

Creative Funding Strategies for Remediation of Lead and Other Healthy Housing Hazards

A Guide for Increasing Private-Sector Financing



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INTRODUCTION

This Guidebook was originally targeted solely to lenders -- to educate them about incentives for certain types of health-related improvements and encourage them to become more actively involved in financing healthy home improvements. The hope was that in the process some might also expand their investigation of properties and provide additional information to borrowers (homeowners, landlords and contractors) about health risks.

In the course of vetting early drafts, it became apparent that government and nongovernmental organizations (NGOs) also have an important role to play in creating and supporting private lending programs. The Guidebook was then divided into two parts aimed at two different audiences.

Part 1 focuses on lenders: how they can benefit from participating in leveraged financing programs for healthy home improvements, why it is important to society as whole, and recommendations on some key elements of an ideal financing program.

Part 2 discusses the role that government and NGOs can play in boosting nontraditional financing programs, providing incentives and reforming existing subsidy programs and laws that limit demand for healthy home improvements and nontraditional financing programs.

Although lead poisoning prevention is a key concern, the financing strategies can be applied to a broader range of healthy or green home improvements, generally costing less than \$10,000 per unit.

The Guidebook is also focused primarily on financing programs for low-income areas primarily because this is where the greatest opportunity lies for pairing public grant funds with other private funding. The Guidebook also recognizes, however, that the green building movement provides an opportunity to integrate healthy home improvements without public subsidies.

EXECUTIVE SUMMARY

Healthy housing education is often targeted to families with children because of strong scientific evidence linking deteriorated lead-based paint in older homes to children with learning disabilities. Lead is highly toxic especially to young children. Even the tiniest amounts in peeling paint or dust from renovation that disturbs painted walls or windows can have permanent negative impacts on a young child's learning ability. There is also a huge cost to society due to lead, an estimated \$43.4 billion per year for lead poisoning due to diminished lifetime earning power and behavioral changes that may result from early exposure to lead.¹ Scientific studies have also linked other types of home hazards to other serious health problems. Radon is the number 2 cause of lung cancer.ⁱ The National Center for Healthy Housing is currently engaged in research to study asthma and allergen triggers found in home environments.ⁱⁱ Despite the seriousness of some of these conditions, government regulation requiring private sector action to assess and address them has been slow in coming.

Although lead-based paint was banned in 1978, it took until the late 1990s for the federal government to pass lead-safe renovation regulations and establish major new grant programs for lead hazard elimination. Many states and cities have taken advantage of this funding to establish local regulations and incentive programs.

An estimated 24 million pre-1978 housing units still have significant lead hazards.² In 1992, President Clinton created a President's Task Force on Environmental Health Risks & Safety Risks to Children that was co-chaired by the Secretary of the Department of Health & Human Services and the Administrator, Environmental Protection Agency. This task force established an ambitious federal public health goal to eliminate lead hazards in all older housing units by the year 2010.

Government funding alone has moved the country somewhat closer to the federal goals, but the reality is that additional private funding will be needed to

¹ Environmental Health Perspectives, Environmental Pollutants and Disease in American Children: Estimates of Morbidity, Mortality, and Costs for Lead Poisoning, Asthma, Cancer, and Developmental Disabilities, Philip J. Landrigan, Clyde B. Schechter, Jeffrey M. Lipton, Marianne C. Fahs, and Joel Schwartz, Environmental Health Perspectives, 110:721–728 (2002),

² HUD Press release Sept. 26, 2008 (HUD No. 08.153), "HUD Announces \$1.5 Million Grant to Protect Children in Minnesota from Dangerous Lead Hazards in the Home."

supplement government funding to reach the goal to eliminate lead hazards and other Healthy Housing hazards in the next couple of decades. Remediation work by certified lead abatement contractors using lead-safe practices is expensive. Costs vary depending on the method, but assuming an average cost of \$6,000 per unit, clearing all 24 million homes with suspected lead hazards would cost an astounding \$144 billion. Even at current HUD grant funding levels of roughly \$130 million a year to fund remediation in needy cases, it is likely to take a few more decades to eliminate lead hazards in millions of housing units. Furthermore, remediation may not result in removal of all lead hazards. Lead-based paint that is hidden or encapsulated may be disturbed by future rehabilitation of older housing units. An ongoing need for funding streams will exist long after initial goals are met.

