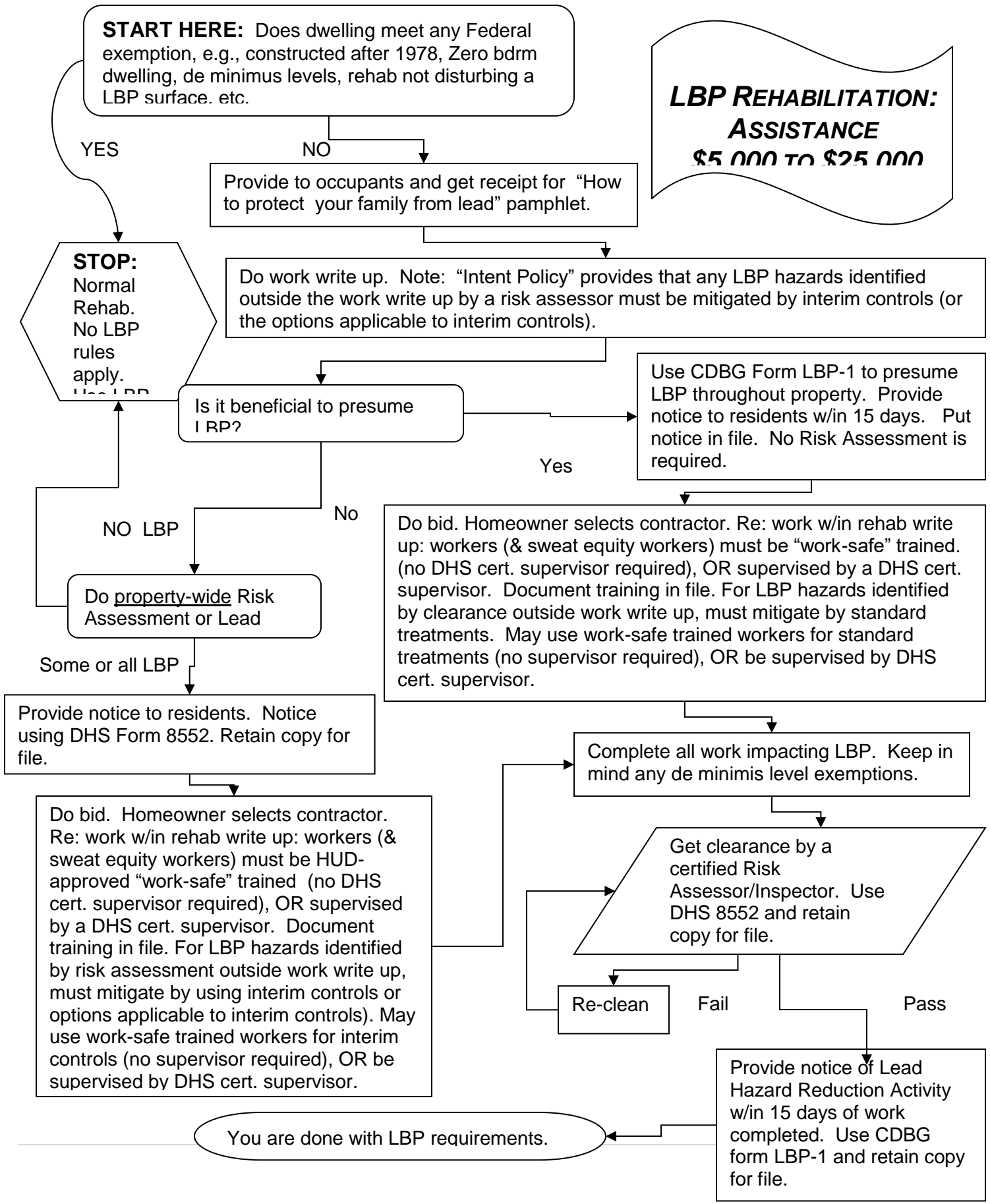
TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES



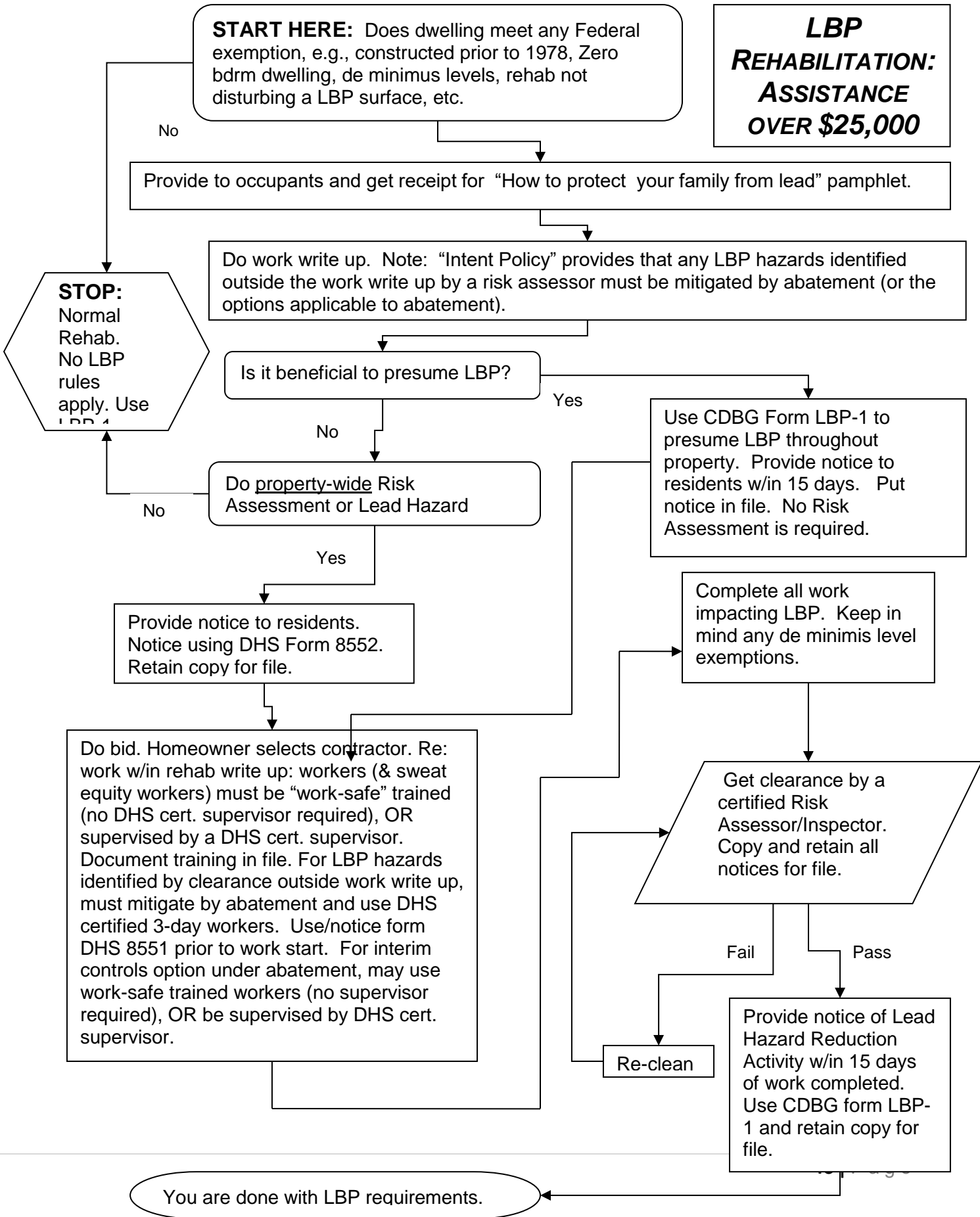
**LBP REHABILITATION:
ASSISTANCE UNDER
\$5,000**

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**LBP REHABILITATION:
ASSISTANCE
\$5 000 TO \$25 000**



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**LBP
REHABILITATION:
ASSISTANCE
OVER \$25,000**

START HERE: Does dwelling meet any Federal exemption, e.g., constructed prior to 1978, Zero bdrm dwelling, de minimus levels, rehab not disturbing a LBP surface, etc.

