

**WEST VIRGINIA  
DEPARTMENT OF COMMERCE,  
DIVISION OF  
ECONOMIC DEVELOPMENT,  
COMMUNITY ADVANCEMENT  
AND DEVELOPMENT  
RECOVERY HOUSING  
PROGRAM (RHP)  
POLICIES & PROCEDURES**



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## OVERVIEW

To address the opioid crisis affecting numerous regions across the country, a pilot initiative known as the Recovery Housing Program (RHP), has been authorized under Section 8071 of the “Substance Use-Disorder Prevention that Promotes Opioid Recovery & Treatment for Patients and Communities Act”, also referred to as the “SUPPORT for Patients and Communities Act” (SUPPORT ACT). This legislation mandates that the funds allocated through the RHP pilot program be classified as Community Development Block Grant (CDBG) funds, overseen by the U.S. Department of Housing & Urban Development (HUD), in accordance with the modifications outlined in Federal Register Notice [FR-6225-N-01] with the intent to expedite and facilitate the use of RHP funds.

The RHP pilot initiative is designed to assist individuals in recovery by guiding them towards self-sufficiency. By offering stable housing as a foundation for recovery, RHP seeks to facilitate independent living. Specifically, RHP will allocate funds for the development of housing or to maintain housing for individuals in need. To optimize the use of these resources, applicants are encouraged to align RHP-funded projects with other federal and non-federal support services related to substance abuse, homelessness, employment, and comprehensive wraparound services. RHP funds may only assist individuals in recovery from a substance use disorder for a cumulative period of not more than 24 months or until the individual secures permanent housing, whichever is earlier.

The West Virginia Department of Health and Human Resources Bureau for Public Health (Health Statistics Center) tracks Drug Overdose Mortality data by county. Thus far in 2024, the data shows that the top five counties with the highest fatal overdoses are currently the following: Kanawha, Cabell, Raleigh, Monongalia, and Mercer. Recovery residences are not evenly distributed across the state. The highest percentage of recovery residences are in Cabell County with 43%, followed by Kanawha with 22% and Wood with 6%. In terms of service areas, 80% of residences are open to all West Virginia residents and 13% serve residents out of state. Sixty percent of residences reported that they are not capable of accommodating residents with physical handicaps or disabilities. Eighty-eight percent of residences accept residents with co-occurring mental disorders, including bipolar disorder and schizophrenia. Approximately 26% of residences will accept residents on any form of Medication Assisted Treatment (MAT), while 59% accept residents on some, but not all, forms of MAT, and 15% do not accept residents on MAT. Of those residences that do accept residents on MAT, 100% accept residents prescribed Naltrexone (Vivitrol), while only 28% accept residents prescribed Buprenorphine (Suboxone/ Subutex) and 24% accepted residents prescribed Methadone. Of those residences that do accept residents on MAT, 78% provide transportation for required MAT-related services. Approximately 98% of all surveyed residences utilize community-based clinical services, including therapy and psychiatric providers.

## PROGRAM SUMMARY

Since 2020, the West Virginia Department of Commerce, Division of Economic Development, Community Advancement & Development (WVCAD), has received a total of approximately \$8,982,000.00 in RHP funding. WVCAD, acting as the lead agency and partnering with West Virginia Alliance of Recovery Residences (WVARR), and our network of community providers in the Continuum of Care across the State, will allocate funds in a series of concurrent stages. All activities will be carried out directly by WVCAD, or by an eligible entity selected through an application process such as, but not limited to, a non-profit, County Commission, or Municipality.

**Phase 1** is a Housing Voucher program which entails partnering with West Virginia Alliance of Recovery Residences, Inc. (WVARR) to offer income-based housing assistance and utility support (as needed) to serve low-to-moderate income persons for their accommodation in recovery housing facilities. WVARR will collaborate with accredited recovery residences to identify program participants who require support with rent and/or utilities while living in their recovery housing. This assistance will be available for a maximum of 24 months, or until the resident is permanently housed, whichever comes first. Priority will

be given to entities with the greatest need and entities with the ability to deliver effective assistance in a timely manner. The service area is statewide, including all 55 counties. The objective is to assist persons with substance use disorders transition into permanent housing. It is expected that the program will assist approximately 300 individuals and/or families per funding year.

**Phase 2** will include an annual application process for eligible subrecipients. Please note that priority will be given to entitlement communities to ensure capacity. A mandatory application workshop will be available to discuss RHP overview, eligible activities, and required documentation for application submission. Dates & times for the workshop will be available on the WVCAD website. WVCAD will accept applications for up to 60 days after the application workshop. Attendance for applicants is required either virtually or in-person. An application template will be available on the WVCAD website. The State of West Virginia may be open to funding the eligible activities listed below.