State and local health departments have come up with some creative ways to generate more public funding for lead remediation. Most public funding is focused on low-income households with children.³ This Guidebook goes one step further by looking at models that involve private financing of lead remediation or similar types of financing for healthy home repairs to address hazards such as radon and mold as well as improve energy efficiency as a match or in addition to public subsidies.

The Delta Redevelopment Institute is currently administering one of the few demonstration leveraged-financing programs in the country. EPA Regions 5 & 7 asked us to create this Guidebook to encourage private-sector lenders to consider establishing or expanding new lending programs to eliminate lead or other Healthy Housing hazards.

The primary goal of this Guidebook is to educate banking, lending, mortgage industries about ambitious public goals and funding needed for lead poisoning elimination and suggest best practices and strategies for private financing of healthy home improvements.

Part 1 focuses on the “supply side” or best practices for lenders that may be considering establishing or expanding an existing nontraditional loan program. This part describes the opportunity for lenders to benefit from government subsidies for lead remediation or other healthy home repairs. It also provides five examples of existing loan programs and suggests best practices or recommendations for an ideal program.

³ Great Lakes Environmental Finance Center, 2008.

Because there are so few financing models for healthy home improvements such as lead remediation, the five examples of existing leveraging programs include other types of housing or home improvement loans with similar characteristics, such as multiple small loans under \$10,000 targeted to low- and moderate-income populations.

The experiences of lenders with these existing programs have some common threads which are summarized below for the benefit of other lenders who may be considering creating a new green or healthy home financing program. A successful healthy home financing program should ideally:

1. Target housing in low-income areas in order to qualify for Community Reinvestment Act (CRA) credit and government subsidies.
2. Reduce risk through public subsidies, pooled loan funds or loan guarantees.
3. Work with nonprofit partners to pool funds, secure government grants and mesh public and private funds;
4. Limit loan amounts to 50% or less of the improvement amount (generally \$10,000 or less).
5. Recognize underwriting tradeoffs in different types of loan programs (e.g., loans to contractors or nonprofit intermediaries vs. loans directly to landlords or homeowners).
6. Structure single-family and multi-family programs differently to address different underwriting approaches.
7. Establish flexible financing terms (especially in interest rates) while keeping subsidized financing programs as affordable as possible to the greatest number of homeowners or landlords.

Part 2 of this Guidebook focuses on what lenders, government and nongovernment organizations can do to boost demand for innovative lending programs like our ideal program. Although the limited demand for loans was the biggest single challenge for lenders that provided input for the Guidebook – because the programs are targeted to low-income areas where landlords can least afford financing for building improvements -- not all of the demand strategies are targeted to lenders. Regulatory reform and larger subsidies are also recommended to create demand for healthy home improvements and financing programs to make them affordable to landlords and homeowners in low-income areas.

How Lenders Can Help

Lenders can help boost demand for non-traditional loan programs by keeping interest rates as affordable as possible and seeking larger grant incentives (more than 50%) for very low-income housing. It may be important to build flexibility into legal agreements involving government grants to allow for adjustments in interest rates with changing market conditions.

In addition, lenders might consider stricter environmental due diligence for all residential lending – not just nontraditional loans – to require inspection for potentially serious health hazards in older (pre-1978) housing that is used as collateral. Lenders can also require borrowers to certify that they will comply with all environmental laws, including laws relating to lead poisoning prevention, but an inspection requirement would provide the borrower with better information to make an informed decision before purchasing or renovating an older home. Although public awareness about the life-long impacts of lead poisoning on young children or the link between radon and lung cancer has not yet resulted in many lawsuits in comparison to exposure to asbestos or even second-hand smoke, continued education on the seriousness of these Healthy Housing risks is likely to generate additional litigation in the future. Risk-averse lenders may be more willing to consider a proactive underwriting stance.

Community banks and banks with a social responsibility mission may have a special interest in assisting customers in understanding laws and financing incentives for creating healthy, energy efficient buildings.

How Government and NGOs Can Help

Government and nongovernment policy and advocacy organizations can also help boost demand for healthy home improvements and nontraditional financing programs by strengthening environmental health, housing regulations, code and regulatory enforcement and considering reforms to government grant programs. Strategies for government or nongovernment organizations (NGOs) include:

1. Strengthening health and housing codes where necessary to promote primary prevention programs, or remediation of hazardous conditions in older existing housing units before there is evidence of a poisoned child or injured adult.
2. Strengthening education and enforcement of existing laws, such as new EPA regulations requiring home improvement contractors to use lead-safe practices in older (pre-1978) homes or child-occupied facilities.

