Lead Safe Housing Rule Webinar Series

Subparts J and K

Wednesday, February 10, 2021

Kris Richmond: Thanks Paul. Appreciate it. Welcome everybody. Glad that you're all able to join us again this week. So today, we're going to be focusing on Subpart J, rehab. And we are splitting rehab into two different sections.

So today, we're going to go over the planning phase of rehabilitation and next week we're going to go over the construction phase. So these two build upon each other. I'm glad that you're able to join us today because what you're learning today, you're going to need to be able to implement next week when we get together as well.

We will also be doing our office hours tomorrow, going over our homework again and then answering questions that you may have that you've come up with. You can type those in tomorrow. You can also type those in today. I have a number of colleagues helping me today with the Q&A box.

So as Paul said, my name is Kris Richmond. I'm with ICF. We are a technical assistance provider for HUD. And I am accompanied today by my colleague Les Warner. We were both the trainers that were with you last week. And I also have three HUD staff with me today from the Office of Lead Hazard Control and Healthy Homes. That's what that OLHCHH is. I have Bruce Haber, Karen Griego and Jerry Freese. So really appreciate of their time today as well.

So just to remind everybody, this is a four-series training that we're doing. And you were all with us last week; that was LSHR basics. If you missed it, it was recorded and you should have received a link. It's available on the HUD Exchange and so you can go back and listen to that or if you just need to refresh yourself again.

So as I said, today we're going to go over rehab requirements for planning. Next week, we're going to be doing construction. And then the following week, we're going to be doing Subpart K which is acquisition, leasing, support services or operation programs. If you are doing acquisition and rehab and it's over $5,000 per unit, then you are in the right place today because you would be following Subpart J.

So you want to make sure that even if you're doing acquisition and rehab and you thought, "Oh, I wasn't supposed to come until Session 4." If you're doing more than $5,000 then you do need to be in sessions two and three as well. So glad you're in the right place with us today.

All right. So we have a very short time together but we want to cover a lot of material. So these are just listing a couple of the goals that we want to try to get over -- go over today. One of them is reviewing how the costs are calculated. So we're going to do some examples together. You heard Les and I talk about under $5,000, $5,000 to $25,000, over $25,000; well, what does that mean?

Well, those are three different levels that you need to follow, depending on what your level of rehab assistance is. And so we're going to go over, how do we calculate what that level assistance is and then which category do you fall in? And we're going to talk a little bit about how do you track project costs, whether do you count that as a hard project cost, do you count that as a lead -- as a reduction cost; what are the implications of charging one versus the other?

We'll talk about that. We're going to go into what a risk assessment is and how that's important and how we do different types of project planning. We're going to go over some of the notification requirements, the notice of evaluation. If you decide to do presumptions, what the notice of presumption looks like. There's also a notice of hazard -- flood hazard reduction activities. We'll probably cover that a little more in the third session. That's another notification.

And then different requirements for construction; what are some of the contracting requirements and what kind of language needs to be in our agreement? What kind of lead language; what regulations you need to follow? What about final inspections and clearance? Who's responsible for that? What kind of staff, what kind of capacity does your staff need to have? What kind of capacity and training do your contractors need to have? So a lot of things we're going to try to accomplish today.

All right. So this slide should look familiar if you were with us last week. Again, not an exhaustive list but it does show all of -- it shows most of the programs, the HUD programs that trigger Subpart J. Subpart J is rehab. So you see we have our community development block grant, our HOME, Housing Trust Fund, Emergency Solutions Grant, continuum of care, just a number of the different HUD grants that do trigger Subpart J.

And I do want to make sure that everybody does understand that the applicability of the lead safe housing rule for Subpart J is not dependent on the presence of a child. So you may have -- you might very -- you often will have projects that you're working with that are triggering Subpart J because it's pre-78 and there's lead in the unit and there may be no child in the unit at all.

And that is perfectly okay because the applicability of Subpart J, again, not dependent on the presence of a child in the unit. So just want to make sure everybody understands that before we get too far down the road here.

All right. We also showed you this slide last time we were together and the basics model. But just as a refresher, it shows the different rules that need to be followed in order for you to meet full requirements. So this blue one on the left here -- let me get my pen here.

This blue one, disclosure rule. We don't typically say that you're required to follow a disclosure rule when you're doing rehab. That's more for acquisition and when you're dealing with tenants. But if you are doing a rehab project, it's up to the grantee to counsel the owner to let them know when you now -- if you have future tenants or if you -- when you sell this home, you now need to disclose that there was lead housing reduction work completed. You do need to disclose any of these records. So just hopefully to keep in mind that for future tenants as well as for future owners, when you're going through rehab, the work that's being done now will need to be disclosed to them.

And then we have in the middle our lead safe housing rule. This is for federally-assisted and federally-owned pre-1978 units. Again, this rule's been in place for over 20 years now and this is what we're going to be diving deep into during these sessions.

There is also the elevated blood lead level amendment. This was put into place in 2017. We don't need to worry about EBLL for rehab because it's not applicable. You'll see we have a chart later on that has EBLL as one of the line items and it'll say none for rehab. So that's really only for tenant-based rental assistance, project-based assistance and public housing.

All right. So and then we have our last area over here. EPA's Renovation, Repair and Repainting rule. This is referred to [inaudible] as the RRP rule and this applies to any renovations, repair or painting done by a contractor that disturbs all the base paint. So these are the different regulations that we'll be referring back and forth about.

Okay. This is just really a general overview of the steps. We talked about some of this in module one but just to refresh again, disclosure. Remember, the details about disclosure are in module one. You can go back and listen to that recording. The looking -- this is what we use the term evaluate in the lead safe housing rule.

And so for Subpart J, the evaluation is going to vary depending on the level of assistance. So you might be doing paint testing, you might be doing a risk assessment, you might be doing paint testing and inspections. We'll go into detail about when you need to do each one and what that really means.

Once hazards are identified, they have to be reduced or treated. So we're using this word treat here. And in the rehab Subpart J, the treatment methods are repair, interim controls or hazard abatement. So if you are working on a project that falls in the under $5,000 category, that would be repair. If you're in the category where it's $5,000 to $25,000, then it's interim controls. And if you're over $25,000, then you'd be following abatement.

So after the work is done, it must pass clearance and that needs to be done using a clearance exam. And so this includes a visual inspection and dust sampling. We'll talk about what clearance is and who can do a clearance in module four.

And then we need to tell. So we need to notify both the owners and residents in writing when lead hazards are found, how they're treated and cleared. And we'll talk about the notice of evaluation, or if you decide to presume, that notice of presumption, we'll talk about that today in module two. And we'll more talk about the notice of lead housing reduction activities in module three.

So let's dive into our housing rehab programs; right? So this slide really shows different types of federally-assisted rehab programs that are affected by Subpart J. So you'll see it's most pre-78 properties. It could be owner occupied or single-family rehab. You might have multifamily rehab. You may have programs where you're doing acquisition and rehab. You could perhaps be running a weatherization program. This is also affected by lead safe housing rule.

Disaster recovery. I know there was a lot of Inspector General reports that came out where disaster recovery programs were not following lead safe housing rules. So disaster recovery does trigger Subpart J so you need to make sure you're following that as well as CARES Acts. It's new funding that's coming in.

Les is going to talk a little bit more about that today as well as in module four when we get into Subpart K. So again, just wanted to mention regardless of occupancy, the lead safe housing rule does apply.

All right. So this was also discussed in module one, but just to revisit, there may be times when the rule might be exempt. So the first one is an emergency, but this has to be a true emergency for immediate protection of life and safety.

Disaster recovery is not counted as an emergency because typically folks that are coming through disaster recovery grants, it's been four months, it's been six months, it's been a year since the actual emergency or disaster has come through their area. So that's not considered a true emergency.

Also, I work for a city where we had an emergency repair program, those were also not really true emergencies. That was really more deferred maintenance. So as you're defining emergency where you work, you want to look at that. So if it's a true emergency, immediate protection of life and safety is needed, then it would be exempt.

If you are doing repairs that do not disturb painted surfaces, those are also exempt. So maybe you're doing a roof or maybe you're doing a furnace. Just be careful with a roof because if you're dealing with any of the faucets or you make sure you're not dealing -- you're disturbing any paint; okay? So if you are doing repairs that truly clearly do not disturb any painted surface, that would also be exempt.

If you're working with a property that's unoccupied and it's going to be demolished, that is also exempt. Properties that are found to be lead-free; okay? So these are properties that have been inspected and there was no lead-based paint found. There's documentation that shows that they were inspected and no lead-based paint has been found. Those can also be exempt.

