

Lead Safe Housing Rule Webinar Series

Subpart K - Acquisition, Leasing, Support Services, and Operations

Wednesday, February 24, 2021

Kris Richmond: Great. Thanks, Paul. Thanks, everybody, for joining us today. My name is Kris Richmond. I am accompanied by my colleague today, Les Warner. And then we have actually three HUD staff here with us today.

I'm really thankful to have Bruce Haber, Karen Griego and Jerry Freese with us at the Office of Lead Hazard Control and Healthy Homes. That's what this OLHCHH is.

Our HUD team is going to be answering questions in the Q&A box. So please make sure you put those questions in the Q&A box. They're not looking at the chat box. The chat box is for Paul or host if you're having any technical difficulties. But for questions, please go ahead and put those in the Q&A box.

So just a reminder for folks. This was a four-week series. So we all got together the first week for the Lead Safe Housing Rule basics. And then the last two sessions we were following Subpart J for rehab, and today we're following Subpart K.

So a number of you have been with us all four weeks. We're glad you can spend your Wednesdays and Thursdays with us. If you were only here the first week because you don't do any kind of rehab and you're here today, we're glad that you're back.

But we are going to go over a couple of the slides we went over the first week, too, just in case. It's been a couple of weeks. You've been working on a lot of other things, and you've forgotten a couple of things. So we're going to remind you about some of that as well.

There are recordings available on the training page. So if you decided that you did want to hear those two weeks that you weren't -- did not attend, please go back. Those sessions are linked on that page, and you can listen to that.

If you have other colleagues that are wanting to attend this training and we were at full capacity - - we had over 1,000 people register -- we are going to be presenting this again in the middle of May live. But if they can't wait until May, they can always go and listen to the recordings as well.

So as I said, we are at session four, and we are going to be focusing on subparts K, acquisition, leasing, support services, and operation programs. You might hear Les and I refer to this sometimes as ALSSO. That's our shortcut for acquisition, leasing, support services, and operation. So that's what we're going to focus on today.

So we have a really short time together and there's a lot of information. So just a couple goals that we tried to set for ourselves today. Want to have a better understanding of the federal lead-based paint regulations. Those are found at 24 CFR part 35.

We're really going to be focusing on Subpart K today, the acquisition, leaseings for services, and operations. What are the programs that are triggering Subpart K? What are the activity that you're undertaking Subpart K? And then how do we handle that? How do we handle these pre-'78 units that might be triggering our Lead Safe Housing Rule?

We're going to talk about some of the documentation, some of the types of visual assessments. What's the treatments that we need to do? What are some of the notifications that have to be done? So we'll be talking about those different things.

We're going to go over a couple of different key terms and then just show you some available resources. There are a couple resources I'm going to refer to that are not mentioned at the very end of this module, but they are provided at the end of module one.

So hopefully, you were all with this at module one. And so, for example, if I say, hey, go back to the HUD guidelines, I don't think we provide a link in this module, but there is a link in the module one material. So go back there and look at that, or we can during the break. I can type that into the chat so everybody can see it.

All right. So sometimes people are confused about what activity is included in Subpart K. So remember today we are looking at Subpart K, and so it's limited to acquisition, leasing, support services, or operations.

Quite often people that are working with special needs populations will say, well, I'm doing project-based assistance. Well, project-based assistance is subpart H; right? Or others will say, oh, I do tenant-based rental assistance. I'm using my home money to do tenant-based rental assistance or I'm using housing choice voucher type of program. That's found and subpart M as in Maryland.

Then we have others that say, well, I'm doing acquisition and rehab, but it's over \$5,000 per unit. Well, that's Subpart J; right? Or if you're doing any kind of a mortgage insurance or sale of federally owned housing, that's subpart C.

So we're not going to talk about these other subparts. Today we are solely focusing on Subpart K; right? So you just need to think about what are you doing? Are you doing acquisition? Are you doing leasing, support services, or operations? And if you are, then Subpart K is what we're going to be -- that's the one that's going to be triggered for those activities.

If you're doing any of these others, you might have to go back and look in the regulations to see what's required. We're not going to review those. Good news is that Subpart J we did do the last two weeks. You can go back and listen to those recordings.

And last summer -- not last year. Last, last summer -- with the pandemic. I'm sorry. Two summers ago now, we actually did training on subpart H and subpart M. Those are also listed as recordings on the HUD Exchange. So you can go back and listen to those as well.

But again, as I said, today we're focusing on our ALSSO activities, acquisition, leasing, support services, or operations, as well as acquisitions and rehab under \$5,000 per units.

All right. So this chart is exactly -- it's the same chart you saw in week one. But just to remind you again, these are some of the HUD programs that trigger Subpart K. It's not an exhaustive list,

but we tried to come up with most of them. And you do want to think of the activity that you're undertaking.

So am I doing acquisition under HOME or CDBG? Am I doing leasing under continuum of care or emergency solution grants? So need to think about what are the activities that I'm doing acquisition, leasing, support services, operation, and then are they being funded by these different HUD federal programs; right? So just a little reminder about those.

All right. So the next two slides are going to show us about the different exemptions of when the Lead Safe Housing Rule does not apply. It is important to make sure that you're documenting the file, though, even if the Lead Safe Housing Rule doesn't apply, because when HUD comes to monitor, they don't want to think that you just forgot about it. They want to see documentation. Oh, yes. I did review. I made a determination that this particular project, this particular activity is exempt. So you want to make sure that's documented in the file.

So a couple different exemptions that apply. If you want to go back and look in the regulations, these are found at 24 CFR 35.115.

The first off is the date. So the Lead Safe Housing Rule only applies to properties that are constructed before January 1st, 1978. So we say pre-'78 units. So anything that was built on or after January 1st, 1978 is exempt.

So if you have a unit that was built January 2nd, 1978, that's exempt. If it was built in December of 1977, the Lead Safe Housing Rule does apply. So the reason that this 1978 date is here is because the CPC put into place that lead-based paint was banned for residential properties starting January 1st, 1978. So that's where we come up with that date.

If you are working with any properties that are zero and single-bedroom units, those are also exempt from the Lead Safe Housing Rule. If by chance there is a child less than six years of age that's residing or expected to reside in a zero or single-bedroom unit, then it would not be exempt. But typically, in our zero and single-bedroom units, they're singles living in there or couples. So it's highly unlikely to have children in those.

Also are projects that are elderly or persons with disabilities. So these are housing that's specifically for the elderly or persons with disabilities. If you have that type of housing where only elderly or persons with disabilities can live in those units, then that would also be exempt.

The same thing applies as with the zero-bedroom units. If for some reason in our property that's designated only for the elderly or our property that's designated only for the disabled have a child under six living in the unit or expected to live in the unit, then the exemption does not apply. You do need to follow the Lead Safe Housing Rule.

If you have any properties that are found to be lead free, these would also be considered exempt, and we would need to have documentation that shows the property's been lead free. This would have -- this would be done by an inspection. We would have documentation that all the lead or

the lead was removed and a clearance was achieved. And if that's the case, if you have documentation to show that, then that property would also be exempt.

Okay. Here's a few more exemptions. Again, has to be properly documented. If you have a unit that's unoccupied and going to be demolished, as long as it's remaining unoccupied until it's demolished, that's exempt.

If you have any emergency repairs -- now, emergency repairs are not deferred maintenance. Okay? You got to know the difference. Emergency repairs are true emergencies. This is where the life, health -- health of the individual, the safety of the individuals, the structure is in danger. Emergency repairs are considered exempt.

If you're not disturbing any paint, that would also be exempt. We do want you to know that, if you're in an area with adverse weather, you can postpone exterior work. Okay. It doesn't mean that if you live in a really cool place, you don't have to follow the Lead Safe Housing Rule. That's not what we're saying. What we're saying is you would take care of the interior, and then if you are in Wisconsin or Minnesota in February and it's 40 below 0, you can wait to do the exterior work until the weather is a little better.

And then we also have this less than 100 days. So Subpart K requirements do not apply for emergency payments of less than 100 days of duration. So you just need to keep track of that time period.

