

Lead Safe Housing Rule Webinar Series, Subparts J & K

June/July '22 Session 4

Kris Richmond: Thanks, Cherita. Welcome, everybody. Today we are going to be reviewing subpart K, Acquisition, Leasing, Supportive Services and Operations.

Some of you might not have been with us since the first week, so welcome back. Others of you might have been with us all along, so we're glad that you are here with us today.

As Cherita said, my name is Kris Richmond. I'm a technical assistance provider with ICF and I am here with Les Warner, my colleague, and then also we have two HUD staff people with us today, Bruce Haber and Karen Griego with the Office of Lead Housing Control and Healthy Homes.

So we're pleased that they're able to be with us to answer questions or comments as they come in today.

Just want to remind folks, this was a four-week series, so we are trying to do about two hours of content each week. Tomorrow we will have an office hours session and so we'll have homework.

We'll talk about that homework at the end of today and then hopefully you'll have some time either this afternoon or tomorrow morning to work on that homework and tomorrow at 1:00 Eastern time we'll gather together again and we'll review the answers to that homework as well as answer any questions that you have that come in.

And if there's not a lot of questions coming in the Q&A, then Les does a really nice job of taking the questions that came in today and he'll put those together and review some of those answers or perhaps go over a couple other areas that people might have been confused about.

So please come to the office hours tomorrow as well. The recordings for sessions one and two are now available. Our ICF staff is still working on putting up session three, but that should be available soon as well.

If you did miss subpart J, that was the last two sessions. Like I said, session three will be up soon, and today we are focusing on subpart K, Acquisition, Leasing, Supportive Services and Operations.

So we have a really short time together today and a lot of material we want to get through, so a couple of goals for today are for you to get a deeper understanding of the federal lead-based paint regulations, trying to determine when subpart K would apply.

We're going to review some of the documentation that's required. We're going to talk about some key terms and then we'll go over some of the available resources.

So sometimes people are confused about what's considered an activity under subpart K. So we are focusing on acquisition, leasing, support services and operations. You might hear Les and I refer to this as ALSO.

That's taking those first letters of each of those, acquisition, leasing, support services and operations, that's how they come up with ALSO, but that's what falls into subpart K. Also, acquisition in rehab under greater -- less than or equal to \$5000 also falls under subpart K.

Les will talk about that later. If you are doing tenant-based rental assistance or you're running a Housing Choice voucher program, that falls under subpart M. We're not talking about subpart M today. We do have new training that we're working on.

I expect that to be ready sometime in the fall, so look for that. We also have some elevated blood lead level training that covers subpart M that's available on our HUD Exchange website as well. But today we are focusing on subpart K.

Okay, so you saw this the first week we were together, but it does show the HUD programs that trigger subpart K. It's not an exhaustive list, but you'll see, you know, we have our CDBG program. We have our HOME program. Housing Trust Fund.

HOME ARP also falls under this. I didn't add it to this list, but if there's any acquisition, leasing, operations, those kinds of things would also fall under subpart K as part of HOME ARP. Continuum of Care, HOPWA, SHOP programs.

Again, not an exhaustive list, but you need to be thinking about what kind of activity are you undertaking? Are you doing acquisition? Are you doing leasing? Support services operations? For pre '78 housing. If that is a yes, then you would follow under subpart K.

So the next two slides show some of the exemptions of when the Lead Safe Housing Rule does not apply. It is important for you to document that you received and made a determination that your project is exempt.

We had a lot of questions when we were in subpart J about exemptions and so we wanted to put on the slide here where the regulatory site is, because when we had a lot of questions come in, we'd say, see the regulatory site. And so we have that site here on the slides for you.

Some of the first ones, again, the Lead Safe Housing Rule applies to pre-'78 units. So if you are working with units that were constructed on or after January 1 of 1978, then they are exempt. You do not need to follow the Lead Safe Housing Rule for that.

If you are working with zero- and single-bedroom units and those are also exempt, they're not exempt if there's a child under the age of six that's residing or expected to reside in a zero- or single-bedroom unit. Okay? So you need to think about that.

Elderly and persons with disability housing, so this is housing exclusively for the elderly and disabled, that would be exempt.

Again, you need to consider if there's a child that's going to be living in that unit, a child under the age of six or is expected to live in housing that's exclusively for the elderly or disabled housing, then it would not be exempt.

If you have units that are lead-based paint free, that's what LBP stands for, lead-based paint, so properties that were found to be lead-based paint free by an inspection or where all of the lead-based paint has been identified, removed and clearance has been achieved, those would also be exempt.

If you have properties where they're going to be unoccupied until they're demolished, also exempt, emergency repair. So these need to be true emergency. Protecting life, health, safety or structure, not deferred maintenance, but a true emergency would also be exempt.

If you're not disturbing any paint, if you're doing rehab that doesn't disturb any painted surfaces, that's exempt, and then we have adverse weather, so if there's adverse weather, exterior work can be postponed until the weather allows it.

And then we have this less than 100 days exemption as well. So subpart K requirements do not apply for emergency payment of less than 100-day duration. This is for like the CARES Act. You also see sometimes emergency payments under CDBG.

Sometimes it's under [inaudible]. So if it's less than 100 days, then the subpart K requirements do not apply. And the 100 days starts from the payment moving forward. It does not include any payment in arrears.

Okay, so we're going to go over a few basics. We reviewed some of these the first week we were all together, but if you have forgotten or maybe you weren't able to join us that first week, it'll be a good refresher for those who were with us and helpful for you to know if you missed it.

Also want to emphasize that the applicability of the Lead Safe Housing Rule's subpart K is not dependent on the presence of a child. So we'll get into some of these projects where you may not have a child, then the Lead Safe Housing Rule will still apply.

So the presence of a child is only considered when you're looking at exemptions and that was for our housing exclusively for the elderly, our housing for the disabled or our zero-bedroom units.

So this slide kind of shows us an overview of the key steps in the Lead Safe Housing Rule compliance process. So first we have our disclosure. We're going to have a couple slides where we'll talk about what disclosure is.

This is for our for sale and for leasing where we're disclosing any known or unknown lead or lead hazards or work that's been done.

We also have where we look. And so the looking that we're doing is called a visual assessment. That's the type of evaluation that'll be done and we have a couple slides about that. So in subpart K, it is a visual assessment, but you could decide -- there are options where you could test or presume that there's lead rather than just do a straight visual assessment.

We're going to be treating. So once the hazards are identified, they have to be treated and in subpart K the type of treatment that we're going to be doing is called paint stabilization. We'll go into more detail about what that means in a little bit.

After the work is done, it has to pass clearance, and that's done by a visual inspection, doing -- looking for any hazards or residue and then doing dust sampling.

And then we need to tell the residents and the owner. So after any work has been done, we need to notify in writing where the hazards were and that they were cleared.

And then for maintenance, if there is an ongoing relationship with the program and the unit, then we need to make sure that proper ongoing maintenance is happening and that we're following what needs to be done for that. And we have some slides that talk about what that is as well.

All right. So let's start off with disclosure. There is a handout, so if you're not real familiar with disclosure, you can go back and look at this handout. This has a lot more detailed information about it.

The handouts were available as part of the link of where you went to get the slides. I know that Sharita has put that link into the chat box as well, so if for some reason you missed it in your email, it is also in the chat.

So we have -- it's been in place since 1996 and the purpose is really to provide information about lead-based paint hazards. So owners disclose any known lead-based paint or lead-based paint hazards in units or common areas that are serving [inaudible] the units.

And so these common areas, these would include our hallways, our laundry room, the garage, any exterior surfaces of the building. So that's what we mean by common areas.

So this applies to almost all pre-1978 for sale and rental units. The occupants and the buyers have to receive the pamphlet. This is your Protect Your Family from Lead in Your Home pamphlet.

We need to make sure that the proper disclosure notice is being provided. This is the disclosure of information and lead-based paint and lead-based paint hazards. There's one for sale as well as for rental.

Yes, and so we -- on this form, the owner is going to be identifying whether they know or don't know if there's lead in the unit and if they know if there's lead in the unit, they're going to identify what happened, any work, and they're going to provide any record that they have.

Were there any evaluations done? Was there any type of work completed? What -- you know, what kind of documentation do they have? So that's going to be provided as well, as part of that disclosure.

So this has to be completed and signed before any contract is signed. It can be signed at time of lease, but we do need to make sure that that's being provided, that's being signed by the renter as well, and that it's being kept on our files.

So this is typically provided when somebody moves into the unit or when it's for sale. If you are dealing with rental properties and there's a lease renewal, if there was any new information about lead-based paint that was identified, any work that was done, any new testing, then a new disclosure form would be required at least renewal.