If you have elderly and disabled housing. This is housing that only the elderly and disabled are allowed to live in. It's continuously operated as elderly and housing -- and disabled housing. Those would be exempt. If you have a child under the age of six that's living in elderly or disabled housing or expected to live in elderly and disabled housing, then it would not be exempt.

Typically, we don't really see too many elderly housing projects come through asking for our funds so it -- we don't really deal with this too often. But we just want to let you know that it is exempt. Zero-bedroom units with no child under six living in them are also considered exempt.

All right. There are some grantees that fund beautification programs or exterior repair programs. We also want to let you know that these types of programs are also not exempt from lead safe housing rule. So if you're running this kind of program, please make sure that you're following lead safe housing rule.

Typically, we see across the country these are usually funded anywhere in the $5,000 to $25,000 range. If that's the case, then you would probably need to be doing a risk assessment. If you decide to test the interior, even though your plan, your program, the scope is to only do the exterior, if you're falling into the $5,000 to $25,000 range, you need to do a risk assessment and then start to deal with the interior lead hazards that may be in there.

So please take a look at the type of program that you're running. Do a self-review and come back to these requirements and make sure that you're overlapping and making sure that you're doing what needs to be followed to be in compliance with lead safe housing rule.

All right. There also may be a limited exemption if a property is listed or is eligible for the National Register of Historic Places or if this property is contributing to a National Register Historic District; okay? So it's either on the National Registry or it's in a district.

So if that's the case, there are some limited exemptions. There might be times where you may be able to do interim controls instead of abatement. You also need to be working in cooperation with your SHPO. SHPO stands for the state historic preservation officer.

So if you are responsible for doing all the environmental reviews in your office and you know what the SHPO is. If you only do the financing side and you don't have anything to do with any kind of reviews, Chris Wood [ph] is a SHPO, so that's our state historic preservation officer. That's the person or the office that you need to be dealing with if you're looking for an exemption, a limited exemption and dealing with historic properties.

There's also some really good resources that are out there. There's a historic preservation brief, 37, as well as the HUD guidelines. You want to look at Chapter 18 of the HUD guidelines if you need more guidance in working with historic properties.

Okay. So last couple slides I talked about exemptions but there may be times when your projects may have a limited exemption for that particular repair or that rehab work that needs to be done. This would happen if the work area is below the de minimis threshold. And if you remember last week we talked about de minimis was.

So de minimis is a amount of space or -- for interior space, it's two square feet. For component types, it's 10 percent of the small component type. For exterior work, it's the 20 square feet. So if the work you're doing is below this de minimis threshold then this would also have a limited exemption to the lead safe housing rule.

Sometimes, it's not found out until after the work specifications are developed and so you might be starting with this project and then you realize, oh gosh. This is below the de minimis threshold. So you would not need to follow lead safe work practices if you're falling below this level.

We do want to let you know that the HUD de minimis levels are more protective than EPA RRP. And the reason this is important is because if we look at this interior, for HUD it's 2 square feet.

For EPA, it's six square feet. And we -- let's pretend we have a contractor and our contractor is RRP-certified. Yay. Found an RRP-certified contractor.

And he says, oh yeah. I know all about RRP. I'm fully familiar with this. And he's never done a HUD project. So he's thinking, oh. This work is -- it's 4 square feet interior. I don't need to follow RRP because EPA says it's 6 square feet interior. Well, wait a minute. This is a HUD project so anything more than 2 square feet interior for HUD does trigger RRP.

So you want to make sure that the grantee, that you are talking with your RRP contractor and they understand for a HUD job, the interior space de minimis level threshold is lower. It's 2 square feet. So they just need to be aware that this threshold is different. Les is going to talk more about RRP, where HUD is different than EPA. He's going to get into that more later on in the session and we also have a really great handout that he's going to refer to. But I just wanted to alert that to you as well as we're going over this.

All right. So this slide is going to show professionals that are typically involved in rehab or repairs. So we have our program staff. This is if you work for a city or a county or a state or you're a subrecipient, you have your program staff; right?

So you have your homeowner intake staff, your inspectors, your compliance staff, finance department. You have a specification writer. This might be someone who's in-house or you might need to contract out for that.

So we say here "ideally" that this person writing the specifications would be qualified as a certified risk assessor. It's not required but ideally they would because they need to know how the work writeups need to be able to treat these lead hazards or lead-based paint that's been identified.

You do need to be aware that there are certain states that do require work writeups or scope of works for abatement to be done by a certified abatement supervisor or a project designer. You want to check with your state authority to determine if you live in a state that's going to trigger that requirement or not.

We also want to let you know that training is an eligible cost of your admin funds so if you have staff that needs to be trained as a risk assessor, you can certainly use your admin funding to do that. Then we have our traditional partner -- or participants, in rehab. This is our general contractors. They might be working with subcontractors such as painters, plumbers, electricians. You do want to make sure that your general contractors, they should all be RRP-certified at a minimum.

And then we have our lead specialists and this includes our paint inspectors, our risk assessors, our clearance examiners. They need to be certified or trained. We also need to have certified or trained lead contractors. If you're doing abatement, you're going to need abatement supervisors and they're going to have to have RRP workers as well.

So now that we know all the key actors, how are they going to deal with each other or how are we going to make sure this information is shared with everybody? Well, the program staff has to take on the initial responsibility.

So they may have to help the contractors, the general contractors understand the lead safe housing rules, which apply, what kind of timing might need to be followed, what we're going to have to have in our contracts and as well as in our specifications and in our communication. We need to start using the EPA language and lead language in these different types of contracts.

The program staff may also have to work with our general contractors to help locate lead specialists. We do have, in a number of slides coming up, I think it's in Les's section, where he's going to show you what type of certifications these lead specialists have to have and where can you find them or where can you find training for your contractors to take to then be able to become lead specialists. So we'll cover a little bit that -- of that in the future.

All right. So lead has an evaluation, so how we look at the unit and the reduction activity is how we treat them depends on the level of rehab assistance received by the project. I'm going to pull up this chart just for a minute so you can see what I mean by how we deal with these based on the different levels of assistance.

So this is what I mean by level of assistance. Less than $5,000, $5,000 to $25,000 or over $25,000. So where you fall, where your project falls, what the level of assistance is depends on which of these rules of the subparts you need to follow; okay? So the kind of treatment that you have to do for over $25,000 is abatement which is very different than the kind of treatment you need to do if you're under $5,000 which is repair.

So we're going to go over a couple examples and help you figure out what is that level of assistance? How do I know if I'm in the under $5,000? How do I know if I'm in the $5,000 to $25,000 range? How do I know if I'm over $25,000 and I need to do abatement? So that's what we mean by level of assistance. And the level of rehab assistance is determined by taking the lesser of.

So it's either the lesser of, and we're going to look at this green circle first. It's the lesser of the per-unit hard cost of rehab from all sources. And so this also includes the owner's funds; okay? So per-unit hard cost of rehab from all source, including the owner's funds, but excluding soft cost and lead hazard reduction and evaluation costs.

So it's looking at that number or the amount of federal assistance for all uses per unit. You look at those two numbers and whichever is the smaller amount, the lesser of, is the one that you're going to choose. And then that's -- that will dictate which of those three areas you need to follow to apply the lead safe housing rule.

So you see here this says excluding soft costs, the lead hazard control costs. So our next slide is going to tell us what does that mean? So here we're seeing the costs that are not calculated in the rehab hard costs. So first we'll look at the soft costs. They're the financing fees, credit reports. These should all look familiar to you if you work in this amount of time.

Appraisals, relocation costs, environmental review. These are all things that are not included when we're calculating the rehab hard costs. So we would take those out. We also want to show you that the cost of rehab that would have been performed in the absent of lead-based paint should not be excluded.

So if your projects always do doors and windows, then doors or windows are part of your hard costs. If you don't always do doors and windows and you decide that that's going to be done because it's a lead hazard and we need to count hat as a lead hazard reduction cost, then that may need to be treated in a very different way.

So you need to think about how is -- what does it say in your rehab standards, what does it say in your policies and procedures and what type of work, what type of components are you typically including in your rehab?

So let's talk about the doors and windows again. Doors and windows are considered a component replacement and so if a component replacement is attributed to a lead hazard paint reduction, then it also comes with the requirement to use personnel certified to perform lead-based paint abatement, even if the level of rehab assistance is less than $25,000 because the component replacement is considered an abatement activity.