- Public Facilities & Improvements - Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements for the purpose of providing stable, temporary housing for individuals in recovery from a substance use disorder.
- Acquisition of Real Property - For the purpose of providing stable, temporary housing to persons in recovery from a substance use disorder.
- Disposition of Real Property - Disposition through sale, lease, or donation of otherwise of real property acquired with RHP funds for the purpose of providing stable, temporary housing for individuals in recovery from a substance use disorder. Eligible costs may include costs incidental to disposing of the property, such as preparation of legal documents, fees paid for surveys, transfer taxes, and other costs involved in the transfer of ownership of the RHP-assisted property.
- Clearance and Demolition - Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites for the purpose of providing stable, temporary housing for individuals in recovery from a substance use disorder. Eligibility is limited to projects where RHP funds are used only for clearance and demolition.
- New Construction - Expansion of existing eligible activities to allow RHP funds to be used for new construction of housing. New construction of housing is subject to the same requirements 24 CFR 570.202(b) that apply to rehabilitation activities.

**Phase 3** will consist of a rolling Rehabilitation and Reconstruction application process for eligible subrecipients striving to become WVARR certified. A mandatory Technical Assistance session with WVCAD is required prior to submission of the application. Application templates will be available on the WVCAD website and may be provided by WVAAR staff to eligible recovery homes.

- Rehabilitation and Reconstruction
  - a. Single Unit – publicly or privately owned residential building(s)
  - b. Multi-Unit – publicly or privately owned residential building(s)
  - c. Public Housing – owned or operated by a public housing authority.

**Please note: the following activities are INELIGIBLE for all phases:**

- ❖ Funding for activities already provided by a city or state or ongoing funding for municipal services.
- ❖ Maintenance of vehicles or facilities.

- ❖ Income payments in the form of grants.
- ❖ Political or religious activities such as campaigning for legislative reform or for activities that include religious worship, instruction, or counseling are ineligible.
- ❖ Household groceries- past receipts or future bills.

## AWARD AMOUNTS

**There is no maximum or minimum grant amount. However, applicants should consider feasibility and capacity as it relates to the overall cost of any project. Projects will be funded based on funding availability.**

## CITIZEN PARTICIPATION

WVCAD's RHP Program is in accordance with the RHP Action Plan, including the Citizen Participation Plan. If the Subrecipient requires modifications to the approved application at any point during the period of performance, they should reach out to WVCAD to discuss any proposed substantial amendments.

**Final Action on the Annual Action Plan:** Upon completion of the draft RHP AAP, a copy will be available for a 15-day review and comment period on the WVCAD website. A public notice of its availability for review and comment will be published in newspapers of local circulations. The public notice will state the deadline for receipt of written comments on the AAP.

**Substantial Amendments** to the RHP AP are inclusive of changes in the method of distributing funds; to carry out an activity not previously described in the plan; or, to change the purpose, scope, location, or beneficiaries of an activity, an increase to funding amounts, and including new preferences not previously described in the plan. Should substantial amendments be proposed, WVCAD will make the proposed substantial amendment public and provide for a 15-day public comment period prior to submission.

**Annual Performance Report (QPR):** WV CAD must submit all reports received by the subrecipients using HUD's DRGR system, each year by October 30. Before submitting the performance reports to HUD, WV CAD must provide reasonable notice to citizens and make the full annual performance report in accordance with 24 CFR 91.105(d) and 24 CFR 91.115(d), including the SF-425 federal financial report available for citizen comment for a period not less than 15 days.

**Non-Profits:** All non-profit organizations seeking RHP funding directly from WV CAD are required to secure a letter of support or resolution from the local government. This letter serves to inform officials about potential projects within their jurisdiction. In the case of construction and/or rehabilitation projects, zoning letters from the planning commission or similar authority will also confirm the project's eligibility to proceed.

### **Unit of general local government (RHP)**

Per 24 570.486, each unit of local government applying for RHP funding directly through the State, shall meet the following requirements:

1. Provide for and encourage citizen participation, particularly by low- and moderate-income persons who reside in slum or blighted areas and areas in which RHP funds are proposed to be used;
2. Ensure that residents will be given reasonable and timely access to local meetings, consistent with accessibility and reasonable accommodation requirements in accordance with section 504 of the Rehabilitation Act of 1973 and the regulations at 24 CFR part 8, and the Americans with Disabilities Act and the regulations at 28 CFR parts 35 and 36, as applicable, as well as information and records relating to the unit of local government's proposed and actual use of RHP funds;
3. Furnish citizens' information, including but not limited to:
  - i. The amount of RHP funds expected to be made available for the current fiscal year (including the grant and anticipated program income);
  - ii. The range of activities that may be undertaken with the RHP funds;
  - iii. The estimated amount of the RHP funds proposed to be used for activities that will meet the national objective of benefiting low- and moderate-income persons; and