Okay, so visual assessment. Remember, I told you about what we were looking for. So in subpart K, the way we look is called a visual assessment. So a visual assessment is an inspection that's done by a trained inspector and they are looking for deteriorated paint.

They're looking for chipping, peeling, flaking paint. They're looking for dust and any other type of debris. So they're actually looking around. That's our visual assessment. And they can be trained by taking this free online HUD course.

It's easy to follow. We highly recommend that housing counselors, inspectors take this training. So a visual assessment does not need to be conducted by a risk assessor or a paint inspector. It's just someone who is trained in visual assessment and this link is provided here of where you can get this training.

A visual assessment is not considered a formal notice of evaluation. So if you sat through subpart J, you learned about the notice of evaluation that we had to provide within 15 days of either doing paint inspection or risk assessment.

We don't have that type of notice of evaluation for a visual assessment, but we still need to document that it happened and we need to keep records of that.

So in that visual assessment documentation, we'd want to make sure we have the date of the inspection, the rooms and the surfaces where we looked and whether there was any deteriorated or damaged paint in that unit, in the common areas and the exterior areas.

We might also want to include pictures with this and we have a sample as part of our toolkit, and when you have the slides, you can click on this link and it'll go directly to the toolkit and provide you with a sample that you can use to document that a visual assessment actually happened.

Okay, so remember earlier we talked a little bit about exemptions from the Lead Safe Housing Rule. Remember rehab that does not disturb painted surfaces, that's exempt. But there might also be times when you have a limited exemption.

So if you are doing lead-safe work practices, lead-safe work practices are not required when minor maintenance or activities that do disturb painted surfaces are less than a de minimis level.

We talked a little bit about de minimis the first week we were all together, but just to remind you, de minimis is two square feet per interior surface, 10 percent of a small component type and 20 square feet for exterior work.

So as long as your work is less than those areas, then lead-safe work practices are not required for minor maintenance. And this is for work that's under \$5000. So this is where subpart K, rehab -- acquisition, rehab under \$5000 or any type of work under \$5000 you could have this limited exemption.

We're going to talk about the EPA RRP rule in a minute, but the de minimis levels are a little different for the EPA RRP rule than they are for HUD's rule.

So just to keep in mind a couple of considerations for subpart K. We have a lot more details about these, but just to let you know what we're going to be talking about. So if that visual assessment identifies a need to repaint, it has to be repaired.

And in subpart K, we're going to be doing paint stabilization. We'll pull that apart a little bit in a minute so you understand what that means. If it exceeds those de minimis, then we need to be following those requirements.

There are a couple options here. So if you're doing acquisition or if you have an owner and they might want to test the paint. So that's allowed. You don't have to just do a visual assessment. You can be more stringent and do a paint inspection.

So they can decide to do that, if they wanted to. They could also presume the presence of lead and you would use qualified contractors following HUD protocols. And if you wanted to learn more about presumption, then you should listen to the recording that we did on session two. That's available already.

So paint stabilization. I mentioned this is the type of treatment that needs to be done for subpart K. This is what's done when lead hazards are found during a visual assessment. So what does paint stabilization mean?

Well, paint stabilization is removing the loose paint and other materials from that surface to be treated. It's repairing any defects in the substrate. So the substrate is that material that's directly beneath the painted surface for which the components are constructed.

So that would be our wood, the drywall, the plaster, the concrete, the brick, the metal. That's what we mean by substrate. So we're repairing any defects in that substrate that's causing that surface to deteriorate and then we're applying a new protective coating or paint.

And this is being done by someone who is certified as an RRP contractor, and that RRP contractor is conducting safe work practices. Safe work practices are items that are controlling dust. They're protecting their occupants.

We're segregating the work area and the HVAC. We're making sure we're cleaning effectively. We're also making sure we're working wet, clean, and then we're cleaning with a HEPA and a HEPA is a high efficiency particulate air vacuum. So a very specialized vacuum that's being used to contain the dust.

And then we also need to ensure that we have a formal third party clearance inspection that's done and that we're providing a notice of lead hazard reduction activities to the residents. We'll talk about those in a couple of slides.

All right. So I mentioned the EPA RRP rule. That stands for the Renovation, Repair and Painting Rule. The purpose of the RRP rule is really to minimize exposure from lead-based paint, from dust during renovation, repair or painting activities.

This was designed to reduce lead contamination by training contractors in relatively simple lead-safe work practices. So we're ensuring them. We're certifying them to make sure that they are following lead-safe work practices.

So in order to train in the RRP, we have to be doing this work. We need to be sure that our firms are certified by EPA or an EPA-authorized state, that we're using certified renovators that are trained by EPA approved training providers, that they are following lead-safe work practices.

They're providing the Renovate Right pamphlet. So it is the contractor's responsibility to provide that. A lot of programs also provide it as well, to make sure that the tenants and the residents get that.

There is an acknowledgement form at the back of that document, so you want to make sure that that's being signed and collected and you're getting a copy of that. There are potential fines if you're not following RRP.

So right now, the fines are pretty steep. They're about \$41,000 per unit. So we want to make sure that we are following RRP for any work that's disturbing lead, lead-based paint in homes, childcare facilities and preschools that were built before 1978.

So HUD has more stringent rules than RRP does in a couple of different areas. So if you've hired an RRP contractor, that's great, because that's what we need to use for paint stabilization, but your RRP contractor might not have ever worked on a HUD contract.

So they might not realize that there are some differences and that HUD's rules are more stringent. We do have an RRP handout. This is one of the handouts that are available to you.

It does compare the differences between HUD's Lead Safe Housing Rule and the RRP rule and which ones are more stringent, so you can go back and look at that.

But just a couple differences to highlight here. The de minimis levels are different. So for HUD, it's much smaller. The de minimis level for HUD is two square feet on the interior and for EPA it's six square feet.

So if you have an area that's four square feet in the interior, you need to be following RRP under HUD's rules, but your RRP contractor might not know that, because they might be thinking, oh, EPA's rule is six square feet.

So it's up to you, the program, to make sure that you're communicating with these contractors that are hired, that they understand HUD has a smaller de minimis level than the EPA rule does.

Also for HUD, we are requiring paint testing using an approved XRF or paint chip testing. That's if we decide to do that kind of testing rather than just swabs.

Remember, in subpart K, we can just do a visual assessment, but if you are doing more stringent types of work, paint testing would be required whereas in the RRP rule, they just use swabbing and that's not required under HUD's regulations.

And we do require a formal post-work clearance inspection by an approved third party. We're providing a formal notice, that's that notice of lead hazard reduction activities, to our owners and our occupants as well.

That's not what you would see in RRP. So go back, look at the RRP comparison and you can see what some of those differences are. We have a link here as well, to get to that comparison chart.

Okay, so clearance. After any lead-hazard work is done, such as the paint stabilization that we're going to be doing in subpart K, clearance has to be achieved and a notice is provided to the owner and the occupants.

So the first thing we have on here is abatement. Remember, abatement is not required for subpart K, but you always have the option to do more stringent type of work. So if you decided to do abatement, then your clearance would need to be done by a certified risk assessor or a lead-based paint inspector.

Most of us are going to be in this non-abatement work area here down below here, because we're doing subpart K, paint stabilization and so that's considered non-abatement work.

So our non-abatement work can be cleared by a certified risk assessor or lead-based paint inspector or a sampling technician. That's another category that's available. There's not a lot of those out there, but it is -- there are some places that have sampling technicians.

So you have a little more flexibility in who can do the clearance for your non-abatement work. We do need to make sure that there's no conflict of interest. So the clearance cannot be done by the same firm or contractor who actually did the lead hazard reduction work. They have to be independent.

You can use the same firm to do clearance who also did any pre-work testing or risk assessment if you decided to do that. This clearance is a combination of a different thing. A couple different things.

There's going to be a visual where they're looking around to make sure that the work is complete. They don't want to see any work that's not done yet. They don't want to see dust around. They're doing a visual to make sure that the work has been done, they don't see any other hazards.

Then they're going to be doing dust sampling. There's a prescribed way to do that dust sampling. Those dust wipes are going to be sent to an accredited lab and they are going to be measured against the dust lead levels.

I think my next slide has what those levels are. Those sampling will be reviewed and then a report will be provided, and we call that a clearance report.

Here we go. Here's my levels that are provided here. Okay. So clearance has to be conducted by a third party, like I said, and so those dust wipe samples are being collected by that risk assessor or the paint inspector or the clearance technician, again, provided to that lab and they need to be below -- at or below these levels.

They have to meet or be below these levels to pass clearance. And then the lead hazard work is not complete until a clearance test is performed and passed.

Okay, so here is a sample of a notice of lead hazard reduction activity form. This needs to be provided to the occupant and the owner within 15 days of work being completed.

