

**Lead Safe Housing Rule Webinar Series, Subparts J & K**

**June/July '22 Office Hours 1**

Nicole Hassman: Hi, everyone. My name is Nicole Hassman and I'm a community development specialist with ICF. I will be assisting Les in today's office hours and reviewing the exercise. The office hour exercises are available on the HUD Exchange class page. They're optional to complete, but they will help you apply what you learned in yesterday's lesson.

Today's exercise will focus on exemptions. There are 10 different scenarios and we'll review if the Lead Safe Housing Rule applies to each of them, or if the unit is exempt. Les and Chris discussed exemptions yesterday on slides 20 through 22. One technical note. As I scroll down the screen to show the different exercises, you'll also need to scroll down. The scrolling will not happen automatically on your screen.

And then following our discussion of the exercise, I'll post the answers in the chat. And then Les will review any common questions we received yesterday. And as time permits we'll answer any new questions from the Q&A box. So let's begin.

We will determine if the following circumstances reflect exemptions under the Lead Safe Housing Rule in its entirety or from certain portions. And throughout this exercise I may refer to the interpretive guidance which I just sent a link to in the chat.

So in scenario one, a previous lead based paint inspection by an EPA certified inspector showed that a house has no more lead based paint. It's exempt from CFR 34.115A4, which states that properties found to be lead based paint free by a lead based paint inspection, or where all lead based paint was identified, removed, and clearance was achieved, is exempt. Please note that there must be documentation of this.

Another key here is that the inspection was completed by a certified inspector. You'll hear this a lot throughout the training, but you must work with certified workers. And we do have a handout on workers and their different certifications for different parts of the process. And this information is very important to keep track of.

In scenario two, a rehab project costing \$20,000 involves replacing a water heater and has a roof repair, but no paint or painted surfaces will be disturbed. This project is exempt because no paint or painted surfaces will be disturbed. HUD interpretive guidance J10 shares that the exemption applies regardless of cost. As discussed in the resources section yesterday, this interpretive guidance is available on certain questions on applying the Lead Safe Housing Rule. And as I said, the link is in the chat.

Scenario three, repairs must be done on a house after a tornado ripped a hole in the roof. This is exempt because the property must be protected from future structural damage, as stated in CFR 34.115A9. It is also exempt because there is imminent danger to human life. The imminent danger comes from the hole being in the roof and that's something that needs to be addressed immediately.

It's important to note that the only exempt portion is the emergency repair to the roof. If other repairs are done that do not affect imminent danger, then those elements are not exempt. So if you use the opportunity to patch a hole in the roof and are redoing the kitchen, redoing the kitchen will not be exempt in this case.

In scenario four, repairs must be done to fix a broken handle and weak stairs on the front porch, as someone could fall. This is not exempt because this repair is not an emergency. This is different than the previous example with the roof, where that was imminent danger to human life.

You'll also want to consider if the area should be repaired did not meet the de minimis. The activity will not require safe practices or clearance if the de minimis is not met. And this is a limited exemption that was discussed on slide 22 yesterday.

Scenario five, maintenance work will disturb two square feet of interior surface in the kitchen, and three square feet of interior surface in the living room. This is not exempt and safe work practices under the Lead Safe Housing Rule will need to be completed because it disturbs painted surfaces above the de minimis, which is over two square feet.

HUD's de minimis level is two square feet. However the EPA de minimis level is six square feet. So that would be exempt in this case. Other HUD de minimis levels include 10 percent of the small component type and 20 square feet of exterior work. An example of a small component type could be the surface area of a window sill. A window sill measures about 0.6 square feet. And 10 percent of that would be 0.06 square feet, which is much less than two square feet.

In scenario six, a mixed use property built in the 1960s is updating all of the kitchens in the property using CDBG funds. The repairs include removing cabinets and countertops which will disturb paint. This is not exempt and the Lead Safe Housing Rule will apply to both non-assisted and assisted units in the mixed use property.

If a project receives CDBG assistance, the entire project is considered assisted. And the lead based paint requirements will apply to all units. If a project receives HOME funds, the lead based paint requirements apply to the entire project irrespective of the designation of individual units. And you can refer to the HUD interpretive guidance at J20.