3. Outreach and education to community banks or other socially-conscious lenders to explore potential new subsidized financing programs for green and healthy housing.
4. Encouraging integration of healthy home principles in new green building and weatherization programs.
5. Providing grant funds for a minimum of 50% of healthy home improvement cost in low-income housing, and a higher percentage for very-low-income housing.
6. Reforming existing grant programs to ensure that local health departments have qualified staff to manage home improvement work.
7. Reforming existing grant programs to ease burdensome grant requirements that discourage landlords and homeowners from seeking assistance, such as public health inspection and citation requirements.
8. Reforming existing federal policies and regulations, including HUD grant regulations, banking regulations and/or brownfield laws to require lenders to enhance their due diligence relating to loans for older housing units.

Conclusion

Interest in green and healthy homes is likely to increase along with public subsidies and incentives for lead abatement and weatherization services. This presents a business opportunity for residential lenders or lenders who provide financing to service contractors. This Guidebook will provide information and encouragement to other lenders, especially those with an interest in distinguishing themselves as green or socially responsible. The Guidebook also provides ideas for government and NGOs on ways that they can help boost demand for green and healthy home improvements as well as nontraditional financing programs for improvements in older, affordable housing stock.

PART 1: FINANCING OPPORTUNITIES & BEST PRACTICES FOR LENDERS

Older homes and apartment buildings may have hidden, serious health hazards. Lead in particular is highly toxic especially to young children. Even the tiniest amounts in peeling paint or dust from renovation that disturbs painted walls or windows can have permanent negative impacts on a young child's learning ability. Lead poisoning causes learning disabilities, behavioral problems, and, at very high levels, seizures, coma, and even death. There is also a huge cost to society due to lead, an estimated \$43.4 billion per year for lead poisoning due to diminished lifetime earnings power and behavioral changes that may result from early exposure to lead. These costs occur from several sources including medical costs, and potential wage loss due to lower IQ for children poisoned with lead. The goal is to move beyond remediation on a reactive basis when a child with an elevated blood lead level (EBL) is identified to a more proactive approach targeting health risks in older homes and in apartments with higher risk populations.

Traditional lenders and even nonprofit housing corporations may be unaware of ambitious government goals to eradicate lead paint hazards from all older housing units within the next decade or so. They may also be unaware of lead poisoning prevention laws and substantial government grant funds that are being funneled from federal agencies to local health departments and housing agencies to provide financing for lead remediation work.

This part of the Guidebook provides information on these government laws, policies and incentives that are creating demand for health-related home improvements. It also describes five existing nontraditional loan programs for residential repair of low-income housing, including a few focusing specifically on lead remediation or energy efficiency improvements. Based on the experiences of lenders involved in these existing programs, the Guidebook includes recommendations or "best practices" for an ideal leveraged loan program.

CARROTS & STICKS: LEAD ABATEMENT LAWS AND INCENTIVES

Information and education about the serious and irreversible effects of lead poisoning has prompted the passage of laws to prevent and remediate the presence of lead in homes at the federal, state and local level. Within the past

decade, the federal government has also created grant programs to assist local government and nonprofit organizations in funding lead hazard control programs targeted primarily to low-income housing.

Elimination of Childhood Lead Poisoning

The elimination of childhood lead poisoning is a major goal of most state and local health departments. These agencies are engaged in monitoring children's blood lead levels, inspecting homes and educating the public.

Cities with older housing stock still have large numbers of units that have suspected lead paint hazards. The U.S. Department of Housing and Urban Development (HUD) estimates 24 million units still have hazards. A 2003 study by the City of Chicago estimated 88,000 units in Chicago still have hazards.

The elimination of childhood lead poisoning by 2010 is a national goal that has been included in the President's Management Agenda and in the Healthy People 2010 goals of the U.S. Department of Health and Human Services, as well as in numerous local jurisdictions.

The President's Task Force on Environmental Health and Safety Risks to Children called for financial incentives from the Department of Treasury to help address the problem.

Lead Laws

In addition to federal interest, scientific evidence on the serious impact of lead poisoning over the past two decades has spurred the adoption of local, state and federal laws relating to hazard reduction and lead poisoning prevention. Although these laws do not impose liability on lenders, (except in cases where the lender has acquired title to housing)⁴ they are important in driving demand for lead and healthy home repair services in some areas. Many cities have local prevention ordinances that authorize local health or housing departments to take legal action when evidence of a lead poisoned child is discovered.

