

Lead Safe Housing Rule Webinar Series, Subparts J & K

June/July '22 Office Hours 4

Les Warner: Thanks, Rita. So we're going to start out today -- and I'm trying to adjust my screen just a little bit here. We're going to start out today going through the exercises, I hope folks got a chance to take a look at those. And then we will go into our question and answer.

So if you've got things that, as you were thinking about it last night, you've got more questions on what we talked about yesterday, go ahead and put those in the question box. And as soon as we finish with the exercises, we'll switch into that. And we also may be reviewing some of what was talked about yesterday. So let me see if I can -- I'll move this back a little bit. See if we can show the exercise. Here we go. Okay. All right. So hopefully you can see that.

So our -- we're given some scenarios here. And we're just being asked to kind of think through how is the lead-safe housing rule going to apply, what are our options here? And unlike probably most of the knowledge checks, and question and answer, there aren't really right -- there's no specific right answer in these scenarios.

But I think we're -- particularly in this exercise, the point is kind of helping you think about what are your options, what might your program design look like? And kind of thinking about making some of those policy decisions that you are going to need to consider as part of that. So while there are no right answers in this scenario, there would be some wrong answers. And we may point out a few of these.

So in this first scenario, we're given information that a realtor has sent a couple to us that have found a house built 1948. And there is chipping paint, both on the exterior, and then on a second floor bathroom. And so we're trying to figure out, so what are our options here on proceeding with this particular house? And this is January, we're in Wisconsin, I'm going to assume most of you realize that would be cold and probably snowy at that point. So what are our options here?

So first off, we know that because this is a pre-'78 house, that that chipping paint that we're seeing may be lead paint, we know that we need to follow Subpart K for this. And so in this case, we know that for the program itself, that we're going to need to do a visual assessment. And we've got the results of that with the -- these treated -- or these surfaces that now will have to be treated. And we'll have to have a clearance testing before we can proceed with this.

So there are a number of options here. And I think this is where you really go to program design. And in some ways, I think program design really also has to refer to what's your local market like?

So you could -- in this instance, you could be advising that buyer to go back to the seller and request that they have that paint stabilization completed, and giving them guidance about the proper qualifications for the contractors, methods that they were going to use on that. And that would then need to be -- all that paint would need to be stabilized, we would do clearance testing. And that would all have to happen before they were able to occupy that property.

Now, given the fact -- and one of our key points in this example, given the fact that it's January in Wisconsin, that exterior paint may not be something that can be treated at this point. And so

because it's on the exterior, we do have the ability, because of the weather conditions, to be able to delay that until spring.

So we could allow -- we could treat the interior painted surfaces that we've identified as part of our visual assessment, be able to treat those, get clearance, and then delay until the weather was appropriate on that. That goes back to section 35 at 115 A-12, which then references the fact that you could delay that exterior work based on weather conditions for that.

And so our options here, we're going to talk more about these as we go through our other examples, really are what's our program set up to do? If you're in a market where you can go back to the seller and ask them to complete those corrective actions or treatments of our unstable painted surfaces, that may be workable for you.

I would guess that a lot of you right now are in markets that are pretty hot, and there's a limited supply of units, and that may not be workable. So in this case, homebuyer might be moving on to identify a different unit.

Or you may have designed your program to be able to provide the assistance to those homebuyers to be able to cover the costs of the work that needs to be done, the treatment needs to be done. And then also the clearance testing as part of that. So thinking about how is my program designed and put together to be able to address these? All right.

So our second scenario here is we've got a city council member that, after talking with one of their constituents, elderly person who's trying to sell their house, they're pushing back and saying, they want this property to be tested for lead-based paint, who's going to pay for that, if there are surfaces that need to be treated, who's going to pay for that?

And so buyers always have the right by federal law to be able to require testing on this. So the buyer could choose to select to have a risk assessment, paint testing to be done on that property. The Lead Safe Housing Rule, under Subpart K, requires you at a minimum to have a visual assessment, and then treat those unstable paint surfaces.

And so the buyer can choose that higher level in that. And normally, that would be something that the homebuyer themselves would be paying for, the cost of that testing, if they're doing something above what Subpart K is going to require.

For your program implementation, because you have the requirement of complying with Subpart K, I would think that the cost of that testing, the visual assessment, is going to be part of your program implementation costs. But then thinking about as part of your policies and procedures, what then happens when we identify painted surfaces that need to be treated?