In scenario seven, a homeless shelter receiving HUD funds sets up beds each night in the living area that is used for services during the day. The shelter is exempt if it qualifies for the zero bedroom exemption. A zero bedroom dwelling is defined in section 35.110 as any residential dwelling in which living areas are not separated from the sleeping area. However, if the shelter does not qualify for the zero bedroom exemption, then it is covered by the regulation. And you can refer to HUD interpretive guidance K1 for this scenario.

In scenario eight, family A receives three months of emergency rental assistance in unit 101. Family A moves out after three months, and family B moves into that unit and receives rental assistance for two months. This is not exempt. The Lead Safe Housing Rule applies to the unit and not the length the family is residing in the unit.

The 100 day time period applies to the dwelling unit and not the family. The clock begins at the time the emergency assistance is first provided in that given unit and runs for 100 cumulative days. Lead Safe Housing Rule requirements do not apply to emergency housing assistance if it is under 100 days. In this scenario the unit is serving emergency rental assistance over 100 days. And you can refer to the HUD interpretive guidance at K6 for this scenario.

Scenario nine, a low income household receiving HOME funds for down payment assistance on a condo built in 1995. This unit is exempt because it was built after 1978. Lead was banned in residential paint by the Consumer Products Safety Commission in 1978. So units built after 1978 are exempt from the Lead Safe Housing Rule.

And finally in scenario 10, a senior housing project built in 1975 is undergoing substantial rehabilitation using CDBG and HOME funds. This is exempt because it is housing for the elderly, which is referenced at CFR 34.115A3.

Yesterday there was a question about the termination of elderly property. And this information is available at interpretive guidance B12. The lease or other residency agreement should state if the property is designated exclusively for occupancy by the elderly.

And the term housing for elderly is defined in the regulation as retirement communities or small types of housing -- or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific federal housing assistance program. It is not necessary that the lease or the residency agreement include this precise definition. Please note that this exemption does not apply if a child less than age six resides or is expected to reside in the dwelling unit.

All right. So we covered all 10 of the scenarios. Les, do we have any questions on the exercises or anyone that we want to go back to the chat about?

Les Warner: We actually -- we have a number of questions that I think because they relate pretty well to what sort of are the rest of our questions, I think we can handle them. I don't think they're specific to the exercise itself. So I'm going to suggest we go into some of these questions now and kind of work with those.

So we've got a couple of questions that are relating to emergency payments that I believe based on this question are related to CDBG CV. And so with our Covid related CDBG CV assistance, there was a question yesterday about we know that the Lead Safe Housing Rule applies for the regular CDBG. Does it also apply to CV funding?

And it does. But we've got some additional guidance for this that applies actually in this scenario. So the question was about we're administering an emergency subsistence program. And they're working through how to properly then implement the lead safe housing requirements on this.

So they're using -- sounds like they're using a screening worksheet that they're tracking when these units are assisted, and the number of days, and when the unit was built. So the CV regulations -- and actually I'm going to flip to yesterday's slides. See if we can get to [inaudible]. Okay.

So here's our information on this. So the rental assistance or emergency subsistence payments that are being made under CDBG CV fall under Subpart K. And we'll talk more about that when we get to that in session four. But essentially there was an additional guidance or waiver under CDBG CV.

First off, CDBG normally would cap emergency assistance at three months. And in this case -- so there was a question about how is this going to work. So CDBG CV itself has expanded that period for emergency assistance, which would include the rental assistance, to go up to six months.

But we then have this issue about we have existing language under Subpart K which gives you an exemption for up to 100 days. But after that you don't have an exemption for the Lead Safe Housing Rule. And so under Subpart K the rule would say that if we go over that 100 day limit, that we're going to have to do a visual assessment. That's our required level of evaluation for those units.

And then based on that visual assessment, if we see unstable paint surfaces, then there's going to have to be lead hazard reduction and work done. So there'd be paint stabilization for those surfaces. And they would be required to use safe work practices and then also do a clearance at that point.

So the guidance that was provided, additional guidance that was provided for CDBG CV, was to sort of give further guidance on how that counting happens. And so that counting begins not at the -- so let's say we have a tenant that comes to you today. So the middle of June. And let's say they owe March, April, and May rent. So they have a three month arrearage on their rent.