So this will contain information about who to contact, the date that this information was received, what kind of lead hazard reduction activities were undertaken, is there any lead-based paint remaining? What the results of the clearance test are.

If, for some reason, clearance fails, then that worksite has to be recleaned. Another clearance test has to be conducted and if it still doesn't pass the clearance, additional work may need to be done if it continues to fail.

So we want to make sure that we're passing clearance and then once it passes clearance, we are providing the [inaudible] lead hazard reduction activities, again within 15 days of any work being completed.

All right. So you've heard me use these terms a couple times for these lead specialists, a risk assessor and a lead-based paint inspector. So our lead-based paint inspectors, they can perform inspections and post-abatement and non-abatement clearance.

And then we have our risk assessors. They can also perform inspections post-abatement, non-abatement clearance, lead hazard screens and risk assessments and activities.

So in subpart K, we're really focusing on using these two different specialists for clearance activities, because in subpart K, again, we're doing visual assessment where we don't have to use a lead-based paint inspector or a risk assessor.

We can have someone who is knowledgeable about construction and is able to take that free online test. If we do decide, we always have that option to do any testing. So if we want to test or do a risk assessment rather than a visual assessment, if we're doing a risk assessment, we would need to hire a risk assessor.

If we're just doing lead-based paint testing, we could hire a lead-based paint inspector. So these are the different categories that we have of these lead specialists. There is special EPA or state training that's available and we have a couple different documents here.

Let's see, is it the worker sheet? Yeah. So on our worker sheet, you can see like the risk assessor here. What can they do? They can do a risk assessment. They can also do clearance. Our lead-based paint inspector, again, can do paint inspections and they can do clearance.

And then we have our visual assessors that we talked about. So like you and I could become visual assessors. We can take that free HUD online training to become a visual assessor and that's where we're looking in subpart K to determine if there's any hazards.

Okay. So grantees need to decide if they're going to hire trained contractors to do that work or if they're going to train their staff. So different areas that you can decide if you want to hire or train.

We have a couple links here that can get you to these different websites to either find RRP firms or if you decide you want to train your maintenance staff to become RRP workers in a firm, then you can go to training for that as well.

You can also reach out to other local grantees. Maybe they're CDBG or HOME grantees. They might have firms that they've been using that are RRP certified as well as lead inspectors or risk assessors to do clearance. You can also contact a lead-based paint hazard control grantee.

So when you have the slides, you can click on these links and it'll go directly to these pages.

There are certain states that also have their own RRP programs. So you want to check with your state authority to see if that's the case where you're working.

So here are two screenshots of the EPA website for locating certified renovation and dust sampling technician firms for renovation, repair and repainting work. So you can choose here.

Like I want a renovator and I want to be -- here's the city I'm in and I want someone who is 50 miles away or you can pick the state and hit search and different firms will show up for you.

So that's when you're trying to find someone who is trained in RRP or if you need to find a dust sampling technician.

And then this is the screen shot for finding training providers. So maybe you decided that you want your staff trained. You want your staff to be able to do some of these things. So same website you can go to. We have the link here.

Again, is it initial training or refresher? Are you trying to become a renovator or a dust sampling technician? You put that search information in and then different training providers will come up and you'll be able to take that training.

There is a cost for RRP training as well as dust sampling technician training. The visual assessment training was the one that was free.

Okay. So if there is an ongoing relationship between the program and the unit, then there is ongoing maintenance that is required. And this is done by the owner or the operator. It might be the program. It just depends on the designated party for this situation.

So what does this mean? What is ongoing maintenance? Well, they need to make sure that a visual assessment is happening. And again, that's someone who's trained in that visual assessment, that free online training.

If there's any new or deteriorated hazards that are identified, that needs to be responded to. If there's any failure of any abatement methods that might have been taken place, such as encapsulations or enclosures, that also needs to be addressed.

And then written notification. This needs to be provided as well. Written notification to the residents asking them to report any deteriorated paint or failure of any encapsulation or enclosures.

And this needs to be done at unit turnover or every 12 months, whichever is sooner. So what's when we're making sure that our ongoing maintenance requirements are happening.

This is not required if all the lead-based paint was completely removed and you have a lead-free certified unit, then you don't need to do ongoing maintenance. Ongoing maintenance is also not required for homebuyer or down payment assistance programs. So that's what DPA stands for.

If you have a homebuyer, even in the HOME program, our homebuyers, you know we have that [inaudible] period, that's not considered an ongoing relationship in the lead world.

So homebuyer programs and down payment assistance programs do not need to have ongoing maintenance requirements as they relate to lead.

All right, let's finish up this section here with a knowledge check. These are going to come up as polls. So our first question here is true or false. A risk assessment is a required evaluation for subpart K. Is that true or false? What do you think?

So this is done -- it's a visual assessor and it's done by someone who took that free online training. It could be the owner. The owner could be the visual assessor who does that. So visual assessment is the correct answer, so the answer to this is false.

So let's do question number two. Who can perform paint stabilization? Is this a public housing employee? Is this an RRP certified contractor or workers? Or is this any contractor working on the home? Who can perform paint stabilization under the lead safe housing rule?

Okay. Hopefully you've been able to choose the answer for this one. So the correct answer is B as in boy. So an RRP certified contractors or workers are the ones who can perform paint stabilization.

If you have access to [inaudible] abatement contractors or abatement workers, they can also do paint stabilization, but it's going to cost you a lot more money than it would to be just using somebody who is trained in RRP. Okay? So RRP certified workers or contractors is the correct answer for number two.

So last -- that kind of ends my section. Is there any questions that came up or anything that you want to expand on a little bit?

Les Warner: Well, we had a bunch of questions. I will say some of them relate to things that we're going to cover in the second half of this, so I'm going to defer those. But we had questions about if we're doing clearance are we -- could that be done by our own staff member?

Or does it need to be a third-party entity? And so keep in mind that when we -- and I think you showed a slide where we talked about for that clearance testing, that we're going to need to have folks that are RRP certified.

So they're going to be taking samples and then sending it to a lab, who is then going to do the determination whether those levels of lead particulate in those samples are within the allowable thresholds.

Otherwise you're going to fail the clearance test and it will have to be retreated and retested. So I think one of the key things here is -- one question was relating to that third party testing on this.

And so one of the differences that I think you may have shown on the RRP chart was the fact that under RRP, contractors themselves could be doing clearance testing, but under the HUD rule, this needs to be a third party.

We would not want the contractor themselves to be taking the samples and then sending them off to the lab, so we're going to --

Kris Richmond: Yeah. And Les, for clearance it has to be a lead-based paint inspector. So they have to go through lead-based paint inspection training, which is different than RRP training, or they have to be a risk assessor, which is also different training than RRP training.

So they might also be an RRP certified, but in order to do clearance, you need even further type of certifications. And this could either be a lead-based paint inspector, a risk assessor or if you lived in an area where there's clearance technicians.

So those are really the three groups of different types of inspectors or assessors that can do clearance.

Les Warner: And so their question was about, well, could it be my own staff person that was doing that.

If they are appropriately trained and certified, they could take those samples, following the protocol on how you select your samples and then they would be sent off to the certified lab as part of that.

So kind of key points here, it can't be the contractor doing it. Must have appropriately trained staff to be able to do that.

There was also a question of, you know, if we've got -- if we're funding for existing owners, do we still have to do our disclosures? And yes.

We are always going to be doing our disclosure and the key here is that we're trying to make sure -- we want everybody to understand about the risks or hazards of lead paint and so we're providing the brochure up front.

But we also want to make sure that as we are doing evaluation on the property, as we're doing work, that we're going to be making those disclosures to that owner so that they understand that information.

Let's see. There are a couple of other things here. There was a question about sample notices and if you look to the toolkit, there are sample notices on what's going to be provided as part of the disclosures and quite a few questions related to so who is going to make the delivery on that?

So the bottom line here is that the grantee themselves, the recipient of -- who is administering the CDBG or the HOME funds, depending on what the funding source is, they're ultimately responsible for compliance with the Lead Safe Housing Rule.

You may be -- let's say you're doing some assistance with a rental property. You may be requiring the owner to provide some of those, deliver some of those notices and disclosures to the occupants, but the bottom line for you as the grantee that's responsible for compliance is you're responsible to make sure that that happens.

So thinking about, am I going to want to have my staff do that directly or am I okay with having an owner deliver that information, but as part of that, getting a receipt. So a lot of our notices will have like a tear-off page that has some standard language.

They acknowledge that they've received this notice and they would sign and date it and that would be then returned back to the grantee.

So you're building that compliance documentation to be able to show that even though you yourself and your staff weren't making that delivery, that you've collected that information and you're able to document that all those required steps were followed as part of that process.

