

Federal Rehabilitation Assistance Calculation Under 24 CFR 35.915

Calculation of the amount of Federal rehabilitation assistance should follow the dual-threshold procedures described in HUD's "Interpretive Guidance" Questions J3 thru J6 (in the 6/21/04 version, and similar Question numbers in previous versions). The latest version of the Rule Interpretive Guidance can be found at HUD's web-site <http://www.hud.gov/offices/lead/leadsaferule/index.cfm>.

HUD requires the calculation of the Federal assistance per unit and the rehabilitation cost as two separate calculations, and using the lower of the two calculations to determine applicable standards. The two calculations are:

1. The Total Federal Assistance per assisted unit; and
2. The Rehabilitation Cost per assisted unit.

A **Threshold Calculation Form** is attached for use in all rehabilitation projects utilizing HOME and CDBG funds. Additional guidance on the interpretation of lead hazard reduction costs is provided in a Q & A format below.

What are some examples of "Federal assistance?"

The following are examples of programs that are considered Federal assistance:

- HUD grant programs, including CDBG, HOME, HOPE
- Special Needs programs such as HOPWA, ESG, Supportive Housing, Shelter Plus Care and other McKinney programs
- Section 8 and other HUD rental assistance programs
- Dept. of Agriculture's Rural Development funds

The following are examples that are not considered Federal assistance for the purpose of this calculation:

- Proceeds from the sale of Low-Income Housing Tax Credits
- Proceeds from FHA mortgage insurance, including rehab funds such as 203(k)
- Dept of Energy's Weatherization Program (separate guidance has been issued)
- Fannie Mae and Freddie Mac programs
- Federal Home Loan Bank programs

If you are using Federal funds on a project and the program is not clearly identified as included or excluded by these lists, then contact the State to determine the applicability of this Rule before proceeding with rehabilitation plans.

What are rehabilitation hard costs?

Rehabilitation hard costs are actual costs, regardless of source of funds, associated with physical renovation of a unit.

The following are not hard costs:

- Soft costs, including financing fees, credit reports, title binders and insurance, recordation fees, transaction taxes, impact fees, legal and accounting, appraisals, architectural and engineering fees.
- Administrative costs.
- Relocation costs.
- Environmental review costs.
- Acquisition costs.
- Lead hazard evaluation and reduction costs

What are Lead Hazard Evaluation and Reduction Costs and how are they computed and documented?

This includes any costs that are associated with complying with the LBP Rule that are not normally incurred as part of rehabilitation if the Rule did not apply. This can include:

- Evaluation costs (risk assessments, visual assessments or inspections)
- Worksite preparation
- Occupant protection, including relocation, storage or protection of belongings
- Interim controls, standard treatments, or abatement activities that are being done only for purposes of lead hazard control and would not be done in the normal course of the rehabilitation except for the LBP requirements
- Waste handling attributable to lead-based paint hazard reduction.
- Specialized cleaning designed to remove LBP dust
- Clearance activities, including visual assessments, dust wipes, and reports

In addition to costs (e.g., risk assessments, clearances, soils treatment) that are conducted only because of the LBP rule, the LBP hazard reduction costs may also include the incremental costs of a rehab activity that are the result of safe work practice requirements. Incremental costs are not the full cost of the rehab activity, but just those additional costs incurred because of safe work practice compliance.

- For example, a contractor could provide a standard quote for window replacement (installed) of \$275 per window in a job without LBP, while increasing the price to \$310 when using safe work practices in an interim control job. In this case, the incremental cost of \$35 per window (created entirely for purposes of this illustration) may be treated as an additional LBPH reduction cost and excluded from the calculation of rehabilitation hard costs for this purpose.

However, if the full cost of replacement of windows is excluded from rehabilitation costs, then the window replacement activity must be classified as a LBPH reduction activity and not as a rehab activity. Therefore, the replacement activity is subject to State/EPA abatement standards (regardless of the overall classification of the rest of the rehab job).

These LBP hazard reduction costs may be excluded from the calculation of rehabilitation hard costs (the second of the two required calculations), but are not excluded from the calculation of Federal assistance (the first of the two calculations) if they are paid with Federal funds.