- iv. The proposed RHP activities likely to result in displacement and the unit of general local government's anti-displacement and relocation plans required under § 570.488.
4. Provide technical assistance to groups that are representative of persons of low- and moderate-income that request assistance in developing proposals (including proposed strategies and actions to affirmatively further fair housing) in accordance with the procedures developed by the State. Such assistance need not include providing funds to such groups;
5. Provide for a minimum of two public hearings, each at a different stage of the program, for the purpose of obtaining residents' views and responding to proposals and questions. Together the hearings must cover community development and housing needs (including affirmatively furthering fair housing), development of proposed activities, and a review of program performance. The public hearings to cover community development and housing needs must be held before submission of an application to the State. There must be reasonable notice of the hearings, and they must be held at times and accessible locations convenient to potential or actual beneficiaries, with accommodations for persons with disabilities. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate;
6. Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the unit of general local government's application to the state. Substantially changed means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state.
7. Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.

In the event of a State or National Emergency, where citizens are discouraged from travel, WVDED will make all applicable RHP documents on the WVCAD Website. As much as possible, arrangements will be made to review any and all documents in our offices by contacting WVDED. In such instances, public hearings will be held in-person and/or virtually, if the emergency or the natural disaster allows it.

All substantial amendments are the responsibility of WVCAD. All amendments to the Subrecipient Agreement, Grant Award, or Budget must be deemed reasonable and necessary and approved by WVCAD.

## GRANT PERIODS & EXTENSIONS

The grant period is 24 months for the *RHP Program projects*. Applicants should allow up to four months for start-up and two months for close-out within the 24 months. Extensions to milestones during the grant period must be requested and will only be approved based on circumstances beyond the grantee's control or a change in the grant administrator. In some cases, one-year extensions may be approved after the extension request process has been completed (at the discretion of WVCAD).

## SUBRECIPIENT ROLES & RESPONSIBILITIES

The role and responsibilities of the subrecipient's designees are outlined in 24 CFR Part 570.501. The subrecipient is responsible for ensuring the following:

- ✓ Management and Oversight: The subrecipient's designee and authorized representatives are legally, financially, contractually, and programmatically responsible for the RHP-funded project. The subrecipient is responsible to the State of West Virginia and the Federal government even if they have a grant administrator or subrecipient relationship.
- ✓ Financial Management: The subrecipient and its staff must ensure proper accounting of funds in the projects to avoid disallowed costs. This includes accurate identification of project costs, project cash balances, proper internal controls, inclusion of RHP funds in the annual audit, and timely expenditures of funds.



- ✓ Statement of Assurances and Certifications: The subrecipient's designee, its authorized representatives, and grant administrators should read and understand these documents and the implementation obligations.
- ✓ Grant Agreement and Funding Approval (Contract) (24 CFR Part 570.501 and .502): If awarded, the subrecipient will receive a grant agreement and funding approval from the West Virginia Department of Economic Development. These documents are contractually binding and cannot be changed without State approval.
- ✓ Communication Requirements: The subrecipient must ensure continuous communication amongst all parties involved in the RHP-funded project. Additionally, all formal written communication should be addressed to the WVCAD Director and signed by the Chief Elected Official or accompanied by a signature authorization document such as an authorizing resolution.

### MATCHING FUNDS REQUIREMENT

Section 8071(d)(2) of the SUPPORT Act provides that no matching funds are required for grantees to receive RHP grants. In addition, the subrecipient is not required to provide matching funds as part of the RHP program.

### NATIONAL OBJECTIVE / INCOME DOCUMENTATION

All RHP activities must comply with the Low-to-Moderate Income Limited Clientele (LMC) National Objective, as modified by FR-6225-N-01, and must support activities that benefit low- and moderate-income persons.

- i. Expansion of Limited Clientele National Objective to include RHP-assisted housing. HUD is imposing a waiver and alternative requirement to the limited clientele national objective criteria at 24 CFR 570.208(a)(2) and 570.483(b)(2)(i)(B) to the extent necessary to enable the use of the limited clientele national objective for acquisition, rehabilitation, reconstruction, or new construction activities assisted by RHP funds that provide stable, temporary housing to individuals in recovery from substance use disorder, when at least 51 percent of the individuals benefitting are low- or moderate-income persons. Any cost or other limitations on the participation by beneficiaries in RHP activities must not be prohibitive for low-income persons. The RHP activities, when taken as a whole, must not benefit moderate-income persons to the exclusion of low-income persons.
- ii. Modification of Limited Clientele Presumptions. Persons in certain group categories may be presumed to be low- and moderate-income persons pursuant to the requirements at 24 CFR 570.208(a)(2)(i)(A) or 570.483(b)(2)(ii)(A). HUD is modifying the requirements at 570.208(a)(2)(i)(A) and 570.483(b)(2)(ii)(A) to add additional categories of groups of persons that, when served exclusively or in combination with groups of persons in other listed categories, may be presumed to benefit persons, 51 percent of whom are low- and moderate-income, barring any evidence to the contrary. Under this alternative requirement, the categories are expanded to include persons who meet the federal poverty limits or are insured by Medicaid.
- iii. Overall benefit to Low- and Moderate-Income Persons. Section 101(c) of the HCD Act (42 U.S.C. 5301(c)) establishes the primary objective of the HCD Act to be the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income. Unlike the CDBG program, RHP funds may not be used for activities to aid in the prevention or elimination of slums or blight, or activities designed to meet community development needs having a particular urgency. Therefore, all RHP funds must be used to support activities that benefit low- and moderate-income persons. Additionally, administrative and technical assistance expenditures are



counted toward low- and moderate-income benefit in the same proportion as RHP expenditures for other activities.