Let's see. I think the rest of these we're going to be covering in the second half of this.

Kris Richmond: Okay. Well, I can hand over to you the control.

Les Warner: There we go. All right. So Kris has kind of worked through all the overall basics and then essentially in the second part of this, we're going to be looking at particular types of activities and then applying what's been discussed in the first part of this.

So we're going to start talking about homebuyer specific instances and then move into talking about our leasing, supportive services and operations.

So stay with us here, we're going to be kind of switching types of activities and applications on this, but we want to make sure that we're kind of dealing with these requirements in that context as you think about, okay, how is this going to work for my particular program?

So for homebuyer programs, typically this is going to be HOME and CDBG funds, and we have a whole variety of ways that we might be assisting and really local program designs and what you will or won't pay for.

So probably most typically we're seeing programs that will provide a down payment, closing costs as part of that. There are some folks that are working with private lenders and using their funds in the form of a loan guarantee or trying to subsidize or buy down interest rates on that.

And so we may have a variety of program designs on this. Some of your programs will have an absolute mandate that all units that are going to be acquired will have to be in standard condition to not only meet the property standards, but also have to meet the Lead Safe Housing Rule requirements that we're going to be talking about.

Other programs may have some availability of rehabilitation and so we're going to get into talking about, you know, depending on that level of rehabilitation that might be provided, whether we're going to be following subpart K, which is today's training, or in some cases, because of the level of funding, we're going to be talking -- they would need to follow subpart J, which is what our last two training sessions were about.

So when we think about the subpart that's going to be triggered -- so subpart K does allow for rehabilitation up to and including \$5000.

So some of you that have programs that will allow for a little bit of rehabilitation will then need to be looking at the project and determining is this a project that fits within this up to and including \$5000 or is this a project that that acquisition includes rehab that exceeds the \$5000 to bring it up to those property standards.

So depending on that level of assistance for rehabilitation is going to determine whether it's subpart K or subpart J. Some of you, as I mentioned, are running homebuyer programs where there is no rehabilitation as part of your program.

You're only providing down payment assistance and closing costs and so then we'll be talking about the -- you know, how do we make sure that these units that we're providing acquisition assistance are going to comply with the Lead Safe Housing Rule?

So our regulations are a bit different between subpart K and subpart J when we talk about our evaluation. And so under subpart K, we're going to be looking at all deteriorated painted surfaces. So not just surfaces that are going to be disturbed by the rehab that we're doing.

And so all deteriorated painted surfaces are going to have to be treated. They're going to have to be stabilized and then clearance will have to be completed before we can allow for occupancy whereas under subpart J, we would be following our risk assessment, paint testing, interim controls on this.

And so subpart J, again, we've done two trainings on that. The first one is posted. The second will be posted shortly. So if you have programs that span both subpart K, subpart J, make sure that you also have either attended the subpart J training or are going to go back and look at that.

So also keep in mind, again, the exceptions that Kris went over in the earlier part of this. This would apply for all properties that were built prior to 1978 are going to have to comply with these requirements.

So you also may be, as you're looking at your homebuyer program, you may have a large percentage of your properties that are actually 1978 or more recently constructed and so they would be exempt from this.

So that might be part of your step on determining, okay, what do I need to do for each of these properties? That might be one of my first steps on determining when was this unit built?

We talked about that needing to be documented in the file if you're stating that this unit is exempt and that usually looking up your property tax, property information on your county auditor's website, is going to list the year that that unit was constructed and that would be appropriate documentation for you on this.

So we need to talk a little bit about the determining of the level of rehabilitation assistance. The reason this is so important is that we just mentioned that based on that level of rehab assistance is going to determine does this sit under subpart A or does it belong under subpart J?

So when we talk about that level of rehabilitation assistance, we have two tests here. One would be that total of federal assistance for all uses for that unit, and we'll give you an example after this, which I think will help clarify that.

So we can be looking at that total of federal assistance or we can specifically be looking at the hard costs for rehab. And that's not just for federal assistance, but it's all assistance that is included in that.

In, I believe our second session, we went through under subpart J, we went through all the definitions of hard cost versus soft cost. So hard costs are all of our construction costs, but they do not include our lead hazard reduction costs.

So I want to talk a little bit about that, because that tends to be kind of a big question on this. So I'll give you an example. So the programs that I worked with at the state level, we would not standardly have been replacing windows and doors on units.

That wasn't sort of the standard thing that we would do, and so we would expect to see if you were replacing, let's say, the windows in the unit, that there would be a justification in the file. It might be that the windows were badly deteriorated. They weren't operable.

And in that case, that's a rehab cost and would be included in this calculation. But I might have a justification in my file that says we're replacing these windows because they all have lead. They are unstable surfaces. They're creating -- it's a friction, so it's creating a source of dust.

And so our reason for replacing the windows, for this particular unit, is that it's part of our lead hazard control work. So in that case, the costs of that window replacement are not going to be included in that calculation of the hard cost of the rehab.

And so obviously if we're replacing all of the windows and those costs are excluded from our calculation of hard costs, that's going to reduce that hard cost level.

But again, it can't be that you just always say, well, we're never going to include windows, doors and other things within our calculation on hard cost. The issue is why are you doing those replacements?

If they are actually lead hazard control and that's the decision of why you're doing that, then you could exclude them. Otherwise, if you as a standard practice, are replacing all windows for all the units you're doing, then that's just part of your rehab cost and it would be included in that calculation.

When we reference soft cost, and if you look back in the subpart J slides, we kind of go into that in more detail, but it's all those non-construction related costs. You know, fees, credit reports, recordation fees, any sort of legal or accounting costs, appraisals.

We might have some professional fees for architects, engineers, environmental review, those sorts of things. If we were doing relocation, that's a soft cost. It's not part of the construction, but it's part of the overall related project. So again, those costs would be excluded from making this calculation.

So based on this determination of that level of rehabilitation assistance is then going to determine whether this is going to be subpart K or subpart J, and I'll just reference you to this chart that we've been kind of looking at.

So if -- and actually, it might not be the one that I want to use. Let's see. Yes, it is. So for subpart K, we talked about we're going to be identifying and stabilizing deteriorated paint. And so we said that we could be doing that up to and including \$5000 in rehab.

If we exceed that \$5000 in rehab, then that puts us into subpart J. And so at that point, we're going to be doing paint testing and a risk assessment as opposed to that visual assessment that we've been talking about.

And so under subpart K with the visual assessment, we're going to be doing paint stabilization and then clearance as part of that whereas under subpart J, we would be doing interim controls and again always following safe work practices.

So making this calculation in determining that, yes, this project does belong under subpart K, will be important depending on the kind of program that you are operating and would need to be included in your files.

So let's look at an example. It may be helpful a little bit on this. So this program is running a homebuyer program and so they're not only providing down payment and closing costs, but they are allowing for some rehabilitation costs.

So in this example, we've got a family that's been approved for \$10,000 in assistance and out of that, we kind of have to break that down to make this calculation, \$4500 of that \$10,000 in assistance is related to rehabilitation.

So remember, our two tests are if we look at the total of the federal assistance, in this case it's \$10,000, but we also look then to see what are our hard costs? And we're going to follow the lower of these two, so in this case, our rehab hard costs are \$4500.

So that's within the thresholds under subpart K and so we can follow subpart K with the visual assessment, the treatment of the unstable paint surfaces as part of that.

So that's going to -- depending on how your program is set up, that's going to be part of your process each time to determine what's my level of assistance and does this project belong under subpart K or subpart J?

For some of you, you're going to be running programs that you don't provide any rehabilitation, and so that would not be a necessary step for you.

So when we talk about our homebuyer requirements, again, we're identifying and stabilizing deteriorated paint. So it's not just as we talked about under subpart J where we're disturbing particular surfaces.

We're going to do a visual assessment and look for any unstable, deteriorated paint and then we're going to stabilize or treat those painted surfaces following our lead-safe work practices and we're going to complete clearance as part of that.

So for our homebuyer programs, we don't really have an ongoing relationship with these units and so we don't have ongoing maintenance requirements.

That's really part of the reason why we're providing those informational pamphlets to those homebuyers, because we want them to understand about lead hazards, how they as a homeowner and how they occupy and take care of that unit can minimize any future exposure for their family.

We also don't have any elevated blood lead level requirements as part of this.

Now, one thing that Kris mentioned to kind of think about is that -- so we said that we're identifying and stabilizing all deteriorated paint. We could. Let's say we've looked at our unit and we've got 10 places where we have deteriorating paint.

We could presume that all of that paint was actually lead paint and then treat that and do the clearance testing that would be required, but we also could say, let's go ahead and test those 10 locations.

So if we have a risk assessor, a paint tester that's available to us, whether it's on our staff or on contract, we could test those 10 places where we've got deteriorated paint and maybe only three of those actually are lead paint.

