

APPENDIX K

LEAD-BASED PAINT

Proposals will be reviewed for compliance with federal lead-based paint regulations included in 24 CFR Part 35 that are triggered by rehabilitation work in properties built before 1978. These new federal regulations became effective April 10, 2001 and regulate assisted activities in pre-1978 housing funded with CDBG, HOME, and HOPWA resources.

Federal regulation requires that all hazard control work be conducted by contractors and workers that are trained in lead-safe work practices. All abatement work must be conducted by abatement contractors and workers certified by the State of Oregon. Borrower shall include *Property Owner/Rehab Contractor Contract Addendum Reduction of Lead Paint Hazards* in all rehabilitation construction contracts for properties built before 1978 containing lead.

| Rehab Costs Per Unit | Federal Requirement |
|---|--|
| Rehab proposals requesting hard cost subsidy of under \$5,000 per unit | <ul style="list-style-type: none"> ▪ Notification to occupants (see below) ▪ Paint test or assumption of lead-based paint in worksite ▪ Safe work practices (contractor must take HUD/NARI course) ▪ Repair of disturbed paint in worksite ▪ Clearance (all paint in worksite must be tight to surface with no dust registering above action levels during clearance test) performed by certified individual |
| Rehab proposals requesting hard cost subsidy between \$5,000 and \$25,000 (hard costs) per unit | <ul style="list-style-type: none"> ▪ Notification to occupants (see below) ▪ Risk Assessment of entire property (interiors, exteriors and common areas) by certified risk assessor ▪ Safe rehab work practices (including relocation) ▪ Hazard control performed on all identified hazards, conducted by HUD/NARI trained contractor or certified abatement contractor ▪ Clearance of property (interiors, exteriors, and common areas) by certified individual |
| Rehab proposals requesting hard cost subsidy over \$25,000 (hard costs) per unit | <ul style="list-style-type: none"> ▪ Notification to occupants (see below) ▪ Risk Assessment of entire property (interiors, exteriors, and common areas) by certified risk assessor ▪ Safe rehab work practices (including relocation) ▪ Abatement of all identified hazards using a certified abatement contractor ▪ Clearance of property (interiors, exteriors, and common areas) by certified individual |

Notification Requirements

Federal regulations require that residents of all units triggering the federal lead regulations receive the following notification:

- (1) EPA Pamphlet “Protect Your Family from Lead in Your Home”
- (2) Notice of the presumption of lead paint, paint testing results, or the results of a risk assessment
- (3) Notice of planned response to results of paint testing or risk assessments
- (4) Notice of clearance results

***Project sponsors must document occupants received required lead-based paint information using appropriate forms requiring occupant signature.**

**PROPERTY OWNER/REHAB CONTRACTOR CONTRACT
ADDENDUM
REDUCTION OF LEAD PAINT HAZARDS**

This document shall be attached to the Owner/Contractor Contract and is hereby incorporated therein. In the event of a conflict among contract documents, the provisions in this addendum shall prevail over all others.

Scope of Services

All lead-based paint activities performed, including waste disposal, shall be in accordance with applicable Federal, State, or local laws, ordinances, codes or regulations governing evaluation and hazard reduction. In the event of discrepancies, the most protective requirements prevail. These requirements can be found in: OSHA 29 CFR 1926—Construction Industry Standards, 29 CFR 1926.62—Construction Industry Lead Standards, 29 CFR 1910. 1025—Hazard Communication, 40 CFR 745—EPA Regulations, HUD 24 CFR Part 35.

The level of lead hazard reduction is determined by the level of federal assistance. That calculation is attached to this contract as Exhibit A and incorporated herein. For work up to and including \$5,000, safe work practices must be used for all rehabilitation activities, and paint disturbed during the work must be repaired. For work over \$5,000 up to and including \$25,000, interim controls must be performed on the hazards identified by the risk assessment and paint disturbed during the rehabilitation must be repaired or standard treatments must be carried out for the entire unit. For work over \$25,000, surfaces painted with lead-based paint that are disturbed during rehabilitation and hazards identified by the risk assessment all must be abated. Interim controls may be performed on exterior surfaces if those surfaces are not undergoing rehabilitation.

Worker Protection and Prohibited Methods

Workers shall be provided with a pre-employment physical to determine blood lead level and ability to wear appropriate respirator protection. Workers shall also be provided with a changing area equipped with washing facilities and protective clothing. All safe work practices shall be used. The following methods shall not be used to remove paint that is, or may be, lead-based paint:

1. Open flame burning or torching;
2. Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control;
3. Abrasive blasting or sandblasting without HEPA local exhaust control;
4. Heat guns operating above 1100 degrees Fahrenheit or charring the paint;
5. Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. (0.30m.) of electrical outlets, or when treating defective paint spots totaling no more than 2 sq. ft. (0.02 sq. m.) in any one interior room or space, or totaling no more than 20 sq. ft (2.0 sq. m.) on exterior surfaces; and
6. Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations.

Records

Records must be kept of each evaluation, clearance or hazard reduction report for at least three years.

