



TCAP Questions and Answers: Lead Safe Housing Rule for Target Housing

The following questions and answers are intended to assist TCAP grantees and project owners to understand and comply with HUD's Lead Safe Housing Rule (LSHR) with respect to TCAP projects. These questions and answers are not a substitute for reading and understanding the regulations at [24 CFR Part 35](#). For further information, please consult [HUD's Interpretive Guidance on the LSHR for TCAP](#) or HUD's [Office of Healthy Homes and Lead Hazard Control](#) website.

1. Can TCAP funds be used to perform work related to the Part 35 requirements?

Answer: Yes. A project owner can use TCAP funds for the costs of lead hazard evaluation, lead hazard reduction, and clearance activities. TCAP funds cannot be used to pay the cost of ongoing monitoring or maintenance of interim controls put in place to reduce lead hazards.

2. What are the responsibilities of the grantees, property owners and contractors regarding lead safety training and certifications?

Answer: Grantees and project owners having rehabilitation work conducted on pre-1978 TCAP residential properties known or presumed to have lead-based paint need to ensure that contractors have fulfilled their responsibility to obtain the applicable certifications and to ensure that the workers have the applicable training and, as required, certifications. Information about training available to attain these credentials is available from the [EPA](#) and State agencies.

Required Trainings and Certifications of Firms and Workers

- a. If the rehabilitation assistance is over \$25,000 per unit, contractor firms must be certified as abatement firms, and workers must be certified as abatement workers. The abatement firm and worker certification requirements are at HUD's 24 CFR 35.1325, for both, and at EPA's 40 CFR 745.226(c) and (f), respectively; or
- b. If the assistance is \$25,000 per unit or less, workers must be trained in a HUD-accepted lead safe work practices course (see www.hud.gov/offices/lead/training), if the work is completed before April 22, 2010 (or other State-specified date). The HUD lead safe work practices training requirement is at 24 CFR 35.1330(a)(4). For work conducted on or after the applicable date, the firm must be a certified renovation firm and the workers must be certified renovation workers. The EPA renovation, repair, and painting

certification requirements for firms and individuals are at 40 CFR 745.81(a)(2) and (3), respectively. The certified renovator training requirement is at 40 CFR 745.90(a).

For more information on required training, please see [HUD`s website](#), the [EPA`s website](#) or your State`s website as described above. It is advisable for grantees to assist project owners with identifying funds to assist with training/certification efforts, if necessary.

3. Can grantees use TCAP funds to pay for the cost of ensuring compliance with lead-based paint requirements?

Answer: The Recovery Act made no provision for grantee administrative costs under TCAP. Consequently, the grantee must identify other funding sources to pay costs associated with ensuring compliance with Part 35 in TCAP projects during the development phase or ongoing compliance during project operations.

4. Do lead hazard control requirements apply to both interior and exterior of a TCAP project undergoing rehabilitation?

Answer: Yes. When the per unit Federal rehabilitation assistance from TCAP and other sources exceeds \$5,000, the LSHR requires that interim controls or abatement be performed on dwelling units, common areas servicing the residential units, out buildings, exterior painted surfaces and soil. If the Federal rehabilitation assistance equals or is less than \$5000, hazards on exterior surfaces are not required to be reduced. However, if the scope of the work includes exterior surfaces or outbuildings, then the lead safe work practices are required under [35.930\(b\)](#).

5. What if the project did not involve painting units, do I have to comply with lead-based paint requirements?

Answer: Lead hazard reduction activities and ongoing maintenance in accordance with the Lead Safe Housing Rule are required, even if the building/unit was painted before HUD executed the grant agreement with the TCAP grantee, or if the building/unit is to be left unpainted at the end of the work. If the project involves acquisition only (i.e., no rehabilitation is performed), then [subpart K](#) applies. At a minimum, Subpart K requires that a visual assessment for deteriorated paint be performed, and any deteriorated paint surfaces stabilized (unless paint testing is performed and determines that the paint is not lead-based paint).

6. Can a TCAP project obtain a waiver of the lead-based paint requirements?

Answer: The Lead Safe Housing Rules are considered an environment requirement, which cannot be waived under the provisions of the Recovery Act. The Part 35 regulations [exempt](#) certain projects from the LSHR requirements.

7. What is Federal rehabilitation assistance per unit and what does it have to do with the level of lead hazard reduction that will be required?

Answer:

For projects in the “pre-contract execution” phase of development, the full LSHR requirements apply. Therefore, the average Federal rehabilitation assistance per unit will determine which requirements of the [subpart J](#) will apply. The amount is the lesser of the:

- Average Federal assistance (total Federal funds) per housing unit, or
- Average non-LBP hazard control rehabilitation hard costs per housing unit.

For projects in the “post-contract execution” phase of development, selected requirements from subpart J apply. The Federal rehabilitation assistance is not calculated for these “post-contract execution” phase projects in accordance with § 35.915, because uniform hazard control requirements apply, regardless of the assistance amount. For more information on how subpart J applies, see Unit V of the [TCAP-LSHR guidance](#).

8. Is a project owner responsible for identifying or reporting children under 6 with elevated blood levels?

Answer: No. This is not a requirement under TCAP. However, local health departments sometimes impose such requirements.

Important web links: [Office of Community Planning and Development](#), [Office Healthy Homes and Lead Hazard Control](#), [Tax Credit Assistance Program](#), and [Environmental Protection Agency](#)

If you have additional questions after reviewing the applicable laws, regulations and guidance provided in this Question and Answer, please send an email to the TCAP mailbox at TCAP@hud.gov