**RHP Funding may not be used to aid in the prevention or elimination of slums or blight or for activities designed to meet urgent needs.**

**In addition, all projects shall use the HUD part 5 definition for income eligibility. This can be done by either:**

1. See required documentation and forms on the WVCAD website at <https://wvcad.org/infrastructure/rhp> AND refer to this link <https://www.huduser.gov/portal/datasets/il.html> for information regarding income limits.
2. Click on the following link to utilize the CPD Income Eligibility Calculator at <https://www.hudexchange.info/incomecalculator/>

### **PRE-AWARD & ADMINISTRATION COSTS**

Pre-Award/ Pre-Agreement Costs may be considered for reimbursement. This amount will not exceed more than 5% of the total project award and is limited to expenses related to application preparation, and preliminary engineer reports that are incurred no more than two years prior to the executed contract if awarded.

### **USE OF FUNDS - CRITERIA FOR EVALUATION OF APPLICATIONS**

Phase 1 Criteria:

- Eligible applicants for a housing voucher must have a substance use disorder and (meet low-and-moderate income guidelines in which service is received or qualify as LMC) to meet the low to moderate income national objective. Applicants must be seeking housing and can apply at a WVARR-certified residence. Payments will be paid directly to the housing program which must be WVARR-certified or provisionally certified with access to support services and best practices provided by a contract with WVARR. RHP funds will assist the individual for not more than two years or until permanent housing is secured, whichever is first.

Phase 2 and 3 Criteria:

- The following categories will be used when evaluating RHP applications. Each category has a maximum number of points; the number of points an applicant will earn in a particular category will be based on the quality of the documentation provided to show that they meet the criterion.
  1. Regulatory Compliance Capacity (up to 25 points)- The applicant must be able to show that they have the capacity and experience required to execute a federally funded project while adhering to all relevant State and Federal regulations related to the receipt of such funds.
  2. Project Experience (up to 25 points)- The applicant is required to show that they possess the skills and experience essential for executing the specific project outlined in their application.
  3. Timeline (up to 20 points) - The suggested timeline for the project should clearly outline each phase in detail and provide a comprehensive rationale for the anticipated duration of each phase.

4. Overall Project Need (up to 20 points) - The applicant is required to illustrate the necessity of their proposed project by considering multiple factors. This includes the disparity between the number of individuals recovering from substance use disorders who require stable, temporary housing and the existing capacity to offer such housing in the applicant's selected service area. Additionally, the applicant should assess the percentage of low-to-moderate income individuals in that area and clearly show their financial need for RHP funding.

5. Cost Reasonableness (up to 10 points) - The applicant is required to thoroughly articulate and substantiate the expenses associated with the proposed project, detailing how administrative costs are kept to a minimum and demonstrating compliance with 2CFR 200 and state regulations.

6. Bonus Points - Bonus points (no more than 15 points) will be awarded to residences seeking WVAAR certification that are currently provisionally certified, proposed project is serving residents in Kanawha, Cabell, Raleigh, Monongalia, or Mercer County, and/or the proposed project will help provide accommodations for persons with disabilities and/or are handicapped.

#### Phase 3 Criteria:

- Eligible applicants must qualify based on ensuring the total cost is reasonable, at completion the facility must meet local and state building codes, HUD Quality Housing Standards (HQS), and be brought up to the WVARR adopted facilities standards. Substance Use Disorder Housing Facilities applicants can apply with WVCAD. Applicants must distinguish their status of a WVAAR certification. Proper documentation is required within the application process to support the WVARR certification status.

### COMPLIANCE REQUIREMENTS

Housing and Urban Development (HUD) Community Planning and Development (CPD) programs encompass a range of crosscutting requirements, including anti-discrimination, labor standards, Section 3, environmental review, etc. and these requirements are applicable to the RHP Program. In accordance with the SUPPORT Act, the Secretary of HUD has granted statutory and regulatory waivers and alternative requirements that are considered essential for the efficient utilization of RHP funds. However, this does not extend to requirements related to fair housing, nondiscrimination, labor standards, environmental considerations, and those ensuring benefits to individuals of low- and moderate-income. It is important to note that these waivers and alternative requirements are only applicable to the use of RHP funds and do not extend to CDBG funds that may be used alongside RHP funds or other funding sources such as those derived from different grants or guaranteed loan programs, intended for similar activities.