And so we would be able to only deal with those three locations where we had deteriorated lead paint. We would stabilize that paint following our lead safe work practices and then do clearance testing for those specific sites.

So there is a decision about am I just going to proceed assuming that each of these places where I've got deteriorated paint, assume they have lead or we could choose to do testing on that.

So one thing I wanted to note here is that the visual assessment does not require a notice of lead hazard evaluation results, but we're going to be talking in just a minute about going through that process with the purchase of a unit and how we may be working with the owner maybe to negotiate on how we're going to treat and pay for the lead work that's going to be done.

So thinking about the folks that are going to be involved in the project, you know, depending on the type of activity you're operating and the partners that are doing this, we mentioned that the grantee themselves, so that state, city or county that's receiving the HOME or CDBG funds are going to be responsible for compliance on this.

HUD will be monitoring you for that as part of your compliance review, but a lot of times you are going to be sub-granting those funds to city, county governments and non-profits or others and so they're going to be part of this process.

We've talked about -- we're going to be talking a little more about counseling. So our homebuyer program under the HOME program requires that all of our participants are going to need to complete homebuyer counseling.

And we're going to be talking about including some education about lead would be a really good thing to include in that, but thinking about intake staff, inspectors, contractors, through that process, what their roles and responsibilities would be, and that kind of ties into these questions of so who is going to deliver notices?

Is thinking through how each of those partners will have a role in implementing these and making sure we're going to be in compliance with the Lead Safe Housing Rule. And then, of course, our homebuyers are going to be an important participant in this.

So as we think about implementation on this, and some of this is going to be -- the order of this is going to be a little different depending on how your program is set up.

I think probably ideally, we want to be where we're collecting an application, determining that these households are going to be eligible for our program, and then in working with them on our pre-purchase education counseling, educates them on what the parameters are for your program and then send them out to look for a home.

But as, probably many of you are saying, hey, you know, sometimes it doesn't work that way. We have an applicant that comes to us. They already have a purchase contract in place or they've selected a unit that they want to buy and then we're trying to figure out can we assist them?

So kind of the order on this is going to change a little bit as part of that. So we're going to be talking through each of these steps as we go through and kind of how we're going to incorporate this.

Keep in mind, we need to make sure that we're educating those homebuyers about not only the lead paint hazards, but as they think about what unit do I want to purchase? That ought to be part of the consideration.

So we want to make sure that we include that in our education, in our notifications right up front. Because we are already going to be doing inspections as part of making sure that those units are going to meet our property standards, we then have to think about how do we incorporate the Lead Safe Housing Rule in subpart K, requirement for that visual inspection?

How are we going to incorporate that into our process and then thinking about negotiating when we have properties that turn out to have some unstable paint surfaces that are going to need to be treated and clearance achieved before we can invest our money in that.

And then we'll talk a little bit about post-purchase counseling. That, including, again, some lead education in that will be really helpful for houses that may contain lead that are stable surfaces,

but in the future that homebuyer is going to be responsible. They need to know what to look for, how to deal with that.

So let's kind of walk through this. So usually that front end application process, we're just trying to figure out basic eligibility, income eligibility. Many of you will have restriction of they must be a first-time homebuyer or within a certain period of time.

And so that's when we start providing then our basic and not only information about our program and what you will pay for, but that disclosure about the risk of lead paint can be provided as part of that.

So providing that Protect Your Family from Lead pamphlet as part of that. And then we should be starting with our counseling at that point. The HOME program in particular requires pre-purchase counseling.

So thinking about adding this information into your counseling program.

So as families are considering, as they're looking at options for units in their community, if it's a 1978 or more recently constructed unit, then they can generally know that this is going to be excluded from the Lead Safe Housing Rule, but also that it should not contain any lead paint which might present a hazard for their household.

So also making sure that they understand what treatment can be done. What are the options for those pre-1978 units and what your program will require as part of that?

So then as part of the home selection process, normally your program will be not only having educated, but saying, you know, before, if you have the opportunity, you're normally going to be saying to folks, before you sign that purchase agreement, we may want to do our testing and evaluation looking at property standards on this or be making sure that there's going to be a clause that would be included in that purchase agreement that would allow then for that testing and evaluation to be done.

Not only for the Lead Safe Housing Rule, but of course these units will have to meet the required property standards that CDBG or HOME funds are going to require as part of that.

So sometimes that inspection will happen prior to that being signed, and that's probably ideal, but lately markets have been moving so quickly, that may not be an option.

And so in those cases, they need to have folks put that purchase agreement in place, but make sure that there is an option within that contract to give them a period to be able to do inspections and then request repairs based on the outcome of those inspections.

So as part of the purchase contract, the seller is provided to provide disclosure. So for instance, I sold my father's home just a couple of years ago. So when I completed the paperwork with the realtor as part of listing that property, I filled out disclosure forms about that property.

Whether there were any known lead hazards. In this case, built in I think 1954, never had had any kind of lead testing done on it, so I disclosed that there were no known hazards with that property.

So that would be part of, in the execution of a purchase contract, the seller will be providing that disclosure statement on that. The homebuyer does have the option under subpart A to do testing. To test for lead and they've got a 10-day period to be able to do that.

That's a HUD disclosure requirement. Went into effect in 1996 and it applies to all home purchases, not just where we have CDBG or HOME funds as part of that. So that is an option for the homebuyer to actually have a risk assessment or paint testing done.

Under subpart K, our requirement is going to be for a visual assessment. And so we're looking for all deteriorated painted surfaces as part of that. So obviously if there's a -- if the homebuyer chooses to do a risk assessment or paint testing, then we have a higher level of detail on that.

So if we find then that there are paint hazards in that unit, depending on the contract terms we may be able to withdraw from that contract. So we may have language that they have an inspection period.

They come back to the owner and they not only say, hey, you know, there's some loose siding, there's a window that needs -- that the seal has gone bad on. We want those to be repaired, but we also have identified that there are two places that have deteriorated paint and that needs to be treated. It needs to be treated by someone with appropriate certification and will require third-party clearance testing for that.

So that can be part of that negotiation on the contract. In some cases, your contract will allow you to be able to cancel or withdraw from that contract. So that's part of our process then as part of the purchase contract, to try to make sure what do we know about this property?

We'll have our -- at a minimum, our visual assessment, and that can be then included in that purchase contract process of -- during our testing and evaluation period that would have been identified in that contract to then go back and try to determine what will be -- happen there.

So keep in mind making sure ahead of time that there's a standard process that buyers understand about their options within a purchase contract and putting those clauses in place or activating those clauses is going to be a really important part of your homebuyer education as part of that.

So whether it happens before that purchase contract or after that purchase contract, we need to make sure that the unit has been inspected. And so not only are we going to be looking at what needs to be done to bring that property to the required property standards for CDBG or HOME, but then also, as we mentioned, visual assessment needs to be completed.

That's for all houses that are pre-1978. So we may have some properties that we determine, oh, this was built in 1981. It's exempt. That would be in the file and that would show why we don't have the rest of this work having been completed.

So that inspection can be completed by someone who has completed the HUD visual assessment training, so that could be a staff person. It could be someone that you have contracted with. We've provided the listing here for where you can go and take an online training for this.

So pretty simple to be able to complete. And then that inspection report is going to go to both the homebuyer and also to the agency.

And of course if you're walking away from this unit, we're going to be providing that information to the owner of the property and when they do their disclosure for the next purchase contract, they're going to now have to disclose that they now do know that there has been some testing that's been done.

So as part of the purchase negotiation is where really you're going to try to figure out, okay, is this a project that we can assist?

If you have -- if you determined based on your evaluation that there are some property standard items that have not been met -- I used to see a lot of where there was a requirement for a GFI for the outlet if it was in a certain number of feet to a water source.

That was kind of a common thing where we'd say, okay, there are a couple of things that need to be completed. That would become a term and condition of that purchase negotiation and the owner would be responsible for that.

So we could be adding to the list based on our visual inspection of surfaces that needed to be stabilized and we would require that it would be completed by an RRP trained or supervised workers and that there would be a third-party clearance as part of that.

We do have -- there is a sample checklist that essentially has a signature line for either the owner or for a contractor and they are certifying to, you know, they have not used any of the prohibited work practices.

They are specifying whether their workers were supervised by a certified abatement supervisor or they had completed the HUD approved training on this. So it provides you some documentation for your file along with the results of that clearance test that would have been created.

So that homebuyer is going to receive the notice of clearance, the notice of lead hazard reduction, so they're kept informed of what's been done on that unit and then at some later date, if they're selling that unit, that'll be part of their disclosure. That sort of chain of information that's passed on about that unit.