So let me show you this chart again. Let's say you were in the $5,000 to $25,000 range and you decide that you're going to do windows and doors but those are going to count as a lead hazard reduction activity. In the $5,000 to $25,000 we typically don't need to do abatement but because you're counting your windows and doors as a lead-based paint hazard reduction, then I now need to follow an abatement method and I need to have abatement contractors do those components. And so it's actually kicking me over to doing some of the things that we see in the next category over.

So that's why it's really important to make sure you're understanding the implications of where -- which category are you putting this kind of work in? Are you putting in -- this isn't typically what we do for rehab so it's going to count as my rehab hard costs? Or we don't typically do that so it's going to count as a lead -- a hazard reduction cost? So that's one of the implications of that. Les is going to go in a little more into detail with these things as well.

All right. So now that we know it's the lesser of, let's practice this a little bit. So remember it's the lesser of, the hard cost of rehab, all sources excluding soft costs and lead hazard control costs or the amount of federal assistance.

So we have our example one, a single-family home is rehabilitated for $50,000 and the rehab hard costs are $23,000. And the lead hazard reduction costs are $27,000. So that's the breakdown of what the $50,000 is being expended for. We see that CDBG is my funding source and that's what's paying for the total cost; $50,000 is coming from the city's CDBG program.

So let's figure out what is the lesser of. Well, our amount of federal assistance is $50,000. We see that right here. CDBG assistance is paying for the $50,000. And then we have my rehab hard

costs and my rehab hard cost right here. It's saying rehab hard cost is $23,000; okay? So I'm comparing my $50,000 to my $23,000 and the lesser of the two is $23,000.

And so $23,000 puts me -- and I'm going back to this chart again. It puts me in this middle section here, the $5,000 to $25,000. It was $23,000 so I know I need to follow the requirements in this middle column here. So I'm going to have to do a risk assessment. I'm going to have to do interim controls and safe work practices. I'm going to have to do clearance.

If I decide to do presumption, I would have to do standard treatment. So that's why it's important for you to understand which level of assistance do I need to follow? Because then it shows you on that chart which methods you need to follow; okay?

Let's do a second example here. So our second example, same thing. We're comparing the two things together. We're looking at the amount of federal assistance. So remember, it's -- the amount of federal assistance is what we're receiving through the federal program. In this example, it's going to be the HOME program. Or are the hard costs of rehab, which is all sources, excluding my soft costs and excluding my lead hazard control cost, which is the lesser of?

So in this example, we have a family in our rehab and refinancing program. So we're using our HOME funds to run a rehab refinance program and we're going to put $60,000 of our HOME funds into the rehab refinance project and the hard cost of rehab for this project are $26,000. So I'm going to look at those. My federal amount of assistance is $60,000. That's saying I have $60,000 of HOME money. And my hard cost of rehab is $26,000. And so the lesser of is $26,000.

So I go over to this chart and look -- erase this here -- and we see that we need to follow the over $25,000 range. Now, this one is a little -- I guess we could have made it a little different because $60,000 and $26,000 still fall into the same category. But you see we need to do a risk assessment and risk -- and paint testing and we do need to do abatement.

We need to do abatement. We can do interim controls on our exterior surfaces not disturbed by the rehab. But we do need to do abatement and we have to follow safe work practice. If we decided to presume, we could do that as well and we would abate all applicable services. So we need to make sure we're following this category for this example here.

All right. So that's single family. Single family is the lesser of, the rehab hard costs or the federal assistance. So if we are dealing with multifamily, then we have to follow a formula; all right? So we're going to do a little bit of math today. The multifamily takes the formula over here, this A over C plus B over D per-unit hard cost.

And you're like, Kris. What does that even mean? Well, let's break that down a little bit. So, A over here is our rehab hard cost for all assisted units excluding the common areas and the exterior services. So we get that number. We divide that number by the number of federally-assisted units in the project; okay? So that's going to be our HOME-assisted unit, our CDBG unit, so whatever our federally-assisted units in the project.

So we take that rehab hard cost. We divide it by the number of federally-assisted units in the project. It's right here. And we park that number for a minute because now we've got to figure out the other side of the formula. So the other formula, other side of the formula is looking at B divided by D.

So B as in boy is the rehab hard cost for the common area and the exterior work and that's divided by the total number of units in the project. And we get that number and we add those two together and we get our per-unit hard cost.

So let's look at an example how we're going to do this. So this example, we have a 20-unit property where we're going to spend $65,000 to rehabilitate the structure. And the rehab is going to include $20,000 in hard costs or repairs to the exterior and common areas, it has $45,000 in hard costs for 15 HOME-assisted units. So let's look at our formula again over here.

So our formula, remember it's A over C. So A was the rehab hard cost for all assisted units excluding the common areas and the exterior surfaces; so where is that in here? So we're saying A is $45,000. So we have our A up here; okay? And then we need to determine C, which was the number of federally-assisted units in the project.

So we see here we have 15 HOME-assisted units so I know that's my C; okay? So if you see over here, we took $45,000 and we're dividing it by our 15 units and we come up with $3,000; okay? So let's figure out the other side of the formula over here. So we need to take B divided by D. So B as in boy is our rehab hard cost for common areas and exterior work. Now let's find B in here; where is B?

The rehab will include $20,000 in hard costs and repair to exterior and common areas; okay? So this $20,000 here is my B. And I need to divide that by the total number of units in the property. So my total number of units here is 20; okay? So that's my D as in dog. So you see I have my $20,000 divided by 20 units which is $1,000.

So I add those numbers together and I get $4,000; so what does this mean? This is $4,000 per-unit hard cost. So I go back to my chart here -- erase this -- and my $4,000 per-unit falls into this category of less than $5,000; all right? So I am doing paint testing of disturbed surfaces and I'm only doing repair of surfaces disturbed during the rehab; okay?

So just different things that you need to follow because we're falling into this category over here which has a lower threshold. It has the do-no-harm threshold. So we still need to follow what's in this category but it's not as stringent as the other -- these other categories. You can always decide to do more stringent work but you're not required to do that.

All right. So I did go back and forth a little bit showing you the handout but this chart shows you pretty much the same thing. We just determine which level of assistance we're falling into, under $5,000, $5,000 to $25,000, over $25,000. You can see there's different approaches. We talked about what these approaches were last time but you can see they go from least restrictive of do-

no-harm to most restrictive of identifying abatement hazards. Again, it really depends on the amount of investment per-unit; all right?

And then we are determining what type of lead hazard evaluation needs to be done; is it paint testing? Are we doing a risk assessment and paint testing? What kind of hazard reduction needs to be done? Ongoing maintenance. We're going to talk about ongoing maintenance in module four and we're also going to be talking about relocation and occupant protection in module four. So hang onto that for a little bit.

You see that the elevated blood lead level requirements are not applicable in Subpart J so you don't need to worry about that. And if you do decide to do presumption -- we're going to talk about presumption in a minute or two -- it mentions the different options you have if you decide to presume that there's lead in the unit or not.

Okay. So how does that level of assistance influence evaluation and lead hazard control? Again, we said you could presume or test. If you're the under $5,000 category, you can presume or test to determine if there's paint -- if there's lead paint or not. And here, we're only repairing services disturbed during the rehab; all right? We're not doing whole house rehab. We're only repairing services to be disturbed.

When you move into the next category, we are looking at the entire unit; okay? So we're doing a risk assessment of our entire unit. We can still decide to presume if we want to but most communities do test and do a risk assessment. And then the treatment that needs to be done is interim controls or you could also do abatement. If you presume, you're going to use standard treatments and all deteriorated and friction impact services.

And then for over $25,000, again, you always have that option of presume if you want. Most communities do test and they do a risk assessment which is required for over $25,000. And you're abating all hazards. And we just wanted to remind you that anywhere lead is found or if it's presumed, you do need to be following lead safe work practices, you have to go through clearance and the notices have to be provided as well. We'll talk about what those all are as we go through the training.

So grantees have to decide whether they want to test or presume. You don't do both. You do one or the other. And this is really going to depend on how you're running your program, what kind of capacity, what kind of contractors you have in your area. You also might want to look at your portfolio.

Have you always found lead? If you've always found lead, then maybe it makes sense to do a presumption. If you've never found lead before, then you probably want to be testing everything because then you don't have to follow lead safe work practices if there's no lead in the units. You don't have to do all this extra work if there's no lead in the unit and you wouldn't know that unless you did testing.