Applicants must recognize the level of commitment associated with a RHP grant. It is essential to thoroughly review the outlines' requirements and responsibilities for grantees. Should you have any questions about federal regulations, please reach out to the WVCAD staff. The subsequent list aims to offer applicants and RHP program participants a concise overview of essential federal and state administrative compliance requirements that must be addressed. **Therefore, all necessary plans must be presented on local government letterhead, rather than a State agency to be approved by WVCAD.**

### 1. **Administration of Projects**

Project Administration provides a general overview of many aspects of the Recovery Housing Program (RHP), from project approval to completion. Featured are key provisions required for proper project administration. Requirements for evidentiary materials, environmental review, record keeping, allowable costs, annual reporting and applicable laws and regulations are provided to assist each Subrecipient in the proper administration of RHP projects.

### 2. **Audits**

A subrecipient that expends \$1,000,000 or more in Federal awards during the agency's fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR 200, Subpart F.

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F>

### 3. **Build America, Buy America Act (BABA)**

For Phase 2 & 3 of the Application: the Build America, Buy America Act (BABA) enacted as part of the Infrastructure Investment and Jobs Act, requires that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver.

Examples of RHP projects that are considered infrastructure projects, according to BABA, include:

- Rehabilitation, maintenance, and construction of housing, and
- Public facilities and improvements.

An article, material, or supply should only be classified into one of the categories below for an RHP project that is considered an infrastructure project:

- A. for iron and steel items, all manufacturing processes, from the initial melting stage through the application of coatings, must occur in the United States
- B. for manufactured products, the final manufacturing process must occur in the United States and the cost of components mined, produced, or manufactured in the United States must be greater than 55 percent
- C. for construction materials, all manufacturing processes must occur in the United States

BABA requirements are for all applicable projects. For more information on BABA visit:

<https://www.hudexchange.info/resource/6952/baba-quick-guide-rhp/>



### 4. **Conflict of Interest**

The procedures for requesting, documenting, and submitting a request for an exception from the Conflict-of-Interest provisions shall include the applicable procedures delineated in 24 CFR 570 489(h)(4) and the local community ethics code. The Conflict-of-Interest provision is in addition to the requirements in the "Common Rule," 24 CFR Part 85, A-110.

Except for approved eligible administrative and personnel costs, the Subrecipient designees, agents, members, officers, employees, consultants or members of its governing body in which the project is situated, and no other public official of the community of such locality or localities who exercises or who has exercised any functions or responsibilities with respect to the project during his or her tenure, or who is in a position to participate in a decision-making process or gain inside information with regard to the project, has or shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work performed in connection with the project or in any activity, or benefit therefrom, which is part of the project at any time during or after such person's tenure unless all procedures for an exception have been documented and submitted in writing to WVCAD and the agency has approved such exception.

All applicants must complete the Conflict-of-Interest Disclosure affirming that no conflicts of interest are present with any individuals associated with the RHP project.

<https://www.ecfr.gov/current/title-24/subtitle-B/chapter-V/subchapter-C/part-570/subpart-K/section-570.611>

## 5. **Continued Affordability Period**

All properties participating in Phase 2 and/or 3 will be subject to the HOME affordability requirements at 24cfr 92.252 as a safe harbor for not less than the applicable period specified in the following table, beginning after project completion.

<https://www.ecfr.gov/current/title-24/subtitle-A/part-92/subpart-F/section-92.252>

- The affordability requirements:
  - a. Apply without regard to the term of any loan or mortgage, repayment of the RHP investment, or the transfer of ownership.
  - b. Must be imposed by a deed restriction, a covenant running with the land, an agreement restricting the use of the property, or other mechanisms approved by HUD and must give the participating jurisdiction the right to require specific performance (except that the participating jurisdiction may provide that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure); and
  - c. Must be recorded in accordance with State recordation laws.
- WVCAD may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure in order to preserve affordability.
- The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.
- The termination of the restrictions on the project does not terminate WVCAD's repayment obligation under §92.503(b)

| <b>RHP Phase 2 &amp; 3 Activities</b>   | <b>Minimum period of affordability in years</b> |
|---|---|
| Rehabilitation or acquisition of existing housing per unit amount of RHP funds:<br>Under \$15,000 | 5   |
| \$15,000 to \$40,000  | 10  |
| Over \$40,000   | 15  |
| New construction or acquisition of newly constructed housing                                      | 20  |

## **6. Environmental Review**

### **Unit of Local Government:**

WVCAD must exercise HUD's responsibilities in accordance with § 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the state. Approval by the WVCAD of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in § 58.5.

### **Non-Governmental Entity:**

WVCAD are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval. In addition, WV CAD will either provide technical assistance to any non-governmental entity regarding the Environmental Review Record (ERR) process or complete the ERR on their behalf.