So as a standard, we would recommend that at the closing, the lead-based paint pamphlet be included in that. That becomes part of your documentation with all your closing documents and there is a form that can be signed by the resident that's part of the toolkit. Recommend that you take a look at that.

So as we mentioned, for homebuyers in particular, since we don't have an ongoing relationship with them and we're not going to be doing ongoing maintenance, we're really depending on that homeowner to know what the results were of that visual inspection, but also trying to make sure that they're educated on now as owners of that property that may contain lead, things to look out for, but also, safe work practices.

So if they're going to be doing -- a lot of times we have a new homeowner that now has dreams of changing that unit, doing rehab, updates to that unit.

We want to make sure that they understand about safe work practices so they can protect themselves and their family as they make some of those improvements either themselves or using an outside contractor.

So an important thing to consider as part of your standardized post-purchase counseling. And I know that when I worked at the grantee level, we had -- and I worked at the state level, we had a standard list of what pre and post purchase counseling needed to include.

And you could include that in what your requirements were going to be for that. You know, a home program will require you to use a HUD certified counseling agency, but you can also as a program add some specification on what you want to see included in that.

All right. So that was covering the homebuyer portion of this. We're going to kind of switch gears and then talk about leasing, support services and operations.

So these are for programs and we're typically a little broader here where we'd be looking at CDBG, HOPWA -- some people call it HOPWA, ESG or the Continuum of Care.

And so in these activities, we may have an agency that's going to acquire or they're going to lease out units in a residential property, but we also might be providing and funding supportive services or just subsidizing the operations for a residential structure.

And so those fall under subpart K. And so we're going to be talking about what is required for compliance with the Lead Safe Housing Rule for those types of activities.

Now, again, if we've got rehabilitation that exceeds \$5000, and that's based on our calculation of hard rehab costs, then those projects are going to need to follow subpart J.

We also, for HOME, where we have the tenant based rental assistance program, we may have an ongoing subsidy, so we're paying money in on a regular basis over time. That's going to fall under subpart M.

So keep in mind we have a couple of instances that they belong under another subpart. So let's talk about our basic requirements. So again, we're going to be looking to identify any deteriorated paint.

We're going to provide the pamphlet, the notification on that, and our level of evaluation is going to be a visual assessment. Based on that visual assessment, we are then going to do paint stabilization. We're going to follow our safe work practices and we're always going to do clearance on this.

Now, again, we could say, okay, we're going to treat all deteriorated painted surfaces, or we could say, you know, let's go ahead, let's test and maybe we won't actually have to treat all of these surfaces, because some of them it will be determined that there's no lead-based paint.

So we would bring in our XRF machine. We could do sampling and sending off to a lab and be able to exclude those surfaces from the work that we were doing. So that's going to be our protocol on this.

Now, one thing that may be different here is, depending on the type of activity, in some cases we will have an ongoing relationship on this. So we may be funding over a period of time for supporting operations for this property and so we would have this ongoing maintenance requirement.

And we'll be talking about things like inspecting units at lease up each time, also doing a visual assessment on a minimum of an annual basis for this. So requirements similar, but a little bit different.

So when we think about this, again, we're going to have a mix of folks that are involved in this team, the grantee themselves, but a lot of times that money is going to be provided to a partner.

It might be -- subrecipient might be a nonprofit organization or maybe another branch of that same unit of government. And again, we're going to be thinking about how does this affect occupants of those units and also the role for the property owner themselves.

So as we mentioned for our implementation, when we think about what's going to be required, we're going to need to have someone who has been trained to complete that visual assessment, that visual inspection and we listed just a couple of slides back the online training that can be completed on that.

Also, keep in mind, as I keep mentioning, you also have program-specific property standards. So that might be decent, safe and sanitary that we -- and to see under public housing or some CDBG activities, HOME is going to be requiring that you meet your written rehabilitation standards on that.

So we're always going to have some kind of an inspection that's being done on the property standards themselves and then added with that, needing someone to be able to do the visual assessment or the lead requirements.

The owner is going to be notified of the results and when we talk about disclosure for future tenants, we also would be providing that disclosure for them.

All of our stabilization and our cleanup work will have to be completed by RRP certified contractors or workers, and again, we're always going to do a clearance test on this.

It needs to be completed and found to meet those acceptable levels before we can allow that unit to be occupied and it's always going to be done by a third-party entity.

This same checklist that I talked about earlier, we can utilize it in the toolkit and it essentially just tracks the standards that have been followed as a certification from those entities about their actions and the certifications that they had in place.

So our ongoing actions -- so we are leasing out or we're providing operating subsidy. So each time we are leasing that unit, we're going to provide them the disclosure.

So we're going to provide them the lead hazard pamphlet, but we're also going to provide a disclosure of what we know about that unit. So the testing evaluation that's been done, any lead hazard control work that's been done and the clearance testing on that.

So we want to make sure and we want that to be done prior to them signing that lease. So in most cases, you will see files will include that disclosure information along with the signed lease so we can see that in every instance, that was completed.

As part of that requirement, we do now have ongoing maintenance where we need to, again, do a visual assessment of painted surfaces, looking for any sign of deteriorated surfaces.

So that's going to be done every time we have turnover of that unit before we rent it, but also for ongoing occupancy every 12 months, that would need to be completed.

When we see signs of unstable paint surfaces, we're going to follow that same protocol and make sure that that is done within 30 days of notification.

So we're going to bring in certified workers to be able to complete that work and then we're going to be doing our clearance testing as part of that. We will be making the disclosure then to that occupant and keep in mind, we're going to be capturing all of this within our recordkeeping.

So wanted to mention a little bit, we kind of mentioned this earlier, but I think sometimes people are trying to figure out, well, does my project -- am I actually under subpart K? Am I just doing leasing or does this actually belong under the tenant-based rental assistance?

So tenant-based rental assistance is where we have this ongoing assistance. So for instance, the HOME program, we would be recertifying on an annual basis, but we could provide them up to 24 months of assistance.

We could follow that again with, as a new assistance and continue to subsidize them. So this is ongoing monthly rental assistance that's being provided to the tenant and it's not specific to that particular unit.

So this isn't something emergency, like we tend to see under subpart K. So under subpart K, this is really short term and so this is where some of you, under CDBG, have been doing maybe homelessness prevention where you're providing a couple of months of assistance.

CDBG will allow -- regular CDBG will allow you to do up to 90 days of assistance. You might also be providing deposits so that -- you know, maybe a deposit, first month's rent, to get folks into affordable housing.

So we don't really have an ongoing relationship and so because we do not have that in place, we don't have this ongoing maintenance requirement on this.

And so all of our units have to meet our property standards at the time that assistance is provided, but under subpart K, unless we have this ongoing relationship we're not going to have this ongoing maintenance requirement that we've talked a little bit about.

So I want to specifically talk about emergency payments and we'll use these as regular CDBG and then we will switch gears and talk specifically about CDBG CV assistance, because we've sort of got a different protocol on this.

So emergency payments. So these are something that's not ongoing, so it's not following subpart M, which is for tenant-based rental assistance. Our limit on this is these are exempt for the first 100 days.

And so what that means is, I don't have to do the visual inspection and so I'm not then having the responsibility for doing treatment and clearance for any unstable paint surfaces. So this is -- we calculating that 100 day as starting when the payment is made and moving forward.

It does not include payment days that were made in arrearages and we'll particularly talk more about that when we get into the CV on this.

So the thing to keep in mind here, which would be kind of easily forgotten and may take some additional tracking is that this 100-day exception is not based on the occupant, but based on the unit.

So we could have one resident that we assist, they're there for a couple of months, we're under that 100-day level of assistance, but they move out and a new resident, and we are looking at -- we want to provide them, let's say first month's rent and deposit, but we would have to look to that unit to determine can we still within this 100-day exemption assist them.

And so it's specific to the unit, not the occupant. That's probably not how you're tracking some of the assistance within your system, so you may need to think about how do we make sure whether this is a unit that we have assisted before and be able to make that calculation.

And so, again, our best example and most common is the CDBG funds used for homelessness prevention. They have a maximum of 90 days of assistance, so they're kind of safely within that mode.

Where we kind of ended up having to think about, okay, how does this work with subpart K is with our Covid funding. Our CDBG CV funding.

We had a waiver within the CV rules that allowed them to go up to six months rather than that three-month limit that we would have normally under CDBG. So we normally have 90 days under regular CDBG. Now we can go up to six months.

So we still have the subpart K exemption in place. If that activity fits within that 100-day limit. So the important thing is about how we calculate this. So it's based on that payment date starts the clock for the 100 days of assistance.

So if we have -- let's say we have a tenant that comes in. They are in arrearage for that unit for let's say four months and so on July 1, we're going to pay four months of arrearage that's already occurred.