Provide to occupants and get receipt for "How to protect your family from lead" pamphlet.

Do work write up. Note: "Intent Policy" provides that any LBP hazards identified outside the work write up by a risk assessor must be mitigated by abatement (or the options applicable to abatement).

Is it beneficial to presume LBP?

STOP:
Normal Rehab.
No LBP rules apply. Use LBP-1

Do property-wide Risk Assessment or Lead Hazard

Use CDBG Form LBP-1 to presume LBP throughout property. Provide notice to residents w/in 15 days. Put notice in file. No Risk Assessment is required.

Provide notice to residents. Notice using DHS Form 8552. Retain copy for file.

Complete all work impacting LBP. Keep in mind any de minimis level exemptions.

Do bid. Homeowner selects contractor. Re: work w/in rehab write up: workers (& sweat equity workers) must be "work-safe" trained (no DHS cert. supervisor required), OR supervised by a DHS cert. supervisor. Document training in file. For LBP hazards identified by clearance outside work write up, must mitigate by abatement and use DHS certified 3-day workers. Use/notice form DHS 8551 prior to work start. For interim controls option under abatement, may use work-safe trained workers (no supervisor required), OR be supervised by DHS cert. supervisor.

Get clearance by a certified Risk Assessor/Inspector. Copy and retain all notices for file.

Re-clean

Provide notice of Lead Hazard Reduction Activity w/in 15 days of work completed. Use CDBG form LBP-1 and retain copy for file.

You are done with LBP requirements.