So if we pay their -- that three month back rent today, we are not counting the days, those three months' worth. We're going to be counting starting with the day that that payment is made. And then we have a 100 day period. So we actually can pay for the three months already. And then we have up to under CDBG requirements, we have up to an additional three months within that six months that is allowed under CV.

But for the Lead Safe Housing Rule, the issue is going to be calculating from that date that our initial payment was made. And any additional payments that we make within that 100 days are going to be able to operate within that exemption or, you know, a guidance on this.

So if you're administering an emergency assistance program like this, you are going to need to track when that payment -- for CDBG you're going to have to track the payment period that you're covering how many months of assistance. But for compliance with Subpart K, we're tracking that days from starting at the date of that initial payment.

It does mean that you could not -- if you have a client that you paid one month's assistance today and you want to be able to give them up to that six months which CV allows, that's going to take you past the 100 days. It would mean that you're going to have to be in compliance with Subpart K.

Now in some cases, and I think there was a follow up question from that same person, some of the units that you're assisting are built after 1978. So we know that those units are going to be exempt. And so those units we wouldn't have any further obligation under Subpart K.

But for those that were built prior to 1978, once we go more than that 100 day limit, then you're going to have to have a process in place where you have a visual assessment that is completed on those units. And then based what is found there, there would have to be paint stabilization and safe work practices clearance, as we mentioned.

So depending on what you are ready to deal with staffing-wise and working with landlords, that may be something that you set up your program specifically to be able to kind of control for that. But the key here is when we go past that 100 days, based on when that first payment was made, then we're going to be triggering the Subpart K requirement on that.

I want to, while we're here, I just want to go back I think one more slide here. So we had a lot of questions yesterday that related to when properties are exempt. And so I kind of want to just quickly go back through these.

So we just mentioned when we have a property that was built after January 1st of 1978, we know at that point that our lead paint has now been banned. And so those properties would be exempt. So we'd be able to document that in our files.

We also talked about zero bedroom units and also units that are designated exclusively for elderly or persons with disabilities. And that wouldn't just be that current occupants fit that description, it's that those particular housing units are restricted.

And again, that mention of the presumption year, why we're allowing that exemption, is that the risk level would be lower for those occupants. In the case where we have one of these restricted units that actually has a child that's less than six, then that exemption does not apply because we now have a high risk occupant within those units.

And then lastly as saw in the exercise, in some cases you'll have properties that were built prior to 1978. But I've seen many properties where that inspection came back determining that there is no lead based paint in the property. Or in some cases we have a property that has been fully abated.

And I actually probably shouldn't use the word abatement because abatement doesn't necessarily mean that all the lead paint has been removed. It could be encapsulated in some way. So it's only when the lead based paint has been removed and we have clearance that's been achieved that we can say, okay, so this property because it now meets that free of lead based paint category, would be exempt.

So those are based on the unit itself exemptions. And so we're always going to keep an eye out for that. But we also have things that are related to what we're doing. So we mentioned yesterday, if we've got an unoccupied property that's going to be demolished, and we use the example if we were doing reconstruction, that that fits into that.

We mentioned also about this emergency action which was one of our examples in the exercise. But just keep in mind again, sometimes you'll have -- maybe you have some that applies for rehabilitation assistance, a homeowner, under let's say a HOME program. And when you do your inspection, you determine that there is something on an emergency basis that needs to be addressed immediately because of health and safety factors.

Just that portion, just that emergency related item such as in the example where we had tornado damage and we had the roof had a hole in it, in those cases that emergency action is exempt. But the homeowner rehab that we are planning to bring the entire unit up to standards, that part is not exempt. It's only that emergency action that we're doing. And we already talked about this Subpart K.

But I also then want to mention, we also have some exemptions that are related to the scope of work. And we're going to look at the summary sheet in a minute which I think will also help. But in some cases we're going to have a rehab, usually something pretty limited, that's not disturbing any painted surfaces. And so in that case we could be exempt from this.

We also mentioned yesterday about the de minimis requirements. And I'll just mention, on almost all of these things, in session two and session three under Subpart J, we're going to go into a lot more depths on this. So I'm not trying to probably handle all of these in the depths that you want because we have material that's going to cover that. And so those are exemptions that are really based on that scope of work. And we will be dealing with those pretty much on a case by cases basis.