If you are working with any CARES Act programs or other programs where there's an extension of assistance -- maybe it was originally set up as 90 days and it was exempt, but now they got another 30-day extension -- I hate to do trainer math, but 9 and 3 is 12 -- and now you're at 120 days of assistance, emergency payments, then the Lead Safe Housing Rule would apply; right? So this exemption is only if it's less than 100 days.

So those are our exemptions. It's really important just to know when we have exemptions, but now, moving into most of us typically don't work with projects that are exempt. So we do need to know what these Lead Safe Housing Rules are. So we're going to go over a few basics. We're going to cover a couple fundamental terms and concepts. A number of these will review to module one. But like I said, we just want to refresh everybody's memory. But everybody's starting on the same page.

I also want to reinforce that the applicability of the Lead Safe Housing Rule of Subpart K is not triggered by the presence of a child. It's very likely that if someone's acquiring a house and it's just a couple and there's no children, Lead Safe Housing Rules still apply; right?

So the presence of a child does not trigger this applicability; what is triggered is the activity that we're undertaking and the type of unit. So is it pre-'78? Yes. It's not any of my exemptions. So I still need to follow Lead Safe Housing Rule.

All right, so this slide is just showing us some of the key steps in Lead Safe Housing Rule compliance process. So we're going to start off with disclosure. We have a couple slides that are

going to review what disclosure is. Disclosure is letting people know whether they know if there's any lead in the unit or not or the absence of lead. I don't know if I either know or I don't know. And if I know, I need to be sharing any documentation or report.

The next step is looking or evaluating for lead hazards. And when we're in Subpart K, when we're in this acquisition, leasing, support services Subpart K, the type of looking that we're doing is called a visual assessment. That's the method of evaluation that we're going to be doing.

There is an option to test whether there's lead in the unit or not or to presume if there's lead in the unit or not. Those are different options, but the requirement is to do a visual assessment. We're going to -- don't worry. We have some slides that are going to further support what all these are, and we're going to dive a little deeper into those.

When hazards are identified, we have to treat the unit and the common areas, and the type of treatment that we're going to be doing in Subpart K is paint stabilization. And then after the work is done, we need to make sure that clearance of the unit and the common areas are being achieved. And we're going to be achieving clearance by doing a combination of an inspection and dust sampling.

And then we need to be telling. We need to be notifying our owners and our residents what did we find, where are the hazards, when we clear, what were the lead hazard reduction activities that we undertook, and that it passed clearance.

And then we have maintenance. So for Subpart K, if there's an ongoing relationship, then there needs to be different ongoing maintenance activities that are undertaken.

All right. So this was the first step that we talked about, disclosure. We do have a handout. So if you don't recall, there were a number of handouts that were provided to you in addition to the slides. So this is the lead disclosure handout. This is a document that you can go back and look at for more detail. So that's available to you.

And the lead disclosure rule has been in place since 1996. It is for all pre-'78 for sale and rental units. So it doesn't matter whether there's federal funds in there or not. Lead disclosure rule applies to almost all type of housing.

The purpose of this was to provide information about lead-based paint hazards, and it also allows the owner to disclose any known lead-based paint or lead-based paint hazards in the common areas that are servicing the unit. And these common areas would include areas such as the hallways or perhaps the laundry room, if there's a garage or any exterior surfaces of the buildings.

So we want to be sharing any information that we have to our tenants or future buyers of what we know about lead and what's been done, if there's been any prior work done.

So this is a time when the pamphlet would be handed out. This is what the pamphlet looks like, this blue pamphlet. It's available in multiple languages as well.

We want to make sure we're using the proper disclosure forms. We did talk a little bit about the proper disclosure form. It's called the disclosure of information of lead-based paint and lead-based paint hazards. There's one for for sale properties. There's one for rental properties.

We showed what the proper one looked like and some wrong ones back in module one. So if you need to refresh yourself, go back and look at module one for that. On that disclosure form, we are -- we, the owner, are identifying whether we know if there's any lead-based paint or lead-based paint hazards, if there was any work that was done, or if we don't know. So that's also got on the form. And we want to make sure that any available records are being provided to the tenants as well as any future owners.

Has to be signed. Had to be completed and signed before any contract is signed. It also can be signed when the lease is signed. That's also a very common practice. You see the disclosure form is signed at the same time as the lease.

If you have tenants that are in your units and you had a disclosure form for last year but all of -- this year you had to address lead hazards, so something has changed, you would need to do a new disclosure form because you have new information that needs to be disclosed to the tenants.

And you need to make sure that your recordkeeping, that you're keeping copies of the disclosure notice and those are being kept on file by the owner.

Okay. Visual assessment. So remember that next step after disclosure was looking, and in Subpart K, the way we're looking is called a visual assessment. Well, what is a visual assessment?

Well, visual assessment is an inspection that's done by someone who's trained in visual assessment. And they are looking for deteriorated paint. They're looking for paint chips. They're looking for dust and other debris.

So as a trained visual assessor, I don't actually know for sure if there's lead in the dust or if there's lead in the paint. I'm looking for hazards and I can become a visual assessor by taking this free training that's available on HUD's website here that's completely free. It's very clear, easy to follow, and anybody can be trained as a lead -- I'm sorry -- as a visual assessor.

So it could be people at your office that could be visual assessors. Your owner could become a visual assessor. You just want to go through this free HUD online training, and it takes about 45 minutes to an hour. And then after that training, you can print out the certification. You can put it in your file so that you can document that the visual assessment was done by a trained visual assessor. You want to make sure that you're keeping those records.

And again, visual assessment does not need to be done by a risk assessor or a paint inspector, those types of lead specialists. We'll talk about those a little bit, but they need special EPA training. A visual assessor only needs this one-hour online training because, again, we're looking. We're looking around to try to determine if there's any hazards in the unit.

Okay. So remember a couple slides ago I talked about different exemptions. There may be times when your project might have a limited exemption. So this slide is just showing a couple limited exemptions. Perhaps you're doing some minor repair work that's not disturbing any painted surfaces. Okay. So then you would not need to follow the Lead Safe Housing Rule.

Also, you might be doing some minor maintenance where the area that you're disturbing is less than the de minimis level. And these area numbers here is what we refer to as the de minimis level. We have two square feet per interior space, 10 percent of small component type, or 20 square feet for exterior work. So anything that's less than these amounts would be considered exempt.

The last couple trainings we had a lot of people ask us what that 10 percent of a small component type. One of the answers was, think about it as, like, the skinny parts of the interior or skinny parts of a component type. So looking at the trim or parts of a window, what are -- that's when you've got a small component type.

We do also want to let you know that the de minimis level for this two square feet is different than the EPA RRP rule. I'm going to get into RRP in a couple minutes, but there is an RRP and HUD comparison document here, and I'll show you some of those differences in a couple minutes.

All right. A couple other things to consider. So we're going to go over what each of these are in the next couple slides. But just so you're aware for Subpart K, after you do a visual assessment, if you identify any deteriorated picture -- that's our visual assessor who's doing that -- then that needs to be repaired. It needs to be paint stabilized.

If that area exceeds the de minimis, then there are certain requirements that actually apply. We're going to talk about what those are in the next couple slides. And then there are some options. Okay. These are different options.

If you're doing acquisition and the buyer owner has the option to test -- maybe they say, I know we're going to have kids in a couple of years and I'm really worried about that. So I want to know if there's lead in that or not. So I'm going to write in my contract that I want to have the unit tested before. I want a much more stringent things done than just somebody looking around. So that's an option that can be done.

Or if work needs to be done, you can decide to presume the presence of lead-based paint, and then there's more stringent requirements that need to be followed for that as well.

Another handout I want to show you is the Subpart J and K summary of lead-based paint. And what we'll be looking at today, and I know Les is going to go and refer us to this document as well, is this the right-hand side of the column.

This is where we're focusing on Subpart K and the different requirements that we need to do. Okay. So we'll go -- we'll be going back and forth between this document and the slides throughout this afternoon.