On March 31st, 2008, the U.S. EPA issued a rule the Renovation, Repair, and Painting Rule (RRP), section 403(2)c of TSCA, requiring lead safe work practices to reduce exposure to lead hazards created by renovation, repair and

⁴ Lenders that become homeowners through foreclosure (or voluntary transfers in lieu of foreclosure) are subject to the same disclosure rules as other sellers.

painting activities that disturb lead-based paint. The RRP rule will address hazards created by renovation, repair and painting activities that disturb lead-based paint in housing built prior to 1978 and child-occupied facilities. The RRP rule will establish requirements for training renovators and dust sampling technicians; certifying renovators, dust sampling technicians, and renovation firms; accrediting providers of renovation and dust sampling technician training; and for renovation work practices. This rule will be enforceable in April 2010.

Under the U.S. EPA Residential Lead-Based Paint Disclosure Rule (Section 1018 of the Toxic Substances Control Act), landlords, rental agents or home sellers must give prospective tenants or home buyers a copy of the pamphlet, "Protect Your Family from Lead in Your Home," and must inform them of any known lead-based paint hazards in the residential unit and common areas. Landlords and sellers are not required to test for lead paint or remove it but must offer prospective tenants or buyers a 10-day opportunity to have a lead inspection or risk assessment performed. Buyers are not obligated to sign a contract until given this opportunity, although the parties may agree to adjust the 10 day period.

The need for stronger codes and enforcement is discussed in Part 2 of the Guidebook. More information on specific laws is also included in the Appendices.

New federal focus is on elimination of a broader range of Healthy Housing hazards, including mold, radon and carbon monoxide.

In 1991, Congress established HUD's Office of Healthy Homes and Lead Hazard Control to eliminate lead-based paint hazards in America's privately-owned and low-income housing and ensure elimination of other healthy home barriers. HUD developed the Healthy Homes program in 1999 to provide research and expand the attention to other home hazards beyond lead including mold, radon and carbon monoxide. With the expected emphasis on energy efficiency and air sealing, homes will become tighter and residents will be more affected by moisture and mold, known triggers for asthma and allergies. Healthy Home goals include holistic consideration of a range of hazards such as:

- Any source of poison such as lead or pesticides;
- Any source that compromises air quality such as poor circulation and carbon monoxide; and
- Any source of moisture that creates mold and affects asthma.

Healthy Housing demonstration grants have funded pilot programs by local health departments to demonstrate cost effective measures for the remediation of mold and moisture and correction of other Healthy Housing hazards in low-income housing that is occupied by children and other sensitive populations. While the scope of Healthy Housing initiatives has broadened at the federal policy level and many local health departments are interested in expanding their focus beyond lead hazard control, lead hazard control funding is restricted by statute for use in addressing lead hazards only. HUD issued a draft Healthy Housing Strategic Plan in September 2008 which is not clear on whether HUD intends to seek new legislation or funding to expand its existing grant programs. It does, however, emphasize integration of healthy home principles into green construction and rehab strategies.

Federal grants for Lead Hazard Reduction

The Department of Housing and Urban Development (HUD), the U.S. Environmental Protection Agency (U.S. EPA) and the Center for Disease Control and Prevention (CDC) are the primary sources of government grants for lead remediation programs.

HUD is by far the biggest funder of lead hazard remediation. More \$130 million was awarded for local programs in 2008. The different types of HUD lead grant programs are outlined in Appendix 3.

U.S. EPA also administers three competitive grant programs aimed at promoting efforts to prevent or reduce childhood lead poisoning. (See Appendix 3 for more information on these grants programs.) The CDC has also provided funding to state and local health departments to develop and implement comprehensive lead poisoning prevention efforts.

State and Local Funding and Incentive Programs

A 2008 report by the Great Lakes Environmental Finance Center⁵ is a useful compilation of creative efforts by state and local government agencies to generate additional sources of funding for lead remediation or related home improvements. It is important to note, however, that all but two of the programs involve *public* sources of funds raised from various transfer taxes, fees or

⁵ Great Lakes Environmental Finance Center, Maxine Goodman Levin College of Urban Affairs, Cleveland State University, Best Practices: Innovative Funding Mechanisms for Financing Lead Remediation Programs (June 2008).

entitlement funds for low-income households. Examples of creative public funding sources include:

- Missouri's Affordable Housing Trust Fund Fee generation programs which earmark \$1 per each \$1,000 of real estate transfer tax for lead remediation.
- Rhode Island's use of Medicaid funds for targeted case management services and window replacement.