All right. Let's go back through. And I want to -- going to mark some of these so that they disappear from my view. All right. So we have a question about -- first question that we got in was about if we have high lead levels in the soil, some bare spots, and they're asking about what would be the remediation on that. We will include some language about that when we get into Subpart J.

But depending on the cost of the rehab, and so the level of treatment that's going to be required, typically when we have bare soil or soil contamination, it's often dealt with by covering that surface. So sometimes we're planting grass, we are mulching, so that that exposure based on contact with the soil is going to be limited in that way.

And we sometimes see where we have housing that maybe had lead paint on the exterior of it. It's been chipping and leaching off of it over the years. And so right around the foundation we might have higher levels of soil contamination. But we also could have based on what's in the area. Maybe we have -- because of a freeway nearby, and lead fuels, or some kind of industrial

manufacturing that is putting off some lead contamination, we sometimes see that. But typically it's not necessarily removing and replacing soil. It generally is covering that.

All right. Let me try to manipulate my list so it's a little easier to be able to look at. There was a question about the exercise answers. And those are going to be posted -- I think, Nicole, were you putting those in the chat box?

Nicole Hassman: Yes. They should be in the chat box. And some of the Q&As that we're getting, we're getting a lot of really great questions in the Q&A, and some of them are Subpart J specific and Subpart K specific. And so we'll be diving into a lot of those questions in our upcoming sessions, especially the ones that are based on Subpart J rehabilitation calculations of the costs. So yeah, stay tuned on those.

Les Warner: So there is a question about is there reason why housing that's been designated for the elderly persons [inaudible] are being exempted from Subpart J and K. And really it's that who the expected occupant of those units, since they are restricted, we are not going to be having children occupying those units. And so they are lower risk. And so I think that's the basis of the exemption that is done.

Now mind you, you as a program could say, we are going to go ahead and include lead remediation as part of addressing those units. But the standards that are in place under the Lead Safe Housing Rule do allow those exemptions.

Let's see. There's a question about emergency action. Is the emergency action of the rehab also excluded from the calculation of per unit assistance. I think that that would be correct. But Karen, I don't know if you're -- you're probably busy typing on something. But I want to see what your thought is on this.

If we have a unit where we are using some initial funding under the exemption of an emergency action to let's say patch that hole in the roof that was made by the tornado, when we come back using our let's say HOME assistance, and we're going to do a rehabilitation on that unit, are those seen as two separate projects? And so the cost of the emergency action, is that going to be excluded when we calculate level of assistance for that unit?

Karen: Yes. Yes. So the first emergency activity is exempt. Whatever you spend to patch that roof so that the inside of the unit doesn't get further damage or so forth, that is its own unique activity.

Les Warner: Perfect.

Karen: [inaudible] back in and spending \$15,000 to complete the repairs, for whatever reason, if it was due to the event, the disaster event, or whatever, then that's its own discrete project. And [inaudible] Subpart J would kick in [inaudible]

Les Warner: And I'm going to put up on the screen, because I think a lot of our questions really relate to this summary chart. And I thought it might be helpful to revisit this. And just know that



when we go into session two and three, and also in session four, we're just going to be on Subpart K, we're going to go through these in quite a bit of depth.

So what this is laying out is that we know that we have disclosure -- and let me see if I can choose a color that looks reasonable. So we're talking about our disclosure requirements are going to apply across the board. I do know how to clear that. That's good.

We talked just a moment ago about where we have exemptions. So we would be looking at is this a property because it was built in 1982, that it's going to be exempt from this requirement. And so we essentially don't have to go further. But other than those exemptions, we are then going to be following the requirements under the applicable subpart of this to determine what our level of evaluation is going to be. And then also what our treatment is going to be.

And so in the case where we're under \$5,000, we're essentially taking this do no harm on this. So we're going to be evaluating just the surfaces that we're going to be disturbing. And so in those cases, if it turns out that those surfaces do include lead, then we're going to follow all of our requirements on that.

But in some cases we're going to find that that -- let's say we are only disturbing paint on a couple of windows. And we tested them and determined that they actually don't have any lead paint. Then we don't have to spend the time with safe work practices and clearance on that because we're not affecting any surface that includes lead based paint on that. So this is kind of our minimal level based on we're spending less than \$5,000 on that.