Again, we always want to try to have our program inspector also be a certified risk assessor just so they're familiar with the terminology, what the requirements are, that type of thing. Okay. So

if you decide to do presumption, you need to follow the different categories on what needs to be done.

And so if you presume, you must treat all deteriorated painted surfaces and you potentially could be spending funds to treat painted surfaces that don't actually contain lead, because you're presuming there's lead there. You don't actually know fi there's lead there or not.

So fi you're presuming, these are the treatments for presuming. So if you're in the under $5,000 category, you have to repair all painted surfaces. So remember, if you were testing, you were only repairing surfaces to be disturbed. If you're presuming, we are now repairing all painted surfaces, regardless of whether we're disturbing them or not. So you can see the amount of work has increased because we're presuming rather than testing; right?

And then in the $5,000 to $25,000 category, you have to do standard treatments for the entire unit. And so standard treatments include paint stabilization. This is where you're repairing any physical defect in the material that meets the paint. This is -- might be the wood, the drywall, the plaster or concrete, metal or brick. So you have to do paint stabilization.

You also have to make sure you have smooth and cleanable horizontal surfaces. You have to correct all dust-generating conditions. You need to be doing treatment of their soil. Safe work practices must be used and the unit must past clearance. So if you're doing standard treatments, need to make sure you're covering all of those.

And then if you're in the over $25,000 you need to be abating all applicable surfaces; and what do we mean by applicable surfaces? These are surfaces that are being disturbed as well as surfaces that are deteriorated, all friction and impact surfaces as well as chewable surfaces and bare soil. Those all must be abated if you are presuming the presence of lead-based paint.

If you decide to presume, you need to issue a notice of presumption. This needs to be provided within 15 days of presuming that there's lead-based paint in the unit. In that notice of presumption, you need to be identifying the locations of where you're presuming the lead to be.

You also need to be identifying bare soil, dust locations, other presumed lead hazards such as windows, floors, porches, those things. So this is a sample notice of presumption. This sample form is part of our toolkit that we're starting to put together and we have posted this sample form for you on the HUD Exchange. And the link is there and it's available for you if you have -- if you need to access that.

And remember, so this is for presumption. If you do decide to conduct testing and a risk assessment, you would want to provide a notice of evaluation, and Les is going to show you what a notice of evaluation looks like, what are the components of that and where to find a sample notice of evaluation as well.

So Les, that's my last slide in my area. I know that was a lot of material; is there any questions that came in that you think we should highlight or anything you want to add to or clarify? You might be on mute, Les.

Les Warner: There we go. I hit the button but it didn't release. So we've had a number of questions that have come in, but I'll add a couple of comments and then we can visit a couple of those. So you did a great job of talking about the presumption on lead and I was just going to offer -- and I think you talked about looking at the portfolio of units that you're working with and having to try to decide whether that made sense for you to do or not.

I'll just share I worked at the state level for 20 years and headed up a rehab program for a while. And what we found was when we were doing risk assessments and testing services throughout the portfolios that we were working with, we generally found that the lead pain was kind of hit or miss.

And so kind of looked at that and realized that had we chosen to do a presumption of lead, that in many of the units that we were working in, we would have spent quite a bit of time and money on treating surfaces that actually didn't contain lead paint. And so as a program we chose for our homeowner rehab, we chose not to do presumption but do testing on everything because we felt that it was a smart way to go on how we utilized our money.

You might be working in a -- let's say a multifamily property and once you have -- maybe you did some testing in some individual units and decided that because you're seeing standardly across components, that it made sense to go ahead and simply do presumption rather than be doing more testing on this.

You also might be working at a neighborhood or in a -- maybe a subdivision that was built about the same time by the same builder and you have experience in that area kind of knowing what these houses are likely to contain. And so there are some times when it might be in good sense to say we're going to do -- we're going to use the presumption. We're going to provide the appropriate notification and follow in that way.

But just know that this is something -- you can make an evaluation of what makes sense for your program and how you're going to be spending money. I will also say that the -- one of the most common [inaudible] findings that we had in looking at lead work that had been done by grantees was that they chose to do presumption but they did not actually follow the requirements and they did not actually treat the painted surfaces.

And so it's one or the other. If you're choosing presumption, then as Kris pointed out, you are going to be treating more surfaces than just those surfaces that are being disturbed. So depending on the level you are working at and the portfolio that you're working with, you have some decisions to be able to make there.

We have a number of questions that came in about -- Kris really took us through a lot of math which I'm always glad when Kris is the one doing the math. But there were a lot of questions about, well, what if I have this [inaudible] very little federal assistance. In each of these scenarios, you're going to have go through that calculation and have that documentation in the file to be able to show or document how you made the decision on what's going to be applicable on that.

We had a couple of questions which we had last week also about when we talk about components, we talked about under the de minimis rule which we're going to be revisiting again in a couple of minutes. What are we talking about when we talk about a single component? It's sometimes something like a windowsill, some trim as part of that, and there was a great response from our HUD partners who are also helping out and said think about skinny items in your homes such as baseboards, chair rails, ground molding, doors and window trims.

These can be harder to calculate as square footage which would be -- obviously, when we're thinking about wall space, that would be much easier. And so then we generally kind of lump them into the small component category and then do our evaluation on percentage of that component on that.

So Kris, I'm going to suggest -- it's 10 minutes before the hour. I'm thinking maybe it makes sense to give folks a 10-minute break and we'll stop the recording and then start back at two o'clock and cover the second half of our training. So we're going to go ahead and jump back in and start with the next section.

One reminder, folks, for questions that you have, please use the question and answer box. So that's at the top -- at least on my screen, it's the top right-hand corner says Q&A and has a question mark on it. The chat box we're trying to use for technical issues only.

We had some comments that folks were having a little hard time hearing me which I don't think I've ever been accused of being quiet. So we're going to -- we think it's working fine at this point. If it gets a little garbled or I'm not loud enough, Kris is going to jump in and I'll turn off the video and see if that's maybe helping with the system.

So in the last section, Kris walked us through the disclosure process and so that was step one. We're now going to be looking at step two which is now evaluating the surfaces and doing an evaluation of our lead-based paint hazards. So we've got a lot of information on this chart. I will say Kris is much more skilled with her penmanship on screen but I'm going to try to do my best to kind of help to walk you through this.

So we're going to start out by talking about paint testing. And in this category, what we're doing under paint testing, which is our most minimal of our evaluation requirements, is that we're going to look at the painted surfaces to determine if they contain lead. And in this case, we're simply looking at -- we're going to test those surfaces that are going to be disturbed.

So we're not doing a surface-by-surface analysis of the entire structure but we're going to be looking at that scope of work for our project and then determining where we have surfaces that are going to be disturbed and then testing those.

And when we talk about testing, we're talking about using an XRF analyzer. We're going to talk in just a minute about what that is but it's a -- kind of a high-tech piece of equipment that's analyzing that surface to determine whether it actually includes lead paint. We also might be

taking lead samples or samples and then sending them off to a lab for them to do an analysis and determine does that paint actually contain lead or not?

Kris talked quite a bit about on presumption and so we could say, well, we're simply not going to do the paint testing but we're going to make a presumption about those painted surfaces. But as Kris mentioned, when we switch to doing presumption, then it's going to be any painted surface that's not being replaced.

So when we did testing, we were only looking at surfaces that were going to be disturbed by the work that we were doing. If we choose not to test and we do presumption, then we're going to have to follow our presumption and be -- essentially all painted surfaces in the property are going to be considered to be -- contain lead paint and will have to be treated appropriately. So we might have unstable surfaces that we weren't touching but if we're presuming then we're going to have to deal with that.

So I think for a lot of folks, more of what -- you're doing more of the project, at least in my experience, fall within this risk assessment category. And so this, instead of being just restricted to the surfaces that we're going to be disturbing, we're going to be doing an analysis of the property essentially surface by surface and looking at not only painted surfaces but also looking at dust levels.

So we're thinking about where we have friction surfaces like windows or doors that are generating lead. But also thinking about things like bare soil where there could be lead contamination. We're going to have kids playing in that bare soil. And so we're trying to eliminate the risk for this household that's going to be occupying that unit and the surrounding area.

Water is not part of the requirement on this but it's something that you could, as a program, choose to include as an option on that. And so the reason that we're going to do the risk assessment is then to come up with a list of interim controls that we're going to put in place as part of this to try to lower or reduce those lead hazard risks as part of this.

So we can be doing this as part of rehab, we might be doing this risk assessment as part of a sale of a property where in some cases we might be doing that with a rental property, doing it at turnover on that unit. And so we're either going to be identifying and coming up with some control actions to take or we would be documenting that there's an absence of lead hazards.