## **7. Equal Opportunity**

Applicants are required to take into consideration equal opportunity and non-discrimination laws in designing RHP programs to ensure that people in protected categories are not excluded from participation, denied the benefit of, or subjected to discrimination under any program or activity funded in whole or in part with RHP funds. The recipient of RHP funds must describe the actions it will take annually for each year the grant is open in the areas of enforcement, education and in the removal of barriers and impediments that affirmatively further equal access in employment and procurement. This includes a description of steps to be taken in the areas of advertising, compliance, and complaint tracking. If awarded, an Equal Employment Opportunity Policy, will be required by the Subrecipient and submitted with Evidentiary Materials and can be found on the WVCAD website at <https://wvcad.org/infrastructure/rhp>.

## **8. Fair Housing**

Recipients of RHP funds will be required to comply with fair housing and non-discrimination laws and regulations.

### **Unit of Local Government:**

Subrecipients are required to submit annual reports describing the actions it will take in the areas of enforcement, education and removal of barriers and impediments to affirmatively further fair housing.

### **Non-Governmental Entity:**

All non-governmental entities not working with a unit of local government must submit documentation showing proof/effort of affirmatively furthering fair housing. Such as posting Fair housing information, hosting or attending education meetings, etc.

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/fhp\\_toolkit](https://www.hud.gov/program_offices/fair_housing_equal_opp/fhp_toolkit)

Refer to the link below to access an AFFH training video:

<https://www.hudexchange.info/trainings/courses/introduction-to-the-affh-t/>

## **9. Labor Standards**

Construction work that is financed in whole or in part with RHP funds must adhere to certain Federal labor standards requirements. The Davis-Bacon Act (40 USC, Chapter 3, Section 276a-276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7) is triggered when construction work over \$2,000 is financed in whole or in part with RHP funds. It requires that workers receive no less than the

prevailing wages being paid for similar work in the same area. Davis-Bacon does not apply to the rehabilitation of residential structures containing less than eight units or force account labor (construction carried out by employees of the grantee). WVCAD should be contacted if there is any situation where the applicability of Davis-Bacon is in question.

The Copeland Anti-Kickback Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.

Under the labor laws, the prime or general contractor is responsible for full compliance with applicable requirements, including all employers/subcontractors on the project. WVCAD is responsible for the administration and enforcement of the requirements to ensure compliance. <https://www.hudexchange.info/programs/davis-bacon-and-labor-standards/>

#### **10. Local Economic Benefit (Section 3)**

The Section 3 program requires recipients of HUD funding to direct employment, training, and contracting opportunities to low-income individuals and the businesses that employ these persons within their community. Section 3 is a provision of the HUD Act of 1968 and is found at 12 U.S.C. 1701u. The regulations are found at 24 CFR Part 75. Per this statutory language, recipients of HUD funds (i.e. grantees and contractors) ensure that "to the greatest extent feasible," when certain HUD funds are used to assist housing and community development projects, preference for construction-related training, jobs, and contracting opportunities go to low- and very-low income people and to businesses that are owned by low- and very-low income persons or businesses that hire them. These opportunities are both gender and race neutral

On an annual basis, Subrecipients are required to provide Section 3 data to WVCAD for entry into the HUD's Disaster Recovery Grant Reporting (DRGR) system. Section 3 requirements apply to housing rehabilitation, housing construction or other public construction. The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing (e.g., CDBG funds used to rehabilitate 20 units in one building as part of an effort to rehabilitate 40 units in two buildings on a single property. The "Section 3 project" includes the rehabilitation of all 40 units.). Once the project is complete, the Section 3 requirements no longer apply to subsequent contracts. Section 3 requirements do not apply to projects assisted with housing and community development financial assistance that do not include housing rehabilitation, housing construction or other public construction (e.g., funds used for direct homebuyer assistance or tenant-based rental assistance). Pursuant to 24 CFR 75.3(b), Section 3 requirements also do not apply to materials-only contracts or contracts that do not require any labor. RHP grantees must report Section 3 data in HUD's Disaster Recovery Grant Reporting (DRGR) system. The regulation established an applicability threshold of \$200,000 for housing rehabilitation, housing construction, and other public construction (e.g., public facilities and improvements) projects assisted with housing and community development financial assistance.

<https://www.hudexchange.info/programs/section-3/>

#### **11. Language Access Plan (LAP)**

Subrecipients have an obligation to reduce language barriers that can preclude meaningful access by Limited English Proficient (LEP) persons to important government programs, services, and activities. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and its implementing regulations require that recipients take responsible steps to ensure meaningful access by LEP persons.

## **12. Lead-Based Paint Hazards – from certifications**

The subrecipient certifies that its activities concerning lead-based paint will comply with the requirements of HUD's lead-based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)), and EPA's lead-based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)).