Only two of the programs described in the report use public subsidies (tax credits) as an incentive for private investment: The Chicago Lead Safe Initiative using New Markets Tax Credits to partially fund window replacement and lead abatement services (case study #1 in the case studies section of this Guidebook), and the Massachusetts' income tax credit program for lead hazard abatement services performed by a certified contractor.

As interest in climate change and energy efficiency grows, additional subsidies are likely to be available for home weatherization improvements. This is significant because windows can be a major source of lead-based paint hazards and window replacement can also result in weatherization and energy efficiency improvements.

Need for additional program funding

Government funding alone has moved the country somewhat closer to the federal goals, but additional private funding will be needed to eliminate lead-based paint and other Healthy Housing hazards in millions of additional housing units.

Remediation work by certified lead abatement contractors using lead-safe practices is more expensive than work by uncertified contractors. Costs vary depending on the method of remediation, but have averaged roughly \$6,000 per unit in the case studies below. Clearing even ten percent of the 24 million homes that are estimated to still contain lead hazards would cost roughly \$14 billion.

Current HUD grant funding will assist in remediation of some low-income housing, but it is likely to take a few more decades to reach the goal of remediating lead hazards in all older existing housing. Ongoing funding streams are also needed to remediate new hazards created by rehabilitation of older housing after initial goals are met.

The following section of the Guidebook highlights existing programs that use a mix of public and private funding for financial assistance to landlords and homeowners.

CASE STUDIES – LEVERAGED LOAN PROGRAMS

Five private nontraditional loan programs are described involving:

- (1) Commercial loans to a window replacement and lead abatement contractor;
- (2) Residential rehab loans to multi-family building owners; and
- (3) Consumer home improvement loans to single-family owners.

The programs involving contractors and multi-family buildings involve larger loans and larger numbers of housing units. Risk among lenders for larger loans has been minimized by pooling funds through nonprofit-sponsored loan funds.

Programs geared toward single-family housing generally involve a smaller number of units, smaller risk and unsecured debt.

All of the programs are targeted to low-income areas, neighborhood improvement districts or households. All use government grants, tax credits or tax increment financing to pay a portion (usually 50%) of rehab or remediation costs and leverage additional private investment.

Three of the case studies are noteworthy in providing funding for improvement of homes or apartment buildings in specific targeted neighborhoods regardless of whether a building owner has been cited for a health or housing violation. Specific neighborhoods or zip codes were selected by using data indicating a higher risk for health hazards. In contrast, although the Chicago Lead Safe program also operates in high risk areas, this program has focused primarily on housing units where a poisoned child has been identified or a building owner has been cited for lead ordinance violation.

Although primary prevention in targeted areas is a positive trend from a public health perspective, it also presents challenges from a lender perspective in limiting the pool of eligible borrowers to a limited number of neighborhoods or zip codes or improvement districts.

CASE STUDY #1: BANKS POOL FUNDS FOR LOANS TO LEAD ABATEMENT CONTRACTOR

In 2006, the City of Chicago agreed to loan a minimum of \$3 million in HUD grant funds to the Delta Redevelopment Institute for remediation of lead hazards in occupied multi-family housing. Delta used an allocation of New Markets Tax Credits to raise a matching amount from private investors (5 banks). The public-private funds were then loaned to a lead abatement service contractor to finance

window replacement and lead remediation work in affordable apartment buildings with 4 or more units. The contractor was responsible for repayment of the private funds but was able to use the incentive of 50% forgiveness and a smaller pool of weatherization grant funds in marketing the financing program to landlords.

The contractor executed work agreements with building owners obligating them to repay the entire cost of the work over a 14-year period. The agreements provide that once the private portion of the loan is repaid after 7-years, the remaining 50% of the loan is forgiven. For example, if a landlord borrows \$100,000 and pays back 50% of the loan plus interest, Delta uses the city grant funds to forgive the other \$50,000 remaining on the loan repayment.

The contractor screened landlords to ensure that both the public grant requirements were met and retained underwriting staff to ensure that investor loan criteria were met. Underwriting criteria were set and approved by both the City and private investors at the start of the program. More favorable financing terms were offered in the last six months of the program in order to fully deploy remaining federal grant funds. The interest rate on loans was reduced and the percentage of forgiveness was increased to 75% of the cost. 100% grants were awarded in the final months of the grant period.