For probably much more of what we do, and I know programs I worked with we generally were in this \$5,000 to \$25,000 category. And so as part of that we're going to be making sure that we're going to identify and control the lead hazards as part of it.

So with that, we're then going to be doing paint testing, a risk assessment. And then based on what we find within that evaluation, we are then going to be doing appropriate hazard controls on this, we're going to be following safe work practices. And all importantly, we're always going to be doing clearance to then make sure that not only have we maybe removed the element that had lead paint on it, let's just -- I'll use an example.

I had a training where we had a public housing agency in the group. And they said, we had our entire property tested. And the only thing that included lead were the doors. And so they removed and replaced all the doors.

We would also do a clearance testing to make sure that even though the door that had the lead on it has been removed, we want to make sure that then we've done an appropriate cleanup so we don't have any residual lead, lead dust, as part of that. So we brought those hazards down to an acceptable level.

And then in some cases if we are above that \$25,000 mark, again we're going to do our risk assessment on this property. And then we're going to be doing abatement, which could be interim

controls on the exterior surface. As part of that we're going to be following safe work practice. And as always we're going to be doing clearance testing.

So the amount of investment in that project is going to make a difference on the level of evaluation that's going to be required, and then also the level of treatment that's going to be required. Now when we talk about things like we were mentioning for emergency rental assistance, that's under Subpart K. And so we have different requirements where our evaluation is a visual assessment.

And then based on that visual assessment we're going to be doing our paint stabilization, following safe work practices, and then also making sure that we do a clearance on that. And with all of this, we are going to be providing disclosures through that. And we'll talk through those when we get into Subpart J and K.

We're always going to be keeping that owner, that occupant of the unit fully informed about that unit that they're living in. Because we want to make sure that they can protect their family as part of that.

So we have questions about -- so sort of a related question is the cost of lead based paint inspection. And in this example they're doing a wood stove replacement program. It's capped at \$8,000 per home. So trying to determine whether to presume or pay for inspection. So I'll give my take on this. And I don't know if Karen, you might want to add into this.

I would assume that when you're doing -- if you're doing a wood stove replacement program, in some of these cases with the scope of work you're doing, it might be that you're not going to disturb any painted surfaces. And so it could be that because of that, you would be exempt on that.

So I think you have to think about what's the scope of work, what are the surfaces that I'm going to be interacting with. If we've got a brick chimney that's exposed, that we are pulling out a pipe, and we're moving that stove, and we're not messing with any paint, we could be exempt for that reason. So that would be one consideration. Of course we would also be looking at is this a house that was built after 1978 or later, which might be a factor in this.

And then I'll just also add, in the programs that I worked with, and I worked at the state level for 20 years, when we first [inaudible] list, working with lead and the Lead Safe Housing Rule, there were a lot of folks that wanted to do the presumption of lead. And so they didn't want to spend the money to do the testing.

But what that means, particularly with a more extensive rehabilitation, would mean that you were spending money to treat surfaces, presuming that they have lead, when actually it may not have lead. And so you would not need to spend as much money treating those surfaces.

And so over time people did some side by side comparisons and found that they were spending less money in the long run by doing the risk assessment, determining whether the surfaces had lead or not. And then only paying to treat those surfaces that actually had lead, as opposed to those that did not.

And it's not uncommon in units to find that maybe we have -- it might be a 1940s house, but we only have lead in a couple of spots in that house. Maybe we have some kitchen cupboards, and a door, and a little bit of woodwork in one room. And otherwise we don't have lead paint. So I think for particularly for a larger scope, it may make sense to say we're never going to do the presumption of lead, just because it turns out not to be a very effective use of funding.

Karen, do you want to add anything to that?

Karen: I kind of missed the last part of your explanation, Les.

Les Warner: Okay. So I was just kind of talking about cost-wise, that I think a best practice has been in many cases, particularly when we're doing individual units, that it's probably more cost effective to actually do the testing, and only then be spending the money to treat those surfaces that actually include lead, as opposed to making this presumption and doing a more costly treatment for surfaces that actually don't present a lead hazard.

