II. OTHER FEDERAL REQUIREMENTS

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A. Introduction

Besides the rules and requirements for HOME, there are several additional broad federal rules that must be adhered to in the course of administering the program. This chapter covers most of those "other federal requirements" with the exception of environmental rules. Environmental requirements have their own chapter since each activity undertaken in a program may be impacted by this requirement.

HOME Grantees must take measures to ensure non-discriminatory treatment, outreach and access to program resources. This applies to employment and contracting, as well as to marketing and selection of program participants. No person in the United States shall on the grounds of race, color, national origin, religion or sex be excluded, denied benefits or subjected to discrimination under any program funded in whole or in part by HOME funds.

B. Fair Housing

All activities must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing:

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.): States that no person may be excluded from participation in, denied the benefits of or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color or national origin. The regulations implementing the Title VI Civil Rights Act provision for HUD programs may be found in 24 CFR Part 1.

The Fair Housing Act (42 U.S.C. 3601-3620): Prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of

race, color, religion, sex, national origin, handicap or familial status. Fair Housing Act regulations may be found in 24 CFR Part 100-115.

Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259): Prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property or in the use or occupancy of housing assisted with Federal funds. Equal Opportunity in Housing regulations may be found in 24 CFR Part 107.

Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101): Prohibits age discrimination in programs receiving Federal financial assistance.

Fair Housing Compliance

Each grantee has the responsibility to ensure non-discriminatory treatment, outreach, and access to program resources.

Title VI - Nondiscrimination

By contracting with the HOME program, the grantee is committing itself under Title VI of the Civil Rights Act of 1964 (the Act) to administer its programs and activities in a manner to assure that no person, on the grounds of race, color, or national origin has been excluded from participation in, denied benefits of, or otherwise subjected to discrimination. Even in the absence of prior discrimination, a grantee in administering the program should take affirmative action to overcome the effects of conditions that would otherwise result in limiting participation by persons of a particular race, color, or national origin.

The Act spells out specific discriminatory actions that are prohibited on the ground of race, color, or national origin with regard to any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program, including:

- Denying a person any housing or other benefits provided under the program;
- Providing any housing or other benefits to a person which are different, or are provided in a different manner, from those provided to others under the program;
- Subjecting a person to segregation or separate treatment;
- Restricting a person in any way in access;
- Treating a person differently from others in determining whether he satisfies any occupancy, admission, enrollment, eligibility, membership, or other requirement or condition which persons must meet;
- Denying a person opportunity to participate in the program or activity through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program or activity (including the opportunity to participate in the program or activity as an employee);
- Denying a person the opportunity to participate as a member of a planning or advisory body which is an integral art of the program

To meet the Title VI obligations, the grantee must include the following language in **all** HOME bidding and contract documents:

Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Some examples of specific actions a grantee may take to implement Title VI include:

1. Conduct a study of the location by census tract of the community's total number of minorities and female heads of households (FHOH).
2. Conduct a survey of the needs of the community's minorities, handicapped persons, FHOHs and families with children.
3. Establish minority, female, and handicapped person participation on committees and policy boards affecting the HOME program comparable to their percentages in the population, or demonstrate progress toward achievement of those percentages.
4. Make presentations on the HOME program and its equal opportunity aspects. (Documentation regarding where, when and for whom the presentation was made would need to be kept on file.)

Fair Housing Act and EO 11063.

In contracting with the HOME program, the grantee is committing itself to administer all programs and activities to prevent discrimination because of race, color, religion (creed), sex or national origin in the sale, rental, leasing or other disposition of residential property and related facilities. The regulations are intended to assure compliance with Federal policy for programs and activities that provide financial assistance, for the provision, rehabilitation, or operation of housing and related facilities are made available without discrimination. The regulations are also intended to assure compliance with the policy to administer housing programs affirmatively, so individuals of similar income levels in the same housing market area have a like range of housing choices available to them.

Meaningful steps to further fair housing must be taken every year.

The following are examples of specific actions a grantee may take to prevent discrimination in housing and to further fair housing under the Fair Housing Act.

a. Enact or strengthen a local fair housing law, providing for effective investigatory and enforcement powers and sanctions with adequate funding to administer the law.
b. Acquire sites and/or existing housing units for assisted family housing outside of minority-concentrated areas.
c. Make area wide zoning revisions to facilitate the dispersal of multi-family housing outside of minority-concentrated areas.
d. Initiate or fund any studies examining current housing opportunities for minority persons, handicapped persons and families with children and have these studies form the basis of an affirmative action program providing greater housing opportunities for minorities, handicapped persons and families with children.
e. Send letters from the chief executive of the local government to those in the business of selling, renting or financing housing, encouraging them to adhere fully to the fair housing law.
f. Have the local government chief executive publicly endorse the principle of fair housing and of adherence to the fair housing law in the form of a proclamation, resolution or similar publicized statement of importance.
g. Improve community facilities and public services in racially integrated neighborhoods to help preserve their mixed character.
h. Provide information and positive assistance to minority group persons in locating housing in non-minority areas.

i. Contract with fair housing groups or human relations bodies, to provide assistance to minorities in locating housing in non-minority areas (e.g., counseling, referrals), and to promote understanding and a positive attitude toward fair housing.

j. Initiate a public education program on fair housing, involving, for example, representatives of fair housing groups, human relations bodies, minority organizations, the real estate industry and government, through the local media. This could include talks on the community's housing opportunities. Documentation must be on file regarding where, and for whom each presentation was made.

k. Fund a fair housing organization (such as NAACP, UMOS, Urban League, local fair housing council) to conduct studies and/or to investigate aggressively rental and/or real estate practices.

l. Require use of affirmative marketing and advertising practices by private developers as a condition for obtaining local licenses and permits.

m. Enlist the participation of local associations (Realtors, real estate brokers, home builders and mortgage lenders) in approved voluntary programs to promote affirmative fair housing marketing and to review mortgage credit and underwriting criteria that may have an adverse impact on minorities, women, handicapped persons and families with children.

n. Participate in HUD approved Fair Housing Program.

