

MULTIFAMILY ENERGY EFFICIENCY LOAN PROGRAM (ENERGY)

Program Overview

The City's Multifamily Energy Efficiency Loan Program (ENERGY) is a key strategy to bring energy improvements and financial stability in the downtown rental housing properties. Eligible multifamily property owners will be required to participate in Efficiency Maine's "Custom Path" energy program which requires that the owner select an energy auditor approved by Efficiency Maine (known as Multifamily Efficiency Partner) who will develop an Energy Reduction Plan that will reduce energy consumption by 20%.

The City's program is being funded through the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) program and administered by the City's Economic and Community Development Department. Funding will be concentrated in downtown Census Tracts 201, 202, 203, and 204, which has the largest concentration of multifamily rental housing units. (See Appendix 1: Map of the Target Area).

The benefits to the property owner through the "Custom Path" program through Efficiency Maine, will be a guarantee that each property will have a full energy audit, a written Energy Reduction Plan with direct/meaningful recommendations and scope of work needed to qualify for a 50% rebate in total project costs from Efficiency Maine. This strategy will maximize the amount of funding available for the property owner with the guarantee of a return on investment.

Program Criteria

Property Eligibility: To be eligible, the property must be a rental property with 5+ units, located in the target area; may be owner occupied or investor owned; in "good standing" with Code Enforcement; and building must be structurally sound. Mixed use commercial properties with rental units may qualify under this program, but needs to meet the parameters of the Efficiency Maine program.

Applicant Eligibility: The applicant must have proof of ownership of the building; must be current on all City assessments for the property itself and any other buildings owned in the City of Lewiston; and may not be an elected or appointed City Official. At least 51% of the rental units in the property must be occupied by low-moderate income residents. (See Appendix 3: Median Family Income Guidelines). As part of the application, the owner must provide Tenant Income Verification Forms filled out and signed by the tenant. (See Appendix 4: Tenant Income Verification Form). Owner must provide releases to the City for all energy consumption for the past year, a current rent roll and proof of actual rents received, verifiable proof of operating expenses for the past two years which will be included into a rental proforma that will be used to determine financial viability.

Affordability Requirements: At least 51% of the units must be rented to low-moderate income residents for a period of one year. (See Appendix 2: Fair Market Rents). See Boilerplate for detailed description.

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City Assessments: Applicants may not be delinquent on property taxes, personal property taxes, trash, water or sewer bills, or have any outstanding or delinquent accounts on any property of which they are a principal owner within the City of Lewiston. Applicants *must demonstrate a record of compliance with the City of Lewiston's codes, ordinances and policies and any other local, state, or federal rules and regulations that apply.* Isolated violations will not be considered as a failure if addressed in a cooperative manner.

Eligible Expenses: Allowable improvements are identified in the energy audit and delineated in the Custom Path Energy Reduction Plan that has been prepared by a Multifamily Partner. The most common improvements may include: replacement of furnace, conversion of oil to gas, water heaters, insulation, low flow aerators, etc. Other improvements affecting the efficiency of the property may be required and can be included under the total project costs with the Efficiency Maine program. These are: repair/replacement of a roof before insulation is blown into the attic or replacement of knob and tube wiring before insulating the walls; etc.

Program Administration: The rental property owner applies to the City of Lewiston Economic and Community Development Department for the City's ENERGY program. Once pre-qualified for the City program, the owner will choose a Multifamily Partner (MFP) from the Efficiency Maine website. The MFP will begin the energy audit, a fee of \$250/unit will be required from the owner as a commitment to proceed. This fee will be paid to the City in 1/3 increments, with the final payment received prior to the release of the Energy Reduction Plan (ERP). This audit fee will be considered as part of the applicant match. If the owner does not proceed with the Energy Program, the City will keep the audit fee and reimburse the MFP for time spent on the audit. The owner, the MFP and the City will meet to discuss the Energy Reduction Plan (ERP) plan, the MFP will write the specifications and bid the work. The construction management will proceed according to the City's rehabilitation guidelines. Davis Bacon Wage Rates will apply to all projects in excess of 9 units. The City will provide the proper documentation for the bid package. The contractors will be required to obtain the proper permits from the Code Enforcement Department; and provide a copy of insurance, RRP certification if required, and any other required documentation according to the City rehabilitation programs. There will be no self-help allowed by the owner even if they are a contractor, only qualified contractors that have been properly vetted by the City will be allowed to complete the work under this program. (City requirement not Efficiency Maine). Once all qualified bids are received, the City will prepare the file for the Loan Qualification Committee (LQC) for approval.