Fines

The Contractor is fully responsible for the means and methods of executing the scope of work. Therefore, the Contractor and Subcontractor agree to hold the Owner and the City harmless in the event of any fines from federal or local agencies controlling the lead hazard reduction work. The Contractor or Subcontractor agree to immediately (within 30 days) satisfy any and all fines or judgments presented by OSHA, EPA, the local or state health department, the state office of lead hazard control and any other governmental agency having jurisdiction over the lead hazard reduction work.

Worker Training

All workers involved in lead hazard reduction activities must either be supervised by an EPA or State of Oregon Abatement Supervisor or have received HUD-approved training in lead-safe work practices prior to commencement of work.

Occupant Protection During Lead Hazard Reduction

The Contractor shall provide the Owner with a copy of the written Occupant Protection Plan as required by 40 CFR Pt. 745.

Actions must be taken to protect occupants from lead-based paint hazards if the units will not be vacant during the rehab project. Occupants may not enter the work site during the lead hazard reduction activities. Reentry is permitted only after such activities are completed and the units have passed a clearance examination. Occupants of the unit do not have to be relocated under the following circumstances:

1. Rehab work will not disturb lead-based paint or create lead-contaminated dust;
2. Hazard reduction activities can be completed within one 8 hour daytime period and the work site is contained to prevent safety, health or environmental hazards;
3. Exterior-only work is being performed where the windows, doors, ventilation intakes and other openings near the work site are sealed during hazard reduction activities, and cleaned afterward, allowing for a lead-safe entry to be maintained;
4. Hazard reduction activities will be completed within 5 calendar days and the work area is sealed, the area within 10 feet of the containment area is cleaned each day, occupants have safe access to sleeping areas, bathroom and kitchen facilities; and occupants are not permitted into the work sites until after clearance has been achieved.

Temporary Relocation During Lead Hazard Reduction

If occupied units are to undergo more extensive lead hazard reduction activities, the occupants must be temporarily relocated. Most often, furniture and occupant belongings can be covered and sealed with protective plastic sheeting, although storage of major furniture and removal of all small furnishings during the hazardous materials reduction work may sometimes be necessary. The Occupants are responsible for carefully packing all breakables, removing all clothing from closets, and protecting any personal property. During the hazard reduction work, only workers trained in lead hazard reduction may enter the work site. This means that neither owners nor occupants are permitted to return to the work site during the day or at night. If the Occupant has special needs to re-enter the site, the City must be contacted. Only when the unit has been cleaned to the federally-mandated standards and passed a clearance examination is it safe and permissible for the Occupant to return to their home. The Owner will notify the Occupant with an Authorization for Re-Occupancy. If work is done in stages, interim dust lead clearance must be obtained prior to re-occupancy by the occupants and other non-lead related rehabilitation workers. Final lead dust clearance must be repeated following the rehabilitation work to verify that the residence is free of lead hazards.

The Federal Uniform Relocation Act for temporary relocation costs will apply when tenants are required to relocate. Payment will be made once costs/expenses are verified.

Worksite Preparation and Containment

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.

All objects that cannot be moved (cabinets, appliances, built-in furniture) shall be covered with plastic sheeting at least 6 mils thick taped securely in place. Floors in the worksite shall also be covered with plastic sheeting at least 6 mils thick sealed with tape.

Cleaning Up and Clearance

The contractor shall keep the premises clean and orderly during the course of the work and all debris shall be removed on a continuous daily basis and not be allowed to accumulate.

All exposed interior surfaces shall be cleaned using a HEPA vacuum and wet washed with a detergent solution and clean water rinse to reduce the lead content.

Clearance may not be performed sooner than one hour after completion of the final cleanup. Clearance dust sampling is for settled leaded dust and is a two-phase process. The initial clearance evaluation is a Visual Examination done by the City followed by “environmental sampling” for leaded dust.

1. The visual examination determines that the work on all interior and exterior surfaces to be treated was completed, that there are no deteriorated paint surfaces, and that no visible settled dust or debris is present in interiors and within 10 feet of exterior walls if exterior work was performed.

2. Environmental sampling involves dust sampling on the interior work area. The clearance examiner may decide that exact sampling scheme based on the type of treatment (s), visual observation, and professional judgment.

3. Clearance samples must determine the lead dust levels of the work site prior to re-occupancy.

4. Clearance must be performed by an individual who is independent from the Contractor hired to do the work. The following dust lead clearance thresholds must be met:

Floors—40 $\mu\text{g}/\text{ft}^2$

Interior window sills—250 $\mu\text{g}/\text{ft}^2$

Exterior window troughs—400 $\mu\text{g}/\text{ft}^2$

5. Clearance must be performed by an EPA or State certified Risk Assessor, Lead Paint Inspector or a Clearance Technician.

6. If a component, such as a floor, fails the clearance dust standard, the floor in the room that failed must then be re-cleaned. A clearance dust sample must then be taken. The first clearance cost was made part of the total cost of rehabilitation. All subsequent cleaning and clearances costs shall be the sole responsibility of the Contractor.

Handling of Lead Wastes/Disposal

The Contractor is solely responsible for complying with federal and state requirements for the safe handling of lead wastes and the disposal thereof.

Owner Responsibilities

Owners shall be responsible for monitoring potential hazards, repairing damaged surfaces, and maintaining the property to prevent hazards from occurring after occupancy.