So as I mentioned of the rehab programs I worked with, we often found that the same house might have three [inaudible] bedrooms. The baseboard has no lead paint. Bedroom number four, lead paint is on all painted surfaces on that. So it can be very hit or miss and we're using our risk assessment to make that determination.

So in that case, we're generally going to be using an XRF machine but also we may be taking dust samples as part of that. And so our final outcome on this is that we're going to have a lead hazard control plan.

And so that plan's going to not only identify, it's going to list out, where did we look? What was all of our testing protocol on this? But it's also then going to come up with options for interim controls. Or it might be saying that this is actually a property that doesn't have any lead hazards and give us a certification of that.

This is going to be sort of our by piece for them when we think about going forward with rehabilitation what we need to incorporate in that scope of work to deal with those identified lead paint hazards.

Now Kris mentioned earlier about when we're dealing -- if we were dealing with a child with an elevated blood lead level. She used the term EBLL. That's not part of J. Honestly, we won't really be talking about that but what this note here is at the bottom is that if you were dealing with an EBLL child and we were doing what's referred to as environmental investigation, which it broader than just the unit, it's going to incorporate a risk assessment of the unit itself and then look at other environmental areas where that child might be picking up those lead hazards.

When we are triggering a lead-based paint inspection, and we'll talk about these categories in a minute, then surface determine if we have lead paint present and then -- and that's going to be done by a sampling of paint surfaces. We'll be talking a little bit more about those options on sampling techniques.

And the purpose of this then is for abatement. We're going to be determining what work needs to be done and, again, we'll build out our specifications for that. So, again, we'll have a final report which will let us know where the testing was done, what they found, where they found lead-based paint hazards in that property and at what concentrations.

And again, that's going to be the basis for then determining the scope of work that we're going to be completing on that. And combining that risk assessment and inspection would be most cost-effective rather than doing these separately.

All right. We talked about this before and I think we particularly want to point out what we're testing for. So when we're dealing with paint, we have some change under the EPA standards. So our standards for the paint itself has not changed but where the EPA has updated this is for the dust standards.

So when we're determining whether this is a lead hazard and we're looking at the presence of dust using our wipe samples that are going to be analyzed by a lab, they're looking for that concentration of lead which is generated -- is found in the dust. So the new EPA standards, which went into effect in January of last year, are lower than what the older or I guess you could say more stringent in what is acceptable in that dust sample.

So we're further refining what's actually a safe lead level for dust. Now, I will mention that for those of you that are in states who administer their own EPA authorization on this were given a little bit of extra time and so they actually have until January 6th of 2022 to comply with that. And so you need to know that these standards have changed. Make sure that the lab that you are working with is aware of what those standards are that would apply as part of that.

To find out if you work in an EPA-authorized state, we provided a link at the bottom of your screen and that will take you to a website which will not only identify those states but also provide contact information for that.

So you'll notice here that for bare soil, we have a [inaudible] place we talked about as part of our risk assessment that we would also be looking at their soil. And so we would be testing that soil to determine how much lead, dust or lead contamination is contained in that soil. And we have two different standards, one for a play area where we expect the children will be playing in, and one for non-play areas.

So we need to be able to identify where is this test coming from, does this fall into the category or a play area or a non-play area. And then that's going to then determine whether we have hazard reduction work that will need to be done for that. And then again, we mentioned that water is an optional requirement here but we do have a standard in place, the EPA standard on what is acceptable on that.

So those are the EPA dust standards that we particularly need you to be aware of that have changed. For some of you that worked with the program for a while, I mean, may need to go back, look at some of your documentation, make sure everybody's up to speed.

So nothing better than having a picture to be able to show what we're talking about when we talk about an XRF device. So kind of high tech. Looks like something in Star Wars that you're going to have, but essentially, it's an X-ray fluorescence that is looking at the elemental composition of the materials.

And so we're not having to chip -- gauge out the paint and send it off to a lab, but we're actually able to do this refractive process and be able to determine the lead concentration. And so we would have test points throughout the unit that we were testing and that would be identified in our report. And then the printout from this would then show for each of those test sites what the level of lead was found for that.

And so make sure you understand that the XRF tests, they test and measure the surface to the substrate. So they're looking at multiple layers and they're testing for lead-based paint which is a bit different than a risk assessment without an XRF or a inspection is able to do. Kind of a high tech -- this is, I would think, probably what we predominantly see on this.

So if you're new to this, you might be saying, well. Where am I going to -- I don't have an XRF. I'm not trained to be able to do that. So many programs are going to hire someone to be able to do that. You certainly could have -- purchase equipment, have your own staff that was trained and be able to do that in-house. But you -- as many folks would do would be issue an RFP or an RFQ.

So if our federal procurement requirements apply to you, then you would be using this request for proposal, which is what an RFP is, or request for qualifications, and go through the process of procuring that kind of technical assistance. So we would need to know that the vender that we

were procuring had the appropriate license and certification requirements and we would be specifying as part of that procurement what level they were going to be doing.

Are we expecting that they're going to be doing risk assessments or may they be doing inspections or clearance testing or any combination? I think if you were to kind of pull folks who are working with the lead safe housing rule, we probably are contracting out most of that work at this point.

We will talk about, as we go alone, one of the planning elements not only would be making sure that procurement had been done but thinking about how many units am I going to be doing within a year? What's the level of availability?

You know, if one person that I procure has the capacity to do a certain number of units per month, depending on the volume of my particular program, I may need to procure several venders so that I have the availability of that capacity of when I'm working at sort of peak levels on that. There are some HUD guidelines which provide more information about testing and the firms for that.

Another source for that would be to work with your local EPA and on their lead home page, they typically will have a listing of certified renovation firms and RRP trained providers. They will also have information about RRP training that's available. So depending on your local program and what you currently are doing, in the early days of the lead safe housing rule, we were really struggling to get contractors to go through the certification training so that we had an adequate supply of certified contractors.

You may at this point have a good supply and you're simply needing to identify all those that are available. In other cases, you may be working with contractors in your pool and trying to get them to get appropriate training and certification so that you're going to have an adequate supply of appropriately qualified contractors.

Another source that you might use -- and there may be folks on this call who have not done much rehabilitation work in the past and so you're sort of building out your program. Typically, local entitlement, so that might be a city, a county, will have -- if they have been running programs such as CDBG and HOME that have done a lot of rehabilitation, they may have a list that they're using in your local community of firms that they've been working with and individuals. They may have some information about their track record and that may be another source to get some referrals to fill out to identify folks that would be [inaudible] work with your program.

Also, we have grantees across the country who have received HUD lead-based [inaudible] hazard control awards and so they have quite a lot of capacity. And so they may be a good reference. And we've provided a link on this slide to those grantees so you can identify, is there actually a lead-based paint hazard control grant in my area? And be able to then make contact with those individuals as a resource. Kris, just checking. Is the sound [inaudible] to be --

Kris Richmond: Yeah. The sound is just getting a little more garbled. It was clear for a while but it's starting to get garbled again. Can maybe turn the camera off for a bit.

Les Warner: Yep. We will do.

Kris Richmond: Thanks.

Les Warner: I know that [inaudible] my face but I think you'll have to put up with it. All right. Hopefully that will help a little bit with the sound. So we want to talk about this connection between the lead safe housing rule and the EPA regulations. So the lead safe housing rule incorporates those or cites the EPA regulations and so we've provided the reference 24 CRF.

CRF is code of federal regulations and then this is found at 35.1320. And so lead-based paint inspections to be performed according to the methods and standards established by the state and authorized by EPA. And so as those EPA standards might be updated over time, they are referenced in the lead safe housing rule and so they would apply as they change.

All right. So let's talk a little bit more about a risk assessment. And so we looked at the visual a couple slides ago about that, but let's just talk a little bit more. So with a risk assessment, we're going to be doing an on-site investigation. And what we're looking for is, do we have lead-based paint? But looking then at where it is, the nature and severity of that. And so as part of that, we're going to be using a certified risk assessor.

So we had a number of questions that came in last week where folks said, I -- maybe you're doing homebuyer assistance and you've got some rehab that's part of that. And the seller of that property, their realtor had done an inspection on this. You're required to have a certified risk assessor on this when you're -- when a risk assessment is required. So there's really no substitution for that.

And as part of that, as we mentioned, we need that risk assessment report which is going to then report out not only the visual inspection that was done but also the location, the levels of lead, presence of dust hazards on that property. And it gives us the outline of a lead hazard control which is going to be part of the basis for developing the scope of work that is going to be needed as part of that.