Financing Structure: Once approved by the LQC, the total project costs is equivalent to 2x's the size of the expected rebates from Efficiency Maine. From this total project cost, a 20% verifiable match is required from the owner (minus the fee from the energy audit); the City will provide a "bridge" loan to fund the recommended energy improvements or 80% of the total project cost. The owner must agree to have the City act as "Agent for Owner". Once the energy improvements have been made, and verified through an Independent Engineer appointed by Efficiency Maine; the rebates (50% of the total project cost) will be paid directly from Efficiency

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Maine to the City to repay 50% of the loan back immediately leaving a loan of 30% to be repaid by the Owner to the City over a period of 10 years.

The total project costs needed to qualify for the 20% energy savings may exceed the cost of twice the rebates. If this occurs, the owner will be responsible for the additional cost and the owner match may exceed 20%.

10 unit building – total project costs	\$32,000	(2x's rebates of \$16,000)
Owner contribution	\$ 6,400	(20% match including audit fees)
Efficiency Maine (\$1,600/unit	<u>(\$16,000)</u>	Rebates repays 30% of City loan
City of Lewiston loan after rebates received	\$ 9,600	(30% loan)

After construction is completed, it takes 4-6 weeks for Efficiency Maine to pay out the rebates. City of Lewiston as “Agent for owner” receives rebate directly from Efficiency Maine, after an independent Engineering Company determines that the program thresholds have been met and the energy improvements have met the threshold requirements of 20% in energy savings.

Financing Terms: Terms will be tiered as follows:

- Principal residence of owner inside Lewiston or Auburn, 2% up to 10 years as determined by LQC
- Principal residence outside Lewiston-Auburn, 3% up to 10 years as determined by LQC

Funding Agreement: Applicants must agree to the terms and conditions of the program. All loans will be secured by a Mortgage and require a Personal Guaranty of all owners and partners.

Federal, State and Local Requirements May Apply: Most of the funding available to the City for grants and loans comes from federal or state sources, which means there are some restrictions or requirements that must be met. Additionally local ordinances may apply. Restrictions governing these funds are described in a later section of these guidelines.

Funding Source: Community Development Block Grant (CDBG). Other federal, state, or local funding may also be used based on availability and at the City's discretion.

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To Apply for a City Loan or Grant

A property owner interested in participating in the City's Loan Programs must submit a completed, signed application along with the required submissions to the Economic and Community Development Department (ECDD), City of Lewiston, 27 Pine Street, Lewiston, ME 04240. If you have questions specific to the program, you can contact Jayne Jochem, Community Development Coordinator, at 207-513-3126 x 3233 or jjochem@lewistonmaine.gov. Personal appointments can be made upon request. There is an open application period as long as funding is available. Residential loans and grants are processed on a first come, first serve basis.

Application Submission

The following items may be required submissions as part of the application package.

- a) Completed and signed application form and application checklist for documents required to be submitted
- b) Financial information is required with all applications including: household income; two years of personal income taxes; two months of personal bank statements; financial records on the property to be rehabilitated; a copy of current Hazard Insurance on the property; and other information as requested to make a determination on credit worthiness for a loan.
- c) Addresses of all properties in the City of Lewiston owned wholly or in part by the applicant.
- d) Current photograph of property to be improved

Application Processing and Review

Each application will be dated upon receipt in the Economic and Community Development Department offices on the Third Floor at City Hall. Only one original application is needed; however, applicants should retain a copy of the completed application. Each program description outlines the type of funding available as well as the maximum funding limit. You may request up to that limit; however, if the ask is not supported by the need, the City may fund a lower amount. You must meet the individual program and the financial guidelines for each type of program applied for. Owner's capacity to finance and complete the scope of the approved project on a timely basis is evaluated as part of the approval process.