Our clock starts on that July 1 when that first payment happens. We can continue to make additional payments up until 100 days after July 1. So normally our minds would think, well, if we covered three months' worth of rent, so that's April, May and June, we would be thinking our clock start on April 1.

And so we would already be approaching that 100 days on the first of July.

But the calculation is based on when that payment is actually made, and so we could be providing assistance for a number of months retroactively because they were in arrears and then depending on that 100-day count, we could pay for additional months if still needed, up until that 100 days.

At the point we'd go beyond that 100 days from that first payment, then we're outside of that exemption and so we would need to then do the visual assessment and based on that visual assessment, if we see deteriorated paint, it's going to have to be stabilized and clearance testing be done.

So you know, I think as folks running CDBG CV programs were then pondering, gosh, I may not be really set up to be able to, in the case where there is deteriorated paint surfaces, do I have staffing that can do the visual assessment?

So some programs have been designed specifically to limit their assistance to stay within this 100 days from that initial payment. Others have thought about how do I make sure that I have staffing? How will I pay for the paint stabilization?

Would the landlord be responsible for that and we would do clearance testing as part of our program requirements on that? So think about how that would be put in place.

Now, keep in mind, this applies to only for units that are constructed prior to January of 1978. So in some areas, your housing stock, maybe a majority of it, is more recent than that date. So maybe this doesn't present a big issue for you.

In some parts of the country, a lot of the housing stock is going to be pre-1978 and so that may present issues if you are going to exceed that 100 days of assistance.

So keep in mind the calculation on this. Have a methodology in place to think about how will, if I'm going past that 100 days, how will I meet the requirements under subpart K? And that would need to be documented in your files as part of that.

All right. So let's talk about sort of another sort of special use that the rules are a little bit different. So we get a lot of questions from folks saying, you know, I'm providing operating funds to an emergency shelter.

A lot of CDBG funds are used in that way. Is that shelter going to be subject to the lead-based paint rule? Well, it really depends on what that shelter looks like. Well, first of all, we could have a shelter that was 1978 or more recent.

They would be exempt. But the key here is for those that are prior to 1978 is the configuration. So the regulations include essentially an exemption for zero-bedroom dwellings. So some of you may have emergency shelters that are very large, congregate areas.

We've got rows of beds or bunkbeds. Maybe we have a floor for women and a floor for men or it's a men or women only shelter. So those are going to be defined as zero-bedroom dwellings, so they're going to be exempt from the lead-based paint regulations.

I think more and more we are seeing that we have units, particularly where we've got family units or realizing with Covid on needing to have non-congregate housing for folks that we have units that aren't going to fit that zero-bedroom exemption and they are going to need to follow this regulation.

So thinking about if I'm not exempted, then following my visual assessment, the appropriate certified workers, contractors, to do the treatment and then that clearance, having an ongoing inspection of that to make sure that's been completed.

Now, the same exemption -- any time there's an exemption, there's this assumption that there aren't going to be children under six as part of that.

But so if we are saying, oh, well we're exempt because we are in a zero bedroom shelter, if we've got children that are under the age of six then we still will have to follow those policies under subpart K.

So I mean, more typically with family shelters, we're going to see children not be in these large congregate settings, but if that's the situation, then subpart K would apply to that setting and we would need to follow those requirements.

So when we think about putting together our program design and sort of the things that we're going to have to consider.

So keep in mind that our units are going to have to meet program standards, and so we already are going to have requirements about inspections that will be done and then when we add in the Lead Safe Housing Rule and subpart K, we're going to have to incorporate into that how we're going to integrate those -- the visual assessment that's going to be required under subpart K.

We're always going to want to make sure that our applicants are warned.

In the case when we're talking about purchases, we want to do that pre-purchase education, trying to make sure that they either have inspections that are being done prior to that purchase agreement where we have clauses that are built in for that to be able to be done, and we want them to understand why this is important.

When we're talking about a rental, we have a leasing supportive services, we're going to want to make sure that those disclosures are made. So as a renter is considering renting a unit, that you have operating funds in, we want to make sure that they understand about the hazards of lead and they've received disclosure about that unit itself.

We know that we've got requirements about inspecting at turnover, so we're going to protect them also on that.

So in preparation to be able to implement that, thinking about, well, I'm going to need a visual assessment to be done, who is going to do that? Is it somebody internal? Are they already certified? Can I have them take the online course?

Is that something that we're going to use contracted staffing to be able to do that? I think on all of this, incorporating that into your policies and procedures, particularly timing-wise, we need some of these things to be done before purchase contract, if possible, before someone signs a lease.

We kind of have a standard on the documentation we need to have in place. So thinking about who is going to handle that, what would be the documentation I expect to collect from that, whether it's that receipt that the owner, when they provide the disclosure form, is going to get the tenant to sign and they're going to keep a copy and they're going to provide us a copy.

Thinking about what that protocol will be so at the end of the project, we've kind of got everything in place. And then, as we mentioned, on the homebuyer education, trying to incorporate this into that protocol.

So as part of kind of looking at your overall program, thinking about are you promoting lead-safe housing when homebuyers or renters are making the decision about what unit they're going to occupy, that they've been educated, they understand.

They've had the disclosures of what's known about the unit. You know, this all important how do we get all these key steps done in a timely and efficient manner, having adequate documentation in place.

And a lot of that is making sure that everybody knows their role, knows what they're expected to do, what form they're expected to do so that we can make sure that we've completed all this and we're able to document that.

We've talked a lot about making sure that all the beneficiaries understand about not only the hazards with lead, but also what they can do to try to protect their own. Themselves, their family members, as part of this.

And then, of course, having certified inspectors, having contractors, clearance folks that are going to be able to staff this and complete the required steps.

All right, so a lot of information that we've gone through. So we want to run through a couple of -- we're going to do these as poll questions and this is as a knowledge check. So we're going to see the poll question up in a minute. Here we go.

So our first question is what order should these activities occur? So looking at A and B and decide which one of these you think is correct and then hitting the submit button. So indicate A or B and hit submit.

All right. So that was quick, poll has ended. The correct answer here is A. A little marker to work here. And the reason that it's in this order, we want to do that disclosure right up front.

We want them to know about as much about lead as possible right up front before we then go into our steps of the evaluation and treatment and clearance on that.

All right. So our second knowledge check here is who can conduct the paint stabilization and clearance? So what are our criteria for this? So if you look at these and then designate A, B or C. This was for paint stabilization.

All right, so when we're doing paint stabilization, B is our correct answer here. We need to have trained or supervised workers doing that work and we also are always going to have a clearance test that's going to be done on this.

So we could have a certified risk assessor, a lead-based paint inspector or if you had a clearance technician in your area that would meet this criteria.

And then our final knowledge check is who is responsible for compliance with the lead-based paint regulations? Is it the housing provider? The property owner? Or both? And then hit submit.

All right, so poll ended on this. So really the ultimate responsibility is who is receiving the funding from HUD, but we are going to say here that our correct answer is going to be both.

So as part of your policies and procedures and thinking about how am I going to get the documentation in place? The grantee is going to be ultimately responsible as the provider of the funding, but oftentimes we're going to be working with that property owner and they're going to have a role in implementing this.

HUD is going to be monitoring the recipient, the grantee that received the federal dollars, but some role may be completed by that property owner.

So before we wrap it up and go into question and answer, wanted to also revisit the available resources, because these are going to be really important for you after the training.

So we mentioned the HUD Exchange has a landing page that's everything about lead-based paint. So this is also where you would be finding so as we later are posting these trainings and some earlier trainings that were done. That would be on this landing page.

This is where you could look up the regulations themselves, frequently asked questions as they are issued on this. This is also where the toolkit, which we're going to look at on it's own in just a moment here.

So this would be, you know, should be one of your favorites on this. If you have not taken a look at it, I suggest you kind of go there and take a quick tour.

We've mentioned -- Kris and I have been mentioning as we went through this training that there are a lot of sample forms that have developed, been developed, and recently updated for the Lead Safe Housing Rule toolkit.

So these are -- you're not required to use these, but these are a great starting point. You might want to tweak these a bit for your program design, but I think it'll save everyone a lot of time to be able to borrow some of these and customize them for your needs.

So we have the link here in that, and again, I would suggest take a look at this if you're not familiar with it. It could be really helpful for you over time. And that also, subrecipients and others, make sure that they know about the toolkit.

And you could specify, I want you to use this specific tool, that's going to be your standard for documentation. That might be a good starting point for you.

So one of the things we also have been recommending is that when you sign up, when you register on the HUD Exchange, you can list the topics that you want to follow. That you need to be notified about when there are new things that happen.