So a visual inspection is part of this and it's done to locate deteriorating paint and then those are surface that, when we identify that we have deteriorated paint, we don't at that point know, is it lead point and so does it actually present a hazard? If we test it and we determine it's not lead paint, then we're going to correct that surface but we're not having to do the same protocols that we would if it was lead paint and creating a hazard.

So we're collecting all the information about the physical characteristics of that dwelling, looking at occupant patterns such as when we talked about play areas and bare soil because we're trying to calculate where does this unit and its surrounding area, its common area, where does that lead to lead exposures to a child under the age of six?

And every time we mention this under the age of six, I think folks then think, oh wait. If I don't have a child that's under the age of six, I don't have to do this? No. So when we are talking about under Subpart J, we are going to be following -- we're triggering the lead safe housing rule whether there is a child in that unit or not because we're concerned about -- we're making investments in our supply of affordable housing.

And so we're trying to make sure that through the investment of our federal dollars that we are over time kind of working away at our affordable housing supply to make it safer for its inhabitants. And we expect that with affordable housing, since it's not restricted, that there might not be a child under six years of age presently in this unit but there may well be in the future. And so we are going to be implementing this no matter who the actual occupants are presently for that unit.

We have talked about the exception where this is a restricted unit for elderly or the handicapped, but that's only going to be in those exceptional situations. So we're testing al of our friction or impact surfaces with deteriorated paint, making sure whether we have lead-based paint.

So when we talk about friction surfaces, as I mentioned, that's things like windows where we're going to be sliding that sash up and down to open the window. That's causing painted surface to have impact from friction and that may be well creating some of the dust that's being created. Also, things like doors and the frames around the door, stair rails, stairs. Sometimes we have painted floors. And so we're looking for those friction surfaces.

We're also going to be testing with -- for dust samples, places where we would expect that dust would build up over time. So windowsills are one of those areas that with that friction surface, that we would see dust build up in the window well over time. So we're going to be taking dust samples. We're going to be wiping that area, sending it off to a lab, and determining what is the level of lead within that sample to determine whether this presents a hazard or not? Same thing with floors and other areas.

And then as we mentioned, dust samples. So we talked about any -- or soil samples. Any time we have bare soil -- we also mentioned about where we have bare soil with that is a -- we expect to be a play area for children. We want to test those as part of our risk assessment to make sure that if it is a lead hazard, we want to make sure that it's going to be treated.

So as I mentioned, our risk assessment report is going to give us a preliminary report on what those hazard reduction actions should be. And that's really sort of our preliminary on -- starting point for the rehabilitation specs. So we're going to use that risk assessment report as sort of our starting point to build out the rehabilitation specifications.

Kris mentioned we probably want to have that done specifically we're going to have that done with a risk assessor doing those specifications. And so that might be someone that is in-house on your staff, that might be someone that you are contracting with. So when Kris was talking about key players or key staff, need to think about, okay. So not only, who's going to do the testing? But, do we have someone that is a risk assessor who's going to put together those preliminary rehabilitation specifications?

So we mentioned that the risk assessment report is going to be completed by a certified risk assessor or a firm that's conducting that risk assessment. And it's going to lay out within that report a lot of information about the testing work that was done including options for how they're going to -- how they recommend that you reduce those identified hazards.

So as I mentioned, the report's going to the property specifics, what their testing methodologies were, and it included all those testing results. So the XRF printed out the lab analysis that came back and it will also then include this lead hazard control plan. There is a linkage to use for a risk assessment report checklist which I think will help in kind of walking you through some of the details as you're looking at that report.

So let's talk a little bit then about the lead hazard evaluation notice. So we've been talking about disclosure is a really important part of our protocol. So not only up front are we going to give folks basic information, but at the point that our lead hazard evaluation has been done, we're going to be providing that information to the owner, to the occupants of that property.

And so we're showing you a sample notice on this which is going to list out the address and then identify what was the level of testing or evaluation that was done? Was it the paint inspection that we talked about on looking at only the disturbed painted surfaces? Were we actually doing paint testing or did we do a risk assessment for that unit?

We're going to list the date. And then as part of that, we're going to provide a summary of the results. So we don't necessarily need to provide them the printout from the XRF machine listing surface by surface as part of that, but we need to make sure that that information is being provided about what was the outcome on this?

Now, as Kris mentioned, we may in some cases have folks that rather than doing the required testing have chosen to do a presumption and there is a separate, which she showed you at the last -- at the end of our last section, there is a notice of presumption that would be issued, in that case, instead of our lead hazard evaluation notice on that. And we did provide a link here for the sample notices for you to be able to pull that up.

All right. So when we talk about how we're going to provide that, notice we have some different protocols depending on the type of building that you're working with. If we're working with single-family buildings, then that report's going to go directly to that homeowner. In some cases, we're going to have tenants. We have to make sure that not only the owner of that property would be given that notice but that tenant who is occupying that unit is going to need to be provided that information.

In multifamily buildings, we have a choice here. We could do a distribution to each of the households or we could post those notices in central location where all residents can access that. So depending on what that configuration of the multifamily building is, it may be that folks are going to be coming to one central location to enter the building or maybe to get their mail. And so that centralized posting might work but in other multifamily buildings, probably it's going to make more sense to do that distribution on a household by household basis.

We need to, as part of our file for compliance, to be able to show that those notices and reports were made available to the residents. So you might be having -- if you're doing posting, then you would have evidence of that, the posting that went up, where that posting was. If it were me, I think I'd have a photograph of that.

If we're delivering notices directly to households, typically folks are simply going to have an attached receipt that that household is going to find and say, yes. I did receive this notification. For some of our notices, folks try to send those as registered mail. But in -- depending on the population you're serving, registered mail never provides any good news and so sometimes we have difficulty in getting those picked up.

So that's talking about our step two, which is our evaluation process. So once we've completed the evaluation, now we have to think about, so what's our treatment going to be? What's -- what are we going to do now that we've evaluated that?

So Kris took us through the calculation on determining our levels, so whether we're under the $5,000 level. In that case, then we're going to be doing repair of the surfaces that are being disturbed. So a more minimal approach with more minimal dollars that are part of that.

If our rehab is falling in this $5,000 to $25,000 character, or category, then we're going to, based on our risk assessment, going to have a set of measures that we're going to put in place to reduce the lead hazards for that property. And so it's not just surfaces that we are disturbing as part of our rehab, but it's also addressing all of those areas where we've determined that there is a risk hazard. So we've determined that there is a friction surface. We've determined that we have a higher -- we have levels of lead that are unacceptable.

And so we're going to be treating those with interim controls. Doesn't necessarily mean that we are going to be removing all of that lead, but we're going to take actions that would limit or reduce the hazard that's being generated from the presence of the lead.

If we are above the $25,000 level, then we're going to permanently eliminate those hazards. So we might be removing the lead from that structure. Maybe we're going to take out -- let's say we've tested and we've determined that all of our doors and the door surrounds contain lead. We might be eliminating and putting new doors into those units.

Maybe we determined that our windows are all lead hazards that are creating unacceptable levels of lead dust and so we might be taking those windows out and replacing them with lead-free windows.

In other cases, we might be doing things where we are going to encapsulate or enclose. And so maybe we're going to put drywall over where we have some lead or we're going to do something to protect that surface. And we would always be following acceptable protocol. We have quite a bit of guidance on what would be an acceptable level on that.

So when we talk about interim controls, we're going to be talking about things like paint stabilization, dust removal. It might be preventive maintenance. And then treating all or some of the friction and impact surfaces.

When we talk about things like bare soil, we might be planting grass, we might be mulching so that -- we are putting an interim control in that protects that -- the occupants of that unit from further contact or reduces the level of hazard to an acceptable level for that. So difference between interim controls and abatement is abatement is a permanent elimination of those paint hazards rather than the paint itself.

So when we look at those treatments that we're going to be putting in place, for repair category since we're dealing with the painted surfaces that we're going to be disturbing during our rehab work, we're going to deal with those individual surfaces, prep that surface in a lead safe manner, apply a new coating -- it might be a coating of paint on that.

We're going to contain our work area when we're working on that, do appropriate cleaning as we complete it. So we want to make sure that we're not creating a hazard as we're doing that work. And then we're going to do clearance testing to make sure that where we have disturbed a painted surface that included lead paint that we've now found that we've done that work appropriately. We've cleaned up any contamination and we now have eliminated that lead hazard.