Karen: Correct. Yeah. When we're talking about over \$5,000 hard cost on rehab jobs, that is my standard approach and suggestion, is that risk assessment be performed for that reason. So if you don't and you presume, you're left with treating all deteriorated and [inaudible] impact surfaces [inaudible] treatments in the whole property.

And I mean if you're working on a 1920s house that's never been touched, maybe that makes sense. But if not, it's pretty likely that at least some of the areas that you may think have lead in fact do not. Plus that allows you to be able to have options when it comes to hiring contractors to do this phase, that phase, or the other phase of the job.

And peace of mind. It's a little bit of insurance for you, and the property owner, and the occupants, to know where the hazards are, where the lead paint is, and where it's not. And have kind of additional knowledge in their back pocket, if you will, if in fact they want to do work on their own on the property later on. So.

Les Warner: Yeah. I think that's a great point. And unfortunately we have seen -- I know early on I had a family that came to us that had been doing their own rehab, they had a small child. And really the alert for the lead in the house was based on the medical condition of their child. Which the work they were doing, not understanding anything about where they might have lead in that unit and what safe work practices were, had led to a rather unfortunate situation.

So we want to have our households know as much. And that's why we're doing the disclosure that we're doing throughout that process. It's to make sure that they understand about the hazards of lead paint, and that they are fully then informed about what the results of testing were, what the work that has been done and completed. So where we have areas where lead has been removed or encapsulated, the result of clearance. So that they know as much as possible about that unit for the sake of their family.

So we have some additional questions about visual inspections. I'm going to suggest that we defer those to next week. Because that's really -- we're going to be going in a lot more depth in next week, going through the evaluation and treatment process on that.

So we have a question about would a self-certification service appropriate documentation for applicant who will not be residing in the home that's planned for demolition. If so, are there forms or guidance on language. I don't think there's a form specifically for this within our toolkit. But I think that self-certification would be completely appropriate.

And any narrative you want to add in to your file -- and I'm assuming we're going to see this is where we're doing that reconstruction. We're going to move that family out. And they will not reoccupy that unit until it's been demoed and replaced. So I think what you're suggesting sounds perfectly appropriate for documentation on this.

Karen: Can I just add -- this is Karen -- sidebar note here. And that is we want to make sure that your file documents can demonstrate that the unit was actually demoed and not substantial rehab. So otherwise there might --

Les Warner: This is only in combination with that demolition and replacement.

Karen: Yep.

Les Warner: And there is quite a bit of guidance. And we will be talking about that under the Subpart J sessions about when we have a tenant occupied property, and we're going to be doing lead hazard reduction work, of when we need to relocate them, the requirements on that. And there are some sample forms on not only that decision process, but documenting that relocation on that.

And kind of the key here is we're going to move them -- if needed we're going to move them out before that work is done. And they would not return until the work had been done and clearance had been found at an acceptable level. So we're going to be documenting that as part of our process. And we will talk more about that a little bit later on this.

We have a question about if we have a child, do we consider a child to reside in an elderly exclusive unit if the occupants are babysitting the child, but the child does not live there. I think you would simply be documenting if there was a question on that, that the child lived, resided somewhere else.

And that kind of goes back to what we deal with a lot on our programs on eligibility of, you know, does the boyfriend live here, or is he just kind of visiting. And so our standard way of dealing with that is asking the question of, and getting a certification of some kind, does that child live somewhere else. So they're not actually a resident of that unit. It's an appropriate question to ask and answer as part of your documentation on that.

Let's see. We'll talk more about that. Okay. So here's a question about is there a difference between the hole in the roof caused by the tornado, and Mrs. Jones who's a low income

homeowner who has significantly deferred maintenance due to economic status, and now has a hole in the roof and collecting buckets of water.

Well this is sort of an age old quandary, not only under the Lead Safe Housing Rule, but also for some of our definitions of when we have like an emergency repair program, versus it comes into play with environmental review.

So I think this would go back to your issue of under your definition of health and safety standards, if you have a deficiency that is determined to be a hazard to their health and safety, and so occupancy, continued occupancy would not be appropriate under the standards unless this repair is done immediately. I would think that's going to fall within that emergency category.