So, you know, if the dust levels are changed over time, if you are signed up on the email list for notifications from Lead Safe Housing and Healthy Homes list, you would automatically get that information.

As new guidance tools or resources are released, you would be on their subscriber list and get a notification on this. I think that can be really a helpful tool just to try to keep up, make sure you're current on things.

And then this is sort of our more detailed list. Again, here's the toolkit, the regulations themselves, posted Lead Safe Housing Rule training, which could be useful for other staff or partners that need some training.

We've got a link to the EPA page and then we've mentioned quite a number of times throughout this training about the interpretive guidance.

So this is where, on any particular topic, and there's quite an extensive list set up by topic, that HUD's really kind of developed some additional guidance to walk you through that. That can be really helpful.

I would really encourage you to kind of set some time aside, become familiar with the interpretative guidance, because there's a lot of really helpful information.

And then the link for the lead-based paint page on the HUD exchange and then this contact information.

So you know, after the training, when you don't have Kris and I during office hours and Bruce and Karen to be able to assist, this gives you an email to be able to send questions into the Office of Healthy Homes and they would be able to then respond and be able to assist you with that.

So it could be an important resource for you.

All right, so before we jump into question and answer, just want to remind folks that we do have an office hour session tomorrow. We encourage folks to join us for that.

There is homework that we'll be starting, we'll be reviewing at the beginning of that and then going into our question-and-answer session, so we really encourage you to take a little bit of time and take a look at that homework in advance of tomorrow's session.

With that, Kris? I'm guessing we have some questions that have come in.

Kris Richmond: Yeah, we've had lots of questions, and I'm glad you talked about the interpretive guidance, because somebody was asking is a studio apartment considered a zero-bedroom dwelling unit and the answer to that is yes.

I read through the interpretive guidance again last night before this session and K, because interpretative guidance is set up by subpart and K is obviously the subpart we're going about today, but if you go to that, K1 talks about emergency shelters, but it also gives you the full definition of what a zero-bedroom dwelling unit is.

So it says a zero-bedroom dwelling as it's defined at the rule at 35110 is any residential dwelling in which the living areas are not separated from the sleeping area and includes efficiencies, studio apartments, dormitories, single room occupancy housing, military barracks, rental of individual rooms in residential dwellings and then also talks about single room occupancy housing.

This housing consisting of zero-bedroom dwelling units that may contain food prep or sanitary facilities or both.

So you want to look at the regs, but if the regs are a little overwhelming to you, I love the interpretative guidance, because it really is split by subpart and its super easy question and answer and even if that question was about emergency shelters, in the explanation it talked about zero-bedroom dwelling units.

So there's lots and lots of information in a really easily digestible format. So definitely a plug for that.

We had a lot of questions. Somebody was asking, well, the applicant told us it wasn't pre-'78 and then the assessor found out it really is pre-'78, what are we supposed to do? So you want to make sure you get on that compliance train as soon as possible.

So remember, visual assessment, look and see if there's any deteriorated paint. If you identify deteriorated paint, you've got to do your paint stabilization with someone trained in RRP and then when you need to be doing clearance and we want to be documenting that.

So you want to be doing that as soon as possible, as soon as you realize that somebody is in a pre-'78 unit that you did not realize that was the case.

Les Warner: And I think, in trying to address that --

Kris Richmond: Yeah?

Les Warner: -- you know, kind of having -- establishing like a checklist process that you go through, it's great that you consider that up front, because you could then exempt a number of units and not have to deal with that.

But having a standard of documentation, I think probably using the county auditor's website and be able to use that as long as you find in the area where you are, that that seems to be pretty legitimate.

And I would think for 1978 and more recent, that that generally is going to be correct. Some of those where you have an earlier house and they're speculating on what year it was built, I wouldn't depend on those.

Kris Richmond: Great. A bunch of homebuyer question. Somebody was asking about the pamphlet, the Protect Your Family from [inaudible] pamphlet. Who has to hand that out?

So it's the grantee is providing that pamphlet, but the seller is really providing that information that's going to be part of the disclosure statement. So the grantee that's providing the pamphlet, the seller is providing that information for the disclosure notice.

But the grantee does need to ensure the proper disclosure notice is being utilized.

Then we were talking about homebuyer about the visual assessment and somebody said, well, what if they decided -- because we have that 10-day option to test. And they said, well, what if they waive that option?

Well, if they waive the option of test, you still need to do a visual assessment, because a visual assessment is the bare minimum. So we still need to make sure that's happening and that you are providing documentation that that occurred.

And then somebody was asking, well, can we have the appraiser do the visual assessment? Well, we don't really -- the appraiser is doing a different kind of a job.

They're trying to figure out the value of the property and we really don't recommend that you have your appraiser do the visual assessment. You want someone who is trained as a visual assessor, which is that free online HUD training, and that they're specifically looking for these types of hazards that would then do that visual assessment for you.

Okay, those were some of the summary ones. Go ahead.

Les Warner: And I would just kind of throw in there that because some of you are going to have homebuyers that come to you and already have a contract in place and maybe it doesn't have inspection clauses in it -- the bottom line is that if you're going to put CDBG or HOME funds in this unit, you will have to meet not only your programmatic requirements, but also subpart K.

And so there may be some households that you determine I cannot assist, because I'm unable to bring this unit that maybe they won't allow me to do the visual assessment or they won't agree to any treatments and clearance on this.

If we can't bring this into compliance, you can't assist.

Kris Richmond: Yeah. So other people, they're getting a little confused about visual assessment, because they want to know if there's a negative visual assessment, is that equivalent to clearance. Now, remember, visual assessment, we don't know if there's lead or not.

We are just looking for deteriorated paint. And then we want to stabilize that deteriorated paint. We don't really know if that deteriorated paint has lead in it or not, unless we do testing, and subpart K does not require us to do testing.

So a visual assessment, we're looking for deteriorated paint. If, during your visual assessment, you do not see any deteriorated paint, then you do not need to do a repair and then you wouldn't need to do clearance.

So we're only doing clearance if we're doing repair work, paint stabilization work. So it starts with a visual assessment. If you do the visual assessment and the unit is beautiful, there's no deteriorated paint, then that can pass.

It passes the clearance -- I mean, it passes the visual assessment. We're not moving on to the next step of doing paint stabilization and clearance.

Les, I don't know if there's anything you want to add to that or --

Les Warner: No, I just -- I mean, it's a lower threshold, a lower standard than if we were doing subpart J where we were investing more money in this unit.

So it's been done kind of minimally to be able to allow these projects to go forward, but making sure that if there's -- visually we can see something that may be a hazard, there is a requirement to deal with that.

To treat it and to stabilize it and then to do clearance. I will just mention that in some areas, you will have an owner that will say, well, I'm going to go ahead and do the stabilization work myself.

And in some areas, that would be allowable, but the key here is we're going to require that a clearance test be done by a third party on this.

Kris Richmond: Yeah, and then just maybe can you pull up the summary chart? Just so we can show folks the summary chart again.

Les Warner: Yep.

Kris Richmond: And yep, and so I don't know if my thing will show up, but this approach here - - I don't know if my --

Les Warner: It's showing up.

Kris Richmond: Oh, perfect. Okay. So this approach -- because people were asking, well, how am I supposed to know which one applies? Look at this approach here. We always need to make sure you're doing the more restrictive.

The higher the number, the more restrictive the methods and the protections are of the occupants. And so that's why you see homebuyer acquisition rehab greater than -- or less than or equal to \$5000.

We are following subpart K because this approach here, number two, is more stringent than the approach of subpart J. And so we always want to follow the more stringent approach.

So when we say that to people, I say, well, one easy way to look at that is look at these numbers and you want to follow the higher number, because that's a more protected, more stringent type of requirement to follow.

Les Warner: And Kris, I was just going to add that kind of follows with -- so when we talk about do no harm, we're really looking at where we're disturbing surfaces whereas being more stringent, we're looking overall at any deteriorated paint based on a visual assessment and then we're going to be doing stabilization on any of those deteriorated surfaces unless we test them and determine, oh, that's not lead, so we don't have to worry about that.

Kris Richmond: Yeah. We still want to repair it, but we wouldn't have to follow the lead rules for that. Okay, well, that brings us to the end of our time today. There are two exercises.

There's one for homebuyer and one for special needs programs, so hopefully you'll have the opportunity to work on both of those later today or first thing tomorrow.

And then please come back tomorrow and join us for office hours where we'll review that homework, we'll answer new questions that you have as well as any questions that came in today we think that everybody would benefit from hearing.

I want to thank Les for being my co-trainer, Sharita for helping us support with the logistics and to Bruce and Karen who were furiously typing answers. Thanks to everybody for your support today and we will see you tomorrow. Have a great afternoon. Bye.

Les Warner: Thanks, everybody.

(END)