For interim controls, as we mentioned, we're going to be doing appropriate repairs. Might be painting. Might be some kind of containment that we're doing, but we're also going to be doing specialized cleaning. So when we have existing lead hazards, we have a buildup of lead dust in that unit.

And so as part of our work, we are removing those contaminations that have built up over time. And part of our education with those occupants is that they also need, as part of an ongoing maintenance, to be mindful of an -- doing ongoing maintenance to make sure that they can maintain that lead safe environment.

So that's part of our resident education aspect Because we are simply doing a temporary reduction or limitation. We're trying to control some of those sources that are creating those hazards. We haven't necessarily eliminated that.

When we're doing abatement as we talked about, we're taking permanent measures. So we're going to be removing. We might be encapsulating or simply replacing those components as part of that. And then as we're going to do in each of our areas, we're going to be then doing a cleanup as part of that and doing clearance testing to make sure that when we're completed with that project, we have brought those lead hazards to the required acceptable levels.

All right. So let's switch gears a little bit and talk about planning for rehabilitation. So we've talked through what the required testing is that's going to have to be done. We've talked through about the lead reduction work that would need to be done. But then you really need to think

about, okay. How is this going to work? Who is going to be doing this? Do I have appropriate staff? Do they have appropriate certification in place?

So thinking about what are all the steps as part of this and who's going to be completing that work? Part of that's going to be a decision as we mentioned earlier about is this something that I either have in-house capacity or I'm going to work to build that capacity? Or might I then be needing to actually hire that out?

If so, presumably if I -- a lot of you are going to be triggering federal procurement requirements so you're going to need some time to be able to go through that process issuing an RFP or an RFQ, going through that process of procuring those contractors, having them in place. And so that's going to take -- that requires some preplanning to have all of those players in place that would be needed.

As part of that also thinking about the timing and sequencing of rehab and the hazard reduction. So we would have some -- I think if you looked at -- let's use the example of single-family rehabilitation. In the programs that I worked with, we typically had -- we were using contractors that were certified. And so they were doing all of the rehabilitation.

So if they were removing a lead -- let's say they were removing the windows in the unit for -- to remove that lead hazard. That could be done by the same contractor who then was going to be installing the new windows if they were certified.

In other projects, and I would think particularly what you're doing with multifamily, it may make sense to be able to stage that so you have your lead contractors coming in removing those components, doing the cleanup and the clearance testing and then essentially turning that site, those units over to your general contractor who's going to come back in, do the rest of the buildout, installing let's say the windows and doors for that.

In the early days, some of the smaller programs with single family tried to do that and ran into issues where the lead contractor removed all of the windows, completed their work, but the general contractor wasn't quite ready to start. And so we had units that, because of that sequencing, we had some timing issues. So it's one of the things to plan in advance how that's going to work.

If we're using both our lead contractors and general contractors, really thinking about that sequencing and making sure they're going to be able to follow an appropriate order to be able to get that done. We also need to think about the occupants. And so we may need to be doing temporary relocation as part of that process.

So we need to be analyzing what work is going to be done so looking at that scope of work to determine whether it's appropriate for that household to remain on site or whether we temporarily need to move them out. So we have a number of ways to be able to do that.

We might have a project that's not going to actually disturb any lead-based paint and so there would be -- sort of the usual interruption for that household while we had work happening in

their unit, but we would not have this issue of trying to protect them from lead hazards as part of this.

In some cases, we might have exterior work only and we're going to be able to essentially seal of those connections to the interior space while that work is being done. So obviously if we're working on the outside doing lead hazard remediation work, we want to make sure that all the windows and the doors are kept closed. We don't want people walking in and out and then tracking any lead contamination that was happening outside while that work was being done.

In some cases, we're able to complete that work during an eight-hour period. But keep in mind, this means that we also have to be able to test and clear that area to say that yes. It's safe for you to reoccupy that area.

You might be dealing with a unit -- maybe we've tested. Let's say we have a single-family unit and we've determined that there are only a couple of spots in that structure that actually have lead-based paint. So maybe we've got a bedroom and we've got some other space in that unit that can be cordoned off. So we could protect the rest of the unit and the occupants from any contamination from that work being done and we would -- they would have access to bathrooms, kitchen, sleeping areas so they could functionally occupy that unit while having those areas sealed off until the work had been completed, the cleanup had been done and then appropriate clearance testing before we could let that -- those occupants reoccupy those units.

I will say one of the things you need to think about as a program in those situations is how is that going to work? If I have sealed off a work area after the contractors leave for the day, am I confident that I'm not going to have occupants actually go into those work areas? Also thinking about, if I'm going to have an area that I'm going to have work done in, it's not only the occupants that may need to be relocated but their possessions will need to be protected in some way, generally moved from that work area.

So that's part of the preplanning on thinking about, okay. How is this going to work? Am I going to need to temporarily relocate these occupants? Am I going to need their -- to move their possessions? Am I going to provide storage for that? So that all needs to be part of the preplanning on that. And all of this needs to be incorporated then into the specifications that are being written and sort of the staffing that's going to be done as part of this project.

So one of our key steps here as part of our planning is to make sure that we have appropriate contractors in place. So as part of our procurement process, we're going to need to make sure that we are checking to make sure that those contractors are qualified.

So most of our projects are going to be requiring some kind of bidding, whether it's a full [inaudible] procurement bidding or whether we might be doing single-family rehab where the contract was going to be between the homeowner and the contractor and so we might not be triggering federal procurement but we're going through a bidding process to get the lowest responsive and responsible bid for this.

So as part of those bids that are being submitted, we would require that those contractors submit all of the certification information about themselves and their workers. Another option on that would be for a program to do an annual prequalification. And so establish essentially a pool of contractors who have been prequalified.

And, frankly, a lot of programs do a prequalified pool of contractors even if there wasn't lead involved. They want to make sure that folks have the appropriate bonding and insurance in place. They're kind of tracking to see, have we used you before? Do you meet our requirements as far as being a dependable contractor?

So you could use this opt out to simply do a prequalified list of contractors but you also may need to be checking then on a bid-by-bid basis about turnover or change in their staff to make sure that they are -- have the appropriate training in place.

You'll note we have a note here about the EPA and RRP requirements. WE need to make sure that they are trained and certified if they're going to work in a pre-1978 unit. And that also applies if we were working on a child occupied facility, regardless of the funding source, on that.

One of the things I'll just reiterate on this, that if the hazard abatement -- if the job calls for hazard abatement, then we need to have proof that they are actually an abatement firm and that the RRP firm and abatement worker certificates are submitted with that bid. So depending on the level of work that's being done will determine the level of certifications that needs to be included and reviewed by staff as we're going through the contracting process.

All right. So let's talk a little bit about the EPA renovation repair and painting rule. We kind of mentioned this a number of times earlier but it's kind of important on this. So the EPA rule protects not only units that are being funded with federal dollars but it's where we have disturbance of lead-based paint in homes, childcare facilities and preschools that are built before 1978.

So in those situations, which would be a lot of work that's being done outside of our HUD-funded projects, those entities are going to have to have their firms certified by the EPA or in some cases we have the state authorized on that. And they're going to be using certified renovators who are trained by EPA approved training providers.

So we mentioned earlier and provided the reference that looking at the EPA site in your state will provide a list of who those EPA approved trainers are for your area. They would also need to be following lead safe work practices. We mentioned as part of disclosure I think in the first week about -- talking about the renovate right pamphlet that would needed to be provided.

And keep in mind, there are civil penalties that can be in place over $41,000 per-unit. So not an insignificant amount on this. And as Kris mentioned, we are going to have contractors who are -- meet the RRP requirements but may not have worked with -- under the lead safe housing rule with HUD-funded programs. So we're going to have to be very specific in our procurement process and making sure that we have the appropriate certifications in place.

We want to do a little bit of a side-by-side on what's the difference between the lead safe housing rule and the RRP rule and how does that impact as we're thinking about how we're going to plan for our projects? So I think the -- sort of the overall on this is that lead safe housing role in most cases is going to be more stringent.

So let's talk about on the testing or evaluation process, lead safe housing rule requires that we've got a lead-based paint inspector or risk assessor. So we're not able to use anyone else to be able to do that certification. And you'll see under the EPA that they're able to use a test kit.

So I don't know if you're seen little sort of sticks that you break to release the chemical and they're going to make -- you're going to be dabbing that on a painted surface and it will turn a color to indicate whether there is lead-based paint or not. That's acceptable under the EPA rule. That is not acceptable under the lead safe housing rule. So quite a difference there.