C. Handicapped Accessibility

The HOME regulations also require adherence to the three following regulations governing the accessibility of federally-assisted buildings, facilities and programs.

1. Fair Housing Act: Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19).

2. Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155,201,218, and 225): Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services and telecommunications. The Act, also referred to as the ADA, also states that discrimination includes the failure to design and construct facilities (built for first occupancy after 1/26/93) that are accessible to and usable by persons with disabilities. The ADA also requires the removal of architectural and communications barriers that are structural in nature in existing facilities. Removal must be readily achievable, easily accomplishable and able to be carried out without much difficulty or expense.

3. Section 504: Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted programs on the basis of handicap. Section 504 imposes requirements to ensure that "qualified individuals with handicaps" have access to programs and activities that receive federal funds. Under Section 504, recipients and subrecipients are defined more broadly than under the HOME program. See Tab 19.

Accessibility Compliance

By contracting with the HOME Program, the grantee is committing itself to administer its programs and activities in a manner that ensures that qualified disabled persons have access to programs and activities. Individuals with disabilities must be able to learn about, apply for, and participate in programs and activities.

When discussing the regulations regarding access for individuals with disabilities, it is useful to ensure that we all utilize the same definition.

In enacting the Americans with Disabilities Act, Congress concluded that it was important for the current legislation to use terminology most in line with the sensibilities of most Americans with disabilities. No change in definition or substance is intended nor should one be attributed to this change in phraseology. (From handicapped to disabled).

The term "disability" means, with respect to an individual:

a) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
b) A record of such an impairment; or
c) Being regarded as having such impairment. If an individual meets any of these three tests, he or she is considered to be an individual with a disability for purposes of coverage under the Americans with Disabilities Act.

Physical or mental impairment. Under the first test, an individual must have a physical or mental impairment. As explained in paragraph (1)(i) of the definition, "impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs (which would include speech organs that are not respiratory such as vocal cords, soft palate, tongue, etc.); respiratory; including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine. It also means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. This list closely tracks the one used in the regulations for Section 504 of the Rehabilitation Act of 1973 [see, e.g., 45 CFR 84.3(j)(2)(I)].

Substantial limitation of a major life activity. Under Test A, the impairment must be one that "substantially limits a major life activity". Major life activities include such things as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

A record of such an impairment. Under Test B this is intended to cover those who have a record of impairment. As explained in paragraph (3) of the rule's definition of disability, this includes a person who has a history of an impairment that substantially limited a major life activity, such as someone who has recovered from impairment. It also includes persons who have been misclassified as having impairment. This provision is included in the definition in part to protect individuals who have recovered from a physical or mental impairment that previously substantially limited them in a major life activity. Discrimination on the basis of such a past impairment is prohibited. Frequently occurring examples of the first group (those who have been misclassified as having impairment) are persons who have been misclassified as having mental retardation or mental illness.

Being regarded as having such an impairment. Test C, as contained in paragraph (4) of the definition, is intended to cover persons who are treated by a public entity as having a physical or mental impairment that substantially limits a major life activity. It applies when a person is treated as if he or she has an impairment that substantially limits a major life activity, regardless of whether that person has an impairment.

Frail Elderly. People age 62 and older who have limitations in three or more life activities such as bathing, dressing, and housekeeping.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disabilities in federally assisted programs:

"No otherwise qualified individual with handicaps in the United States ... shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefit of, or be subject to discrimination under any program or activity receiving Federal financial assistance..."

General Provisions
- Non-discrimination in employment
- Nondiscrimination in program/service delivery (see Attachments 19-1 and 19-2)
- Physical accessibility

Application
- Any organization, large or small, public or private, is governed by Section 504 if the entity receives or administers Federal financial assistance;
- The rule applies to the entire operations of the organization, not just to certain program aspects;
- Programs not specifically directed toward individuals with disabilities are also covered by section 505.

General Requirements

All grantees of Federal financial assistance must perform a self-evaluation covering:
- buildings or facilities for physical accessibility,
- program outreach and communication,
- eligibility and admission criteria and practice,
- distribution and occupancy policy and practice,
- percentage of accessible housing units,
- employment,
- complaint processing procedures.

The self-evaluation should recommend corrective action to remedy any discrimination found.

All grantees of Federal financial assistance, that employ fifteen or more persons, must:

⇒ **designate** at least one 504 coordinator;

⇒ **adopt grievance procedures** that incorporate due process standards and allow for quick and prompt resolution of any complaints of alleged discrimination based on disability;

⇒ **notify all participants, employees, unions, and professional organizations that they do not discriminate on the basis of disability** (see Attachment 19-3); the notification process must be exhaustive and on-going and must ensure that all individuals, including those with visual and hearing impairments are aware of the non-discrimination pledge. Any recruitment or informational material published by a grantee must contain a statement regarding the grantee's pledge;

⇒ **keep on file** for at least three years:
- a list of interested persons consulted during the self-evaluation process
- a description of areas examined and any problems identified
- a description of modifications made and remedial steps taken.

Housing Requirements:

New construction/Substantial alteration

New multifamily (four or more units) housing projects, or housing facilities with fifteen or more units in which the cost of alterations (not including land and architectural costs) exceeds 75% of the replacement cost of the completed facility, must be made readily accessible to and usable by individuals with disabilities.