Additional free weatherization work was also offered to landlords enrolled in the lead abatement financing program, funded through a separate grant from the City's Department of Environment. This subsidy was limited to units in the financing program in order to improve cash flow for debt repayment through lower operating costs.

When the program ended in late 2009, lead and weatherization work was completed in just over 400 units at a total cost of roughly \$2.5 million at an average cost of roughly \$6250 per unit. Work in roughly half of the units was financed with \$1.2 million in public-private funds loaned to the contractor. Work in the other half was paid for entirely with grant funds due to time constraints.

The program allowed the City to stretch its grant dollars with some private funding, but also introduced some additional challenges. Setting up this nontraditional program took additional time at the beginning of the federal grant period and processing loan applications with building owners added 4-6 months on average to the normal lead abatement process. It took 18 months to complete the units financed with a combination of grant and loan funds and only two months to complete the units funded entirely with grant money although the grant units had been identified during the previous months. City officials requested a 1-year extension in the original HUD grant when it became clear that

deployment was taking longer than a 100% grant program. The program would have run more smoothly if additional time for program start up and additional time for reaching benchmarks for completion of units had been built into the program from the beginning.

Nontraditional programs also require more specialized staff at both the local and federal level that can help work through new procedures and timeframes outside the normal channels for traditional 100% grant programs. Turnover in City staff was also a challenge for the Chicago program with three managers over the four year program.

Local grantees fear the difficulties and risks associated with a leveraged program. HUD should consider providing an incentive to programs that leverage private dollars to offset the additional complexities and difficulties of blending public and private funds.

CASE STUDY #2: PRIVATE LOANS PROVIDE MATCH FOR MULTI-FAMILY REHAB GRANTS

Community Investment Corporation (CIC) is a nonprofit mortgage finance company that has been selected by the City of Chicago to administer a multi-family housing rehab grant program. The program is known as the Tax Increment Financing Neighborhood Improvement Program (or "TIF NIP") and is targeted to owners of buildings with 6 or more apartments in specified TIF districts of the City. The City has provided total grant funds of \$500,000 to \$1,000,000 each for 5 districts over the past 10 years.

Grants pay for 50% of exterior or life safety improvements up to \$5,000 per unit or \$100,000 per building. Exterior improvements include window replacement and may address lead paint or other hazards although the owner is not required to use certified contractors. *(Note, however, that new federal regulations taking effect in 2010 will require the use of contractors certified in Lead Safe Work practices for most rehab work.)*

The owner must provide a 1:1 match. CIC often provides the match through its own private revolving loan funds. CIC loan funds are raised from its 43 financial institution members. CIC was formed in 1974 by Chicago banks as a way of pooling funds and minimizing risk in housing loans in low-income neighborhoods. CIC also solicits applications, performs underwriting of grant and matching loan funds. Grant funding has been spotty with no funding in some years, and in some cases, there has been a limited pool of eligible buildings within districts.

CASE STUDY #3: LOW-INTEREST SECOND MORTGAGE LOANS TO OWNERS FOR ENERGY EFFICIENCY IMPROVEMENTS

The Community Investment Corporation (CIC) is involved in another financing program as part of the *Preservation Compact* that may be a useful model for healthy home improvements. The Preservation Compact is a rental housing strategy for Cook County, Illinois, that is guided by the Urban Land Institute with support from the John D. and Catherine T. MacArthur Foundation. Its goal is to preserve 75,000 affordable rental homes in Cook County by 2020.

The Cook County Energy Savers program is a joint effort of CIC, the Center for Neighborhood Technology (CNT), the City of Chicago, the MacArthur Foundation, and the Grand Victoria Foundation that offers technical assistance, financing and construction oversight for owners who seek to save on energy costs through capital improvements. CIC has provided more than \$1 million in funding to owners in Chicago and the suburbs for energy saving projects that also result in healthy home improvements.

CIC provides 2nd mortgages with shorter terms (7-10 years) at 50% of prime and the loan amount is capped at the value of the services provided. In one recent example, the cost of new windows, doors and other improvements in a 26-unit building averaged roughly \$5,800 per unit for a total cost of roughly \$152,000. The building was in foreclosure, vacant units were quickly vandalized, making existing tenants feel insecure. The developer acquired the property with a combined construction and mortgage loan and working with CIC was able to secure an additional Energy Savers loan to make the units more efficient and affordable for tenants.