If LBP-associated costs are to be excluded from the calculation of rehabilitation hard costs as permitted, the local administrator must document those costs with:

- Actual cost documentation such as invoices (e.g., the cost of a third-party risk assessment)
- Standardized fee -- If the activity is performed in-house and no third party invoice is available, a standard charge may be established for the service that reflects average costs (e.g., for an in-house risk assessment, a standard fee is charged to every project that is based on hourly rates for an average assessment)
- Contractor breakdown – The contractor can provide an estimate of the incremental costs associated with LBP hazard reduction (e.g., safe work practices)
- Comparison of unit costs between LBPH and non-LBPH jobs

How are rehabilitation hard costs per unit calculated if not all of the dwelling units are federally-assisted?

The actual costs of the rehabilitation of the assisted units are combined with a pro rata share of the exterior, common area, and common systems costs. For multi-unit projects with both federally-assisted and non-assisted units, rehabilitation hard costs per unit are calculated using the formula of $A/C + B/D$ where:

- A** = rehabilitation hard costs for all assisted units (excl. common areas & ext. surfaces)
- B** = rehabilitation hard costs for common areas and exterior surfaces
- C** = number of federally-assisted units in the project
- D** = total number of units in the project

Sample Calculations of the Amount of Federal Rehabilitation Assistance

Example: single-family house (acquisition plus CDBG-assisted rehab)

\$ 80,000	Acquisition cost	Conv. Loan
\$ 22,000	Rehabilitation hard costs	CDBG
\$ 4,000	Rehabilitation hard costs	Buyer/Seller contributions
\$ 1,000	Lead hazard evaluation/clearance	CDBG
\$ 2,000	Closing Costs	Buyer
<u>\$ 1,500</u>	Closing Cost Assistance	CDBG
\$110,500	Total development costs	

Step 1: Calculate the average Federal assistance per unit.

\$ 22,000	Rehabilitation hard costs	CDBG
\$ 1,500	Closing costs	CDBG
<u>\$ 1,000</u>	Lead hazard reduction costs	CDBG
\$ 24,500	Total Federal assistance	

Step 2: Calculate the average rehabilitation hard costs per unit.

\$ 22,000	Rehabilitation hard costs	CDBG
<u>\$ 4,000</u>	Rehabilitation hard costs	Buyer/seller
\$ 26,000	Total Rehabilitation hard costs	

Step 3: Use the lesser amount to determine the level of rehabilitation assistance per unit:
\$24,500.

The level of rehabilitation assistance per unit in this example is \$24,500, based on the lower of the two calculations. Therefore, the applicable requirements would be those for the \$5,001 - \$25,000 category (including risk assessment and interim controls).

Sample Calculation of the Amount of Federal Rehabilitation Assistance

Example: 10-unit apartment (5 units HOME assisted)

\$ 80,000	Acquisition cost	HOME
\$ 80,000	Acquisition cost	Conventional Loan
\$100,000	Rehab hard costs— 5 HOME-assisted units	HOME
\$100,000	Rehab hard costs— 5 unassisted units	Conventional Loan
\$ 40,000	Rehab hard costs—exterior/common areas	Foundation
\$ 30,000	Soft costs	City (local funds)
<u>\$ 40,000</u>	Lead eval, relocation, soils, SWP, clearance	HOME
\$470,000	Total development costs	

Step 1: Calculate the average Federal assistance per unit.

\$ 80,000	Acquisition cost	HOME
\$100,000	Rehab hard costs— 5 HOME-assisted units	HOME
<u>\$ 40,000</u>	Lead hazard reduction costs	HOME
\$220,000	Total Federal assistance	
\$ 44,000	Average Federal assistance per unit (\$220,000 ÷ 5 units)	

Step 2: Calculate the average rehabilitation hard costs per unit.

\$ 20,000	Rehabilitation hard costs per unit (\$100,000) ÷ # of assisted units (5)
<u>\$ 4,000</u>	Rehabilitation hard costs per unit for common/exterior areas (\$40,000) ÷ total # of units (10)
\$ 24,000	Average rehabilitation hard costs per unit

Step 3: Use the lesser amount to determine the level of rehabilitation assistance per unit:
\$24,000

The level of rehabilitation assistance per unit in this example is \$24,000, based on the lower of the two calculations. Therefore, the applicable requirements would be those for the \$5,001 - \$25,000 category.