A minimum of 5% of total dwelling units (at least one) must be made **accessible (or adaptable)** for individuals with **mobility impairments**.

An **additional 2%** of total dwelling units (at least one) must be made accessible to persons with **hearing or vision impairments**.

HUD may require higher percentages if census data (or other available data) indicate that more accessible units are needed.

New single-family housing units must be "visitable." Housing that is visitable has a very basic level of accessibility that enables persons with disabilities to visit friends, relatives, and neighbors in their homes within a community. Visitability can be achieved with the use of two simple design standards: (1) providing a 32-inch clear opening in all interior and bathroom doorways; and (2) providing at least one accessible means of egress/ingress for each unit.

Other alterations

Alterations of housing facilities (four or more units) must, to the maximum extent feasible, be made accessible to and usable by individuals with disabilities. If the alterations to portions of a dwelling unit together amount to alteration of the entire unit, the unit must be made accessible.

A minimum of 5% of units in a project must be made accessible (adaptable) for individuals with mobility impairments, unless there are already 5% of accessible (adaptable) units in the project. HUD may increase this percentage on the basis of data showing a greater need.

Alterations to common areas (such as entrances, lobbies, etc.) must, **to the maximum extent feasible**, be made **accessible** to and usable by individuals with disabilities.

Existing housing programs

Programs or activities, when viewed **in their entirety**, must be readily accessible to and usable by individuals with disabilities. It is not required that each existing facility be accessible.

Actions are **not required** if it can be demonstrated that they impose **undue financial and administrative burdens**[1]. Priority shall be given to methods that offer programs and services in the **most integrated setting possible**.

Special provisions:

- Home ownership programs: Units must be made accessible if the expected occupant's disability so requires; the buyer may be permitted to depart from applicable accessibility standards to accommodate his/her disability; costs for making the home comply with accessibility standards (UFAS) may be included in the mortgage amount; costs above the limit may be passed on to the buyer.

- Rental rehabilitation programs: Grantee must give priority to the selection of projects that will result in accessible dwelling units.

[1] Grantees must take any action to accommodate individuals with disabilities unless the action poses an undue financial and administrative burden. Undue burden is determined by taking into account the size and budget of the program, the type of the grantee's operation, and the nature of the accommodation needed.

- Historic properties: Accessibility need not be provided if alterations would substantially impair the historic features of the property or result in undue financial and administrative burden.

- Housing certificate/voucher programs: The grantee must ensure that the notice of availability of housing assistance reaches individuals with disabilities; owners having accessible units should be actively encouraged to participate; when considering requests for extension from individuals with disabilities, grantees should take into account the special problems associated with locating an accessible unit; exceptions to the Fair Market Rents may be necessary to allow Section 8 certificate holders to rent accessible units; grantees must enter into HUD-approved contracts with participating owners that include assurances of nondiscrimination on the basis of disability.

Website: http://www.hud.gov/offices/fheo/disabilities/sect504.cfm

D. Equal Opportunity

HOME requires compliance with regulations governing employment and contracting opportunities. These concern equal opportunity, labor requirements, and contracting/procurement procedures.

The following regulations must be complied with to ensure equal opportunity for employment and contracting.

Equal Employment Opportunity, Executive Order 11246, as amended: Prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. Provisions to effectuate this prohibition must be included in all construction contracts exceeding $10,000. Implementing regulations may be found at 41 CFR Part 60.

Section 3 of the Housing and Urban Development Act of 1968: Requires that, to the greatest extent feasible, opportunities for training and employment arising from HOME will be provided to low-income persons residing in the program service area. Also, to the greatest extent feasible, contracts for work (all types) to be performed in connection with HOME will be awarded to business concerns that are located in or owned by persons residing in the program service area.

Minority/Women's Business Enterprise: Under Executive Orders 11625, 12432, and 12138 there must be a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts. Information on procedures acceptable to HUD may be found at 24 CFR 85.36(e).

Equal Opportunity Compliance

Executive Order (EO) 11246 - Equal Employment

To meet the EO 11246 requirements, which provide for equal employment opportunities, the grantee must develop procedures for securing and monitoring contractor compliance. Basically, the grantee must include the applicable equal employment opportunity language in all bid specifications and contract documents, secure required documentation, and monitor compliance.

The applicability of these requirements is the same as that of the labor standards requirements.

Ultimate responsibility for EO 11246 compliance rests with U.S. Department of Labor (DOL). For answers to specific EEO related contract questions, contact the appropriate Department of Labor area office at:

Milwaukee District Office
310 West Wisconsin Avenue, #1115
Milwaukee, WI 53203

414/297-3821

The bid and contract language required depends on the dollar amount of the contract. Certain language is required for contracts subcontracts of $10,000 or less (Attachment 17-1). Other language is required if the contract/subcontract exceeds $10,000 (Attachments 17-2, 17-3, and 17-4). Note especially the Notice of Requirement for Affirmative Action (Attachment 17-3) which must be included and which requires the insertion of minority and female goals. The female goal applies nationwide while the minority goal is specifically determined for each county (Attachment 17-5).

The grantee is responsible for sending the required notices to DOL, advising contractors of their equal opportunity responsibilities, particularly at the pre-construction conference, monitoring on-site and maintaining equal opportunity compliance files for each project.

Affirmative Action In Local Employment And Contracting
(SECTION 3)

Under Section 3 of the Housing and Urban Development (HUD) Act of 1968, wherever HUD financial assistance is given for housing or community development, to the greatest extent possible, economic opportunities will be given to residents and businesses in that area. This assistance includes job training, employment, and contracts.