Will that be something that we standardly will be asking the seller? If they don't agree to cover those costs then, we walk away from the unit. Are we asking the homebuyer to pay for those costs? Which they may or may not be able to do. Or is that something that as part of our program design? That we want to incorporate and make funding available as part of our homebuyer program, to cover those costs so that these units can be part of the program.

And bearing in mind, thinking about what's the supply of affordable housing in your area that are potential targets for homebuyers to be able to purchase? And what's going to be feasible as a program? I think really lead into those discussions on what are our policies and procedures going to look like?

So keep in mind it's not the presence of the lead paint that is the issue, it's where we have unstable deteriorated surfaces that need to be treated. Let's see what else we need to talk about here.

So really, the options, I think we've talked about this, are we could say to the homebuyer, this home is not going to be one that you can be assisted with the program, we recommend you go out and look for another unit. We could, as part of this process, have the homebuyer pay for having that paint stabilization done by trained, certified renovators, have clearance achieved before they take occupancy.

Now I'll just mention that the HOME program with the 2013 update to the rule has -- requires that at the point of that transfer of the property, so when that purchase is completed, if it's going directly into the ownership by our assisted household, it has to meet all of the standards. And that would include the -- meeting the Subpart K requirements. So that may not be an option for you using HOME funds on that.

So the key points here are just that the Lead Safe Housing Rule itself isn't going to define who's going to pay for this, so that's really part of your program design. And I think really thinking about the local market, the resources that are available, and what's going to be workable for you being able to have buyers successfully able to find units in their market.

Just adjust -- there we go. Okay. And then let's go into our third example. So in this example, we've got a 1950s house, got a young family that we're providing down payment assistance for this.

And so when the house has been inspected, it's passed all of the housing standards, but there's a distinct odor of fresh paint in all of the rooms. So what's our appropriate reaction to this? Are we needing to investigate why the seller just painted? Well, when I read this, I think, I just sold my father's house, every room had been freshly repainted to try to get the 1970s out of the house.

So it may be just some basic questions about, oh, it all seems to be freshly painted. But as part of this, you are not obligated under Subpart K to do something further to investigate on this. You could choose to do clearance testing, just to make sure that in the work that may have been done prior to this, that they had not created some lead hazards as part of this.

And then our second part of this is, what can you tell the homebuyers about ongoing maintenance of their home? Well, that's really one of the goals of our program and our disclosures is trying to make sure, and particularly for homebuyers, they're not going to be responsible, this is their home.

So we want to educate them about the hazards of lead-based paint, how to keep an eye on making sure they don't have deteriorated surfaces, how they can properly clean to protect their family. And so providing them that pamphlet, the protect your family and renovate right pamphlet, can be really important.

A lot of times, new homeowners will then want to make updates and changes, this is a 1950s house. And so we want to make sure that when they begin to take actions on this, that they understand that there may be lead in their unit, and how to avoid creating hazards with the work that they're doing.

And then we have a fourth example where we've got Tony and Tanya, they want to buy a house that was built in the 1930s. And they've already -- we've already identified that there's deteriorated paint in a number of the rooms. The seller has already indicated they are not willing to pay for the work.

Tony and Tanya have maximized the amount of funding that the program provides. And there are not additional funds to be able to not only fund that, but also a system additionally. And this is in a market that how houses are moving quickly.

So what could you do if you wanted to help the buyers? Well, this kind of goes back to my suggestion of kind of knowing your local market, and thinking what's going to be feasible as part of a design for a homebuyer program.

If there are not a supply of 1978 or more recent units that are going to be within an affordable range for buyers that you're assisting in your area, if a lot of our housing stock is going to be pre-1978, then we may need to think about, what are the implications? If we don't provide any kind of rehabilitation assistance, will that mean that homebuyers won't be able to find a unit and be able to purchase? So we just won't have a program that will work.

So you could build into your program an allowance to be able to provide rehabilitation loans as part of that. And we've talked about -- yesterday about depending on that level of the hard rehab costs, determining whether Subpart K or Subpart J is going to be triggered on that.

So that might also be knowing what other sources are available in your community. Maybe you have lead hazard reduction funding that the community has received, or that there are other sources of funding that could be joined in to this to make this project feasible.