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

CDBG LBP Checklist for Homebuyers Assistance

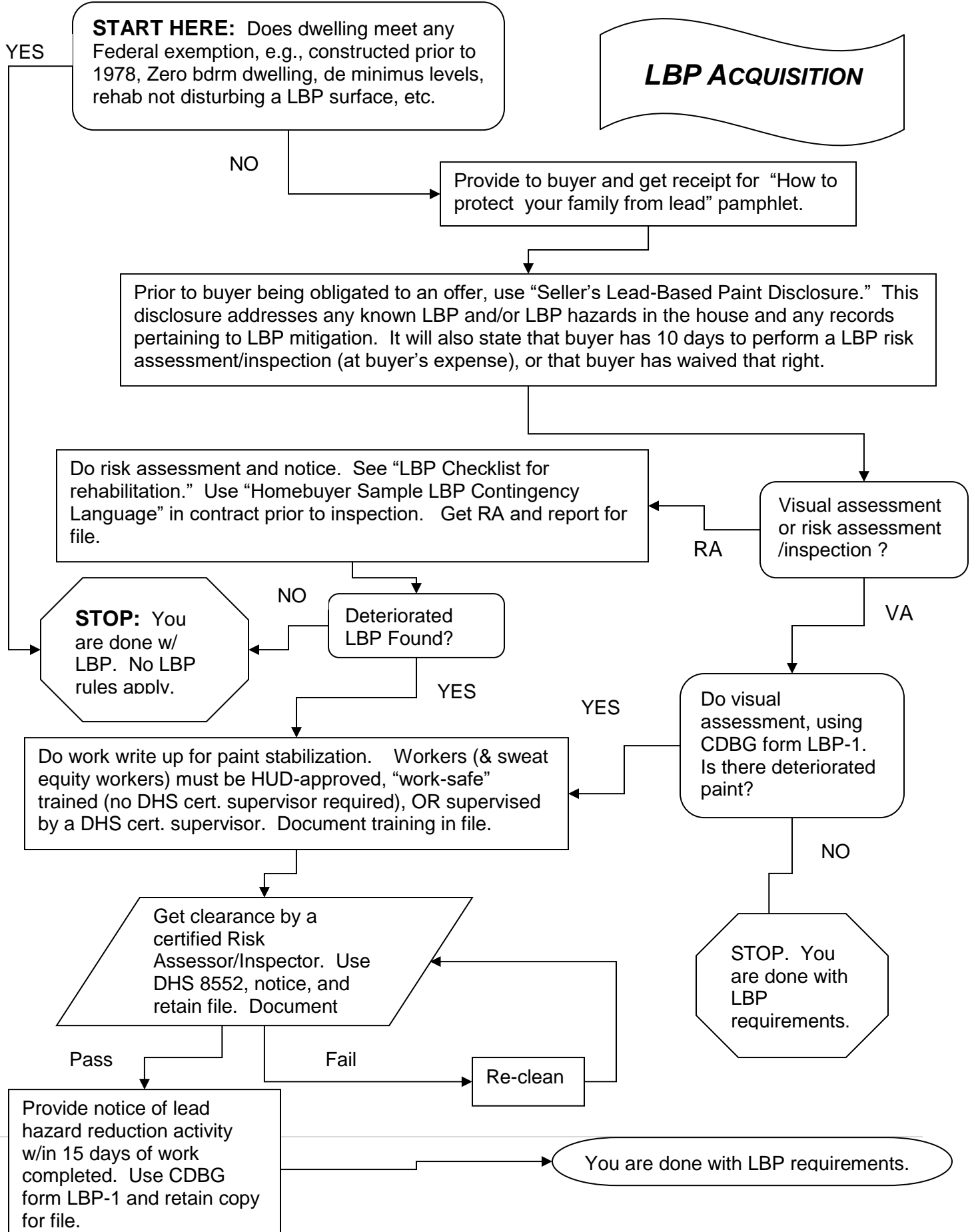
Name of Applicant: _____ Date: _____

Address: _____

1. If the house was completed prior to 1/1/78, go on to #2. If the house was completed on or after 1/1/78, **STOP**, you are done w/your LBP. Provide proof of age. Use certificate of insurance, final sign off, or occupancy date.
2. Does the dwelling meet any of the exemptions listed in chapter 20 of the Grant Management Manual? If yes, **STOP**, you are done w/your LBP requirements. Use LBP-1 to document. List exemption here: _____ . If not, proceed to #3.
3. Provide "How to Protect Your Family From Lead" pamphlet to recipients. Retain signed receipt from recipients/occupants stating that pamphlet was received
4. Prior to the purchaser being obligated to an offer, use the Lead Disclosure Notice that seller provides. This disclosure addresses any known LBP and/or LBP hazards in the house and any records pertaining to LBP mitigation. It will also state that the purchaser has 10 days to perform a LBP inspection, or that purchaser has waived that right. Ensure "Homebuyer Assistance Program Sample LBP Contract Contingency Language" is used in the purchase contract. If buyer waives inspection, sample LBP Contract Contingency Language is not required.
5. Do LBP visual assessment, using CDBG form LBP-1. If no deteriorated paint is found, **STOP**, you are done w/LBP requirements. If deteriorated paint is found, do work write up, and go to #6.
6. Procure DHS certified LBP contractor for paint stabilization. Prior to work being started, post or notice, and retain DHS forms 8551, *Abatement of Lead Hazards Notification*.
7. Obtain proof of certification for supervisor and all workers as required. See p.20-17.
8. Clearance Report, using DHS form 8552. Clearance report cannot be done by the same business entity that performed any evaluated component. Obtain proof of DHS RA certification.
9. Within 15 days of LBP hazard work being finalized, notice and retain copy of Notice of Hazard Reduction Activity. Use CDBG form LBP-1.

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

LBP ACQUISITION



TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

Renters Lead-Based Paint Disclosure Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a Federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (Check (i) or (ii) below):

- (i) Known lead-based paint and/or lead-based paint hazards are present in the housing. Explain _____.
- (ii) Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the lessor (check (i) or (ii) below):

- (i) Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing. List documents _____.
- (ii) Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

- (c) ___ Lessee has received copies of all information listed above.
- (d) ___ Lessee has received the pamphlet Protect Your Family from Lead in Your Home.