All grantees must, to the maximum extent feasible, ensure that lower-income residents in their communities receive any training or employment opportunities generated by HOME projects. They must also take affirmative action to utilize businesses located in or owned in substantial part by persons residing in the project area. (These are sometimes called "Section 3" requirements.)

Meaningful steps to promote local employment and contracting must be taken every year and must be documented. The grantee's emphasis on the use of local contractors will also enhance its efforts to increase local employment.

Some examples of specific actions a grantee may take to implement these obligations are:

a. In employment and training:
   1) Adopt and implement a Section 3 Affirmative Action Plan (Attachment 17-6) to promote the training or hiring of lower-income residents.
   2) Maintain a list of lower-income residents trained or hired (by the grantee or by contractors and subcontractors) under the program.
   3) Maintain a list of training or employment opportunities provided for lower-income residents.
   4) Document/explain grantee strategy to promote training or employment opportunities for lower-income residents.
   5) Document/explain grantee efforts to encourage contractors (and subcontractors) to train and employ lower-income residents.

b. In business opportunity:
   1) Adopt and implement a Section 3 Affirmative Action Plan to promote the use of local businesses.
   2) Maintain a list of local businesses awarded contracts under the project. Include type of contract and actual dollar amount of each award.
   3) Maintain a list of local businesses that submitted bids for program contracts.
   4) Maintain a reference file of local businesses, including type of work performed.
   5) Document and explain grantee strategy to promote the use of local businesses. Include strategy to promote use of local businesses by contractors.
   6) Document the existence of the grantee's procurement policy requiring that contracts for work or supplies be obtained locally where possible.

Minority- and Women-Owned Business Outreach

Section 281 of the National Affordable housing Act requires that procedures be established for a minority outreach program. The program shall include minority- and women-owned businesses in all contracting activities entered into to facilitate the provision of affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction. Therefore, minimum HUD standards require outreach efforts to minority- and women-owned businesses, including:

1. A good faith, comprehensive, and continuing endeavor;

2. Supported by a statement of public policy and commitment published in the print media of widest local circulation;

3. Supported by an office and/or a key ranking staff person with oversight responsibilities and access to the chief elected official; and

4. Designed to utilize all available and appropriate public and private sector local resources.

Under the minimum HUD standards cited above, the following guidelines are provided for Grantee use in implementing outreach programs to ensure the inclusion, to the maximum extent possible, of entities owned by minorities and women. Each Grantee should:

1. Develop a systematic method of identifying and maintaining an inventory of certified minority and women's business enterprises (MBEs and WBEs), their capabilities, services, supplies, and/or products;

2. Utilize the local media, electronic, and print to market and promote contract and business opportunities for MBEs and WBEs;

3. Develop informational and documentary materials (fact sheets, program guides, procurement forecasts, etc.) on contract/subcontract opportunities for MBEs and WBEs;

4. Develop procurement procedures that facilitate opportunities for MBEs and WBEs to participate as vendors and suppliers of goods and services;

5. Sponsor business opportunity-related meetings, conferences, seminars, etc. with minority and women business organizations;

6. Maintain centralized records with statistical data on the utilization and participation of MBEs and WBEs as contractors/subcontractors in all HUD-assisted program contracting activities.

Record Keeping, Reporting and Monitoring:

Each grantee should recognize that while the State administers the HOME Program, the Federal Government, through HUD and DOL, continues to be responsible for the enforcement of the equal opportunity obligations. Those agencies may choose to investigate directly a grantee's EO compliance. Therefore, it is essential that each grantee have a record keeping and reporting system to document nondiscrimination, equal opportunity and affirmative action in its HOME program.

A major Equal Opportunity and Fair Housing file must be maintained which contains a number of subfiles. The following items must be included:

1. Demographic profiles of the community/grantee service area relating to race, ethnicity, sex, age and head of household (HOH).
2. Racial, ethnic, gender, age, handicapped persons and familial status data showing the extent to which these categories of persons have participated in, or benefited from, the HOME programs and activities.
3. Documentation of all actions taken to achieve fair housing.
4. Evidence of efforts made to promote the use of local businesses and the identification, training and/or employing of lower-income residents.
5. Documentation of all equal opportunity-related activities, including compliance monitoring.
6. Documentation of use of Minority and Women's Business enterprises.

These additional items are to be included if they apply:

1. Copy of the local fair housing ordinance.
2. Copy of the local equal employment opportunity policy and/or affirmative action plan.
3. Data that record affirmative action in employment.

Individual files must also be maintained for each work project. These must show that the appropriate EO language is contained in the bid and contract documents, and that the grantee performs its EO related tasks, including on-site contractor compliance reviews, in a timely and responsible manner.

All grantees will be monitored for EO compliance. In addition, a sampling of communities may undergo a more in-depth review by the BOH Equal Opportunity Specialist to assure nondiscrimination, equal opportunity, and affirmative action in their HOME activities.

E. Labor Standards

Federal (Davis-Bacon) wage requirements are made applicable to the HOME program by Section 286 of the National Affordable House Act of 1990. HUD regulations (24 CFR 92.354) paraphrase the statutory provision and clarify that contracts for construction must contain federal wage provisions if HOME funds are used for any activity costs, including construction or nonconstruction costs, for housing with 12 or more HOME-assisted units.

NOTE: For purposes of Davis-Bacon, "contract" is defined as the agreement between the grantee and the business that will be completing the construction/rehabilitation work.

APPLICABILITY:

- Every contract for construction/rehabilitation of housing that includes 12 or more units assisted with HOME funds must contain federal prevailing wage rates as established pursuant to the Davis-Bacon and Related Acts [40 U.S.C. 276(A)-7].
  This act ensures that mechanics and laborers employed in construction work under Federally assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. The act also provides for the withholding of funds to ensure compliance, and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs.