But the bottom line is that we cannot fund the purchase of that unit if we're not able to meet our standards of Subpart K. Which would mean we'd need to address, we'd need to treat that deteriorated paint, and achieve an acceptable clearance before that household will be able to occupy that unit.

If we can't identify where those funds are going to be coming from, we're going to have to say to this couple, we cannot assist you with this house, you can go find another house, but we will not be able to assist you with this. So just think about the market and those scenarios as you're

thinking about your local program design. All right. I'm going to turn things over to Kris, and she's going to take us through exercise two.

Kris Richmond. All right. Thanks, Les. And I put some of the answers in the chat. So if people were following along and wanting to see the answers, again, they're in the chat. Les, I think you have to give me control of the slides. Sharita can do that. Oh, there we go. Okay. All right.

So let's dive into exercise four. So now we're seeing a special needs program. So our scenario is we have Maddontown Community Action Agency, they're the primary provider of homeless housing and services for Maddon County. And they have a program called Families Forward. And they acquire buildings and provide support services for families living in transitional living environments.

And their program is a holistic program that provides housing units, as well as supportive services, such as GED classes, substance abuse counseling, childcare, after-school care, and job readiness. So while the program is administered by the action agency, the housing units are actually managed by a private sector firm, Dwellings & Company. They have a lot of experience in maintenance.

And the program has typically come from national organizations such as United Way or different foundations. But now they have federal funding to pay for this. So Families Forward was awarded Supportive Housing Program funds, and so that's what's paying for their operation support services. So now there is federal FHP funding paying for operations and support services.

So this is the first time the program has received federal funds. And there's a couple different questions that we need to answer here. So the first one is, which subpart of Lead Safe Housing Rule applies to this program? Is it J, K, or M? Well, the answer to that is Subpart K. Leasing, support services, or operations, that's what needs to be followed for this particular scenario.

And it's asking us, well, what are the actors involved? Who's involved in this program? Well, we have Maddontown Community Action Agency, we have our Dwellings & Company there, our property manager, and then we also have our current and our future residents. Those are some of our actors that are involved in here too.

Okay. So number three, what needs to be done immediately to comply with the Lead Safe Housing Rule? So remember, these units are currently occupied, but they never had to follow the Lead Safe Housing Rule before, because they were not federally funded.

So we want to make sure that we're providing the pamphlet, that protect your family from lead in your home, so they're aware of what any lead hazards potentially could be. And then we also want to make sure that they have the disclosure form to all of our existing residents if they don't have one already.

Now, I'd like to think that Dwellings & Company have been providing the disclosure unit, because they're supposed to be a well-reputable management company. And the disclosure rule

has been in effect since 1996. But we should be double checking, we should make sure that they have a copy of the disclosure form as well.

We also want to make sure we're doing a visual assessment of the units in the facility. So we're sending someone who's trained as a visual assessor, someone who's taken that free online HUD training, that they're walking around the units, and the facility, because remember there's a childcare facility onsite as well. And we're making sure -- we're checking for any lead hazards.

So if we see any lead hazards, and we see any deteriorated paints, that's what you're looking for, deteriorated paint and hazards, that chipping, flaking, peeling paint, we want to make sure that someone who is RRP certified is performing paint stabilization on all the deteriorated paint that's identified above the de minimis levels.

That firm and the workers who are RRP certified are going to be using safe work practices. And then we're going to be -- they're going to be -- we're going to hire a third party to do clearance and making sure that we're providing the notice of lead hazard reduction activities that includes the clearance results as well.

So what needs to be done on an ongoing basis? That's number four. So we need to make sure that there is ongoing maintenance requirements, because there's an ongoing relationship between the units and the program. So we need to make sure that we are doing a visual assessment, this could be the owner, or the maintenance, the Dwellings & Company, the management company.

They want to be doing visual assessment annually and at unit turnover, whichever is sooner. If there is any identification of deteriorated paint, that again needs to be paint stabilized by someone who's trained in RRP clearance, needs to be achieved by a third party.

We also want to make sure that ongoing, that if there's any changes, that the current residents have an updated disclosure notice, and any new residents coming in always getting the pamphlet and a disclosure notice.