Also, on training, our work with some supervisors have to have created the HUD-approved curriculum. Our renovating firms have to be certified and then we have to have at least one certified renovator at the job as part of that. Now, in some cases, we could have non-certified renovation workers receiving on-the-job training but they have to be at all times supervised by a certified lead-based paint abatement supervisor.

And so we're going to be needing to verify as we are procuring contractors and making sure they have appropriate certifications in place, about not only the contractor themselves but also about the workers and how they're going to meet the requirements of this rule.

Under the EPA rule, we have to have certified firms and completed the training program for that. And so they're only required to have -- the certified [inaudible] themselves require to have classroom trainings. The workers could simply be receiving on-the-job training which we do sort of have an out for but in -- under the lead safe housing rule, they have to at all times be supervised.

So it can't be that we simply have the contractor giving some training and then setting his workers loose but they're not there working alongside, supervising as that work is being done. And so after or pre-renovation, we are going to include complying with the EPA's prerenovation education rule and that we talked about the brochure, the pamphlet being provided that's listed here under the EPA rule.

So some differences here. We need to make sure, as Kris mentioned, that our contractors who we're working with are actually familiar with the lead safe housing rule and are operating under the direct protocol. We also have some key differences on when they're actually working on the job.

So it's going to depend on, under the lead safe housing rule, what level of treatment is going to be required. So we might be doing interim controls for that including ongoing lead-based paint maintenance on that. For the EPA, generally, we're simply talking about using lead safe work practices.

So the EPA rule is really focusing on where a lot of lead hazard is created is where we have a contractor coming in, doing work, disturbing lead and then not essentially following lead safe work practices and cleaning up after they have completed that work. And so we may have lead hazards that are strictly created when the work is being done.

So that's kind of the focus of the EPA rule whereas our lead safe housing rule is really trying to eliminate or control lead hazard risks ongoing because we're making investments in part of our affordable housing supply.

So we have some key differences in work practices. So you'll see the EPA only has three prohibited work practices, this open-flame burning or torching heat [inaudible] above 1,100 degrees and then machine removal without using a hepa vac which is going to be capturing any dust or materials that are being generated from that work.

So HUD has all of EPA's requirements but it also has a prohibition on heat guns that are going to tar paint. It prohibits dry scraping or sanding farther than one foot of electrical outlets. And then we cannot use strippers in poorly ventilated areas. And so we need to make sure that our contractors are aware, as Kris mentioned, about the differences on this.

Another key difference here is also the de minimis rule. So under the HUD rule, we talked -- let's see if my penmanship can pull this off. We talked about two square feet was our test on our de minimis rule under the HUD rule. EPA allows for six square feet. So if we're looking at that wall and we're disturbing paint, our evaluation of whether we actually have to follow lead safe work practices is going to be different on this or not.

So when we have, under the HUD rule, that de minimis -- and I oftentimes use the example of let's say we are replacing a furnace and we're then going to put in a new thermostat which is mounted on a painted surface. That's going to be less than that wall space that we're going to be disturbing with the thermostat switch out. It's going to be less than a two square foot requirement and so that is going to fit within our lead safe housing rule de minimis on that.

We mentioned that we are not required to use the lead safe work practices. Certainly, it's recommended on that. So big difference between these two requirements, and again, something that we need to make sure that our workers understand and our inspectors, who may be visiting that worksite as work is being completed, would need to be aware of that.

So then let's talk about at the end of the job. So when the job has been completed, we need to be able to determine that we now have either eliminated -- we've eliminated the lead hazards for that unit. In some cases, we've eliminated all lead paint. In other cases, we've simply encapsulated or enclosed in some way.

So the completion of our project, we're going to be inspecting to make sure all of that work was completed, that it followed the specifications that were in place for all of our hazard reduction and abatement work, that we're -- they're going to be a scientific cleaning that's been done. But also making sure that we have a third party having done a clearance exam on this.

EPA rule, on the other hand, simply allows the renovator themselves to do a verification. It doesn't include any laboratory analysis. Also, we have a requirement that HUD requires that the occupants are going to be notified. That needs to be -- happen within 15 days. That's not part of the EPA's rule.

So as part of this, you as the grantee would need to be monitoring construction, making sure that the protocols that you have put in place are being followed, that the protections for the occupants have handled, that the cleanup is being done appropriately and workers are using the appropriate protections that have been outlined in your specifications.

Talked a little bit earlier about protecting the belongings and the worksite. And so we have a standard form to walk through to determine, have they been appropriately protected or do we have occupants in and their belongings in that workplace and will we need to relocate them and their possessions to a safe location? And so that would be part of our planning as we mentioned earlier, to make sure that that has been handled.

So our final step in going through our projects is to make sure then that clearance has been completed. So our hazard reduction work is really not done and we're not going to be paying anyone until we've passed that clearance testing that we've talked about.

Its' going to be performed by a certified risk assessor or a paint inspector if you have those working in your area. And the purpose if here to make sure that that work was done completely. It's going to be done by a third party, so we're not going to have the contractor themselves inspecting their own work.

In some cases, we're going to have a -- we're going to find that they have not met the clearance and we're going to have them go back, do additional cleaning before we're actually going to make that payment. We might have some times where we're doing some interim clearance where we're going to have some non-lead workers coming in and out of that site.

So the way we're going to do clearance, as we talked about earlier, is dust sample [inaudible] from specified locations and then they're going to be tested by an accredited lab to determine that the levels that we're finding, and here we've got our dust clearance levels listed, are now down at acceptable levels.

At that point, then we have completed our job. So as part of our clearance testing, we're going to be doing a visual assessment, determining that all the work has been completed, a dust sampling, the testing of those samples, preparation of a report. As I mentioned, if we find that there's a failure on any of those areas, then generally it's going to be going back, recleaning and then conducting another clearance test. We're going to keep doing that until all has been completed.

And then our final process when we have completed our clearance, we've completed the work, is we're going to then report back. So the occupants are going to receive a notice of hazard reduction. Has to happen within 15 days of completion of the work. And it simply lets them know all the work that was done, the clearance testing, the dust locations or locations and lab

results, letting them know that now the unit that they occupy is at acceptable levels and has passed clearance.

That would go to an occupant. That would go to an owner of that property. Here is a visual for a sample notice of lead hazard reduction which would include the information. There's also a linkage here for a sample notice that you can pull up and be able to utilize.

So finally, and I know we're just a couple of minutes running over here, we've identified some additional resources for you to be able to use. So we have a landing page on the HUD Exchange on lead-based paint which has a lot of the resources related to the regulations, to some of the guidance. Materials are also posted here.

If you're not familiar with this, I really recommend that you save this as a favorite. Within that, we also have, as Kris I think mentioned last week, we have a guide for evaluation and control of lead-based paint. This gives you all the details, all the protocol for evaluation and control and this is sort of the bible to go to. And that would be something that we think a lot of you are going to be referencing on an ongoing basis. And we've provided a link for that.

And then we also have a link for the regulations themselves, for information about lead training, a link for the EPA's page we mentioned earlier. We provided a link to some of the state lead programs. And then we mentioned last week the compliance advisor, which is sort of an automated system to kind of walk you through and evaluating projects. And then again a link for lead-based paint regulations.

And just note this bottom link on contact. So as we mentioned before, we're happy to answer questions as part of this session and in tomorrow's office hours session, but as an ongoing basis, this is the linkage that you would use to ask additional questions.

So here's just a reminder. Today, we completed session two. Next week, the second half of Subpart J. We're going to be looking at the construction phase, so those of you doing rehabilitation need to participate next week also. And tomorrow, we will also have our office hour session which we have homework that we've asked you to do in advance of that which we'll review tomorrow and then answer additional questions. Kris, I know we're a little over; anything else we need to cover before we let folks go for the day?

Kris Richmond: I would just remind folks about the homework. We have homework listed on the link that was provided to you. We're going to be going over an initial work writeup and cost estimate. So please take a little bit of time this afternoon or tomorrow morning to do the homework and we will gather again tomorrow at one p.m. Eastern time to review the answer of that homework as well as try to answer any questions that you've had.

And I do want to thank the HUD staff that's been able to join us, again, because we've had over 80 questions come in the Q&A and about 15 others come in through the chat. So people have been really busy typing in their questions and I really appreciate the support we have from HUD today as well. So thanks, Les.

Les Warner: Thanks everybody. We hope to see you tomorrow in the office hours session and next week for the second half of Subpart J.

(END)