- Every contract must also be subject to the overtime provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).
  This act provides that mechanics and laborers employed on Federally assisted construction jobs are paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages where violations occur. This act also addresses safe and healthy working conditions.

- Every contract is also subject to the Copeland (Anti-Kickback) Act (40 USC 276c).
  This act governs the deductions from paychecks that are allowable. It makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which s/he

is entitled, and requires all contractors to submit weekly payrolls and statements of compliance.

- The basic minimum wage for all work is established by the Fair Labor standards Act of 1938, As Amended (29 USC 201, et.seq.).
  This act also requires the payment of overtime at the rate of at least time and one-half, requires the payment of wages for the entire time that an employee is required or permitted to work, and establishes child labor standards.

- The wage provisions apply to the construction of the entire activity – HOME-assisted and non-assisted portions, alike.

SCOPE OF COVERAGE

- If the 12-unit threshold is met then the labor standards provision is triggered. It does not matter whether HOME funds are used for construction or non-construction activity costs.
- Construction work for homeownership activities in which HOME funds are used only to assist homebuyers to acquire single family housing are not covered. **The exception** is when there is an agreement with the owner/developer of the housing in advance of the construction work that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers 12 or more HOME-assisted units.
- Single Room Occupancy (SRO) activities covered by a contract for construction of 12 or more units is covered by Davis-Bacon labor standards.

CONTRACTING AND PROCUREMENT PRACTICES

The HOME program is subject to certain federal procurement rules. In addition, grantees must take measures to avoid hiring debarred or suspended contractors and conflict-of-interest situations.

If you have questions about the applicability of labor standards and federal wage requirements to your activity, please contact:

Darlene Moss
Division of Housing and Community Development
P. O. Box 7970
Madison, WI 53703-7970
608-266-7998
FAX: 608-266-5381
EMAIL: darlene.moss@wisconsin.gov

F. Acquisition of Real Property and Relocation

Background

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) provides important protections and assistance for people affected by the acquisition, rehabilitation, or demolition of real property for Federal or federally-funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a direct result of projects receiving Federal funds, are treated fairly and equitably and receive assistance in moving from the property they occupy.

Implementation

The Grantee will replace all occupied and vacant occupiable lower income housing demolished or converted to a use other than as lower income housing in connection with an activity assisted with HOME funds.

All replacement housing will be provided within three years after the commencement of the demolition or conversion. Before entering into a contract committing the Grantee to provide funds for an activity that will directly result in demolition or conversion, the Grantee will publish in a newspaper of general circulation and submit to the Wisconsin Department of Commerce, Division of Housing and Community Development ((DHCD), the following information in writing:

1. A description of the proposed assisted activity;
2. The address, number of bedrooms, and location on a map of lower income housing that will be demolished or converted to a use other than as lower income housing as a result of an assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. To the extent known, the address, number of bedrooms and location on a map of the replacement housing that has been or will be provided;
5. The source of funding and a time schedule for the provision of the replacement housing;
6. The basis for concluding that the replacement housing will remain lower income housing for at least 10 years from the date of initial occupancy;
7. Information demonstrating that any proposed replacement of housing units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the approved Consolidated Plan.

To the extent that the specific location of the replacement housing and other data in items 4 through 7 are not available at the time of the general submission, the Grantee will identify the general location of such housing on a map and complete the disclosure and submission requirements as soon as the specific data are available.

The Grantee is responsible for tracking the replacement of lower income housing and ensuring that it is provided within the required period.

The Grantee is responsible for providing relocation payments and other relocation assistance to any lower income person displaced by the demolition of any housing or the conversion of lower income housing to another use.
Consistent with the goals and objectives of activities assisted with HOME funds, the Grantee will take the following steps to minimize the direct and indirect displacement of persons from their homes. The Grantee must determine the appropriate steps. The following are examples:

1. Coordinate code enforcement with rehabilitation and housing assistance programs.
2. Evaluate housing codes and rehabilitation standards in reinvestment areas to prevent undue financial burden on established owners and tenants.
3. Stage rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
4. Arrange for facilities to house persons who must be relocated temporarily during rehabilitation.
5. Adopt policies to identify and mitigate displacement resulting from intensive public investment in neighborhoods.
6. Adopt policies, which provide reasonable protection for tenants faced with conversion to a condominium or cooperative.
7. Adopt tax assessment policies, such as deferred tax payment plans, to reduce impact of increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas.
8. Establish counseling centers to provide homeowners and tenants with information on assistance available to help them remain in their neighborhood in the face of revitalization pressures.

Voluntary Acquisition VS. Involuntary Acquisition of Real Property

Some projects may require acquisition of real property. Agencies may acquire the needed real property from owners by voluntary or involuntary means. Under the Uniform Relocation Act (URA), an acquisition is considered to be involuntary when an agency acquires property under threat or use of eminent domain. Eminent domain is the power of the government to take private property for public purposes with payment of just compensation.

The Fifth Amendment of the U.S. Constitution states that "private property shall not be taken without payment of just compensation" and that "no person shall be deprived of life, liberty, or property without due process of the law." These constitutional rights form the basis of the URA's protections for property owners.

The URA requirements for voluntary acquisitions and involuntary acquisitions differ significantly. Grantees must understand the critical differences between voluntary acquisitions and involuntary acquisitions under the URA before acquiring property for a HOME-assisted activity.

What makes a transaction "voluntary"?

<u>For agencies without eminent domain authority</u>:

- The agency notifies the owner in writing of the property's market value; and

- The agency notifies the owner prior to making an offer, that it will not acquire property if an amicable settlement cannot be reached.
- If tenants are displaced, the tenants are provided relocation assistance.