But in Mrs. Jones' house, we may have -- and I used the example before of may be we were -- had a homeowner that applied for rehab. We'd done a full inspection of the unit for our property standards, depending on the level, projected level of investment. We would also be doing a risk assessment perhaps as part of that.

And then determining are there things on that list that are health and safety issues that must be done immediately, or that unit is not going to be considered to be occupiable. And so I think that would be the judgment that's going to be used on is this just deferred maintenance, it's pretty bad, or is this a health and safety measure on that.

For those of you that are working under the HOME program and you have your written rehabilitation standards, one of the things that you're required to include in that is health and safety. So what's the -- how do you define things that we can't have occupancy unless these are immediately addressed, as opposed to we can go through our normal schedule procurement and address those as part of a larger process.

There's a question about the cost of paint testing and risk assessment, if it's questionable whether the funding provided based on the maximum allowable per unit. So let me try to put this in terms of what I would guess is what you're kind of talking about with the program. So a lot of programs will be set up saying I've got a maximum either program limit that you put in place, or some program such as HOME program will have a maximum amount that you're able to invest in that unit.

So part of that initial assessment is often whether this is a unit that can be assisted as part of your program. And that would need to include what the lead costs are going to be as part of that. And so as part of that initial assessment, you might be looking at if my program limit that I have in place is \$70,000, and when I look at just the scope of work to bring this unit up to property standards, I've already exceeded that.

Then this is a unit that we typically are going to say, well we're going to have to walk away from this unit unless there are other sources of funding that can be brought into this. And so in that case maybe I don't test, do the paint testing and risk assessment on that because it's clearly going to be outside of my maximums. But for the paint testing and the risk assessment, those are

eligible project costs and they would be included in that calculation of whether you are within your maximum limit.

I know some folks for their own project limits or program limits that they put in place will break those out and say we have a maximum of maybe \$50,000 for rehab. And in addition to that we have whatever the lead remediation cost would be as part of that. So you're needing to follow the programmatic requirements, the funding requirements that are in place, but these are eligible costs as part of that project.

Let's see. Yeah. So there was a response back and forth about with CV assistance, which goes back to what we talked about earlier, that when you go beyond that 100 days, then that exemption under Subpart K goes away. And so you would have to have a visual inspection be completed and then need to address those hazards that are identified as part of that inspection process.

Let's see. So there's another question kind of related to this. If we're screening as part of our CV, CDBG CV emergency assistance rental program, would all applicants to our program have to complete this form or only those with units built before 1978. So I think you're kind of working through that funnel on trying to figure out how do I -- how am I going to show compliance.

So to me the first test would be, is this a unit that's built prior to 1978. If it is, then we have to go those additional steps. If not, it's going to be if this was built '78 or more recently, then it's going to be exempt from those requirements. So I think our first test would be when was this built. If it is prior to 1978, then I think you're going to need to track on the form and make sure that you're going to be in compliance with this 100 day exemption on that.

And you have some programmatic decisions to make on in those cases where the assistance that's needed is going to maximize that is going to go beyond the 100 days, is your program prepared to be able to do the visual inspection and address those hazards that might be identified as part of that. And if so, then making sure you had appropriate staffing, that you had appropriate tracking, to make sure that that's going to work for you.

So I think we had the same question yesterday. A question about if we're converting a pre-1978 commercial building and we are converting it to residential, does the disclosure requirement, is that required. And so, yeah, we're going to follow those requirements. Now in some cases if we - - let's say we've got the commercial building that is vacant and is going to remain vacant until we have completed this project, we still will provide the disclosure form to the owner as part of that.

But once all of our work has been done, clearance tests have been completed, we will with that ongoing disclosure to tenants, be providing them not only the brochure, but a disclosure about what has previously been done to that unit.

Now if our project at completion is going to have eliminated all lead based paint from that property, we could at the completion of the project be exempt from that. But we would only if we had -- can certify that all the lead paint was removed, that we have achieved, we'd have that documentation in place. So disclosure is going to apply for that project.

Let's see. So we have a question, we have an exterior rehab program, they have an EPA certified inspector visit all of the pre-1978 properties, and they're keeping a report, and they're giving that copy to the property. That sounds appropriate. We're going to be talking more in the next two weeks about this, the disclosure requirements of we're not only giving the brochure and information at the beginning, but all the way through that process.