Okay. So treat. Remember I said, if we identify lead safe paint hazards, then we need to treat them. So that type of treatment that we're using in Subpart K is called paint stabilization. All right. So what do you mean by paint stabilization?

Well, paint stabilization is removing any loose paint and other materials from that surface to be treated. They're also repairing any defects in the substrate of a painted surface.

Now, if you're the person doing the intake and the income qualifications, you're like, Kris, I don't even know what substrate means. What is substrate? Well, substrate is that material that's directly beneath the painted surface. And so that might be the wood. It might be the drywall, maybe the plaster. It could be brick or metal or concrete.

So part of paint stabilization is repairing any defects in that surface that's below that painted surface that's causing it to deteriorate. And then after that's done, it's applying a new protective coating or paint; right? So that's that's what we mean by paint stabilization. So that's the type of treatment that needs to be done.

Now, this needs to be done by someone who's trained in RRP, and our next couple of slides is going to talk about that. So it can't just be any contractor off the street doing paint stabilization. They do need specialized type of training. They have to be following lead safe work practices.

And lead safe work practices are where we're controlling the dust, we're protecting our occupants, or we're trying to keep the work area away from where our occupants are and we are also making sure we're cleaning effectively. We're trying -- our safe work practices also include working wet to working clean with a HEPA. And if you don't know what HEPA is, HEPA is a high efficiency particulate air vacuum. We want to make sure that our specialized contractors are using HEPA as well.

And then after the work is done, we need to make sure that a third-party clearance inspection is being performed and that a notice of lead hazard reduction activities is provided to our residents.

So remember I mentioned that the paint stabilization had to be done by RRP certified contractor. So what is RRP? Well, RRP comes from the EPA rule that's the renovation, repair, and painting rule. Okay.

So this rule was put in place to minimize exposure from lead-based paint during renovation, repair or painting activities. And it was really designed to reduce contamination from the training by providing trainers training to contractors in really relative simple ways to teach them how to work lead safe, teach them how to clean lead safe.

And so this RRP certification is required by our contractors who are going to be doing work in our HUD assisted unit or units that are assisted under HUD funds that are being triggered --

triggering the Subpart K. So this applies to not only housing but also childcare facilities and preschools that were built before 1978.

So we want to make sure that our RRP contractors are certified by EPA or an EPA authorized state. There are a number of states that have set up their own programs. You just need to check with your state authority to see whether you're under EPA or whether your state has become an authorized state.

And make sure that you're using certified trained contractors and that they're following the proper methods and that the contractor is providing the owner and the tenant the renovate right pamphlet. And this is what the renovate right pamphlet looks like. It's also available on EPA's website.

There are certain violations if it's not being followed properly. And they're quite -- they're quite hefty. Could be almost \$41,000 per unit of violation if RRP is not being followed. So the Lead Safe Housing Rule needs to be followed as well as the RRP rule. So if you remember from module one, we talked about how these different rules kind of overlapped onto each other. All right.

There are a couple things that are more stringent in RRP. I mean, I'm sorry. There are things in HUD's requirements that are more stringent than RRP. So if you have work that needs to be done and you find an RRP contractor -- yay. I found an RRP contractor -- they gave me the proper certification, but maybe this is the first time they've done a HUD job. And if that's the case, I, the agency, need to make sure that my RRP contractor knows there's a couple differences between RRP and HUD.

So this is where I want to show you this handout. There's a couple -- there's a number of different things, but a couple things that I wanted to point out to you that I think are really helpful is that the trigger threshold is different for HUD than it is for EPA.

So remember we talked about that de minimis. If it was less than the de minimis are, I don't have to follow Lead Safe Housing Rule. If it's more than de minimis area, then I need to do that.

So HUD and EPA have different interior de minimis levels. So EPA has a six-square-foot interior de minimis level. But you see HUD put the two-square-foot interior room level.

So if -- again, if we have this RRP contractor or they've never done a HUD job and the work area is four-square-foot, they might think, oh, I don't need to settle this because EPA is six. Well, they need to know that HUD has a more stringent requirement. It's triggered after two square feet. So we want to make sure that we're pointing that out.

We also want to point out the prohibitive work practices because EPA has three prohibited work practices but HUD actually has six. So we want to make sure that our RRP contractor doing our HUD work knows that not only are they following the EPA prohibited work practices -- there's no open flame burning or torching. There's no heat guns or machine removal without a HEPA

vacuum -- we're also adding onto that. No heat guns with charred paint, no dry paint scraping or standing, and we also cannot be using a stripper in a poorly ventilated space.

So there are additional work practices that are prohibited under the HUD rules. So you as the agency need to make sure that they understand what these additional HUD rules are that are layering onto the EPA RRP work.

Also, if you decide to do testing, we're not doing testing right now for visual assess -- or for Subpart K because it's only a visual assessment. But if you decide to do that option to test, you do need to do a proper HUD type of testing, using lab testing in an approved XRF or paint chip testing, not the swabs that were allowed in RRP. And HUD does require formal post-work clearance. Okay. And it has to be done by a third party. We have a couple slides on clearance in a couple of minutes.

And then let's see. So I already pointed you out to this chart, but if you need to go look at it again, we provided the link to that as well.

All right. So after any lead hazard work is done, such as paint stabilization -- that's what we're doing in Subpart K -- clearance must be achieved, and the notice has to be provided to the occupants and the owner.

So if you're doing non-abatement work -- so paint stabilization counts as non-abatement work -- then this clearance can be done by a certified risk assessor or a lead-based paint inspector, and it can also be done by a sampling technician.

There's not too many sampling technicians out there. It was a category that was put out when the rule was put out, but not too many people went through that training. So it's more likely you will find a risk assessor or lead-based paint inspector, and that is the type of specialist that can do the clearance.

We cannot have a conflict of interest. So clearance cannot be done by the same firm who's performing the work. All right. So we can't have that conflict of interest. Clearance can be done by the same firm that's doing any type of pre-work testing or risk assessment. So if you do decide to do any testing or risk assessment, that same firm can do the clearance.

After clearance is achieved, the occupants and the tenants need to receive a notice of lead hazard reduction activities, and this has to be provided within 15 days of work completion. And in that notice we would include information such as the contact information, the date it was done, what kind of lead hazard activity -- hazard reduction activities were performed, is there any lead-based paint that's remaining, and what the clearance results are.

If you need more information about clearance, you want to refer back to the HUD guidelines. We did talk about the HUD guidelines in module one. The 2012 version is the most recent version of the HUD guidelines. So Chapter 15. So I can write that down here. Chapter 15 of the HUD guidelines will provide you more information, if you need to know more about how to do clearance.

All right. I tossed these terms around a little bit. These specialists, these lead specialists. We have our lead-based paint inspector. A lead-based paint inspector can perform inspections. They can also do post-abatement and non-abatement clearance activities.

And then we have a risk assessor, and our risk assessor can also perform inspections. They can also perform post-abatement and non-abatement clearance. They can do a hazard screen, and they can also do a risk assessment activities. We do not require risk assessment for Subpart K, but if you do decide you want a more higher-level type of assessment, then you could decide to do risk assessment or to do your lead-based paint inspection.

But remember for Subpart K we're only doing a visual. The requirement is only a visual assessment. You can always do more, but the minimum requirement is a visual assessment done by our visual assessor who's been trained with that online training.

This lead-based paint inspector or risk assessor, they have taken special EPA or special state training. They maintain that certification. They have to be retrained every so many years, and they will provide documentation of that certification.

All right. So grantees need to decide if they're going to hire trained contractors to do the work or if they are going to train their own staff. So remember we're doing paint stabilization. Paint stabilization needs to be done by a firm or workers or contractors who are trained in RRP.

So we've had a lot of grantees who say, well, I can't find anybody. How do I do that? Well, you can go to EPA's lead home page. This is an actual link when you download the slides, and you can search for certified renovation firms if you decide you want to contract out a firm, or you can search for training providers.

So if you decide you have a really large maintenance staff, your maintenance staff is the staff that you want to do all the work, then you can train your maintenance staff in RRP. And you can find an RRP training provider for your staff, but they do need to be trained in this RRP type of training or you need to hire a renovator who's had this type of training and has that certification.

