



OFFICE OF LEAD HAZARD CONTROL
AND HEALTHY HOMES

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

POLICY GUIDANCE ISSUANCE

POLICY GUIDANCE NUMBER: 2024-05

DATE ISSUED: January 25, 2024

SUBJECT: Lead-Based Paint Evaluation Requirements

APPLICABILITY: Office of Lead Hazard Control and Healthy Homes Grant Programs

RELATED GUIDANCE: 2012 HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Policy Guidance Number: 2013-01

COMMENTS: This Policy Guidance is to clarify and update lead evaluation requirements for each OLHCHH grant program in order to comply with program requirements. This Policy Guidance reduces certain previous requirements and clarifies requirements for new OLHCHH grant programs.

Background

This policy guidance is being issued to define evaluation requirements for lead-based paint inspections and risk assessments for grant programs of the Office of Lead Hazard Control and Healthy Homes (OLHCHH).

All OLHCHH grantees that conduct lead-based paint hazard control activities or rehabilitation in target housing are required to conduct the work in compliance with the Lead Safe Housing Rule (24 CFR 35, subparts B – R) and any additional requirements implemented in the specific grant program through the notice of funding opportunity, the terms and conditions of the grant, the award document and modifications to it, and documents cited in those documents, such as relevant OLHCHH policy guidance. Lead-based paint inspections (LI) and lead-based paint risk assessments (RA) must be conducted in accordance with regulations and guidance of the Environmental Protection Agency (EPA)¹ or EPA-authorized states or tribes,² and the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (“HUD Guidelines,” revised in 2012).³

Lead Hazard Reduction / Lead Hazard Control Grant Program

OLHCHH Lead Hazard Reduction (LHR) grant funds are designed to specifically control residential lead-based paint hazards in target housing, specifically most housing built before 1978. Target housing is defined at 42 U.S.C. 4851b (27) as “any housing constructed

prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing).

LHR grantees are required by the NOFO and OLHCHH policy Guide 2013-07 to conduct both a lead-based paint inspection and a lead-based paint risk assessment. Work under LHR grants can only be conducted in target housing. All work under these grants must control identified lead-based paint hazards, through interim controls and hazard abatement activities, or abate lead-based paint.

Healthy Homes Production / Healthy Homes and Weatherization Cooperation Demonstration / Older Adult Home Modification Grant Programs

OLHCHH's Healthy Homes grant programs, including the Healthy Homes Production and Healthy Homes and Weatherization Cooperation Demonstration Grant Programs, are designed to mitigate housing-related health and safety hazards other than lead-based paint hazards. These programs may be carried out in properties built at any time and are generally not subject to the LSHR. However, for pre-1978 units treated under these programs where a child under age 6 resides, grantees should follow Subpart J, Rehabilitation, of the Lead Safe Housing Rule (LSHR), including using the range of lead hazard reduction methods outlined in 24 CFR 35.1325 (Abatement), and 35.1330 (Interim controls). In general, if areas of paint to be disturbed are less than the LSHR de minimis threshold at 24 CFR 35.1350(d), no further LSHR requirements pertain to this work, specifically, safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than: (1) 20 square feet (2 square meters) on exterior surfaces; (2) 2 square feet (0.2 square meters) in any one interior room or space; or (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area (i.e., window sills, baseboards, and trim).

For all work that disturbs paint above the HUD LSHR de minimis area threshold, paint must be tested for lead-based paint, the work and worksite managed and staffed accordingly, and clearance obtained at completion.

Since the intent of the Older Adult Home Modification Grant Program is not lead-hazard control, and is focused on assisting older adults, for pre-1978 units treated under this program where a child under age 6 resides, grantees are strongly encouraged to follow Subpart J of the LSHR.

Additional Lead Evaluation Program Requirements

- 1) Grantees with funding from the Lead Hazard Reduction and Lead Hazard Control Grant Programs must conduct a complete lead-based paint inspection (LI) and Risk Assessment (RA) (referred to as a LIRA) to determine the presence of lead-based paint and lead-based paint hazards. All lead-based paint inspections must be conducted in accordance with Chapter 7 of the HUD Guidelines. All risk assessments must be conducted in accordance with Chapter 5 of the HUD Guidelines. For reference, see OLHCHH Policy Guidance 2013-01. https://www.hud.gov/sites/documents/PGI_2013-01.PDF.

- 2) The OHHLHC recognizes that windows are costly, therefore, grantees need to obtain approval of multiple window replacements from their grant's Governmental Technical Representative (GTR) based on clear justification. Testing of only a single window (or even a few windows) as representing a testing combination for the entire property (interior and exterior) is not allowable, even if all the windows are of identical construction and apparent painting history. (This practice does not comply with the HUD Guidelines' instructions in Chapter 7 for performing inspections.) Failure to clearly and accurately document the need to replace multiple windows under this policy guidance will result in the disallowance of associated expenses.
 - 3) Allowable lead-based paint hazard control costs include addressing lead-based paint and lead based paint hazards only. Lead-based paint is any paint, varnish, shellac, or other coating that contains lead equal to or greater than 1.0 mg/cm² as measured by X-ray fluorescence (XRF), or 0.5 percent by weight (5000 µg/g, 5000 ppm, or 5000 mg/kg) as measured by laboratory analysis⁷ (although state or local definitions are to be used if they are more stringent). Therefore, lead present in items other than coatings, such as unpainted ceramic tile and porcelain bathtubs, is not lead-based paint; therefore, removing or treating such items is outside the scope of the authorizing statute for the lead hazard control grants program,⁸ and is not eligible for reimbursement to the OHHLHC grant as a lead hazard control activity.
 - 4) Specifications (scopes of work) for lead hazard control must be established directly from the LIRA report and must address all identified lead-based paint hazards in the property.⁹
 - 5) You may combine rehabilitation work funded from a source other than from an OLHCHH grant with lead hazard control funded under the grant, but the two activities **MUST** be clearly separated in the scope of work and the subsequent bid.
 - 6) LHC grants may cover "minimal rehabilitation" activities when those activities are specifically required to perform effective hazard control, and without which the hazard control could not be completed, maintained, and sustained.¹⁰ These necessary minimal rehabilitation activities **MUST** be identified and documented in the LI/RA.
 - 7) Bids must be based on the scope of work and be awarded competitively according to federal and applicable state/tribal/local procurement requirements.¹¹
 - 8) Risk assessments used (along with lead-based paint inspections) as part of scoping the work are valid for no more than 12 months from the date completed.^{12,13} However, the OLHCHH strongly recommends that risk assessments be conducted within six months before the hazard control work because the results are more current and more accurate; this timing also fits with the six-month blood lead level testing period preceding the lead hazard control work, as recommended in the grant programs' NOFO.
 - 9) Properties whose LIRA report documents do not contain the required information per the HUD Guidelines and this policy guidance will not be eligible for reimbursement of evaluation or control activities by OHHLHC grant funds.
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- ¹ EPA's lead laws and regulations are at www.epa.gov/lead/laws-regs/policy.html; EPA's answers to frequently asked questions on lead are at <http://toxics.supportportal.com/link/portal/23002/23019/ArticleFolder/614/Lead>.
- ² For the Abatement Rule, which also covers LI and RA, authorized states and tribes are listed at www.epa.gov/lead/abatement.html; for the Renovation, Repair and Painting Rule, www.epa.gov/lead/rrp/lscp-renovation-firm.html.
- ³ [http://portal.hud.gov/hudportal/HUD?src=/program offices/healthy homes/lbp/hudguidelines](http://portal.hud.gov/hudportal/HUD?src=/program%20offices/healthy%20homes/lbp/hudguidelines).
- ⁴ See the HUD *Guidelines*, Chapter 7, Lead-Based Paint Inspection, especially sections III.f, IV.A, and V.C.
- ⁵ For risk assessments, see, especially, Chapter 5, section VI.E, and Appendix 8.1, for all housing; for inspections, Chapter 7, sections IV.I.3 for single family housing, and V.E for multifamily housing. Also, see the attached testing template for required reporting criteria.
- ⁶ See the HUD *Guidelines*, Chapter 5, Risk Assessment and Reevaluation, especially sections I - V, and Chapter 7, Lead-Based Paint Inspection, especially section I.A, for single family housing, sections IV.A - C, and, for multifamily housing, sections V.A - D.
- ⁷ Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), known as "Title X," section 1004(14) (§ 4851b(14), which cites § 4822(c)).
- ⁸ Title X, especially, its section 1011, Grants for lead-based paint hazard reduction in target housing (42 U.S.C. § 4852), subsection (a), General authority, and subsection (e), Eligible activities, particularly that subsection's paragraphs (2) and (3) authorizing interim control and abatement of lead-based paint hazards in housing.
- ⁹ OHHLHC Policy Guidance 2002-03, Elimination or Control of all Identified Lead-Based Paint Hazards; http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_38169.pdf.
- ¹⁰ OHHLHC Policy Guidance 2008-02; Undertaking minimal rehabilitation using OHHLHC grant funds; http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_38179.pdf.
- ¹¹ See, for non-governmental grantees, 24 CFR 84.40 – 84.48, Procurement Standards, especially section 84.43, Competition; and, for governmental grantees, 24 CFR 85.36, Procurement, especially paragraph (c), Competition.
- ¹² HUD *Guidelines*, Chapter 5, Risk Assessment and Reevaluation, section I.A.1, Risk Assessment, p. 5–11. See, also LSHR § 35.165, Prior evaluation or hazard reduction, subsection (b), Risk assessment. (Note that "no more than 12 months" means that the completed report must have been signed by the risk assessor no more than 365 calendar days before the hazard control work is conducted (366 days if a leap day is included), because a risk assessment includes "provision of a report" (Title X; 42 U.S.C. § 4851b(25)(e)).)
- ¹³ An inspection conducted before the risk assessment may be used if it was in done accordance with the LSHR § 35.165, Prior evaluation or hazard reduction, subsection (a), Lead-based paint inspections; such an inspection does not expire. In deciding whether to use a significantly older lead-based paint inspection, the grantee should note that some of the lead-based paint may have been removed since such an inspection, so using it may result in overstating the scope of lead hazard control work. The grantee must obtain approval from the GTR before using an inspection older than 12 months before hazard control work is conducted, including a justification for why the scope of work will not be overstated by its use.