And lastly, number five. Who is responsible for all those activities that we need to undertake? Well, providing that pamphlet and the disclosure form, that's going to be Dwellings & Company, so that's our management company. Who's performing the evaluation? That original evaluation, I would have Maddontown going in, the Community Action Agency, they should be doing that first evaluation to identify any deteriorated paint.

Who needs to perform lead hazard reduction? This could be Dwellings & Company, if they have trained staff who are RRP certified. If they don't, they're going to have to hire out for that. Who's going to be performing clearance? Again, that's a third party that we want to be hiring who's not doing the work that will be performing the clearance.

The notices, those are going to be handed out by the management company. The annual visual assessment, those are also -- can be done by someone who's trained in visual assessment. And then ongoing maintenance, that's required, again, by the management company. And the

documentation, this is the Community Action Agency as well as the management company should be keeping documentation.

But as the agency administering the federal program, you want to make sure that you have copies of everything, because HUD may come to monitor you, and you want to make sure that you have proper documentation for all those items. Les, anything else you want to add? Or is there any questions that have come in before we dive in?

Les Warner: No. We've had no questions come in.

Kris Richmond: Okay.

Les Warner: So if you want, I think we can go ahead and just jump into some of the things from yesterday, and then as we get some questions in, we can switch back to dealing with those questions.

So I did sort of a sort of looking through the questions that came up yesterday into kind of basic topics. And I thought we could just kind of review a few of those, because I think it's hard as a participant in training to follow all of what's happening in the Q&A, and things that are popping up there, and listen to the speaker at the same time.

So we had a number of questions about visual assessment, which, of course, is our sort of key evaluation requirement for Subpart K. So there were questions about, okay, so if we identify potential hazards as part of our visual assessment, what has to happen at that point?

And so our key here is we keep reiterating that it's going to have to be -- those unstable surfaces are going to have to be treated, and then we're going to have to achieve an acceptable clearance testing before we're able to proceed on that.

Now, related to that, there were a number of questions about, you know, is it a best practice to also do lead-based paint testing on that paint. So it's not required, a visual assessment would simply be determining those unstable surfaces. And we can essentially presume that they have lead, and treat all of those services following safe work practices and doing our clearance on that.

But we could, if we -- particularly if we had access to testing. So we have our risk assessor that's already on contract, or a staff member, we might say, well, let's bring in our risk assessor with the XRF, let's test these deteriorated surfaces. And we may find that some of them, maybe all of them, are not lead paint. And so in those cases, they could simply be scraped and painted without needing to follow lead-safe work practices as part of that.

So I don't know that we would say it's a best practice, that's a program decision. But it seems like if you have access, and particularly the more surfaces that you're dealing with, it may make sense to go ahead and have that testing done to determine whether we actually have lead paint or not.

As we mentioned yesterday, the criteria or the certification that's needed for a visual assessor, there's an online free training. And Kris, I was trying to flip through slides right before you

bounced it over to me to pull up that link for the free online training. And I don't know if you're able to quickly find that. Oh, that might have -- there we go. Yes.

So here's our link, so that's in your slides. This is slide 200, I believe. And so there is a link for this online free training. And so that could be a staff person, that could be someone that is hired. But that's, again, one of your planning decisions, and making sure that you have appropriately certified folks to be able to do that.

There was a question that was related to this that came in and saying, if we have a -- as we're processing and determining what we need to do here, if we have a household that they made a statement that their house was not pre-1978, and then we later determined that it is, what do we do at that point?

So our response on that was, as quickly as possible, get the visual assessment completed, and then follow the requirements. So if we do our visual assessment and we find that there are unstable, deteriorated painted surfaces, we're then going to need to do the treatment and clearance for those.

And as part of that, we had some discussion about, how do we determine the age of that structure? And I think most folks would be using the tax records that would be on the county auditor's website.

You can do a quick search for that property and do a printout, which will identify the year that that property was built. Drop that in your files and that would be good, standard documentation to be able to document why you are saying this is an exempt unit being 1978 or more recently constructed.

Then we had a number of questions that were related to notifications. And so a lot of this had to do with, and we talked about this a little bit yesterday, about responsibility on who actually is providing that notice, and how do we document that?

So technically, the grantee is who is ultimately responsible for making sure that the requirement of notification is happening. But you could be -- as part of your program design, it might be a subrecipient, might be the owner of that property is actually making the contact with that household, and providing those notices. But we're going to want documentation for our file.