Verification of Information

Once the application is submitted, Community Development staff will verify all sources of income, assets, and matching sources. Third party written verifications may be needed. Credit reports will be obtained to determine credit worthiness of the applicant(s).

Community Development staff will conduct a title search on the property to make sure that the title is clear from liens and will complete property verifications with City Departments

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(Assessing, Finance, Water and Sewer, Treasurers, Code Enforcement, and Planning) on all properties owned by the applicant(s) in the City of Lewiston to ensure that there are no outstanding assessments or complaints against the properties. If there are outstanding assessments or complaints, the applicant will not be eligible for funding until the assessments are paid in full and the complaints cooperatively dealt with. Community Development staff will check the Federal, State, and local databases to determine whether or not the building is historic and, if so, the type of review needed. If federal guidelines require project review by the Maine Historic Preservation Commission, the approval process may take as long as 45 days. City staff will also check the Flood Map and the Wetlands Map to determine if there are any restrictions and requirements related to these issues on the property, and a GIS map of the property location will be printed and maintained in the application file.

As part of the approval process, Community Development Coordinator will conduct an initial inspection of the property with the owner, and Code Enforcement (CE) to ensure that the proposed improvements will add value and that the building can support the proposed improvements. Code Enforcement will make recommendations as needed, including items that do not meet code and need to be repaired as part of the project. The Community Development Coordinator will ensure that the proper scope of work and bid documents are prepared.

Community Development staff will check the contractors that have provided proposals against the Excluded Parties List System (EPLS) <http://www.epls.gov> to determine if the contractor has been debarred, suspended, is proposed for debarment, excluded, or otherwise disqualified from work that is federally funded. Staff will document the file.

Each funded activity must meet one of the three HUD national objectives: 1) low-moderate income benefit; 2) elimination of slum and blight; or 3) urgent need. In aggregate, at least 70% of all funds must assist low and moderate income persons over a 1-3 year period. Community Development staff will document and file the extent to which the project meets these National Objectives.

CDBG Residential Program Definitions

Affordability Guidance:

The affordability to low/moderate income tenants of Multi-unit housing rents is determined in the following manner:

- a. Monthly rental charges for each dwelling unit in the property, at the time of application and during the affordability period, must not exceed the maximum Fair Market Rent (FMR) established by HUD minus the allowance for tenant paid utilities. The City loan programs follow the HUD approved FMR exception rents up to 120% of the established FMR

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and the utility allowance for tenant paid utilities as adopted by the Lewiston Housing Authority. (See Appendix B.)

- b. Rents must remain affordable for a one (1) year affordability period after construction is finished and the loan goes into repayment. Rents cannot be raised for that year.

Construction Oversight:

Construction oversight of the rehabilitation work for the City Housing Programs will be provided by the Community Development Coordinator. This will include review of the following documents: scope of work, bid documents, contractor bids, the construction contract, insurance and licensing requirements. Additionally, the Community Development Coordinator will provide oversight as the rehabilitation proceeds, approve change orders, and coordinate and attend the final inspection and closeout.

Household Income:

- a. Income of all members of the household is considered for computing total household income. This may include wages, salaries, overtime, bonuses, fees, tips, commissions, interest and dividend income, net rental income, child support, alimony, Social Security benefits, SSI retirement, pension, or annuity, AFDC, unemployment benefits, worker's compensation, and disability or benefits from any source.
- b. For the purpose of computing income, a household shall be defined as all persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.
- c. Exception -- An exception to calculating household income is for boarders of the applicant. A boarder is an adult who pays the market rate to rent a room and shares kitchen facilities with the applicant. The applicant must produce verification of rental income such as canceled checks and rental income on a federal income tax form. The gross income of the boarder will not be included in calculating the applicant's household income. Instead, the HUD Fair Market Rent for a 0 bedroom unit shall be added to household income. The boarder will not be counted as a household member when calculating family size.

Investor: A property owner that does not live in the property to be rehabilitated who may receive rehabilitation assistance in order to improve housing conditions for low/moderate income tenants.

Mixed-Use: A property used in some part for residential purposes and in some part for non-residential purposes.