There are some states that have their own RRP programs. You want to check with your state authority to see if you're following the EPA RRP or does your state have their own RRP program.

HOME and CDBG, these grantees have been using the Lead Safe Housing Rule and following that for many, many years now, over 20, and so they may have some providers that they're using. If you're a homeless provider and you're just now entering this world, reach out to your HOME and CDBG grantees, and they might have some lead certification -- lead certified firms that they're using, RRP certified firms to help you with that.

Also, another great place to contact is your lead-based paint hazard control grantees. They also work quite a bit with lead specialists.

So ongoing maintenance. After the work is done and clearance is done, the responsibility does not end there for the owner. So it does -- the property and the unit does need to be maintained to be lead safe for continued occupancy. So that's both the unit and the common area.

And lead safe means there's no deteriorated lead paint or failed hazard control methods. So this is required if there's an ongoing relationship. There is no ongoing relationship or homebuyer programs or down payment assistance programs. That's what DPA means. So down payment assistance and homebuyer program, we do not consider that an ongoing relationship. So there's no ongoing maintenance for that.

But perhaps you have policing that you're doing or operations that you're supporting, support services that you're supporting. That's an ongoing relationship. So if you're in that type of program, you need to be doing ongoing maintenance. So what do we mean by ongoing maintenance?

Well, we need to make sure that a trained visual inspector is conducting a review of these units on a yearly basis or unit turnover, whichever is sooner. Okay. They're doing a visual assessment at unit turnover or every 12 months, whichever, is sooner. And, again, this is done by our visual assessor.

Back on slide 193 gave us the link to get to that free HUD training. Remember our owner could be trained in visual assessment. So they could be the ones doing the visual assessment of the unit every year or unit turnover, whichever is sooner.

When they do that visual assessment, they need to respond to any new or deteriorated lead-based paint hazards that are found. If there was any abatement that's done -- that was done in the past, they need to repair any failure of abatement methods, such as encapsulation or closure -- enclosure controls, and they need to be asking for written notification from the residents to report any deteriorated paint and any failure of a encapsulation or enclosure.

So most of the grantees that I've worked with, they're all doing ongoing maintenance. They understand what's being done. Most of them are doing one through three. What often is overlooked is this number four here of getting written notification.

So you either want to develop a form, or perhaps something needs to be identified on the lease. Somewhere, somehow written notification has to be provided to the resident to report to the owner or the management staff any reported paint, any deteriorated paint or failure of encapsulation or enclosure; right? So please make sure that that is being transferred over to your owner so they understand what their expectations are for ongoing maintenance.

All right. Let's do a knowledge check here. So these are going to come up as a poll, and it's just a way for us to kind of do -- a fun way to check if you've understood what we've gone over or if you still have questions.

So Paul is going to pull up the poll, and you'll see there's two questions there. So please go ahead and answer both questions.

The first one is true or false? A risk assessment is the required evaluation method for Subpart K.

And then number two is, who can perform paint stabilization?

So go ahead. Spend a minute or two answering those questions.

Paul, how's the poll coming?

Paul: The poll will close in 20 seconds. So people submitting their answers, make sure you hit that submit button so that way your results are recorded.

Kris Richmond: Thank you, Paul. This is the first time we've done two questions in one poll. So we're trying to expand our services a little bit because the polls are sometimes often very slow.

All right. So I see -- let's look at the first one. So the majority of you got the first one right. So the correct answer for the first one is false. Okay. So a risk assessment is not the required evaluation. The required evaluation is a visual assessment.

So a risk assessment needs to be done by a risk assessor. It includes paint testing. It's a much more higher involved type of evaluation. What's required for Subpart K is a visual assessment, and they're looking around for deteriorated paint or hazards or dust or chipping paint. This is done by a visual assessor who took that free HUD online training. Could also be the owner that's trained as a visual assessor. So the first answer is false.

And then the second one, let's see how everybody did for the second one. Oh, fantastic job. Almost all of you got this one right.

So the second one is, who can perform paint stabilization? And hopefully a hammered this home well enough. RRP certified contractors or workers. That's the correct answer.

So remember RRP, renovation, repair, and painting. It's an EPA rule. So that's who can perform paint stabilization.

Now, somebody might say, hey, wait a minute. My -- I have PHA employees, and they've been doing paint stabilization. Well, maybe your PHA employees were trained going to RRP training. Okay.

So they have to be RRP certified contractors or workers. That's what the correct answer is here for number two.

You can always have more stringent types of workers. If you decided that you wanted to use abatement -- certified abatement contractors or certified abatement workers to do paint stabilization, that's allowed, but that's going to cost you a lot more money than just having a RRP certified contractor worker. So you can always have a higher-level certified worker or firm do

the work, such as an abatement contractor or worker. But what's required is this lower level RRP certified worker or contractor for Subpart K doing paint stabilization.

That's my last slide. So, Les, are there questions that have come up or other areas you want to expand upon a little bit before we go on?

Les Warner: Well, we have a lot of questions that relate to our next section. So we're going to be covering -- we're going to go into more detail on homebuyer, on emergency payments. So I think a lot of those will be answered.

We've had a lot of questions that really relate to how you are looking at this project. Folks have asked, if I'm only paying for material and somebody else is doing -- is paying for the rehabilitation, does that allow us to be under Subpart K?

And so much like on so much of what we do under particularly CDBG and HOME and environmental reviews, we're looking at the overall project itself, not just what you happen to be paying for.

So it sounds like quite a number of the questions that we got really are projects that are fall under Subpart J. And so we referred folks back to the last two sessions of those recordings to kind of pay attention to the details that were within that.

I think that's probably, for the most part, what we should try to cover here. I'm going to suggest that we go ahead and take a 10-minute break, and then we'll jump back into this and we'll go into more detail on some examples of the types of activities or projects that fall under Subpart K and kind of talk through the details, the program design a little bit more. And I think that'll help bring some of these things that we're talking about into a little more detail for you.

So I have that it's 1:48 Eastern Time. So if we can be back at 1:58, then we will complete the rest of our training. So take a quick break, and we'll be back with you soon.

Welcome back, everyone. I'm Les Warner. I'm going to be leading the second section of our training and Kris and our panel from HUD are going to be helping us with questions as we go along.

One quick reminder. Make sure when you're submitting a question that you use the Q&A box, not the chat box. So our great panel of folks working on questions as they come in are monitoring the Q&A box. So that's at the right-hand top of your screen. You can click on that. That will open that up, and you'll be able to submit your question.

So Kris has kind of taking us through the basics and kind of laid out what Subpart K requirements are, a lot of that. Now, we're going to kind of handle two distinctive, I guess, categories of activities.

First, we're going to talk about our homebuyer activities, and then we will switch over and spend most of the rest of our time talking about leasing, supportive services, and operations.

So we've had a lot of questions come through, specifics about these. And I think this section will give you the rest of the discussion and the details that you need to be able to think that through.

So when we're talking about homebuyer activities, generally, we're going to be probably talking about HOME and CDBG, Community Development Block Grant funding. And you may be operating your programs in a number of ways.

Some of you are just providing down payment assistance and maybe closing costs. We might have some folks doing loan guarantees or subsidized interest rates. In most cases, I think most of these are going to be pretty, pretty simple with down payment and closing costs.

And so if we, as part of that, have rehabilitation that does not go over \$5,000 or does not -- it stays under \$5,000, then you would be under Subpart K, and we'll talk through the details on that. And so keep in mind -- so this has been all properties that are built before 1978 are going to have to be in compliance with these requirements.

And so these are really acquisition programs, not where we are acquiring and rehabbing and then selling them or perhaps a program where we were going to assist a buyer to acquire it, and then we were going to follow that with rehabilitation assistance.

Just for those of you that are working with the HOME program. I just want to clarify here. So the HOME program with the 2013 updated Final Rule requires that any homebuyer project has to meet all of the HOME standards prior to that property being transferred to that homebuyer.