The reduced interest rate for second mortgages is made possible through a combination of grants and private low-interest loans from charitable foundations known as “Program-Related Investments” or “PRIs.” All units are in multifamily buildings (greater than 5 units) in Cook and Lake Counties and they have to be affordable units, which is defined as below 80% of Area Median Income.⁶

⁶ 80% of Area Median Income was \$60,267 in 2007.

CASE STUDY #4: BANK OFFERS LOW-INTEREST LOANS TO PROVIDE MATCH FOR LEAD ABATEMENT GRANTS

TCF Bank is a regional bank doing business in 7 states (WI, IL, IN, MN, MI, CO & AZ). TCF established a Target Area Home Improvement Program (TAHIP) unique to the Milwaukee-Racine-Waukesha area that makes unsecured loans for up to \$5,000 for up to 60 months (a maximum repayment of \$1,000 per year). The current interest rate is 7.9%. The program was initially motivated by interest in earning Community Reinvestment Act (CRA) credits in a low-income area of the city with little potential for improvement loans based on traditional underwriting criteria.

The loans were originally established for owner-occupied or duplex dwellings but it was expanded to non-owner-occupied buildings with up to 4 units in 2002 when the City of Milwaukee asked TCF to participate in providing matching loan funds to lead abatement grant recipients in low-income neighborhoods. Once the City approves an owner for grant funds the bank may be contacted by the owner about a matching TAHIP loan.

TCF was not selected as the only potential source of matching funds but became the “go to” bank due to its existing loan program targeted to the same area of the City. The City was indifferent as to where owners secured the match, but provided information about TCF’s TAHIP program. Loans were processed in the same way as other home rehab loans. TCF has only completed 10 or 20 matching loans over the past 6 years, and the program has been inactive in recent years due to lack of public grant funds. Work was generally in the \$5,000 - \$6,000 per unit range.

A Lead Hazard Control grant from the U.S. Department of Housing & Urban Development to the City funded the 50% match. City grant funds were sent directly to pre-approved contractors and the building owner was responsible for the remaining balance. A one-page application had to be completed by building owner, all building inspections must be passed and then \$170 per window was paid to the contractor. The City of Milwaukee has applied for the last two years to HUD for additional grant funds but has been denied.

CASE STUDY #5: BANK OFFERS LOW-INTEREST REHAB LOANS TO QUALIFIED HOMEOWNERS IN TARGET AREA

First National Bank has agreed to participate in a new lead elimination program sponsored by the Omaha Healthy Kids Alliance by offering up to 50 low-interest loans of 4-6% APR, lending up to \$10,000 for qualified homeowners that will use lead abatement approved contractors. Omaha Healthy Kids Alliance has recruited a range of private-sector partners to support the rehabilitation of 200 housing units over the next 3 years in a high need zip code. However, not all housing units will be eligible for or will qualify for the low-interest loans from First National. Although the private funding is separate from public grant funds to the Alliance, it provides an incentive for additional homeowners in the target zip codes to do remediation work and is intended to supplement publicly-funded work. Some homeowners in the target zip codes will not qualify for free remediation work funded by public funds. Others may prefer to do a larger scope of work and hire an approved contractor rather than having more limited work done by the Alliance's contractor. A nonprofit housing partner will manage rehab work in some units funded by a \$1.9 million HUD Operation Lead Elimination Action Program (LEAP) grant and private donations.

Key Features, Advantages and Disadvantages

The table on the next page summarizes the key features, advantages and disadvantages of each of the leveraged loan models.

The biggest advantage of models targeted to contractors or multi-family building owners is volume – the potential for larger loans and more of them. However, because of the focus on low-income areas, the government subsidies are critical to providing a cushion and limiting risk. Models targeted to single-family homeowners involve smaller number of units, smaller loans and therefore less risk.