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Owner-Occupied: An applicant who holds the entire ownership interest of a property and lives in one unit of the property as a primary residence.

Rehabilitation Costs: The total of contractor estimates from eligible contractors for the scope of the work. Part of this scope of work may include lead hazard control or abatement. The Community Development Coordinator will determine whether the rehabilitation calls for lead hazard control measures. This may involve hiring a risk assessor or lead inspector who will determine whether lead hazards exist and what methods must be used to control them. All lead related contractors must have the proper certifications as required by HUD, EPA, and MEDEP. A copy of the certification will be required with the contractor's bid. If lead hazards exist, a clearance test of the construction area will be required from a licensed risk assessor to confirm the absence of lead hazards after the work is completed. The Contractor and owner will work closely to minimize the need to displace occupants of a dwelling unit as well as ensure no residents of the property are affected by lead hazards.

Residential Property: A property used entirely for residential purposes (household living space).

Target Areas: A designated neighborhood area defined by the Department for concentrated use of Community Development Block Grant Funds. Census Tracts 201, 202, 203, and 204 are designated as the "Target Area".

Risk Analysis and Underwriting Criteria

All loans will be underwritten by staff or contractors of the Economic and Community Development Department.

The following underwriting criteria will be used to evaluate the financial strength of the borrower and the anticipated success of the project:

- a. Debt Coverage Ratio (DCR) defined as the monthly debt compared to the monthly net income. The City will expect a DCR of at least 1.10
- b. Loan to Value Ratio (LTV) defined as the Total Loan Balances of the mortgages divided by the Fair Market Value of the Property. While LTV's that exceed 100% are discouraged the Loan Qualification Committee (LQC) may consider LTV's that exceed 100% on a case by case basis to determine the suitability of making the loan.
- c. Commitment of other lenders/Terms of the Commitment/Subordination
- d. Repayment/Refinancing Collateral
- e. Matching source from an institutional lender, owner financing, insurance company, and/or any other source acceptable to the lender
- f. Track record of cooperation with Code Enforcement and other City departments
- g. Verification that all City Department assessments (taxes, City utilities, etc) have been paid

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The file will be documented with this information and reviewed by staff to determine whether or not the project is financially feasible and ready to move to the Loan Qualification Committee for approval.

Application Approval:

All applications for program funding are presented for review and approval to the Loan Qualification Committee (LQC), which consists of: the City of Lewiston's City Administrator, Economic & Community Development Director, Director of Finance, one member of the City Council, and one citizen representative preferably with lending experience.

The actions of the Committee shall be governed by the following rules:

- a. A majority of the Committee's members must be present to constitute a quorum. At least three (3) votes on the prevailing side are required to constitute a valid vote on any funding application.
- b. Committee approval of applications will be contingent upon the applicant meeting the requirements of the program they are applying for
- c. The Committee has the authority to adjust terms, rates, and the match requirement and underwriting ratios on a case-by-case basis.

Approval/Disapproval of the Funding Request

Once the LQC makes a recommendation, the applicant will be notified via telephone by a representative of the Economic and Community Development Staff. If the terms have been modified, the borrower will be given an opportunity to accept the new terms and conditions or request an appeal.

Appeal Process

The applicant may appeal the decision of the Loan Qualification Committee (LQC) under the following circumstances:

- a. Must be in writing with an explanation regarding why the applicant should be granted an appeal
- b. No new information may be presented by the applicant, only clarification of information that was not presented correctly.
- c. Request for an appeal must be made in writing to the LQC, Chairperson within 30 days of the date of the decision to deny or modify the terms of participation . The Chairperson will conduct the appeal process.
- d. The decision of the Chairperson is final.

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General Terms and Conditions for Participation in the City Programs

This section sets forth the general terms and conditions to which an applicant must agree in order to receive a loan through the City.

Once the proposed work is approved for funding and a Commitment Letter is issued, Community Development Department staff will contact the owner to schedule an appointment for a loan closing. The following documents become part of the Funding Agreement between the City and the Owner: Commitment Letter, Terms and Conditions of the Program, Security Agreement or Mortgage, Promissory Note, Personal Guaranty of all owners, or other Agreements pertinent to the type of funding.