Agent's Acknowledgment (initial)

- (e) ___ Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Lessor	Date	Lessor	Date
Lessee	Date	Lessee	Date
Agent	Date	Agent	Date

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

Form #: LBP - 2

XVIII. Seller's Lead-Based Paint Disclosure

**Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards
Lead Warning Statement**

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

- (a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):
 - (i) Known lead-based paint and/or lead-based paint hazards are present in the housing. Explain _____.
 - (ii) Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- (b) Records and reports available to the seller (check (i) or (ii) below):
 - (i) Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing. List documents: _____.
 - (ii) Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

- (c) _____ Purchaser has received copies of all information listed above.
- (d) _____ Purchaser has received the pamphlet Protect Your Family from Lead in Your Home.
- (e) _____ Purchaser has (check (i) or (ii) below):
 - (i) received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards;
 - Or
 - (ii) waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

- (f) _____ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Seller	Date	Seller	Date
Purchaser	Date	Purchaser	Date
Agent	Date	Agent	Date

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

Homebuyer Assistance Program

Sample Lead-Based Paint Contract Contingency Language

This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at the Purchaser's expense until 9 p.m. on the tenth calendar-day after ratification. This ending date is: _____. **[Insert date 10 days after contract ratification or a date mutually agreed upon]. (Intact lead-based paint that is in good condition is not necessarily a hazard. See the EPA pamphlet "Protect Your Family From Lead in Your Home" for more information.)**

This contingency will terminate at the above predetermined deadline unless the Purchaser (or Purchaser's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report.

The Seller may, at the Seller's option, within _____ days after Delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs, or if the Seller makes a counteroffer, the Purchaser shall have _____ days to respond to the counter-offer or remove this contingency and take the property in "as is" condition or this contract shall become void. The Purchaser may remove this contingency at any time without cause.

Seller Name: _____ Date: _____

Purchaser: _____ Date: _____

Property Address: _____

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

Form #: LBP - 1

LEAD-BASED PAINT VISUAL ASSESSMENT, NOTICE OF PRESUMPTION, AND HAZARD REDUCTION FORM

Section 1: Background Information			
Property Address:		No LBP found or LBP exempt <input type="checkbox"/>	
Select one:	Visual Assessment <input type="checkbox"/>	Presumption <input type="checkbox"/>	Hazard Reduction <input type="checkbox"/>

Section 2: Visual Assessment. Fill out Sections 1, 2, and 6. If paint stabilization is performed, also fill out Sections 4 and 5 after the work is completed.	
Visual Assessment Date:	Report Date:
Check if no deteriorated paint found <input type="checkbox"/>	
Attachment A: Summary where deteriorated paint was found. For multi-family housing, list at least the housing unit numbers and common areas and building components (including type of room or space, and the material underneath the paint).	

Section 3: Notice of Presumption. Fill out Sections 1, 3, 5, and 6. Provide to occupant w/in 15 days of presumption.	
Date of Presumption Notice:	
Lead-based paint is presumed to be present <input type="checkbox"/> and/or Lead-based paint <i>hazards</i> are presumed to be present <input type="checkbox"/>	
Attachment B: Summary of Presumption: For multi-family housing, list at least the housing unit numbers and common areas, bare soil locations, dust-lead location, and or building components (including type of room or space, and the materials underneath the paint) of lead-based paint and/or hazards presumed to be present.	