So in the past, where we might have had HOME projects where we assisted with down payment assistance, the property -- they purchased the property, it transferred to the homebuyer, and then we did rehabilitation, that's no longer allowable under the HOME program.

And so we -- when we're talking about any kind of rehab that's happening with that, we might have a HOME program where a developer was going to -- or the PJ was going to acquire properties, make sure they met all standards, and then sell them -- market them and sell them. So we might have a couple of different program designs that we'd be dealing with, and I'll be trying to clarify those as they pertain to the material as we go along.

So let's talk about when we're falling under Subpart K and when we're really talking about rehabilitation and Subpart J.

So as I mentioned, if we are under Subpart K, we can have a little bit of rehab, and it would be under \$5,000. So generally, these are acquisition programs only. In most cases when we're going to have acquisition with rehab, it's going to be over \$5,000, and that's going to then be covered under Subpart J.

So the big difference here is that the requirements under Subpart K, because we are generally not doing rehabilitation, that we have sort of less stringent requirements on the level of lead evaluation that's going to occur under that. So under Subpart K, with -- if we are under that

\$5,000 cap on rehabilitation work, then we are going to do an evaluation, a visual evaluation, and then do paint stabilization for all deteriorated paint surfaces and then clearance before occupancy.

And we'll talk a little bit about -- we have underlined here all deteriorated paint surfaces. You could choose to test. So you could bring in the XRF and determine, is this actually lead-based paint or not? And so in cases where it wasn't lead-based paint, then we wouldn't have to do the same treatment for that.

In the absence of doing that testing, then we're going to do paint stabilization on all deteriorated painted surfaces because we're making the assumption that it may include lead, and we're going to have clearance then done before occupancy. We're going to talk in a minute about who can do that. What if we have an owner involved on this? So don't worry, we're going to get to that.

Under Subpart J, instead of just doing this visual assessment, as Kris talked about earlier, a risk assessment, which is -- includes that assessment of the paint and also testing, is going to be completed. So it's a higher level of about paint evaluation or hazard evaluation. And then you're going to be required to complete interim controls, use lead safe work practices on any painted surfaces that are going to be disturbed.

So those fall under Subpart J. And that was in -- that was session two and session three. So as I mentioned, we've gotten quite a few questions today that we've responded back saying, that's not a Subpart K project that you're telling us about. That's going to fall under Subpart J, and so we're referencing you back to those sessions that have been recorded and those materials for some additional guidance on that.

So when we have an acquisition assistance project and we're now determining that there's some level of rehabilitation that's going to be required, we're going to then need to look at -- determine what that level of rehabilitation assistance is. And so we're going to be following that same process that -- for those of you that have participated in the Subpart J trainings, of studying that level based on the lesser of two amounts.

So we'd be looking at either the hard costs or the rehab. That's including all sources. And I'm going to talk in just a minute about those exemptions from that, but it excludes the soft cost and it also excludes hazard control or -- and we'll see some examples of this -- or looking at the total federal assistance from all units for that unit.

So let me just mention, because we're talking about acquisition -- homebuyer acquisition here, some of the exemptions that are not part of those hard costs, they would be pretty common with the assistance that's being provided. So things like financing fees, credit reports, title binder and Insurance, recordation fees, transaction fees, appraisals, the environmental review, all are things that are excluded from that calculation of a hard cost for rehab.

And so if you are making this calculation, you need to keep -- would need to keep that in mind for a homebuyer program. So the key here is that we're use -- we're looking at the lesser of the

two amounts. And so we're going to see an example in a moment here, but we need to look at both calculations and look to see that one of them is lower here.

So here's our example. We've got a family that's purchasing a home. They're going to receive \$10,000 in assistance. That includes down payment, closing costs, and some rehabilitation costs. So the hard cost for rehabilitation are \$4,500. So out of that \$10,000, \$5,500 of that, if I can do math in my head, are related to the down payment and closing costs. And so they're not part of that calculation.

So when we look for the lower of these two, so we've got \$4,500 dollars in hard costs and then our total federal assistance, which we've identified up here, is \$10,000. So the lower of the two is what we're going to use, and so that leaves us under \$5,000 in rehabilitation. And so we're going to fall under Subpart K.

So if this calculation had been \$6,500 of our \$10,000 was hard costs, that would have put us over. It would have put us over \$5,000 dollars and so we would have not been under Subpart K but we would have been under Subpart J.

So in that case, we would have been talking about all of the requirements under Subpart J, which would include the risk assessment, interim control. So kind of an important first step in figuring out for our project if we have rehabilitation included in the project, how -- where are we falling? And so which part should we be following?

Let's do a review. And Kris showed this on another form earlier, but this has been kind of oiled down specifically for when we're talking about acquisition homebuyer.

So we're going to need to identify and stabilize all deteriorated paint surfaces. So we talked about doing a visual assessment is going to be our test on this. And then if we determine that there are lead hazards, if we have unstable painted surfaces, then we are going to be doing paint stabilization. We're going to be following lead safe work practices, and we're going to have a third-party clearance completed to make sure that those lead hazards have been eliminated.

Now, keep in mind we're going to be providing them with the pamphlets. We'll be talking about that in just a moment. We're also going to be notifying them. So if we're going to be doing paint stabilization and clearance, we're going to be providing them that clearance report so that they have that information about what the results were of the work that was completed and the clearance results on that.

So for our homebuyer programs, Kris mentioned about ongoing maintenance. Some of our programs require ongoing maintenance requirements. For homebuyer, we're going to assist them to purchase that unit, but we are not going to really have further involvement in that. And so we don't have ongoing maintenance responsibilities.

Now, some of you might be saying, well, wait a minute. HOME is going to have an affordability period, and so we have recapture or resale. Yes. We have an affordability period, but other than if there's a sale or transfer, you are not going -- you're not doing ongoing property inspections to

make sure the property is meeting -- continuing to meet some kind of ongoing property standard. So you do not have ongoing maintenance requirements for the homebuyer activities.

And also with that for -- if we were finding that we had children with elevated blood lead levels, we, again, don't have that requirement because we don't have an ongoing relationship with that property.

Now, I did mention before, so we're going to do a visual assessment and we're going to stabilize deteriorated paint. So we do have the option of testing the deteriorated paint.

So for those of you that weren't part of our Subpart J trainings, you would have heard us say that a lot of times when we're testing paint surfaces in units, a lot of times we'll find that it's very hit or miss whether we have lead paint or not. And so if we don't do any testing of those unstable surfaces or surfaces that we're going to be disturbing with the rehab that we're doing, then we're going to have to assume that they include lead paint and treat them in that way.

But we do have the option. We could go ahead and test and then only have to follow the safe work practices for those surfaces that included lead.

All right. So let's talk about some of the key players involved in administering the program, and this also kind of gets us to thinking about who do we have to have in place as we're putting together and planning for operating a homebuyer acquisition program.

So this might be administered at the state or city or county level. A lot of times we're going to have a state or city that is funding a subrecipient to run that on their behalf. So the folks that are running the program might be the city/county government that's receiving funding, but it also could be a nonprofit entity that's going to be operating that. In some cases, we also might have someone who was hired as a contractor to implement that program.

As part of that, we may also have homebuyer counseling. We have a homebuyer counseling requirement that's going to take effect I think later this year. They moved the effective date back because of the COVID epidemic. But we would have counselors and intake staff that are going to be working with those applicants for a homebuyer program.

And, of course, we're going to have inspectors. We may have contractors that are going to be as part of our team. And so we're going to make -- need to make sure that we have appropriate skills and qualifications in place.

So, for instance, we mentioned that our level of inspection under Subpart K is going to be a visual inspection, and we mentioned about there being an online training that was available that's free. It's pretty easy for folks to do. That would be something that, as we're thinking about staffing on this, making sure that we have determined who's going to handle that and that that has been completed.

If we are having paint treatment being done, we're going to have to have appropriately qualified contractors. We're going to be talking about third-party clearance. And so we would have to have

identified those individuals that it will be handling those tasks. And then, of course, our key program participants are going to be the families that are applying for assistance.

