



## **Summary of Emergency Solutions Grants Interim Regulations**

The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 revised the McKinney Vento Homeless Assistance Act. One of the main revisions in the HEARTH Act is the revision of the old Emergency Shelter Grants program into the new Emergency Solutions Grant (ESG) Program.

The HEARTH Act:

1. Changes Emergency Shelter Grants Program into new Emergency Solutions Grant (these interim regulations)
2. Consolidates 3 programs (to be published later by HUD)
3. Codifies Continuum of Care (CoC) (to be published later by HUD)
4. Replaces Rural Homelessness Grants with Rural Housing Stability (to be published later by HUD)

Below is a review of important sections of the new ESG interim rule. Please see the interim ESG regulations for a complete understanding of the rules for the new ESG program:

[http://hudhre.info/documents/HEARTH\\_ESGInterimRule&ConPlanConformingAmendments.pdf](http://hudhre.info/documents/HEARTH_ESGInterimRule&ConPlanConformingAmendments.pdf).

Published: December 5, 2011 as interim rule, but HUD will accept comments.

Effective: January 4, 2012

Comments due: February 3, 2012

### **Emergency Solutions Grant Proposed Regulations**

These interim regulations:

1. Revise old Emergency Shelter Grant regulations (adds rapid re-housing, expands homelessness prevention, and Homeless Management Information System (HMIS))
2. Includes Consolidated Plan changes – interim
3. Emphasizes integration with mainstream services and systematic coordination

Definitions :

“At risk of homelessness” – includes three categories under which an individual or family may qualify as “at risk of homelessness” in order to be eligible for homelessness prevention assistance. One of these categories is having incomes below 30 percent of area median income. (Notice that this is not “at or below 30 percent”).

“Emergency shelter” – has been revised to distinguish from transitional housing

“Metropolitan City” – clarifies that the District of Columbia is now a metropolitan city under the new ESG

“Private non-profit organization”, “unit of general local government” – clarifies that public housing agencies and local and state housing finance agencies are not eligible recipients of ESG

“Recipient or subrecipient” – clarifies that recipients receive direct funding from HUD to administer an ESG, and “subrecipients” are awarded ESG funds from a recipient

“Chronic homelessness” – clarifies specific time durations of homelessness

#### Eligible activities:

*Street outreach and emergency shelter* - The interim rule includes a limit on the amount to be spent annually on outreach and emergency shelter. Funds used by recipients for these purposes would be limited to the greater of either:

- 60 percent of their total ESG grant; OR
- The amount of ESG dollars utilized for these activities in FY 2010.

*Administration* – Total funds that can be spent on administrative activities are 7.5% of the recipient’s ESG grant. ESG administrative costs now reflect most of the administrative costs allowed for CDBG.

*Homeless prevention and rapid-rehousing* – ESG recipients can provide short-term and medium-term rental assistance. Short –term assistance can be up to 3 months. Medium –term assistance can be up to 24 months. A written lease between the program participant and the housing owner is required, as is a rental assistance agreement between the recipient or subrecipient and the housing owner. The interim rule allows rental assistance to be tenant-based or project-based. There are rent restrictions for the assisted units.

*HMIS* - ESG projects must participate in an HMIS. The interim rule makes certain HMIS costs eligible. Further information is included in the proposed HMIS regulations (published by HUD on December 9).

#### Award and Use of Grant Amounts:

Clarification of the submission requirements - territories must now submit a Consolidated Plan

Elaboration of the matching requirements – includes further clarification on counting matching contributions and program income is to be used as a match

Clarification of the obligation requirements – includes minimum requirements for making timely drawdowns and payments to subrecipients.

Reallocation – the rule makes substantial changes to the reallocation provisions to improve administrative efficiency.

### Consultation with Continuums of Care

The rule requires ESG recipients to consult with Continuums of Care in allocating funds for eligible activities, developing performance standards, evaluating outcomes of ESG-assisted projects and developing funding, policies and procedures for the administration and operation of the HMIS. ESG recipients must also coordinate and integrate ESG activities with other homelessness and mainstream programs.