Section 4: Notice of Lead-Based Paint Hazard Reduction Activity. Fill out Sections 1, 4, 5, and 6. Provide to occupant w/in 15 days of after work completed.	
Date of Hazard Reduction Notice:	
Initial Hazard Reduction Notice? Yes <input type="checkbox"/> No <input type="checkbox"/>	Start & Completion Dates:
If "No", dates of previous Hazard Reduction Activity Notices:	
Attachment C: Activity locations and types. For multi-family housing, list at least the housing unit numbers and common areas (for multifamily housing), bare soil locations, dust-lead locations, and/or building components (including type of room or space, and the material underneath the paint), and the types of lead-based paint hazard reduction activities performed at the location listed.	
Attachment D: Location of building components with <u>lead-based paint remaining</u> in the rooms, spaces or areas where activities were conducted.	
Attachment E: Attach clearance report(s), using DHS form 8552 (and 8551 for abatement activities)	

Section 5: Resident Receipt of Notice for Presumption or Lead-Based Paint Hazard Reduction Activity		
Printed Name:	Signature:	Date:

Section 6: Contact Information		Organization:
Contact Name:	Contact Signature:	
Date:	Address:	Phone:

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

P. DHS FORMS

DHS forms 8551 and 8552 may be downloaded from DHS website at:
<http://www.dhs.ca.gov/childlead/html/GENregs.html>

Q. REFERENCES

- Federal Register, 24 CFR Part 35, et. al. Final Rule
- HUD's lead website at www.hud.gov/offices/lead/.
- Lead Listing's website at www.leadlisting.org, and
- HUD's April 2001 Interpretive Guidance: The HUD Regulation on Controlling LBP Hazards in Housing Receiving Federal Assistance and Federally Owned Housing Being Sold regulations
http://www.hud.gov/offices/lead/leadsaferule/1012qa_2001.pdf

R. DEPARTMENTS ROLE

The Department's CDBG staff will review the grantee and contractor's compliance with the Federal LBP regulations. At least one monitoring of the grantee's program will be completed during the life of the grant. In addition to the monitoring, staff will be available to assist in solving any program problems as they occur.

TOWN OF MAMMOTH LAKES HOUSING REHABILITATION PROGRAM GUIDELINES

S. SUPPORTING MATERIALS

Type	Document	Source
Forms	Lead Hazard Evaluation Report DHS form 8552	http://www.dhs.ca.gov/childlead/html/GENregs.html#Title%2017
	Abatement of Lead Hazards Notification, DHS form 8551	http://www.dhs.ca.gov/childlead/html/GENregs.html#Title%2017
	Lessor's Disclosure Information on LBP	Federal Register Vol. 61.No.45, 3/6/96
	Summary Notice of LBP Risk Assessment	Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
	Notice that LBP or LBP Hazards are Presumed to be Present	Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
	Summary Notice of Completion of LBP Hazard Reduction Activity	Federal Register, Vol. 64, No. 178, 9/15/99, Rules and Regulations, pg. 50231
Lead Profession als	Index of lead Certified Professionals in California	www.dhs.ca.gov/childlead/html/B40.html
Pamphlets (cover only)	Protect Your Family From Lead in Your Home	www.hud.gov/offices/lead
	Reducing Lead Hazards When Remodeling Your Home	www.epa.gov/opptintr/lead/leadpbed.htm
	Lead in Your Home: A Parent's Reference Guide	www.epa.gov/opptintr/lead/leadpbed.htm
	Lead Paint Safety: A Field Guide for Painting, Home Maintenance, and Renovation Work	www.hud.gov/nea/LBPguide.pdf
Fact Sheet	Federal Requirements for Volunteer Paint and Rehabilitation Programs (March 2000 Fact Sheet)	http://www.hud.gov/lea/FSVPrograms.doc
	HUD 4/19/01 LBP Intent Letter	http://www.hud.gov/utilities/intercept.cfm?/lea/EPA_HUDabatamentletter.pdf
Regulation s	24 CFR 35	http://www.access.gpo.gov/nara/cfr/waisidx_01/24cfr35_01.html
	Interpretive Guidance: 24 CFR 35 -4/16/01-Table of Contents only	http://www.hud.gov/offices/lead
Subsides	Clearance Report Subsidies	http://www.hud.gov/news/release.cfm?content=pr02-022.cfm