So we're going to talk through some of the key stages here just to kind of think through on implementing Subpart K where some of those actions happen that we need to think about. So we're going to go through this. And the way your program may operate may be slightly different, but we're going to be thinking about that application stage at the point that we actually select the unit that's going to be purchased.

Of course, since we are assisting someone who is going to be making an offer on a house, having perhaps an option before they get to that purchase contract. You're going to be talking about some of those steps in that. And then the inspections, the negotiation, closing and then what happens after the purchase?

So at the point of the application -- so this is sort of our earliest interaction with the homebuyer -- we're trying to figure out are they eligible. All of our programs are going to have some form of income eligibility. But we also may have things about where you actually are going to be purchasing a home or are you a first-time buyer. So we're going to be providing them basic information about our program, and this is a chance to kind of start that education process.

So it's recommended that you distribute the protect your family from lead in your home pamphlet. And that really starts that process of beginning to educate that potential homebuyer about, what is lead paint? Why is it a hazard? Why should I be concerned about it? And kind of having some of that basic knowledge as they begin to think about what home might I want to purchase? What impact would that have on how my eligibility is going to be determined in those steps, long term impacts for my family?

A lot of your programs are going to have pre-purchase counseling, and one of the recommendations to think about including in that counseling program some information and education about lead paint hazards. And so they have some basic knowledge as they're approaching the purchase of a unit because pretty soon we're going to be then stepping into which house am I interested in.

Now, we'll mention that the pamphlet that we're describing here also needs to be provided during the escrow as part of your compliance, as part of the disclosure. But we think it's a good idea to early on also provide it here because it kind of starts that education process on that.

All right. So as we're working with a homebuyer on home selection, we have to keep in mind the lead hazards that that potential project may include. So for homebuyers to have basic understanding of, if it's a pre-1978 unit, it may include lead paint, and so there may be some hazards as part of that.

And so them understanding that, as part of the process or your program and approval for assistance for that individual unit, that there's going to have to be a physical inspection, not only to make sure that you're meeting your program standards -- so CDB and HOME are going to

have program property standards that will apply -- but also that under Subpart K, we're going to need to do the visual assessment and make sure that there are no lead hazards.

And so as we go through this process for units that we identify that have lead hazards, we're either going to have to be able to resolve those issues, or we're not going to be able to go through with the assistance for that sale.

We want to caution the buyers that they should not be executing purchase agreements that don't have some inspection clause, some options for them to be able to either request repairs to be made and have access to make those inspections or have the ability to, based on those inspections, negotiate to either have those required repairs made or cancel that purchase agreement.

So in cases -- in some cases, you're going to have folks that come to your program and apply. They already have a purchase agreement in place. Sometimes they already are actually pre-approved from a bank, but they're finding that they need some additional assistance for this project to be able to go forward.

So you are going to have cases where you've got somebody with purchase agreements already in place. So again, your assistance to that household is going to be conditional upon, are you able to actually comply with the requirements of Lead Safe Housing Rule and Subpart K specifically on them?

So as part of that process, I'll just mentioned that in some cases you're going have a lot of pressure on this. A lot of parts of our country right now there is a really reduced number of available houses that are on the market, and there's quite a lot of competition. And so being able to get in, get the testing done quickly, and be able to negotiate and close the deal will be important. But we can't skip the compliance requirements on this.

So for the purchase contract in place, we want to make sure, first of all, the seller is required to provide a disclosure statement. So when I sold a house a couple years ago, I had to disclose whether I knew of any lead hazards, lead paint, any -- a statement or hazard reduction work that had been done in the past.

So we would be making sure that the seller had provided that disclosure statement and that the homebuyer's option needs to include language that allows the right for that risk assessment or paint testing to be done. That's a requirement for Subpart A.

I'll just note, if you look at the brochure that I mentioned earlier, real estate sales contracts are required to include a specific warning statement about lead-based paint, and buyers have up to 10 days to check for lead. So the buyer can opt for just a visual assessment, as can your program under Subpart K. But we could have a buyer say, we want to actually pay and have a risk assessment or paint testing to be done. You as a program might choose to adopt a higher standard, but subpart. K requires a visual assessment.

And so if our lead-based paint hazards are found as part of that visual assessment, we have a number of options here.

If the -- hopefully, there is a clause in that purchase agreement that is in place that allows the potential buyer to withdraw from that contract. That would be one option to say that, sorry. We've done a visual inspection. We've identified lead-based paint hazards. We're going to notify the seller of that. The seller would now have to disclose for future sales that now there is -- there is -- has been an identification of lead hazards at that point.

It may be that you're able to renegotiate the contract. That might be that you identify that, we think the amount to address the lead hazards on this property amount to a certain amount of funding, and they're going to negotiate to lower that purchase price, have that work done.

Under the HOME program, as I mentioned, that property has to meet the program's standards at the point of the transfer of the property. So under HOME, we don't really have the option to have that purchase go forward and then assist the homebuyer after the fact. Under CDBG, we would have that ability.

The other option is that the owner may agree to have the needed lead hazard reduction work done, so the paint stabilization on these paint surfaces. And so in that case, we're going to -- if they are using the contractor, we need to make sure that the contractor is RRP certified, that they are going to use safe work practices, and then we're going to need to have clearance done on that property before we agree to be able to assist.

Now, we have a number of questions from participants who said, what if the owner themselves wants to do the work themselves? And there is a -- essentially, an allowance for a seller to do work on their own property so they would not have to be an RRP certified contractor on that.

We want to make sure that they are using safe work practices. We would have to go back in and, again, do a visual assessment to see that that had been removed. But we also need to have a third-party clearance testing done. So we need to make sure that, if the owner or a contractor has completed that work, that they haven't actually created or not resolved that lead hazard. So we're always going to have a third-party clearance testing done as part of that. All of that would be documented and completed before we would actually be willing to close on that property.

So for our home inspections, as we mentioned, the timing on this, ideally, it would be before we have an offer that's been accepted. But depending on the market that you're working in, that might blow your client out of the water every time because somebody else is going to be there putting an offer in. And so we can use a purchase agreement that has the clauses in place to allow for lead-based paint testing and then have the ability to renegotiate or exit from that purchase agreement.

So as we mentioned, all of our pre-1978 houses, going to have to make sure that a trained visual assessor has completed that. And that inspection report would go not only to the home buyer but also to the agency. On that, we're also going to provide that to the owner of the property because

they're going to be required -- if this purchase doesn't go forward, they're going to be required to disclose that going forward.

We mentioned before that this isn't a big hurdle for the visual assessor. You can have someone on your own staff take the online training, and we've provided the link for that. But as part of your program design and staffing, you need to make sure that you have someone who is going to be completing that visual assessment.

So keep in mind, for your homebuyer assistance, if you're using CDBG or HOME, you also have program-specific property standards. And so you're already going to be sending an inspector to that property to determine whether this is a house that's going to meet your program standards, whether it would require rehabilitation, if we were under CDBG for that.

So that visual assessment can be added to the existing inspection form that you're using. So that would provide you the documentation that you're going to need in place for your files on that.

So as we mentioned, with that purchase agreement in place, with those inspections having been completed, there may be a need for negotiation here. So we know that we can't go forward and invest our HOME or CDBG funds into the property if we're not able to address the lead hazards that have been identified. And so part of that negotiation will then be, how is that work going to be completed?

There was a question that came in earlier where the person was saying, well, could we use our program funds to be able to do the paint stabilization work that needed to be completed and the clearance testing?

Well, as I mentioned under HOME, we can't have that transfer of property occur without the property meeting our standards. So that could not be provided as assistance after the homebuyer took control of that. We used to, as common practice under HOME, have assistance where the purchase happened, property transferred, and then we came in, did whatever rehabilitation and the lead work as part of that after that transfer of property. That's no longer allowable.

It seemed to me that this would be an eligible use of funds, and so that would be something that you could do. I think one of the sort of program design things that you need to think about is, in the market that you're working in, what are generally those units going to look like? Are they most all pre-1978? Are they likely -- is it going to be common that we're going to have lead hazards as part of this?