<https://www.hudexchange.info/programs/lead-based-paint/regulations/>

## **13. Monitoring**

The monitoring process is performed based on priority, which is determined by the results of a risk assessment. In addition, the Program Manager and Project Manager will offer ongoing technical assistance throughout all RHP projects to include additional review of procurement and invoices as needed. The type, frequency, and areas of monitoring will be based on risk assessments and on program-specific requirements as detailed in WVCAD program-specific monitoring policy, grant agreements, and Federal program regulations and statutes. Which will include progress toward program completion and method of disbursements, reporting requirements of plan vs. actual progress and data reconciliation requirements and adherence to the record retention policy as outlined in the subrecipient agreement. The monitoring will be held either in person or as a desk review.

Official monitoring notifications will be sent to subrecipients by email at least 30 days prior to the scheduled first day of onsite review. Generally, the Grants Compliance Specialist is responsible for sending notifications. They will be sent to the subrecipients Executive Director or equivalent, Chief Financial Officer and program point of contact. The notification will also be sent to any WVCAD staff involved in the review.

### **Programmatic Monitoring**

The purpose of programmatic monitoring is to assess the compliance of the subrecipient with the programmatic requirements of the Federal regulations, statutes, state program guidance and grant agreements.

### **Fiscal Monitoring**

WVCAD will monitor subrecipients to determine compliance with the financial management requirements. The review will determine if records are maintained in compliance with ECFR : 2 CFR PART 200 -- UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS, and other State of West Virginia requirements. The review will include, but may not be limited to, a full review and testing of subrecipient financial/accounting policies and practices, a review of invoicing and monthly expenditure reporting, and the accuracy of related supporting documentation.

## **14. Program Income**

WVCAD does not expect program income from any phase of the Recovery Housing Program. However, if program income is generated from the use of RHP funds, it will be returned to the State of West Virginia and is subject to 42 U.S.C. 5304(j), 24 CFR 570.489(e) (states), and 24 CFR 570.500 regarding program income. To expedite or facilitate the use of RHP funds, HUD is issuing the following alternative requirements to program income provisions at 24 CFR 570.489(e) and 24 CFR 570.504 as described below.

- i. Definition of Program income. HUD is modifying 24 CFR 570.489(e)(1) (states) to modify the definition of "Program income" to include gross income received by subrecipients that was generated from the use of RHP funds. In addition, HUD is modifying 24 CFR 570.489(e)(2) (states) to exclude from program income any income received and retained



by a nonprofit operating within the grantee's jurisdiction whose primary mission includes serving individuals in recovery from substance use disorder. If a grantee chooses to require the nonprofit to return income generated from the use of RHP funds, the income returned by the nonprofit to the grantee would be defined as program income.

- ii. Treatment of Program Income. (1) Prior to close out of an RHP grant, except as described in (2) below, a grantee must transfer program income to another open RHP grant or its annual CDBG program. Program income received by a grantee after closeout of all RHP grants must be transferred to the grantee's annual CDBG award. Once transferred to the annual program, the waivers and alternative requirements that apply to the RHP grant no longer apply to the use of transferred program income. Rather, those funds will be subject to the grantee's regular CDBG program rules. (2) Grantees other than the District of Columbia may require that any subrecipient pay RHP program income to the state unless the exception in 24 CFR 570.489(e)(3)(ii)(A) applies. The provisions of 24 CFR 570.489(e)(3)(ii)(A) are modified to add an additional requirement that the state must require a unit of general local government to return to the state program income generated from the use of RHP funds, if the program income will not be used to continue the RHP-eligible activity from which it was derived. Program income returned to the state must be used for additional RHP-eligible activities pursuant to a grantee's RHP Action Plan or transferred to the state's annual CDBG program as described in (1) above.
- iii. All RHP program income and assets shall be treated as program income and assets of the grantee's annual CDBG program at the earlier of grantee closeout or the date the grantee's RHP appropriation account is canceled pursuant to section II.P. of FR-6225-N-01.
- iv. Revolving loan funds are prohibited. Because of the requirement to transfer program income to the annual CDBG grant program, grantees are prohibited from establishing revolving funds with program income generated from the use of RHP funds.

## 15. **Procurement**

WVCAD must comply with the procurement requirements at 24 CFR 570.489(g) and establish requirements for procurement policies and procedures for units of general local governments and subrecipients consistent with the requirements at 24 CFR 570.489(g).