So we talked about the fact that kind of normally what we're seeing is that notice will have a receipt attached to it. And it simply says, I, on such and such date, received my -- this notification. And they would sign, that's detached and handed back. And that goes in your files.

And so that's something that the owner could be implementing, collecting that receipt and providing it back to the grantee. That, again, is something in your policies and procedures to think about.

There was a question kind of related to that about sending things out certified mail, and using those receipts as your evidence that that notice had been received. You certainly can do that.

What I think a lot of folks have found is that a lot of times when things come certified mail, households do not go and pick that up.

And that might be that they figure no good news is coming through certified mail. Or it's ability to get to the post office during business hours, those sorts of things. So that's an option, and some programs will send them out initially as registered mail. And then if it's not successful in that way, then going back and trying to personally make a delivery for that.

Kris Richmond: So Les, we had a question come in, if you could expand or explain a little more about the 100 day exemption, or how the 100 days work. So I've pulled up slide 237. You want to talk about?

Les Warner: Yeah. So there's -- actually, this is good, because we had a whole number of questions about that. So what we talked about was the fact that under regular CDBG, and perhaps some other funding sources, we have emergency payments that are being made. So these aren't ongoing payments.

And the inverse of emergency is something like tenant-based rental assistance, where we're approving someone for the next 12 months or more, that they're going to be getting a regular subsidy for their rent. So these emergency payments are short term. Under regular CDBG, they are limited to three months or 90 days.

And so in those cases, because these are short term, the exemption that is built into Subpart K would say that when the emergency payments are 100 days or fewer, then we're able to be exempt from needing to do that visual assessment, and then doing clearance on that.

So if we were providing -- let's say we used CDBG for homelessness prevention, so we had folks that had -- that were renters that had an eviction notice, and our program would pay up to three months of assistance, we would be under that 100 day of assistance. And the way that we count under Subpart K, not CDBG and the limit on how long those payments can go for.

But under Subpart K, the way we count that 100 day exemption is when that first payment is made. And so this is particularly for CDBG-CV, the COVID funding, where that -- those program funds can be used for up to six months. This calculation for the exemption under Subpart K becomes really important. So it starts with that first payment being made.

So I might have a household that had an eviction notice. And in some places, evictions -- there was a moratorium on evictions for a while. So you could have someone come to you with four or five months maybe in arrearages. When you make that payment for their arrearage, that's day one of our 100 days. So you would still have an additional 99 days of timeline to make additional payment.

So if our program funds allowed for six months of assistance, we pay upfront for five months of this arrearage. We could approve -- provide one additional month of assistance. And that would be within the six months that's the maximum for the program funds. And when we calculate

whether our exemption under Subpart K, for our visual assessment and clearance, we're going to look at the payment.

And so in this case, we made that payment for five months on day one, 30 days later, let's say we're making our second payment, and we're done, that was our six months of assistance, we're way under that 100 days in that example. And so we are exempt from needing to do our visual assessment and the clearance testing.

If we have sort of a similar scenario where a household come in, they are one month in arrears, and we approve that, but we have up to maybe six months -- or an additional five months of assistance that could be provided with the COVID funding, when we start that clock at 100 days with that first payment, we only have essentially another (lever ?) of three months of time to be able to make additional payments.

And so if we actually were going to fund a full additional five additional months of payments, that's going to put us beyond that 100 day exemption. So we will have to have our program designed in a way to be able to then cover the requirements of Subpart K, which would say we're going to have to do a visual assessment of those units, and then we'll have to do treatment and clearance on that.

It may be that we are trying to require the owner of those properties who are participating and receiving subsidy for their tenants to handle those treatments for that. That may be difficult in markets where they may say, I'm not going to do that, because I can rent this unit to somebody else. And so thinking about what's your stance going to be on that that.

Now, keep in mind, the exemption, if that unit that that household occupies is 1978 or more recent in construction, then that unit is exempt from Subpart K, because it was built after lead paint had been made not legal. And so that might be one of our first steps in trying to establish for this household that's seeking assistance, is there the potential of lead in that unit or not? Or are we exempt because of the age of that unit?

And, Kris, I will say as part of the questions we had yesterday on this, we had some folks asking about lump sum payments. And you can certainly be doing a lump sum payment for that previously accrued back rent. But you don't really have the ability to be able to go ahead and prepay in one payment for another six months. That would generally not be allowable.