And so particularly under HOME, it might be that you want to actually have a program where you're -- you as the PJ or in funding a developer who's going to go in, acquire, rehab, including addressing lead, and then market and sell these units.

So I think it's kind of a program design consideration of, will this actually work without rehab to be able to proceed with these transactions, or are we just going to repeatedly find that the cost for remediation is more than what the seller is willing to cover and it's more than we can really do

under Subpart K, staying under \$5,000? And so I do think there is sort of an analysis of the market that you're working in.

So, as I mentioned, no matter who's doing the work, whether we have a certified contractor or actually the owner of the property is completing the work on their own property, we are always going to have a third-party clearance testing done.

So they're going to be taking wipe tests randomly and making sure that the dust levels that are being found and lead in that dust are now at an acceptable level. And that's going to be required before occupancy, but in most cases it's going to be required before the closing actually happens on that.

Keep in mind the homebuyer is going to need to receive the clearance notice and the notice of the lead hazard reduction activities. That's a record that they're going to keep with that property. If they are later selling that unit, that's part of what they're going to be disclosing to the next potential buyer of that property.

So, again, we mentioned at the closing, we need to have the lead-based paint pamphlet as part of a closing. And this is a great way to actually capture that as part of the closing process and have documentation that it was received by the residents. We did mention about the benefit of also providing that earlier in the process just to start that education for the homebuyers.

Let's talk about post-purchase counseling. And so your program may or may not include post-purchase counseling. The goal of this is to help homebuyers now understand what their responsibilities would be for ongoing maintenance. Oftentimes, your pre- and post-purchase counseling will include some things like budgeting and thinking about how to make sure that you have some money set aside for maintenance.

But part of that could also then be educating them about safe work practices, about continuing for their pre-1978 home to do that visual assessment ongoing to make sure that there are not hazards that develop over time and they know how to effectively clean and maintain their unit to protect their family future lead hazards.

All right. So that was homebuyer. And so as we mentioned at the beginning of your process, you're having to figure out for the kind of program that I'm operating, am I actually falling under Subpart K where I have less than \$5,000 in rehabilitation, or, actually, am I -- does my program include rehabilitation that exceeds that and I need to be following Subpart J? And then making sure that your policies and procedures, your process, your documentation, and your staffing are going to be appropriate to be in compliance with that.

So we're going to switch gears here and then talk about leasing, supportive services, and operations. And, generally, these are activities that are going to relate to special needs. Might involve urgent assistance. And I think we have a lot of folks who are currently looking at doing rental assistance based on COVID, and we're going to be covering that in this section.

So hold on. We're about to get to some of those questions that I think folks are pretty anxious about.

So for special needs funding, might be CDBG, HOPWA, ESG. Could be things like shelter plus care, continuum of care, a whole list of programs that might fall under this. And this is where we might be providing assistance to someone for leasing of a residential property, but it also might be where we're going to acquire or lease a property.

So, for instance, if I was running a -- let's say I was going to be doing some kind of a family shelter and I was going to be leasing a property and then essentially renting those units out to clients -- maybe it's transitional housing that I'm providing -- then this would apply to you as the owner or the leaser of that property. And we'll be talking about the requirements on that, if we're providing supportive services or funding for operations that are related to a residential structure. And again, this would also apply.

So I might have a property that had home assisted units, and I'm going to provide supportive services for the occupants of those units. I would then be falling under this portion of Subpart K.

Keep in mind, again, if we have rehabilitation that is at \$5,000 or greater, then you need to be following Subpart J. Also -- and this is kind of an important clarification here because we have a lot of folks doing rental assistance -- for emergency payments that we are seeing under CDBG and CDBG-CV, that's different than tenant based rental assistance.

So we'll talk about kind of -- I believe we have a side-by-side graph on this a little bit later to help us on that. But tenant based rental assistance usually is for 12 to 24 months. That falls under subpart M, not Subpart K.

So here's sort of the same graphic that we looked at in Kris's section, and then we saw a homebuyer version of this. So this is specific to leasing, supportive services, and operation.

So our level of evaluation and reduction is going to be to identify and stabilize deteriorated paint. Our method on that is, again, going to be a visual assessment. We're going to be providing that pamphlet to folks, and we're going to be providing notification. So we mentioned that, if we're doing clearance testing, if we are doing notification of hazard reduction work, stabilization work, those notices would be distributed.

So based on our visual assessment, if we find deteriorated paint surfaces, then we're going to complete paint stabilization. We're going to be following safe work practices, and always we're going to have clearance done as part of this.

So in some cases, in this category that we're talking about, we may have an ongoing relationship. So, for instance, if you've used your CDBG funds and you -- maybe you have a master lease for the property and then you're going to be placing clients who are going to be occupying these units, you're going to have an ongoing involvement with this property. And so you will have ongoing maintenance requirements.

And that means that at turnover of units or and on a 12-month basis, we're going to be doing the same visual assessment to make sure that we don't have deteriorated paint surfaces. And if we do, we're going to then follow the protocols on doing paint stabilization and then the notification and clearance that would be part of that.

We do not have an ongoing elevated blood lead requirement.

As we mentioned before -- let me just clear this because we're getting quite a few of these -- you have the option, based on your visual assessment where you've determined that you've got deteriorated paint surfaces, you could choose to test that paint, and you might find that all of it turns out to not be lead-based paint.

And so if it's not lead-based paint when you use an XRF or we've done sampling, then our lead safe practices, clearance testing, all of that would not be required because what we thought might be a lead paint hazards, it turns out not to be.

All right. So let's talk about kind of who's going to be involved as key players and, again, think about sort of the staffing that we need.

So the responsibilities on this are going to be the grantees, but a lot of times we have -- the funds are from the state, city or county, but they're being provided to someone else. We have a lot of nonprofit organizations that would be actually running the project, and then, of course, the participants in this would be the occupants and the property owners that would be involved in the project.

And so as far as implementation, much like we talked about in the last section, we're going to need to complete a visual assessment. So we need someone who has been completed that training. We would have that documentation in place.

Keep in mind, as I keep mentioning, you're also going to have program requirements for property standards. So it probably makes sense, since you're going to be conducting an inspection for that, to also have that same person trained to do the visual assessment and use, as part of their inspection tool, include those required elements for the visual assessment so that that's being captured.

Again, we're going to do paint stabilization and cleanup. It's going to be done by a certified contractor or workers. And then we're going to have -- always have clearance completed by a third-party entity. And we do provide a link here for a checklist for lead hazard reduction activities, which might be helpful for you in kind of thinking through that process and those steps.

So for ongoing actions on implementation, so we are going to be providing the lead hazard pamphlet. So as we have folks moving into these units, leasing units, we are going to provide the lead hazard pamphlet.

As we mentioned, we're going to provide disclosure forms. So if we've done -- had lead hazard control work done previously and clearance testing, we're going to disclose that before they actually sign the lease. When we're dealing with unstable, deteriorated paint surfaces, we either would be doing testing or, essentially, presumption that we would have that disclosure as part of that.

So as I mentioned, when we have an ongoing relationship, then we have the requirement of ongoing maintenance of painted surfaces. So it just becomes part of your ongoing building operations. You should be continuing to inspect to make sure it meets your property standards.

So as part of those, I mentioned it's a visual assessment that's done every 12 months or at turnover, whichever is more frequent on that. And we would need to make sure that the paint stabilization was done within 30 days of notification.

All of this recordkeeping is really important. And I would think that much of this paperwork, I would think for lead -- any lead hazard reduction or paint stabilization work that was done, I would think you're going to want to hold onto those records indefinitely so that you have a history of what's been done in that unit. You're going to be disclosing that, but it also comes part of which your ongoing maintenance, you know where you know you have perhaps lead surfaces that have exhibited deterioration or have had worked done on them before.

So here's a little side-by-side that I mentioned earlier in trying to help you define the difference between leasing under Subpart K, and this is also where we're going to start getting into emergency payments.

So under Subpart K, these are -- we're talking about short-term assistance and that would include emergency payments or where maybe we're just paying for deposit, maybe first month's rent to assist someone to get into a unit. But that's the end of our assistance, whereas under tenant based rental assistance, it's an ongoing rental assistance for HOME. It's typically 12 months, and then it's renewable for up to 24 months. And so it's a longer-term requirement on that.