Subrecipient Procurement Policies & Procedures for RHP can be found on the WVCAD website at <https://wvcad.org/infrastructure/rhp>

## 16. **Reporting**

All subrecipients must submit a quarterly performance report on the use of RHP funds. This report must include a comparison of the proposed versus actual outcomes for each outcome measure included in the RHP application. The subrecipient must explain, if applicable, why progress was not made toward meeting goals and objectives. In addition, the subrecipient must provide a brief narrative of project progress and future goals. Required information includes but is not limited to: the project name; activity; location; national objective; funds budgeted and expended; program income, the funding source and total amount of any non-RHP funds expended for the same activity; numbers of properties and housing units; beginning and ending dates of activities; and numbers of low- and moderate-income persons or households benefiting from the RHP activities and number of persons transitioned to permanent housing.

| QUARTER        | DUE DATE   |
|----------------|------------|
| 1 OCT – DEC    | JANUARY 15 |
| 2 JAN – MARCH  | APRIL 15   |
| 3 APRIL – JUNE | JULY 15    |

WV CAD must submit all reports received by the subrecipients using HUD's DRGR system, each year by October 30. Before submitting the performance reports to HUD, WV CAD must provide reasonable notice to citizens and make the full annual performance report in accordance with 24 CFR 91.105(d) and 24 CFR 91.115(d), including the SF-425 federal financial report available for citizen comment for a period not less than 15 days.

#### **17. Residential Anti-Displacement and Relocation Assistance Plan**

If applicable, for rehabilitation and new construction projects, a plan for residential anti-displacement and relocation must be documented or submitted with the application. All occupied and vacant occupiable low and moderate-income dwelling units demolished or converted to a use other than as low/moderate income housing must be replaced within three years of the commencement of the demolition or rehabilitation related to the conversion.

Once RHP funds are awarded, recipients must have a plan to minimize residential displacement and to provide relocation assistance to displaced residents in a timely manner. Compliance with the plan must be documented, including the information made public and the means used to make it public.

The plan must include a description of the activity, a location map, a time schedule, dwelling data on target and replacement homes, funding sources, a schedule for replacement or relocation and the basis for concluding that replacement dwellings will remain low-moderate income for at least 10 years. A guide form for developing the plan should be obtained from WVCAD once an award is received.

The subrecipient certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the RHP program. The grantee certifies that it will comply with the residential anti-displacement and relocation assistance plan, relocation assistance, and one-for-one replacement housing requirements of section 104(d) of the Housing and Community Development Act of 1974, as amended (42 USC § 5304(d)) and implementing regulations at 24 CFR part 42, as applicable, except where waivers or alternative requirements are provided.

#### **18. Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990**

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA) provide comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services and programs, and telecommunications. Title II of the ADA states, in part, that:

*no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subject to*

The Subrecipient must complete a Self-Evaluation plan and Transition Plan (if required) as required by Section 504 to ensure that it does not discriminate by reason of a person's disability.

Recipients of RHP funds are required to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and the HUD implementing regulations at 24 CFR, Parts 8 and 9. The requirements of Section 504 apply to any recipient of federal RHP funds for any program or activity carried out directly or through another recipient, successor, assignee, or transferee.

The Grant Agreement will require recipients to complete the Section 504 Survey and Transition Plan, covering policies, practices and physical accessibility and notify affected persons that it does not discriminate on the basis of handicap. (The latter notification action is a requirement if the recipient has 15 or more employees.) This plan will not satisfy all the requirements of the Americans with Disabilities Act, but it will meet the minimum requirements for a RHP assisted project.

**19. SAM.gov Registration and FFATA**

All applicants MUST have an active SAM registration and Unique Entity Identifier (UEI) and provide a screen shot of their (UEI), from [SAM.gov | Home](#) and confirmation the applicant is not disbarred by the Federal government, at time of application and registration status MUST be Active, without exclusions to be awarded a federal RHP grant. Without evidence of an active SAM registration, the application is ineligible to receive HUD funds (including RHP) and will be disqualified. Once obtained, the SAM.gov registration must be updated or renewed at least once a year. WVCAD will monitor for compliance with this requirement.

The Federal Funding Accountability and Transparency Act (FFATA) of 2006 mandates specific reporting requirements for recipients of federal funds. Grants Administration is required by FFATA to submit information to the Office of Management and Budget (OMB) through an electronic Sub Award Reporting System (FSRS) on all grant awards \$30,000 or above.

**20. Violence Against Women Act (VAWA)**

RHP projects that includes multifamily assisted housing properties must comply with all requirements of the Violence Against Women Act (VAWA) as codified at 42 U.S.C. § 13931 et. seq. and as more particularly described in [eCFR: 24 CFR 93.356 -- VAWA requirements](#). This includes, but is not limited to: prohibition from discrimination in tenancy on the basis of applicant's history as a victim or threatened victim of a VAWA crime and certain lease protections. For more information on VAWA visit, [Violence Against Women Act \(VAWA\) | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#) and [Federal Register Notice: Reauthorization of the Violence Against Women Act \(VAWA 2013\) - HUD Exchange](#).

**21. Other Requirements and Attachments**

Recipients will also be required to comply with all subsequent requirements issued by HUD and/or WVCAD. All required documents will be available on the WVCAD website at <https://wvcad.org/infrastructure/rhp>

Please note that if key items are not submitted with the application, they will be returned to the applicant .