The City of Lewiston views the documents executed at the loan closing as a contractual agreement between the Borrower and the City. To fulfill this agreement, the Borrower must:

1. Complete within six (6) months all rehabilitation work as described in the loan application submitted by the applicant and approved by the Loan Qualification Committee. For exterior work, scheduled allowances may be made for weather if needed.
2. Repay in full and in the manner prescribed all loan money disbursed to the Borrower by the City of Lewiston through its programs.
3. The Borrower accepts ultimate responsibility for fulfilling this agreement and further agrees that:
 - a. Other verbal agreements or written contracts entered into for the completion of any rehabilitation activity are made solely between borrower and the respective contractor and/or supplier;
 - b. Borrower will indemnify and hold harmless the City of Lewiston and its agents from any and all disputes or claims of any nature for damages which may arise from the performance of any rehabilitation activity.
4. If a Borrower fails to maintain the property at or above the minimum acceptable level prescribed by municipal codes, the City Treasurer may assess an interest penalty to be added to the Borrower's monthly payment. This interest penalty shall be equal to the unpaid principal of the loan after the code violations are discovered times one-twelfth of the annual effective interest rate of the matching bank loan, and shall be assessed each first day of the month thereafter, until the code violations are corrected. If there is no matching loan, the effective interest rate shall be the rate then in effect for delinquent property tax payments.
5. The Borrower's failure to make any monthly payment in full within thirty (30) days of the date when due, or the Borrower's failure to make full payment of any late charge or interest penalty within thirty (30) days of the date assessed, shall constitute a default.

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6. The entire principal balance and all accrued interest shall become immediately due and payable without notice or demand upon the following events:
 - a. The Borrower's failure to make any monthly payment in full within 30 days of the date when due or the Borrower's failure to make full payment of any late charge or interest penalty within 30 days of the date assessed;
 - b. The commencement of any proceedings by or against the Borrower under any bankruptcy or insolvency laws;
 - c. The dissolution of, insolvency of, appointment of a receiver for, or assignment for the benefit of creditors of any property of the developer;
 - d. Loss of, substantial damage to, destruction of, sale of encumbrance upon (whether first or second position to this note and the mortgage securing this note), seizure of, levy against, attachment of, failure to pay any property taxes or other city utilities upon or insurance premiums on the project property

7. Rehabilitation Loans will require a security instrument which is acceptable to the City. The cost of preparation and registration of the security document will be the Borrower's responsibility to bear and will be payable to the City at the time of the loan closing.

8. A Borrower agrees to permit inspection by the City's ECDD and/or Code Enforcement personnel of the property, rehabilitation work, and all contract agreements, materials, equipment, payrolls, and conditions of employment pertaining to the rehabilitation project.

9. The Borrower agrees to follow the procedures and conditions of all established and applicable municipal ordinances in the physical rehabilitation and maintenance of improved property. Work not meeting minimum standards and procedures established by code is unacceptable for disbursement of any loan funds.

10. Disbursement of Program funds:
 - Disbursement of all Rehabilitation Loan funds is made to the Borrower or the contractor upon request submitted to the City's ECDD. Invoices received by Monday, end of day, will be processed for payment and checks will be available the following Thursday after 10:00 am. Any rehabilitation work that requires a match will be paid in part by the owner as match and in part by the City.
 - Repayment of the loan will begin upon completion of the construction phase or six (6) months after the closing date, whichever occurs first.
 - The above is contingent upon approved activities being completed according to applicable municipal codes. No money will be disbursed to reimburse the Borrower for improvements made to the property which were not approved by the Loan Qualification Committee before they were commenced.