For agencies with eminent domain authority:
- No specific site is needed and any of several properties could be acquired for project purposes; and
- The property is not part of an intended, planned or designated project area where other properties will be acquired within specific time limits; and
- The agency informs the owner in writing of the property's market value; and
- The agency also informs the owner in writing that the property will not be acquired, through condemnation, if negotiations do not reach an amicable agreement.
- If tenants are displaced, the tenants are provided relocation assistance.

Acquisition rules must be followed whenever:
- A non-profit or for-profit entity uses HOME funds to purchase a property;
- Federal assistance is provided to individuals acquiring their own home;
- Federal assistance is provided to purchase a property where someone holds a life estate to the property, or someone holds a long-term lease to the property which allows for an extension of 50 years of more.

Grantees operating a homebuyer program must remember: persons renting a home are eligible for relocation assistance if the owner of the home is voluntarily selling his/her home to a person receiving HOME Homebuyer assistance. The renters are moving permanently from the real property as a direct result of acquisition assisted with federal funds.

Temporary Relocation

Some rehabilitation activities may require that the occupants be temporarily out of their home while the work is being done. Although temporarily displaced persons do not receive the same relocation assistance and payments as persons permanently displaced under the URA, they do have certain rights and protections. **Temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location.** Any residential tenant who has been temporarily relocated for more than one year must be offered all permanent relocation assistance which may not be reduced by the amount of any temporary relocation assistance previously provided.

All conditions of temporary relocation must be reasonable. At a minimum, the tenant shall be provided the following:

- Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent or utility costs at such housing.

- Appropriate advisory services, including written notice of their rights and responsibilities regarding the temporary move.

The notice (see Attachment 1) must include:

a. Date and approximate duration of the temporary relocation.

b. Address of the unit to which they will be relocated (may be a motel/hotel/kitchenette).

c. Requirements to receive reimbursement for reasonable costs (as applicable)

- Maximum allowable lodging expense

- Maximum allowable meal costs per person
- Maximum moving costs
- Maximum mileage allowance for additional miles traveled to work/school/shopping

Receipts must be presented for all reimbursable expenses. Where receipts are not obtainable (e.g., coin laundry or increased transportation costs), the Grantee must certify that the costs are reasonable. See Attachment 2.

The funding agency may elect to arrange for limited direct billing with the housing provider and area restaurants.

Eligible temporary relocation payments may include, but are not limited to:

- Cost of lodging at a moderately priced motel, when staying with family or friends is not possible or practicable. The Grantee should make payments directly to the motel.

- Actual cost of meals eaten at moderately priced "family" restaurants. Meals may not exceed current state approved per person meal reimbursement rates. Meal rates as of July 1, 2001 are:

  Breakfast: $8.00 Lunch: $9.00 Dinner: $17.00

- Amount of **increased** transportation costs to and from employment, school, shopping, and place of worship.

- Cost of laundry facilities when the occupants had laundry facilities at the project site, and are unable to return to the project site to do laundry.

The Grantee will get written acknowledgment from the project household of receipt of the relocation payment.

ATTACHMENT II-1

SPECIAL EQUAL OPPORTUNITY PROVISIONS

Activities and Contracts Not Subject to Executive Order 11246, as Amended.

(Applicable to federally-assisted construction contracts and related subcontracts $10,000 and under.)

During the performance of this contract, the contractor agrees to follow:

A. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this nondiscrimination clause. The contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

C. Contractors shall incorporate foregoing requirements in all subcontracts.

ATTACHMENT II-2

Section 202 Equal Opportunity Clause for Contracts /Subcontracts Above $10,000 (Executive Order 11246)

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex or national origin.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

7. The contractor will include the provisions of the sentence immediately preceding paragraph 1. and the provisions of paragraphs 1. through 7. in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

ATTACHMENT II-3

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246).

(Applicable to contracts/subcontracts exceeding $10,000.)

A. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

B. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for minority participation	Goals for female participation
Insert goals	Insert goals for current year

These goals are applicable to all the contractor's construction work (whether or not it is federal or federally-assisted) performed in the covered area. If the contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

C. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

D. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

ATTACHMENT II-4

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

A. As used in these specifications:

1. "Covered area" means the geographical area described in the solicitation from which this contract resulted.
2. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
3. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
4. "Minority" includes:
   a. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
   b. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
   c. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
   d. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

B. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

C. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

D. The contractor shall implement the specific affirmative action standards provided in paragraphs G.1. through 16. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonable be able to achieve in each construction trade in which it has employees in the covered areas. Covered construction contractors performing contracts in geographical areas where they do not have a federal or federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

E. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall

excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

F. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employee the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

G. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

1. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foreman, superintendents and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

3. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the contractor may have taken.

4. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under G.2. above.

6. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with

on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

7. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

8. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

12. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

14. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

16. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

17. Covered construction contractors performing contracts in geographical areas where they do not have a federal or federally-assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from federal procurement contracting officers.

H. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (G.1. through 17.). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under G.1.

through 17. of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to document which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligations shall not be a defense for the contractor's noncompliance.

I. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goal for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

J. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

K. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

L. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

M. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph g. of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

N. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, states (e.g., mechanic, apprentice trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

ATTACHMENT II-4

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

Certification of Nonsegregated Facilities (Over $10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that s/he does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that s/he does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. S/He certifies further that s/he will not maintain or provide for employees any segregated facilities at any of his/her establishments, and s/he will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, transportation (parking lots, drinking fountains, recreation or entertainment areas) and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise. S/He further agrees that (except where s/he has obtained identical certifications from proposed subcontractors for specific time periods) s/he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that s/he will retain such certifications in his/her files; and that s/he will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

ATTACHMENT II-5

GOALS FOR WOMEN AND MINORITY UTILIZATION IN CONSTRUCTION

These goals apply to all federally-assisted construction contracts and subcontracts in excess of $10,000 (EO 11246). All hours of work (federal and nonfederal) in each trade, regardless of the location of work, are subject to these goals.