Case Study	Characteristics	Potential Advantages	Potential Disadvantages
#1: Loans to contractors	<ul style="list-style-type: none"> Contractor personal guarantee Loan consists of 50% HUD grant \$ and 50% private \$ This is being changed to 75% grant \$ & 25% private \$ Public subsidies and inspections Lead safe work practices and certified contractors required No cap on amount Average loan \$6,250 CRA Credit 	<ul style="list-style-type: none"> Larger loans No lender involvement in grant paperwork or screening requirements Tax credits and grants provide cushion Investor equity expand eligible pool by improving loan to value 	<ul style="list-style-type: none"> Limited demand Public health inspectors Subsidy limited to cited buildings and low-income tenants Burdensome eligibility for HUD grant \$ Cost premium for lead safe work plus interest charged on grant and loan \$
#2: Matching rehab loans to landlords	<ul style="list-style-type: none"> Lenders pool capital in fund managed by nonprofit mortgage lender Loans provide match for local rehab grants Max loan \$5,000 (\$100,000/building) No lead inspections, lead safe work practices or certified contractors CRA Credit 	<ul style="list-style-type: none"> Grant provides cushion. Limited loan amount limits risk. 	<ul style="list-style-type: none"> Limited demand Eligibility limited to apt buildings in targeted districts Lead safe work practices not required*
#3: Low-interest energy improvement loans to landlords	<ul style="list-style-type: none"> Financing managed by nonprofit mortgage lender Grants and private PRIs provide interest subsidy. Lead safe work practices not required. CRA Credit 	<ul style="list-style-type: none"> No burdensome HUD grant restrictions Private inspections & assessments Lower loan amounts, lower risk 	<ul style="list-style-type: none"> Broader potential demand even though eligibility is limited to low-income families or areas with 80% of median income. Lead safe work practices not required*
#4: Matching rehab loans for homeowners	<ul style="list-style-type: none"> Matching loans for lead remediation grants. HUD matching grant administered by City Lead safe work required CRA Credit 	<ul style="list-style-type: none"> Limited # of units (up to 6 unit buildings); Small loans: 50% of \$5,000 - \$6,000 work, limit risk Grant provides cushion No lender involvement in grant paperwork or screening requirements 	<ul style="list-style-type: none"> Limited demand. Limited grant \$ Low-income borrowers
#5: Low-interest rehab loans for homeowners	<ul style="list-style-type: none"> Low-interest loans Max. of \$10,000 Borrowers in low-income zip code. No public subsidy CRA credit Must use lead certified contractor. 	<ul style="list-style-type: none"> Limited # of loans (50) No grant to provide cushion. 	<ul style="list-style-type: none"> Limited demand. Limited to owners in low-income zip code.

*NOTE: New federal regulations will require lead safe work practices by certified contractors, effective April 2010.

BEST PRACTICES FOR A SUCCESSFUL PROGRAM

At the present time, lenders are reluctant to get involved in non-traditional mortgage lending and especially second mortgages. Nonetheless, some of the financial institution representatives that were interviewed for this Guidebook indicated a willingness to continue financing additional lead remediation work if additional public grant funds are available and, in some cases, if the program is structured differently.

Best practices and insights gleaned from Delta's own experience and the experiences of others are offered for lenders who might be considering a new or expanded loan program and for nonprofit or local government champions who are used to dealing with federal grants who can create programs and bring them to lenders.

1. Target housing in low-income areas or contractors serving these areas in order to qualify for Community Reinvestment Act (CRA) credit and government subsidies.

Community Reinvestment Act (CRA) credit has been an important motivation for most of the banks involved in existing nontraditional loan programs. Lenders can earn CRA credit by targeting loan programs to low- and moderate-income areas, low-income homeowners or contractors serving these areas. Most government subsidies are also targeted to low-income or disadvantaged areas or businesses, thus providing an opportunity to leverage public and private funding sources. Outreach to community investment officers is most likely to be effective in promoting new programs within banks

2. Reduce risk through public subsidies, pooled loan funds or loan guarantee programs.

Government incentives such as lead remediation grants improve the creditworthiness of borrowers and reduce the risk associated with lending in low-income areas. Subsidies also provide a cushion for lenders, improve loan-to-value ratios and limit loan amounts to well below the improvement cost. Four of the five case studies featured in this Guidebook involve 50% government grant subsidies.

Tax credits for investing in low-income housing or qualified businesses serve a similar purpose to government grants. Investor equity provides a cushion for lenders. Equity investors in New Markets Tax Credit (NMTC) deals can structure a deal to receive most of their investment and return back from the tax credits.

As a result, they do not have to be paid back out of the loan proceeds. This provides a cushion for the lenders who are being paid back out of the loan proceeds. In a typical leveraged NMTC deal, approximately 30% of the capital would come from investors and 70% would come from lenders. The investors can also be unsecured which can improve the loan to value ratio enabling some buildings with lower equity than desired to receive loans especially in this conservative lending climate. Low-Income Housing Tax Credits can serve a similar purpose in larger housing rehabilitation deals.

Loan pools and loan guarantee programs can also be used to limit risk. