

CHAPTER NINE LEAD-BASED PAINT

1. OVERVIEW

- A. **Lead Safe Housing Rule (LSHR):** In 1992, Congress enacted into law the Housing and Community Development Act of 1992. Title X of that Act, the Residential Lead-based Paint Hazard Reduction Act of 1992, is comprehensive lead-poisoning legislation. It switches the focus from the presence of lead-based paint to lead-based paint hazards. Title X defines lead-based paint hazards as “any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present on accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.” Title X established specific requirements for action in pre-1978 federally owned or associated housing. On September 15, 1999 HUD published final regulations to implement sections 1012 and 1013 of Title X, which set forth specific policies on lead-based paint hazard reduction in federally-assisted and federally-owned housing.
- B. **Renovation, Repair and Paint Rule (RRP):** On April 22, 2008, EPA issued a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Beginning in April 22, 2010, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination. The EPA requires anyone performing renovation, repair, and painting projects that disturb lead-based paint in pre-1978 homes must be an EPA-certified renovator and follow lead-safe work practices. There are some differences between the EPA RRP Rule and the HUD Lead Safe Housing Rule (LSHR).
1. A major difference is that the LSHR requires clearance examinations, while RRP does not. All housing receiving federal assistance must still comply with the LSHR requirements that are outlined throughout the rest of the chapter. However, there are training requirements associated with both RRP and LSHR. Simply being trained for the LSHR requirements is not sufficient.
 2. Training requirements for workers and supervisors performing interim controls to meet both RRP and LSHR include:
- C. If the supervisor (in HUD terms) or Certified Renovator (in EPA terms) is certified as a lead-based paint abatement supervisor or has successfully completed an accredited abatement supervision or abatement worker course, that person must complete a 4-hour RRP refresher course.
- D. For workers who are not themselves supervisors / Certified Renovators:
1. If their supervisor on this project is a certified lead-based paint abatement supervisor who has completed a 4-hour RRP refresher course, the workers must obtain on-the-job training in lead-safe work practices from the supervisor.
- E. Otherwise, the workers must successfully complete either a one-day RRP course, or another lead-safe work practices course approved by HUD for this purpose after consultation with the EPA. HUD has approved the one-day RRP course, the previously-published HUD/EPA one-

day Renovation, Remodeling and Repair course, and other one-day courses listed on HUD's website, at www.hud.gov/offices/lead.

- F. This chapter provides you with guidance in order to comply with the HUD LSHR regulations. The Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA) regulate LBP activities performed on government owned or assisted properties. The Lead Safe Housing Rule is (LSHR) divided into sections that are called subparts. Subparts "C" through "M" apply to specific programs, such as multi-family mortgage insurance, project-based rental assistance, housing rehabilitation, public housing, tenant-based rental assistance, or acquisition, leasing supportive services or operations. Although all of Title X is applicable to the NHTF program, the most relevant parts of this legislation are Subparts J and K.
 - 1. **SUBPART J** – The intent of Subpart J is to eliminate as far as practicable lead-based paint hazards in residential property that receives federal assistance for rehabilitation under a program administered by HUD.
 - 2. **SUBPART K** – The intent of Subpart K is to eliminate as far as practicable lead-based paint hazards in a residential property that receives federal assistance under certain HUD programs for acquisition, leasing, support services, or operation.
- G. As a general policy, THDA requires that actual testing be performed on any pre-1978 housing that is eligible for rehabilitation. This testing may be a Lead Hazard Screen, a Risk Assessment, or Paint Inspection, as defined in Section 2 below, performed by a certified Risk Assessor. The goal of this testing is to determine through testing whether or not LBP exists in the house and whether or not a LBP Hazard exists. The results of this testing and the corrective measures shall be incorporated in the rehabilitation work write-up.
- H. **Presumption of Lead.** THDA does not encourage the use of the Presumption of LBP in its programs, and requires that the project administrator contact THDA before starting work under this assumption. A Presumption does not provide real evidence as to whether or not LBP or a LBP Hazard exists. In those cases where THDA may allow a Presumption of Lead-Based Paint, there must be at least a laboratory analysis of dust samples collected by a qualified risk assessor prior to beginning work.

2. DEFINITIONS

- A. **ABATEMENT** – Any set of measures designed to permanently (at least twenty-years) eliminate lead-based paint or lead-based paint hazards.
- B. **CLEARANCE EXAMINATION** – An activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples.
- C. **INTERIM CONTROLS** – A set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paints hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based maintenance activities, and the establishment and operation of management and resident education programs.

- D. **LEAD-BASED PAINT HAZARDS** – Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.
- E. **LEAD-BASED PAINT INSPECTION** – A surface by surface testing of all painted, shellacked, or varnished surfaces to determine the presence or absence of lead.
- F. **PAINT TESTING** – The process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.
- G. **RISK ASSESSMENT** – An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and the provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.
- H. **LEAD SAFE WORK PRACTICES** – Lead based paint hazard reduction using approved methods of paint stabilization, occupant protection, specialized cleaning.
- I. **STANDARD TREATMENTS** – A series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation. NOTE: These are not allowed in THDA’s program as these are used with the presumption of lead approach.

3. REQUIREMENTS FOR REHABILITATION ASSISTANCE (SUBPART J)

Subpart J of Title X deals specifically with rehabilitation. The requirements in regards to lead- based paint are dependent on the cost of the rehabilitation. HUD designates three categories of rehabilitation: property receiving less than or equal to \$5,000; property receiving between \$5,000 and \$25,000; and property receiving more than \$25,000. Costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance and waste handling attributed to lead-based paint hazard reduction are not to be included when determining cost of rehabilitation. *However, these costs, plus the cost of rehabilitation, must not exceed the NHTF subsidy limits.* The following is a breakdown of what is required for each of these three categories in pre-1978 units:

A. PROPERTIES RECEIVING LESS THAN OR EQUAL TO \$5,000 PER UNIT

1. Provide the household, when applicable, with a copy of the pamphlet *Protect Your Family From Lead in Your Home* (LBP-1).
2. Conduct paint testing of all surfaces in the structure.
3. If, with THDA permission, the program administrator opts to Presume the Presence of Lead-Based Paint, there must be a laboratory analysis of dust samples as collected by a qualified risk assessor prior to beginning work.
4. Implement lead safe work practices during rehabilitation and repair any disturbed paint. If testing shows the absence of lead-based paint, safe work practices are not required.

5. After completion of rehabilitation, conduct clearance testing of the entire unit and common area. Clearance is not required if testing shows the absence of lead-based paint or if rehabilitation did not disturb painted surfaces greater than De minimis levels set forth by HUD.
 - a. De minimis levels:
 - i. 20 square feet on exterior surfaces
 - ii. 2 square feet in any one interior room or space
 - iii. 10% of the total surface area on an interior or exterior type of component with a small surface area, window sills, baseboards, and trim.
 - b. Provide the household, when applicable, with a copy of the COMPLETE Clearance Report within 15 days of completion of the hazard reduction activity or receipt by the administrator of the clearance report. (Documentation that the tenant, when applicable, has received the complete Clearance Report must be maintained in the project record.)

B. PROPERTIES RECEIVING BETWEEN \$5,001 AND \$25,000 PER UNIT

1. Provide the household, when applicable, with a copy of the pamphlet *Protect Your Family From Lead in Your Home* (LBP-1).
2. Conduct paint testing of all of the surfaces of the structure.
3. Perform a risk assessment in the dwelling unit receiving federal assistance and in associated common areas and exterior painted surfaces before rehabilitation begins.
 - a. A *Lead Hazard Screen* may be conducted first to determine whether a full risk assessment is required.
 - i. The Lead Hazard Screen is a limited risk assessment activity that involves dust and soil sampling and may include paint testing on deteriorated paint surfaces or surfaces to be disturbed during rehabilitation.
 - ii. A full risk assessment must be performed if any part of the Lead Hazard Screen fails.
4. Provide tenant, when applicable, with a copy of the COMPLETE Risk Assessment, Lead Hazard Screen within 15 days of completion of the report or receipt by the administrator. (Documentation that the tenant has received the Risk Assessment or Lead Hazard Screen must be maintained the in the project record.)
5. Perform interim controls of all lead-based paint hazards identified by the paint testing and risk assessment, as well as lead-based paint hazards created as a result of the rehabilitation work. If interim controls are necessary they must be performed by a person trained in accordance with CFR 1926.59 (Hazard Communication) and either be supervised by an individual certified as a lead-based paint abatement supervisor or have

successfully completed one of the following courses: a lead-based paint abatement supervisor or worker course accredited in accordance with 40 CFR 745.225; The Lead-Based Paint Maintenance Program; or The Remodeler's and Renovator's Lead-Based Paint Training Program.

6. After completion of rehabilitation, conduct clearance testing of the entire unit and common areas.
7. Provide the household, when applicable, with a copy of the COMPLETE Clearance Report within 15 days of completion of the hazard reduction activity or receipt by the administrator of the clearance report. (Documentation that the tenant has received the complete Clearance Report must be maintained in the project record.)
8. On-going lead-based paint maintenance is required if rehabilitation included NHTF.

C. PROPERTIES RECEIVING MORE THAN \$25,000 PER UNIT

1. Provide the household, when applicable, with a copy of the pamphlet *Protect Your Family From Lead in Your Home* (LBP-1).
2. Conduct paint testing of all surfaces in the structure.
3. Perform a risk assessment in the dwelling unit receiving federal assistance and in associated common areas and exterior painted surfaces before rehabilitation begins.
 - a. When a risk assessment is required, a Lead Hazard Screen may be conducted first to determine whether a full risk assessment is required.
 - i. The Lead Hazard Screen is a limited risk assessment activity that involves dust and soil sampling and may include paint testing on deteriorated paint surfaces or surfaces to be disturbed during rehabilitation.
 - ii. A full risk assessment must be performed if any part of the Lead Hazard Screen fails.
4. Provide household, when applicable, with a copy of the COMPLETE Risk Assessment or Lead Hazard Screen within 15 days of completion of the report or receipt by the administrator. (Documentation that the tenant has received the Risk Assessment or Lead Hazard Screen must be maintained the in the project record.)
5. Abate all lead-based paint hazards identified by the paint testing and risk assessment, as well as lead-based paint hazards created as a result of the rehabilitation work. Perform abatement on all painted surfaces. **All abatement work must be performed by a certified abatement contractor.**

D. After completion of rehabilitation, conduct clearance testing of the entire unit and common areas.

E. Provide the household, when applicable, with a copy of the COMPLETE Clearance Report within 15 days of completion of the hazard reduction activity or receipt by the administrator of

the clearance report. (Documentation that the tenant has received the complete Clearance Report must be maintained in the project record.)

- F. On-going lead-based paint maintenance is required if rehabilitation included NHTF.
 - 1. Documentation must be maintained in the NHTF program files that all reports have been received by the tenant and/or contractor.

<p style="text-align: center;">4. STEPS TO INCORPORATE LEAD-BASED PAINT PROCEDURES IN HOUSING REHABILITATION</p>

- A. Complete the initial walk through and work-write-up. By doing the initial walk-through and work write-up, it is sometimes possible to determine that a unit needs to be reconstructed prior to expending the funds for a paint inspection/risk assessment that is not needed. Other times it may be necessary to have the paint inspection/risk assessment completed in order to make the determination that reconstruction is the best use of funds.
- B. Determine the estimated cost of repairs and the category into which the project falls.
- C. Provide risk assessor with a copy of the initial work write-up showing which areas are to be disturbed by the rehabilitation. Proceed with appropriate paint testing/risk assessment. If the Risk Assessment and testing has already been completed, the findings should be incorporated into the work wire-up. The paint inspection/risk assessment should address not only the areas to be disturbed, but any lead-based paint hazards and potential hazards that are discovered as part of the paint inspection/risk assessment.
- D. Provide tenant with a copy of the COMPLETE Risk Assessment or Lead Hazard Screen (LBP 2-Tenant Receipt of Lead-Based Paint Risk Assessment) within 15 days of completion of the report or receipt by the administrator. (Documentation that the household, when applicable, has received the Risk Assessment or Lead Hazard Screen must be maintained the in the project record.)
- E. Incorporate measures recommended by the risk assessor into the work write-up including LBP 4-Status of Compliance with Lead-Based Paint Regulations. The work write-up should be broken out with separate line item costs for both the rehabilitation work and the lead hazard reduction work. In most cases, the cost of lead work hazard reduction will be associated with a particular line item of rehabilitation work. In certain situations placing the cost of interim controls under lead hazard reduction may be the best choice, and the rationale for that decision must be well documented. It is important to remember that only the interim controls recommended in the risk assessment may be used for the rehabilitation.
- F. Determine if relocation is necessary.
- G. Put the project out to bid. The bid sheet must differentiate between rehabilitation work and lead work. The costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance and waste handling attributable to lead-based paint hazard reduction *are not* to be included in the hard costs of rehabilitation. The two totals will then be added together to arrive at a total bid amount.

- H. Relocation of tenant and furnishings, if applicable.
- I. After completing work, clearance must be achieved. Provide the household with a copy of the COMPLETE Clearance Report (LBP 5 – Tenant Receipt of Lead Based Paint Clearance Report) within 15 days of completion of the hazard reduction activity or receipt by the administrator of the clearance report. (Documentation that the tenant has received the complete Clearance Report must be maintained in the project record.)
- J. Move tenant and belongings back into home, if applicable.

5. SAFE WORK PRACTICES

- A. Tenant/occupant and their belongings shall be protected and the worksite prepared in accordance with 24 CFR Part 35.1345 and prohibited methods of paint removal shall not be used.
- B. The worksite shall be prepared to prevent the release of leaded dust and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.
- C. A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated; or for an exterior hazard reduction activity, where it is easily read from a distance of 20 feet from the edge of the hazard reduction worksite. Each warning sign shall meet the requirements as described in 29 CFR 1926.52(m).
- D. After hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum, or other method of equivalent efficacy, and lead-specific detergent or equivalent.

6. INTERIM CONTROLS

- A. Even though Interim controls are a temporary solution to lead-based paint hazards, they significantly reduce the risk of lead poisoning among the housing residents. Interim control methods include:
 - 1. Paint stabilization – Deteriorated paint can be controlled through repairs, safe paint removal, repainting the surface and/or repairing loose and deteriorated substrate materials.
 - 2. Friction and impact surface treatments – Friction and impact surfaces that create lead dust, such as windows, doors, stair treads and floors, can be treated by re-hanging doors and placing rubber stoppers along impact surfaces, and cushioning window tracks with plastic liners to reduce friction.
 - 3. Treatment for chewable surfaces – If a child under six has chewed surfaces known to contain lead, or if these surfaces are presumed to contain lead, these surfaces must

be enclosed or coated so that they are impenetrable.

4. Dust control – All horizontal surfaces that are rough, pitted, or porous such as bare floors, stairs, window sills, and window troughs must be covered with a smooth cleanable covering or coating such as metal coil stock, plastic, polyurethane, or linoleum. Lead-contaminated dust can be controlled by cleaning surfaces that reduce leaded dust. Carpeting must be vacuumed and rugs must be removed and vacuumed on both sides. Vacuuming must be done using HEPA vacuums.
 5. Soil treatments – Control lead-contaminated soil by limiting access to it. There two methods: covering contaminated surfaces with sod, grass, mulch, gravel or other appropriate material; and land use controls such as fences or signs.
- B. All interim control strategies require worksite preparation, cleanup, waste disposal, clearance testing, recordkeeping and monitoring.

7. ABATEMENT STRATEGIES

- A. Abatement strategies include the removal of lead-based paint. There are five basic methods of abatement for components that contain lead-based paint:
1. **Component replacement** – The removal of building components that contain lead-based paint.
 2. **Paint removal** – The separation of paint from the substrate using safe heat, chemical, or abrasive methods. It is the least preferred method and requires the greatest care and most careful clean-up. It is most appropriate for small surfaces.
 3. **Enclosure** – The installation of a barrier (such as paneling) that is mechanically attached to the building component, with all edges and seams sealed to prevent the escape of lead-based dust. It is appropriate for large surfaces such as walls, ceilings, floors and exteriors.
 4. **Encapsulation** – Involves a liquid or adhesive material that covers the component and forms a barrier that makes the lead-based paint surface inaccessible by relying upon adhesion. It is most appropriate for most kinds of smooth surfaces but cannot be used effectively on friction surfaces, surfaces in poor condition, or surfaces that may become wet. It must also be compatible with the existing paint.
 5. **Soil Abatement** – Includes removal of at least the top six inches of soil but may go to two feet in areas with heavy contamination; and paving the contaminated soil with high quality concrete or asphalt.
- B. All abatement strategies require worksite preparation, cleanup, waste disposal, clearance testing, recordkeeping and monitoring.

8. HUD STANDARDS FOR SAFE METHODS AND PROHIBITED METHODS FOR TREATING LEAD-BASED PAINT

A. Examples of safe treatment methods:

1. Wet scraping;
2. Wet sanding;
3. Chemical stripping off site;
4. Replacing painted components;
5. Scraping with an infrared or coil-type heat gun with temperatures below 1,100°F;
6. HEPA vacuum sanding;
7. HEPA vacuum needle gun;
8. Abrasive sanding with a HEPA vacuum; and
9. Covering a defective surface with durable materials such as wallboard or vinyl siding, with the joints sealed and caulked.

B. Examples of prohibited treatment methods:

1. Open flame burning or torching;
2. Machine sanding or grinding without a HEPA local exhaust;
3. Heat guns operating above 1,100°F or charring;
4. Dry scraping or dry sanding except in conjunction with heat guns or within one foot of outlets; and
5. Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance.

9. OCCUPANT PROTECTION

A. This section establishes procedures for protecting dwelling unit occupants and the environment from contamination from lead-contaminated or lead-containing materials during hazard reduction activities.

1. Occupants shall not be permitted to enter the worksite during hazard reduction activities, until after hazard reduction work has been completed and clearance, if required, has been achieved.
2. Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:
 - a. Treatment will not disturb lead-based paint, dust-lead hazards, or soil-lead hazards;

- b. Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;
 - c. Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards; or
 - d. Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards; and the worksite and the area within at least 10 feet of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.
 - e. All occupants are over the age of 65 (elderly) and are made aware of the hazards involved with remaining in the home during rehabilitation. The residents must sign a waiver (LBP-7 – Elderly Relocation Waiver) acknowledging that they have received information on the hazards and have chosen to remain in their home.
3. The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants’ belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants’ belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with all seams and edges taped or otherwise sealed.

10. THE IMPORTANCE OF BREAKING OUT LEAD COST FROM NON-LEAD COSTS IN A WORK WRITE-UP

- A. It is very important to understand that work write-ups and construction budgets need to clearly delineate lead and non-lead costs and they need to do so on a line item basis. It is very easy to accidentally trigger abatement by using abatement methods as interim controls or by putting rehabilitation costs under lead hazard reduction costs in order to stay under the \$25,000 cap.
- B. In order to generate a work write-up for rehabilitation with lead that does not trigger abatement, it is very important to realize that the work write-up and risk assessment go hand in hand. It is easy to trigger abatement by calling for an abatement method in the work write-up, such as paint removal, component replacement, encapsulation or enclosure, to correct a lead hazard and then allocating the cost of that method to lead hazard reduction and not to rehabilitation hard costs. It is also important to remember that *only the interim controls called for in the risk assessment* can be used during rehabilitation.
- C. The following costs and activities are the types of lead costs that can be excluded from the hard cost of rehabilitation:
 - 1. Cost of site preparation;

2. Occupant protection;
 3. Relocation;
 4. Interim controls;
 5. Abatement;
 6. Clearance; and
 7. Waste handling attributable to lead-based paint hazard reduction.
- D. It should be noted that ‘interim controls’ is a very gray area and one area that seems to be very troublesome. *Just because a rehabilitation activity uses an interim control or has lead that requires the use of safe work practices, does not mean that the full cost of that activity can be deducted from the hard cost of rehabilitation.* Sometimes the ‘interim control’ may simply be needed to correct a lead hazard before a particular rehabilitation activity can be done. This type of interim control can be deducted from the rehabilitation hard cost, but not the full cost of the activity. Good documentation is necessary and this is where both intent and the risk assessment play a major role in determining if abatement has been triggered.
- E. In order to prevent the accidental triggering of abatement, one methodology would be to always have a rehabilitation hard cost for each line item in the work write-up that has lead. The cost of the activity if no lead was involved would be the rehabilitation hard cost. The additional cost of the activity, because it does have lead, is the lead reduction cost. (Cost of activity with lead – Cost of activity without lead = Lead hazard reduction cost)
- F. There are two approaches to generating a work write-up and risk assessment for a unit with lead depending on who is doing the inspection and the risk assessment.
1. If the housing inspector and the risk assessor are the not the same:
 - a. The housing inspector needs to do the initial codes inspection and identify the rehabilitation work to be done on the house.
 - b. The Risk Assessor completes his testing of the complete structure and gives the report to the housing inspector.
 - c. The housing inspector then modifies the work write-up so that it clearly breaks out rehabilitation work and required lead work separately by:
 - i. Identifying the housing components that have lead and require safe work practices.
 - ii. Incorporating in the work write-up any interim controls that are required to correct lead based paint hazards that were identified in the risk assessment but may or may not have been addressed as part of the original write-up.
 - iii. Ensuring that where applicable, line items with lead have both a rehabilitation cost and a lead cost.
 2. If the housing inspector and the lead inspector are the same person, the inspector can

conduct both the codes inspection and the risk assessment at the same time and generate the work write-up so that it clearly breaks out rehabilitation work and required lead work separately as in 11.6(1)(c) i-iii above.

3. The risk assessment and the work write-up that clearly breaks out the lead costs and non-lead costs on a line item basis will need to be submitted along with the contract when the set-up information is sent to THDA. The work write-ups will need to identify all line items that have lead and require the use of safe work practices. When interim controls are used, the methods to be used need to be clearly spelled out and the cost properly allocated.

11. GUIDANCE ON RELOCATION

- A. The Lead Safe Housing Rule includes requirements for occupant protection during lead hazard reduction activities. These occupant protection measures often require that a resident leave the unit while work is being performed. Relocation to a temporary unit may be required.
- B. When is relocation required? – Residents must be kept out of the work area during lead hazard reduction work and cannot return to the work area until it has passed clearance. If the residents cannot enter important parts of their home (e.g. bathrooms, kitchens) for more than a day, they need to be relocated temporarily.
 1. When is relocation not required? – The lead safe housing rule lists several situations that do not require relocation. These include:
 - a. The work will not disturb lead-based paint, dust lead hazards, or soil lead hazards.
 - b. Work on the interior of the unit will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health, or environmental hazards.
 - c. Only the building’s exterior is treated; the windows, doors, ventilation intakes, and other openings near the worksite are sealed during hazard reduction activities and cleaned afterward; and a lead-free entry is provided.
 - d. Treatment will be completed within five calendar days; the work area is sealed; at the end of each day, the area within 10 feet of the containment area is cleared of debris and cleaned; at the end of each day, occupants have safe access to sleeping areas, bathroom, and kitchen facilities; and treatment does not create other safety, health, or environmental hazards.
 - e. HUD has advised that the relocation of elderly occupants is not typically required, so long as complete disclosure of the nature of the work is provided and informed consent of the elderly occupant(s) is obtained before commencement of the work. (See LBP-13)
- C. What constitutes an appropriate relocation unit? – The Lead Safe Housing Rule requires that the relocation unit be lead-safe. The Interpretive Guidance provides two ways to demonstrate the lead-safety of a unit:

1. Use post-1978 units.
 2. Perform a clearance examination in the unit to ensure that there is no deteriorated paint or dust hazards.
- D. Does relocation for lead hazard reduction trigger the Uniform Relocation Act (URA)? - The URA is triggered if tenants are not treated reasonably during temporary relocation.
1. For tenants, this means that the agency must pay the out-of-pocket costs incurred by tenants during temporary relocation, such as the rent charged for the temporary unit above their costs for their existing unit, costs to move back and forth from the temporary unit, storage costs for personal belongings, and utility hookups at the temporary unit. In addition reasonable advance notice must be provided to the tenant before the tenant is required to move into or out of the temporary unit. Further, the unit they move into must be suitable for their needs. (For more information on URA, consult HUD Handbook 1378.)
 2. Work in owner-occupied housing does not trigger the URA. However, agencies may choose to define hardship situations for tenants and adopt temporary relocation as part of their written policies and procedures to pay certain costs, such as a per-day maximum for costs actually incurred for housing and meals. Any such policy must be written and must be applied consistently.
- E. What should a relocation policy cover? – Relocation policies serve as a useful guide to staff and program participants and help ensure that all program participants are treated consistently. The policy should cover:
1. When relocation is required under the program and how long temporary relocation will typically last
 2. How much notice will be provided to move and return
 3. What constitutes an appropriate relocation unit
 4. Whose responsibility it is to identify a temporary unit
 5. How much, if any, will be allowed for a meal allowance per person if the temporary unit has no cooking facilities
 6. How payment will be disbursed
 7. What relocation benefits are available to the resident during the relocation period
- F. How can relocation costs be minimized? – Minimize the relocation time. Stage work to minimize the time the residents need to be out of the unit. The worksite must be properly contained and the resident may not enter that area ever during the course of the work. Work areas must pass interim clearance before a resident can reoccupy them. A final clearance is still required at the end of the job, even after interim clearances have been done.
- G. Minimize associated costs. Negotiate favorable rates with motel or apartment owners for temporary relocation units. Obtain competitive bids from moving or storage companies, and

identify a mover and storage company that will provide services at the most favorable rate. However, costs should be based on actual expenses, not a per unit rate.

12. ACQUISITION, LEASING, SUPPORT SERVICES, OR OPERATION

- A. The purpose of subpart K is to establish procedures to eliminate as far as practicable lead-based paint hazards in a pre-1978 residential property that receives federal assistance under certain HUD programs for acquisition, leasing, support services, or operation. Acquisition, leasing, support services, and operation do not include mortgage insurance, sale of federally owned housing, project-based or tenant-based rental assistance, or assistance to public housing.
- B. Notices and Pamphlets – In cases where evaluation or hazard reduction, including paint stabilization, is undertaken, each grantee shall provide a notice to residents in accordance with 24 CFR Part 35.125. A visual assessment is not considered an evaluation for purposes of this part. The grantee shall provide the lead hazard information pamphlet.
- C. If a dwelling unit receives federal assistance under a program covered by this Subpart, each grantee shall conduct the following activities for the dwelling unit and all common areas servicing the dwelling unit and the exterior surfaces of the building in which the dwelling unit is located:
 - 1. A visual assessment of all painted surfaces in order to identify deteriorated paint;
 - 2. Paint stabilization of each deteriorated paint surface, before occupancy of a vacant dwelling unit or where a unit is occupied, immediately after the receipt of federal assistance; and
 - 3. The grantee shall incorporate ongoing lead-based paint maintenance activities into regular building operations.
 - 4. The grantee shall provide a notice to occupants describing the results of the clearance examination in accordance with 24 CFR Part 35.125.

13. COST

- A. Costs for paint testing, risk assessments, and clearance testing will be paid as soft costs. There is an acceptable range for costs involving these activities, and the range has increased due to recent increases in transportation costs. Please contact your specialist for cost approval prior to contracting for these services
- B. Expenses incurred conducting lead activities such as costs of site preparation, occupant protection, relocation, interim controls, clearance, waste handling attributed to lead-based paint hazard reduction, standard treatments, and abatement will count towards the subsidy limit.

14. CERTIFICATION

- A. Lead-based paint Inspectors, Lead-based paint Risk Assessors, Lead-based paint Abatement Workers, and Lead-based paint Abatement Supervisors must be certified by the Tennessee Department of Environment and Conservation (TDEC).
- B. A listing of these certified Lead professionals is available from the TDEC office:

DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Solid Waste Management Fifth Floor, L & C Tower
401 Church Street
Nashville, Tennessee 37243-1535
1-888-891-8332

- C. Websites for additional information:

https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines

https://www.hud.gov/program_offices/healthy_homes/enforcement/regulations

<https://www.tn.gov/environment/program-areas/solid-waste/toxic-substances/lead-hazard-program.html>