So when that unit has been inspected, the results of that will be provided to the owner, to the occupants, when projects have been completed, and we have clearance, that's also going to be reported to them. So it becomes an important part of our disclosure process.

So there's a question about if we have a lead abatement firm and they're performing work at a property under CDBG, they need to give the residents a renovate right brochure. Yes, that's correct. That's part of the EPA's RRP requirements. And we will be going through that I believe next week in a little bit more detail on that.

So we have a question about how long do we have to conduct the lead based paint for oversight I think is intended for CDBG CV emergency supportive services. If the assistance was already awarded, can they stay compliant by doing the inspection follow the expenditure of six months of assistance.

So the trigger for needing to follow the requirements under Subpart K are at the point where our payment period crosses exceeds 100 days. So that expenditure of six months of assistance, depending on what's included in that first payment, we could be paying for three, four, or more months of assistance with the first payment. Because they're coming to us already with significant arrearages. So you're going to have to track that 100 days from that initial payment. And only at the point that you then go beyond that will you kick in the requirements under Subpart K to be required to do that visual inspection and then address any of those issues.

Let's see. All right. A little more about the on the health and safety, we talked about when we have an exemption under going an emergency assistance. And so they're asking, they're saying they have a unit with no heat in the wintertime or a gas leak, would this be accepted to address this issue before conducting a lead inspection.

I would believe that it would, in that where you are being without heat in the wintertime probably is going to be considered a life threatening situation, an emergency situation that must be addressed now. So that would be the -- that would limit the scope of what you were able to do without conducting a lead inspection.

But if you go in and you're addressing that heating unit, to address that life threatening issue, and as part of that you then talk to the tenant about, you know, we -- or the owner, we noticed that there are other things, you're a good candidate for this program. Then any additional work you do will have to follow, will not be able to continue to use that emergency exemption.

Let's see. We're getting close to the end of our period here. And I will just mention, I'm going to guess we're going to have some unanswered questions. But most of these are really tying into

what we're going to be talking about in session two and session three. Because the majority of these seem to relate to rehabilitation. So if you don't get an answer to your question today, know that that's part of the material that we're going to be covering in the next two sessions. So we have a question about asbestos. So does HUD require rehab projects to test for asbestos? So and I don't know, Karen, I'll give my understanding. I don't know if you want to weigh in. My understanding of asbestos is that it would follow what your state health department rules are going to be.

I oftentimes would see, if you have a surface that's covered with asbestos that you know you're going to be disturbing, and I would think that you're up front going to want to require that. I oftentimes would hear, where we actually had a lead contractor in, who they in looking at working in a particular area, determined that they felt that there was something that included asbestos, and would essentially stop the work until that inspection was done, and if there was asbestos that it would have to be properly dealt with by a licensed asbestos contractor on that.

Karen: I would agree. I would agree with that. So if there's a local requirement for a state health and safety requirement, that would be essential to look into and to follow. Now some communities, at least a couple that I know of in California, in order to pull a permit like to replace windows or do certain kinds of roofing work, exterior siding, they require an asbestos test for those surfaces before the work is done, in order to pull the permit to do the work, because the age of the property, and the potential hazard or risk to causing airborne asbestos. So it's good to check with the locals.

But as far as the HUD requirement [inaudible] HUD requirement, I'm not aware of one. It doesn't appear obviously in the Lead Safe Housing Rule. It [inaudible] appear in the environmental review regulations either.

And to my knowledge, I've not seen a special requirement in program regulations, CDBG, HOME for instance regulations. But that's another place to check a little further. I'm sure if there was, Les would know. He's more of a program expert [inaudible]. So yeah. That's my two cents.

Les Warner: Great. So we are at the end of our time. We have a number of questions that haven't been answered. But it looks like they relate to future topics. What I'm going to do with these is we capture them in our system, and we're going to incorporate them then in the future sessions. I think you'll find all these are going to be addressed. But we want to make sure that you get answers to your questions.

So thank you. I'm glad to see the number of folks that have participated today. And we look forward to having you back then next Wednesday when we're going to start on Subpart J, the first of two sessions that will be specific to Subpart J. Thanks, everybody. Have a nice weekend.

Karen: Thanks, Les.

(END)