Kris Richmond: Yeah. And there was a follow-up question about when does that 100 days start again?

Les Warner: So 100 day starts with that first payment. So you might be paying for one month, you might be paying for four months, but the clock starts ticking on counting our 100 days with that first payment.

Kris Richmond: So the arrears do not count towards the 100 days?

Les Warner: So a lot of folks thought, oh, if I'm paying for three months worth of back rent, that date is going to start -- might start counting 100 days at the earliest month that I'm paying for it. No. It's based on when that payment is actually issued, not the time period that those expenses were accrued.

Kris Richmond: Yeah. And this is just for the exemption. So what Les was saying, if you're in a situation where you're paying for more than 100 days, you just need to follow the Subpart K rules, which are the visual assessment, identifying any deteriorated paint, doing paint stabilization, and clearance.

Les Warner: And I don't think in -- if you were using CV funding, I don't think the issue is having adequate funds to be able to handle the visual assessment, doing treatment and clearance. But if the -- you would need to think about planning for that, have appropriately certified staff have made some funding available in your program design to be able to address those needs.

Kris Richmond: Yeah. Another question came in that I want to share just so folks are aware. They were saying they have a homebuyer program, and they're providing funds for paint stabilization. And could that be done by in-house certified staff members?

And we said, if their program is set up to provide paint stabilization and the staff are properly trained, which means their EPA RRP firm certification, then that would be okay. You could use in-house staff to do that paint stabilization. But they do need to be EPA RRP firm certified. And then --

Les Warner: Keep in mind that the clearance testing has to be done by a third party. So it couldn't be your own staff, essentially, who was certified testing the work that they had done.

Kris Richmond: And then just one other thing, I think someone was curious about, well, why was senior housing considered an exemption? And remember, this is only housing that's exclusively for seniors.

And we let them know that lead exposure is most harmful to developing children. So designated senior housing is less likely to result in exposure. But if a child is residing in that senior housing, or is expected to reside in that senior housing, then it is no longer exempt from the Lead Safe Housing Rule.

Les Warner: And I think with that, just to reiterate, a lot of times people try to apply that to, I've got a homebuyer, or I've got an existing homeowner, and they're elderly. And so thinking, oh, well, it's exempt because of the age of the occupants. That's not how it works. It's based on -- only for units that are restricted that it's only for the elderly or the disabled.

Kris Richmond: Great point. Those are all the questions and the comments that have come in so far, Les.

Les Warner: Okay. So we had a number of questions that were related to clearance, just wanting to check that -- this third party requirement. And as part of that, we've just kind of reiterated that,

yes. Clearance by a third party is going to be required. And that it -- the key to being a third party is we don't want the contractor themselves to be doing the testing. In other words, taking samples from their own work.

And so in my early days when I would go to grantees I, early on, had some folks that they would pull randomly the files for me to look at. But I began to notice that they would kind of look at, oh, no, and they'd kind of move on. And I realized I need to be choosing these. So we need this third party who's not kind of self-selecting carefully where they're confident that the dust sample being collected is going to be acceptable or not. So we need to be watchful for that.

We had some questions which follow with what Kris just mentioned about, can their staff be part of doing the samples? If they have appropriate certification, if there's not a conflict of interest where they've also been doing the work, and now doing the sampling. And then it would be sent off to that -- to a lab for the clearance results on that.

Let's see. Let's then switch gears a little bit. There were a number of questions about multifamily properties. And so I think the key here is about visual inspections. And we kept reiterating that when we're doing our visual inspection, it's going to be the unit where -- the assisted unit. But it also is going to include common areas.

So that would be building exterior. Also where we have lobbies, mailrooms, other places where the -- are common spaces used by the occupants of that structure. So those will be included within our visual assessment.

So particularly, a number of questions about were those exterior areas included in that? Yes. That would be important. Related to that, there was a question about, if we had a high rise unit, and again, it's going to be accessible common areas that would be included in that.

Let's see. We had a number of questions about down payment assistance. A question about whether that -- the pamphlet, protect your family from lead paint in your home, is going to be provided by the program, or whether it's going to be provided by the seller. So keep in mind that the disclosure requirements, the seller is required to disclose their knowledge about that unit, and any known information about lead.