And so under Subpart K., we're talking about these short-term or one-time assistance. We won't have an ongoing requirement, but we need to make sure that those units are going to meet what's required under Subpart K. And keep in mind you also probably have program property standards that are also going to apply.

Let's jump in and talk about emergency payments because I think we've got a lot of folks that are dealing with this and oftentimes in new ways than they've done in the past.

So under CDBG, which is where we traditionally have done emergency payments and these usually have been for [inaudible] intervention -- so we might have someone who was a homeowner and we were going -- they were in threat of foreclosure or behind, and that was coming. And so we could be assisting them with mortgage payments. We also, in dealing with a tenant who was at risk because of unpaid rent, we could be providing them with assistance.

So under CDBG, CDBG allows emergency payments of up to three months for 90 days. So that worked really well because Subpart K has an exemption for assistance that is up to 100 and including 100 days. So under that exemption, 100-day mark, you're exempt from having to conduct a visual inspection and then the clearance actions or that before you're able to provide emergency assistance. So under traditional CDBG with three months of assistance, you're always under this exemption of 100 days.

A couple of things to keep in mind, and this is really important on this, is that that exemption is tied to the unit, not to the occupant. So we need to look at the cumulative number of days of assistance for that specific unit. So if we have -- we assisted tenant. They get assistance in January. They move out in April. And then we have a new resident that applies in April. We're looking at the cumulative level of assistance, not just on a household-by-household basis.

And so, as we mentioned, these emergency payments under CDBG, they have a maximum of 90 days. So we've kind of been in the safe harbor generally.

Where we have a lot of questions now is with CDBG-CV funding, that one of the additional flexibilities or waivers that was provided as part of that funding addressing COVID-19 was to extend that period with the CC funding up to six months. So if we were choosing to use that waiver and be able to fund up to six months, that's going to exceed this 100-day exemption that's currently in place under Subpart K.

Now, keep in mind of the units that you're assisting with, some of those units may be exempt because they are -- were constructed in 1978 or later. So depending on the area that you are serving and the units you're serving, it may be that a whole portion of those are exempt, and this is sort of a moot point.

But for those of you that have potential clients that are going -- could be assisted with more than 100 days of assistance, currently under Subpart K, you would be required to do a visual inspection. We talked about that online ability and then need to make sure that there won't be paint stabilization and clearance testing done.

So I will say to this, and it's kind of all that I can say at the moment is, we expect some new guidance to be coming out soon. If what I expect to come out does occur, there may be some additional flexibility that would be provided. And so I guess the best I can do is say, at the moment, that 100-day exemption is in place. And beyond that, if it was not an exempt property, such as a 1978 or later unit, currently, you would be held to the visual assessment and then paint stabilization and clearance.

I'm hopeful that you will gain some relief with some additional guidance that hopefully will be coming soon. So I would recommend you -- if you're not listed or signed up on the HUD Exchange, I would suggest that you are signed up on that to be notified of new information that comes out on that. And I think that additional guidance, hopefully, will be coming out in the near future.

Let's switch gears a little bit away from emergency assistance and talk about shelters. And we had a lot of question in earlier sessions and probably today about, okay. What about emergency shelter?

So it really depends on what your shelter looks like. There's so many different configurations. There is an exemption, as Kris mentioned before, for when we have zero-bedroom dwellings.

So a lot of you would have shelters that are set up where there's not -- your common space, kitchen, living room areas are not separated from the bedroom space. And so with those large common areas, that's going to fall under this zero-bedroom dwelling. And so it would be exempt from Subpart K.

Now, it probably makes sense, since you're going to be housing folks there, to think about adopting something that was a bit more stringent, but you would be exempt under that.

Also, just mention that group home are exempt if they consist of rentals of individual rooms within a residential dwelling.

So a lot of our shelters are going to be exempt, but we also have shelters that are going to, particularly if we've got a family shelter where they have individual units and individual bedrooms, and so they are going to fall under this requirement.

It's also important to note that, if we have a shelter where we're going to have children under six years old occupy that shelter, occupy a zero-bedroom unit, then our policies need to be in place regardless of that length of time that we expect them to occupy those units. Now, a lot of shelter systems, when we have children, they're going to be in a family shelter versus in a men's or women's shelter. So it really depends on the configuration that you're dealing with.

HUD is really recommending that you adopt and implement a policy that makes sure that you have child space that's been designated and kind of take that into consideration as you're determining how you're going to configure the shelter.

So let's just kind of walk through that program design element. So you need to make sure that, as part of your standards that you've adopted, that they're going to have to meet the required assistance. So in thinking about homebuyer programs, making sure that we're looking for units that are going to meet that standard, that we're educating our applicants. We talked about some of our home buyer education, making sure that as they began to look for potential units they would want to purchase, that we would help them understand about the implications of potential lead hazards in those properties.

We talked about needing to have appropriate staff and making sure that we have visual assessors, that we're going to have a third-party clearance testing. So it may mean that we need to go through procurement so we have those contractors in place as we are needing them.

Also making sure that your policies and procedures -- so we talked about things like adding the visual assessment indicators on to that property inspection form that you're already using.

We talked about incorporating some of this information into the homebuyer education program to try to effectively incorporate this into your program and make sure that it's appropriately covered.

So as part of that program review and kind of thinking through the implications of what we've been covering today, thinking about does your program design help promote lead safe housing, either by steering folks to units that are going to be lead safe or making sure that you are enforcing the requirements of the Subpart K, so that as we assist folks, we are putting them into an appropriate situation.

We also need to make sure that we have procedures in place so that we can address this in a timely manner. We mentioned about the right for that inspection period of 10 days for lead, and you need to comply with the conditions within those purchase agreements while they still have the ability to negotiate or cancel a purchase agreement.

So we need to make sure everyone is aware of the standard form, tools, that beneficiaries understand what they can do to protect their family. As part of that, we mentioned about visual assessment, risk assessment training, and making sure that we had an appropriate pool of contractors, if we were needing them to do our risk -- our paint stabilization work.

So let's switch and do a knowledge check, and we've got three questions here. So Paul's going to pull up the questions, and when they appear, I'm going to ask folks to go ahead -- and it looks like they're open, if you can go ahead and indicate your answer, and we'll go through them.

Paul, are we about to close down the polling?

Paul: The poll will close in about 20 seconds.

Les Warner: Great.

All right. So it looks like most of you got the first one correct. Our order is A. We're first going to distribute the pamphlets. We're going to be doing a visual assessment. Based on that visual assessment, we would be doing needed paint stabilization and clearance.

Our second question was, who can conduct the paint stabilization and clearance?

So our correct answer here is B. So we need a trained or supervised worker. We did mention that there is an exemption for an owner completing work on their own property. And we will always need the clearance testing to be done by a certified third-party entity to do that work.

And then our third question is, who's responsible for compliance with lead-based paint requirements?

And in this case, it's really both the housing provider and the property owner.

We have very little time left, but what I want to do is just remind you of the resources that are available. This is the HUD Exchange landing page for lead-based paint, which I would think you'd want to have as one of your favorites; has a lot of resources, including the regulations.

And then here are some of the other resources that we've been talking about, regulations, the rule, the EPA page. And then we've mentioned the lead compliance advisor, which is sort of an automated advisor that walks you through based on information you provide to it.

And then this contact number here, we are, I will remind you, going to have a office hour tomorrow where we would ask that you do the homework in advance, and we'll be able to answer more questions. But after this series is over, this contact number on this slide would be your main source to then ask ongoing question.

Kris, anything else we need to handle before we let folks go for the day?

Kris Richmond: So there's just a lot of questions that came in, and we'll make sure we cover as many of those tomorrow during the office hours as we can. So thanks a lot.

Les Warner: Great. Really encourage folks to join us tomorrow. It gives us more time to go through some of your detailed questions, and I think that'll help folks. So I hope you'll join us tomorrow. Thanks, everybody.

(END)