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11. The Borrower is required to maintain hazard insurance on the improved property for the full term of the note and in a minimum amount equal to the total value of all mortgages held on the property. Prior to disbursement of program funds, the City shall be listed as a loss payee on the policy for the property.
12. The Borrower agrees to keep such records as may be required by the City of Lewiston with respect to the rehabilitation activities.
13. The Borrower further agrees to abide by all terms and conditions of Federal Regulations, including:
 - 1) **Federal Labor Standards:** The Borrower must abide by established minimum wage rates (Davis Bacon Act as supplemented by Department of Labor regulations) contained in entitlement grant regulations 24 CFR 570.603. This is applicable only to rehabilitation of properties with 9 or more rental units.
 - 2) **Lead-Based Paint Hazards:** Any Rehabilitation loans made by the City of Lewiston shall be subject to the current federal regulations contained in entitlement grant regulations 24 CFR Part 35 provisions providing for the elimination of lead-based paint hazards. All contractors must be certified under the RRP rule from EPA and any other applicable regulations.
 - 3) **"Section 3" of the Housing and Urban Development Act of 1968:** The Borrower must comply with the Provisions of Training, Employment and Business Opportunities and will comply with Title IX Section 915, Section 3 of the Housing and Urban Development Act of 1968, as amended in 1992; and in accordance therewith, in all work made possible by or resulting from this contract, affirmative action will be taken to ensure that residents (preferably lower income) of the City of Lewiston are given maximum opportunities for training and employment and that business concerns located in or owned in substantial part by residents of the City of Lewiston are to the greatest extent feasible, awarded contracts. This is for contracts that exceed \$200,000.
 - 4) **Flood Hazard Insurance:** If the property to be improved is located in a designated flood hazard area, the applicant is required to carry flood insurance in accordance with the National Insurance Act of 1968 (as amended) and abide by the regulations of the Flood Disaster Protection Act of 1973 as contained in Entitlement Grant Regulations 24 CFR 570.605.
 - 5) **Fair Housing:** The Borrower must not discriminate upon the basis of race, color, creed, or national origin in the sale, lease, rental or occupancy of an improved property and will comply with the Fair Housing Act of 1968 as amended.
 - 6) **The Civil Rights Act of 1964, codified:** The Borrower must not discriminate upon the basis of race, color, creed, or national origin in the sale, lease, rental or occupancy of

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an improved property and will comply with Title VI of **the Civil Rights Act of 1964, codified** in United States Code Title 42 Sec. 2000(d), and Title VIII of the Civil Rights Act of 1968, and Section 109 of the Housing and Community Development Act of 1974, and in accordance therewith, no person in the United States shall, on the ground of race, color, national origin, religion, age, or sex, be excluded from participation in, be denied the benefits, or be subjected to discrimination under, any program or activity funded in whole or in part with the Community Development funds or any other federal financial assistance. The operating agency will immediately take any measures necessary to effectuate this agreement.

7) **Interest of Certain Federal Officials:** No member of or Delegate to the Congress of the United States and no Federal Housing Commissioner shall be admitted to share any part of this Program or any benefit to arise from the same.

8) **Interest of Members, Officers, or Employees of Operating Agency, Members of Local Governing Body, or Other Public Officials:** No member, officer, or employee of the Department of Development (Planning, Community Development or Code Enforcement) or its agents or assignees, no municipal officers of the City, and no other member of any board or commission, elected or appointed official of Lewiston, or employee of the City of Lewiston who exercises any decision-making functions or responsibilities regarding the Community Development Program shall have any direct or indirect pecuniary interest, as that term is defined by 30 MRSA, Section 2250, et seq., in any contract, subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under this agreement.

9) **Bonus, Commission or Fee:** The Borrower cannot pay any bonus, commission, or fee for the purpose of obtaining the City of Lewiston's approval of the loan application or any other approval or concurrence required by the City of Lewiston or its designee to complete the rehabilitation work financed in whole or in part with the rehabilitation loan.

10) **Federal Funding Accountability and Transparency Act:** The Owner shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS), the Central Contractor Registration (CCR) database, and the Federal Funding Accountability and Transparency Act, including Appendix A to Part 25 of the *Financial Assistance Use of Universal Identifier and Central Contractor Registration*, 75 Fed. Reg. 55671 (Sept. 14, 2010)(to be codified at 2 CFR part 25) and Appendix A to Part 170 of the *Requirements for Federal Funding Accountability and Transparency Act Implementation*, 75 Fed. Reg.55663 (Sept. 14, 2010)(to be codified at 2 CFR part 170).

These guidelines may be amended as required by changes in federal programs.