A. Goals for Women--6.9 percent (this goal applies nation wide).

B. Minority Goals--percentage listed for each county:

Adams	1.7	Iowa	1.7	Polk	2.2
Ashland	1.2	Iron	1.2	Portage	.6
Barron	.6	Jackson	.6	Price	.6
Bayfield	1.2	Jefferson	7.0	Racine	8.4
Brown	1.3	Juneau	.6	Richland	1.7
Buffalo	.6	Kenosha	3.0	Rock	3.1
Burnett	2.2	Kewaunee	1.0	Rusk	.6
Calumet	.9	La Crosse	.8	St. Croix	2.9
Chippewa	.5	Lafayette	.5	Sauk	1.7
Clark	.6	Langlade	.6	Sawyer	.6
Columbia	1.7	Lincoln	.6	Shawano	1.0
Crawford	.5	Manitowoc	1.0	Sheboygan	7.0
Dane	2.2	Marathon	.6	Taylor	.6
Dodge	7.0	Marinette	1.0	Trempealeau	.6
Door	1.0	Marquette	1.7	Vernon	.6
Douglas	1.0	Menomonie	1.0	Vilas	.6
Dunn	.6	Milwaukee	8.0	Walworth	7.0
Eau Claire	.5	Monroe	.6	Washburn	.6
Florence	1.0	Oconto	1.0	Washington	8.0
Fond du Lac	1.0	Oneida	.6	Waukesha	8.0
Forest	1.0	Outagamie	.9	Waupaca	1.0
Grant	.5	Ozaukee	8.0	Waushara	1.0
Green	1.7	Pepin	.6	Winnebago	.9
Green Lake	1.0	Pierce	2.2	Wood	.6

ATTACHMENT II-6

"SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES

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

B. The parties to this contract will comply with the provisions of said Section 3 and the regulations pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the set labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assign to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

ATTACHMENT II-7

MBE/WBE REPORT — HOME PROGRAM

Program Name _____ **Activity #:** _____

Grantee: _____ **Contract #** _____

MBE/WBE Contract Amount	Type of Trade	Contractor/ Subcontractor Business		Woman Owned Business (Yes or No)	Contractor/ Subcontractor Identification Number (FEIN)	Contractor/Subcontractor Name and Address
		Race	Ethnic Code			

This report is to be filed with a HOME grantee's Completion Report when a minority business enterprise (MBE) or a women's business enterprise (WBE) is involved with the HOME activity.

MBE/WBE Contract Amount: Put in whole dollar amount of the MBE/WBE contract.

Type of Trade:

1 – New Construction
2 – Substantial Rehab
3 – Repair
4 – Service
5 – Project Management
6 – Professional
7 – Tenant Services
8 – Education/Training
9 – Architectural/Engineering Appraisal
10 – Other

Contractor/Subcontractor Business Racial Code:

A – White
B – Black/African American
C – Asian
D – American Indian/Alaskan Native
E – Native Hawaiian/Other Pacific Islander
F – American Indian/Alaskan Native & White
G – Asian & White
H – Black/African American & White
I – American Indian/Alaskan Native & Black/African American
J – Balance/Other

Ethnic Code:

K – Hispanic
L – Hasidic Jew

Women Owned Business:

Y = Yes
N = No

Contractor Identification Number

Enter the Federal Employer Identification Number (FEIN)

Contractor/Subcontractor Name and Address

Enter the full business name of the contractor/subcontractor; also enter the mailing address, indicating if this is a contractor or subcontractor

C = Contractor
S = Subcontractor

Example (for a contractor):
C – ABC Construction
PO Box 1234, Somewhere, WI 54444-1234

ATTACHMENT II-8

SECTION 3 REPORT — HOME PROGRAM

GRANTEE:			
CONTRACT NUMBER:			
REPORTING PERIOD: from	(dd/mm/yy)	to	(dd/mm/yy)

SECTION 3 REPORT

PART 1
ALL RECIPIENTS MUST COMPLETE THIS PART.

Check all that apply	Activity
☐	We attempted to recruit low-income residents for job openings (using local advertising, signs at project site, contacts with community organizations or private agencies operating within the area of service, or similar methods).
☐	We participated in a HUD program or other program that promotes the training or employment of low-income residents.
☐	We participated in a HUD program or other program that promotes the award of subcontracts to "Section 3 businesses."
☐	We coordinated with Youthbuild programs administered in our area of service.
	Other: • Describe in more detail any of the activities you checked above. • Describe any difficulties you encountered in attempting to fulfill your Section 3 obligations. • If you hired a low-income resident(s) of your area of service, or awarded a subcontract to a Section 3 business, provide a brief description (e.g., position title(s) & hours per week, amount of subcontract awarded & purpose).

(over)

PART 2

- IF YOU RECEIVED $200,000 OR MORE IN THIS DIVISION OF HOUSING & INTERGOVERNMENTAL RELATIONS (DHIR) CONTRACT (WHETHER A GRANT OR LOAN) FOR HOUSING REHABILITATION, NEW CONSTRUCTION AND/OR PUBLIC CONSTRUCTION, COMPLETE THIS PART.
  - -- If you have awarded $100,000 or more in B.O.H. funds from one contract to an entity, they must complete this part as well. Attach their data to your report.