And so that is something that's required by the seller to have completed. I would want to have a copy of that within my file. But we also want to provide the protect your family from lead in your home because we want to make sure now they, as owners of that property, are going to be aware, getting some basic education about the risks of lead, how -- things that they can do as they occupy that unit to be able to protect themselves and their family.

And we talked a bit yesterday about thinking about your homebuyer education, and both on the pre-purchase end, incorporating some of the lead information into that as they think about, when I'm looking for an appropriate house for my family. Thinking about -- knowing about lead, about the hazards of that, incorporating that into the thought process as they're selecting a unit.

But then also on that post-purchase homebuyer education portion is thinking about, we could incorporate into that some education on how to not only be watchful for deteriorated surfaces in that unit, but also if they're doing any future renovations, how to be safe in doing that. How to clean appropriately to try to protect their family are things that certainly could be incorporated into that.

There was a question about, since we've talked about required risk assessment versus the buyer having the option to ask or do, within that 10 day period, lead testing on the unit. If the buyer has chosen to waive their option of doing lead testing and inspection, does that mean that there's no additional requirement on evaluation?

No. We have to follow Subpart K, which is requiring that visual assessment, and then treatment and clearance if we determine that we have unstable surfaces. So this option for the buyer is something above and beyond what Subpart K is requiring.

Let's see. There were some -- a number of questions about -- thinking about in terms of homebuyer that in that mix of other lenders, whether -- if we have an FHA or a VA loan, do they, do the private lenders have a responsibility for doing the assessment on this?

So I mean, the FHA insured loans, and I would think VA also, are going to require that, on behalf of that loan being issued, that there's a visual assessment and that paint is going to be treated. The FHA loans are not going to be covered by the Lead Safe Housing Rule.

But you as the grantee, who are receiving HUD funds, have a responsibility to comply with Subpart K. And so you're going to need to complete that. There's not really a way to kind of turn that over to another funding source as part of that.

There was a question kind of related to that. If we have an appraiser who's doing a visual assessment, is that enough, or do we need to do our own? So we know that Subpart K requires that we have a visual assessment completed, it has to be someone who has been certified to be able to do that.

And really, as you as the grantee being able to show that you're in compliance on this, you're going to want to be able to demonstrate usually that someone working on your behalf, or someone who has agreed to do that certification on your behalf, and has the proper qualifications, and have that in your file. So I think generally, the program is going to need to do that work for themselves, and document that within their own records.

There also was a question, we have -- as we talked about down payment assistance, we primarily referenced yesterday CDBG, and HOME. And the -- really the reason we are doing that is those are the most likely sources of HUD funded down payment assistance.

But if you have another HUD source of funds that is providing down payment assistance, they will have to follow Subpart K, and those same regulations would apply unless they are exempt from those activities. And we went through the list of particular exemptions for that. Kris, do we have any other questions that have come through on this?

Kris Richmond: Yes. If I can unmute myself. We have -- let's get back to the questions here. Okay. So somebody was asking that they have -- they used a tax assessor to verify the age of the property. So they're assuming it's -- they've checked, and it's pre-1978. But they're saying, well, the property's been completely renovated, or the owner informs us the property's been renovated, what kind of documentation or certification should be obtained?

And so, we -- we're following Subpart K, which is what we've been talking about yesterday and today. And the first thing you can ask is, has this been determined to be lead free? Do you have an exam from a risk assessor or a paint inspector that documents the unit is lead free?

If you do have that documentation, the owner has that and provides that to you, then it would be exempt. But if they don't have that documentation, then we still follow the same requirements that we do for Subpart K.

So we're going to do our visual assessment to look for any deteriorated paint. If we identify deteriorated paint, there needs to be done paint stabilization by someone who's trained in RRP. And then clearance is -- needs to be achieved by a third party, and then the notices would be provided to the occupants and the owner as well. Les, was there anything you want to add to that?

Les Warner: I just think it's not uncommon for owners or sellers to say, oh, well, there's no lead paint. But you have a requirement, you have a compliance obligation here to be able to have some acceptable documentation on that, or complete the visual assessment on that.

And so I -- a lot of times you'll have a client or a seller, oh, you know, you don't need to bother with some of these things. Well, where you do, because you have a compliance risk here. And we're also trying to protect those families that are then going to occupy those units.

Kris Richmond: And that's the only other question we've had that's come in since the 100 day questions. It's been a pretty quiet group, but I think they're just quietly listening and absorbing all this information.

Les Warner: So that pretty much takes us through the categories on this, I think. Oh, I wanted to mention this. So we had a couple of questions when we talked about disclosure. And folks saying, what if that person, we try to provide them with the disclosure notice, and they will not sign and acknowledge that it's been received?

So depending what we're doing here, for things that are part of someone that we're assisting, they are required to participate in the process. Or we would be then saying, well, you're violating our programming requirements, and we could exclude allowing them to participate.

But essentially, to be able to have adequate documentation, we need something to put in the file to be able to show that the disclosures were provided. So I mentioned that when we have households that are moving into or thinking about signing a lease, that the disclosures are being

done at that point as part of a standard process. They are signed and included in the file with the lease that's been completed.

So making sure that they are incorporated in your standard process. So if you want to rent this unit, I need to give you this, I need you to sign this, then we can proceed to executing a lease on this unit that you said you want to move into. And so kind of thinking about how we make sure that that's done as part of that process.

I know in some other federal compliance issues, sometimes in these sort of worst case scenarios, that there is a -- some documentation of these are our attempts that we tried to provide this documentation and get the person to sign off on a receipt. And mind you, the receipt is not saying, I agree with what's being provided to me. It's that, I have received this.

So I think in cases where you kind of run up against a wall on this, I think you probably need to work with your HUD office, with the Office of Healthy Homes on what your options might be on that.

Kris Richmond: Okay. Looks like there was one more question that came in. Let's see. Can an agency assess or test their own property acquired from a land bank, but have an outside RRP clearance? So yes. You can -- we want -- the third party needs to be whoever is doing clearance is different than who's doing the work.

So you can test your own property, and then have somebody do the work, and then have a third party. Whoever's doing the work, we need a separate third party to do the clearance. So yes. That can be done.

I do want to show everybody the lead-based paint HUD Exchange page just one more time, because we are so close to launching a couple of videos that we've been working on for a really long time now. We started before COVID, and we had to put a pause on that project because we wanted to film in person and it wasn't safe to do that at that time. It was finally safe to film again in person.

And so we -- in the next couple of weeks, you should see some type of notification coming out about how to video highlights. So they're pretty short, they're anywhere from six to nine minutes. But they're videos on the highlights of lead inspection, the highlights of a risk assessment, the highlights of a clearance. We're also working on a reports video.

So we've talked a lot about these concepts, if these are still kind of foreign to you, hopefully these video highlights will give you a better sense of what happens when a lead inspection occurs, or risk assessment so that you're able to talk to your applicants and your owners about what that process is. It's not going to teach you how to do it.

But as a grantee, it'll give you a better understanding of what exactly is being done, so that when you do hire a risk assessor, you'll have a better sense of what kind of work needs to be done, and what they should be doing. So that you can be -- run your programs more efficiently and compliantly.

Les Warner: Kris, I'll just --

Kris Richmond: Yeah.

Les Warner: -- remind folks, while we've got this up on the screen that we mentioned a number of times yesterday this -- the toolkit which is on the bottom here, on the left -- oh, well. And we have a separate slide on this. So we have a lot of standard sample forms, checklists to be able to use in decision-making or documentation.

These are not required, but they're really good starting point to be -- you could either just adopt them as they are, you could tweak them to better fit your particular program design. But no need to reinvent the wheel, because there are samples of just about, I think, everything that you would need. And so I'd really recommend, spend a little time, get familiar with that toolkit which was recently updated.

Kris Richmond: Great. So that brings us to the end of our hour. So thank you, Les, for going over all those questions today. Thank you to Bruce [ph] and Karen [ph] from HUD for being here to help answer the questions as well. It's been a really great series. We're glad that all of you have been able to participate.

Expect to see these recordings up in the next couple of weeks. We're also working on the questions and answers, and so that takes us a little bit, a while. But those will also be posted as well. When we did this training last year, those questions and answers are already posted, so you can go back into the HUD Exchange and look at those.

We always seem to get a lot of the same, similar questions. So if you need to see an answer right away, that's another resource for you to check out. So thanks, everybody. And we will see you again another training. Bye.

Les Warner: Thanks, everybody.

(END)