### Centralized or Coordinated Assessment

HUD will include in its proposed rule for the Continuum of Care program a requirement that all communities develop and implement a centralized or coordinated assessment system. According to this interim rule, ESG recipients (including states) will be required to participate in the system to initially assess the eligibility and needs of each household seeking homeless assistance. ESG recipients will be expected to implement this provision after a final CoC rule has been published and the CoC has implemented such an assessment system.

The assessment system would vary from community to community based on individual communities' needs. Communities should develop a common assessment tool for use throughout the community.

HUD is particularly inviting comment on this assessment approach. It lists examples of possible systems, including a regional approach for larger geographic areas in which "hubs" are created within smaller geographic. States should evaluate these examples and comment on benefits and costs for states.

HUD also requests comments from communities that already have implemented a similar system, and from all ESG recipients on the risks of such an assessment system on individuals and families fleeing domestic violence, dating violence, sexual assault or stalking.

### Case Management:

Program participants must meet monthly with a case manager who will develop an individualized permanent housing plan. The case managers will help to match participants with appropriate services and financial assistance through other public and private programs. The rule includes limits on the length of this service and a list of eligible case management activities.

### Consolidated Plan Revisions:

The rule requires increased collaboration between ESG recipients and CoC programs, and other mainstream programs. CoCs are required to participate in the local Con Plan process and evaluate outcomes for ESG projects. Also, ESG recipients must consult with CoCs about the allocation of ESG funds and participation in HMIS.

In the Action Plan, local governments are required to specify the standards under which homelessness prevention and rapid re-housing assistance will be administered and to describe the assessment systems that will be used. The interim rule recognizes a different approach for states:

*The requirement for states differ slightly from those that apply to local governments, in order to accommodate the states' restrictions on states' use of ESG funds and the variety of areas of Continuums of Care their programs encompass. Under the state programs, the written standards for providing ESG assistance may vary by subrecipient, Continuum of Care, or the geographic area over which services are coordinated.*

Termination of Assistance: Includes the minimum process requirements for terminating assistance to program participants who violate program requirements.

Shelter and Housing Standards: Includes standards for shelter s and permanent housing habitability standards. States should note that if ESG funds are used to help a program participant remain in or move into permanent housing, that housing must meet habitability standards.

Conflicts of interest: Incorporates language from CDBG regulations regarding conflicts-of-interest.

Homeless participation: Revises the current homeless participation requirement to reduce administrative burden in cases where the recipient is unable to meet the homeless individuals' requirement.

Environmental requirements: Clarification of the environmental requirements applicable to ESG activities.

Accessibility requirements: Clarifies accessibility requirements for ESG activities.

Relocation and acquisition rules: Clarifies relocation and acquisition requirements and makes them more consistent with the requirements of other HUD programs.

Substantial revisions to ESG recordkeeping and reporting requirements. Clarifies what records are required to be maintained, expands requirement regarding confidentiality, rights of access of records, record retention periods and reporting requirements. Enforcement procedures are strengthened.

### **Implementation of Emergency Solutions Grant Funds for FY2011**

ESG recipients received two allocations of FY2011:

1. First allocation of Emergency Shelter Grants (\$160 million for traditional shelter and outreach activities).
2. Second allocation of Emergency Solutions Grants must go towards newly-eligible activities. No resources in this second round may be used for street outreach or emergency shelter.

Communities can reprogram a portion of their initial FY2011 ESG allocation from shelter and outreach activities toward prevention and rapid re-housing if they wish to do so. The Con Plan must first be amended in accordance with the ESG rule.

For future ESG allocations, communities can spend on traditional shelter and outreach activities the greater of either:

- 60 percent of their total ESG grant; OR
- The amount of ESG dollars utilized for these activities in FY 2010.