- LIST ALL POSITIONS PAID IN WHOLE OR IN PART BY THIS BOH GRANT OR LOAN.
  - -- For the first quarterly report, list all positions. For subsequent quarters, list only new positions and vacancies that were filled during the quarter.

Position Title	Job Category (professional, technical, office/clerical, construction)	% of FTE paid by this DOH contract	New Hire? (Y/N)	Resident of Service Area? (Y/N)	Low-Income ? (Y/N)	Race/ Ethnicity	Vacant at End of Quarter? (Y/N)
		%					

NOTES:

-- FTE = full-time equivalent (in this column, write the percent of time of your full-time week that the employee's salary is being paid with this BOH contract)

-- Service Area = municipality or county in which funding is being used

-- Low Income = employee's household income is at or below 80% of county median income (for new hires, prior to employment with you; for existing employees, current household income)

-- Race/EthnicityCode:

A – White
B – Black/African American
C – Asian
D – American Indian/Alaskan Native
E – Native Hawaiian/Other Pacific Islander
F – American Indian/Alaskan Native & White
G – Asian & White
H – Black/African American & White
I – American Indian/Alaskan Native & Black/African American
J – Balance/Other

PART 3

- IF YOU AWARDED A SUBCONTRACT OF $100,000 OR MORE FROM THIS B.O.H. CONTRACT THROUGH A COMPETITIVE PROCESS, COMPLETE THIS PART.

Construction Subcontracts:	
A) Total $ amount of subcontracts of $100,000 or more awarded competitively	$
B) Total $ amount of these subcontracts awarded to Sec. 3 businesses	$
C) Percentage of (B) divided by (A)	%
D) Total number of Section 3 businesses receiving contracts	
E) Number of Section 3 businesses receiving contracts by Race/Ethnicity:	

A – White	
B – Black/African American	
C – Asian	
D – American Indian/Alaskan Native	
E – Native Hawaiian/Other Pacific Islander	
F – American Indian/Alaskan Native & White	

G – Asian & White	
H – Black/African American & White	
I – American Indian/Alaskan Native & Black/African American	
J – Balance/Other	

Non-Construction Subcontracts:	
A) Total $ amount of subcontracts of $100,000 or more awarded competitively	$
B) Total $ amount of these subcontracts awarded to Sec. 3 businesses	$
C) Percentage of (B) divided by (A)	%
D) Total number of Section 3 businesses receiving contracts	
E) Number of Section 3 businesses receiving contracts by Race/Ethnicity:	

A – White	
B – Black/African American	
C – Asian	
D – American Indian/Alaskan Native	
E – Native Hawaiian/Other Pacific Islander	
F – American Indian/Alaskan Native & White	

G – Asian & White	
H – Black/African American & White	
I – American Indian/Alaskan Native & Black/African American	
J – Balance/Other	

NOTES:

- If the subcontract involves both construction and non-construction activities, report the information in the Construction Subcontracts section.
- Examples of construction subcontracts: bricklaying, carpentry, carpet installation, demolition, drywall, electrical work, fencing, heating, iron works, landscaping, masonry, painting, plastering, plumbing.
- Examples of non-construction subcontracts: construction management, architectural services, engineering, surveying and related professional services; office services; relocation services, marketing.

ATTACHMENT II-9

NOTICE OF TEMPORARY RELOCATION - LEAD-BASED PAINT

Date:_____

Address:_____
_____
_____
_____

Dear _____:

On ___(date)_____ rehabilitation work will begin on your home at ____(address)_____ _____. Because this work involves lead-based paint, you are required to be out of the property while the work is being completed. We anticipate that you will need to be out of your home until ___(date)_____. You will be notified when it is safe to return.

We have made arrangements for you and your family to move to _____(hotel w/kitchenette or family/friends)_____ until the work is complete and it is safe for you to return to your home. The __(hotel name)_____ will bill us directly for the cost of the room, and all local telephone calls you may need to make. You must pay (hotel name)_____ for all long distance calls. If you choose lodging other than the __(hotel name)_____ please contact me before making the move. You may request reimbursement for a maximum of $_____ per day for lodging.

While you are temporarily out of your home, you may spend up to $_____ per person per day on meals/groceries. This office will reimburse you based on receipts for reasonable food expenses.

Based on our conversation, this office will reimburse you for documented extra miles per day you must drive to school, work, and shopping. Your mileage reimbursement will be at the rate of _____ per mile.

Please remember to take all articles you will need for the duration of this temporary relocation. You will not be permitted to enter the house until testing has shown the property to be clear of lead-based paint hazards.

If you have any questions regarding this temporary move or how to obtain reimbursement for your expenses, please call me at ___(grantee phone)_____.

Sincerely,

(Note: *This is a format guide only.*
All Temporary Relocation Notices must go out on agency letterhead, and be tailored to the particular situation.)

ATTACHMENT II-10

TEMPORARY RELOCATION REIMBURSEMENT CLAIM FORM

Occupant Name:_____ **# of persons in household:** _____

Project Address: _____

Day and time of move from project site: _____

Day and time of return to project site: _____

Total Lodging Expense: $_____

(_____nights @ $ _____)

Total Meal Expense: $_____

(_____ Breakfasts = $_____)

(_____ Lunches = $_____)

(_____ Dinners = $_____)

Additional Transportation Expense: $_____

Other pre-approved expenses (explain): $_____

TOTAL REQUESTED TEMPORARY RELOCATION REIMBURSEMENT: $_____

The amount listed above accurately reflects my actual temporary relocation expenses. Documenting receipts are attached. Please remit.

_____ _____

Property Occupant Name Date

I received the amount listed above

_____ _____

Property Occupant Date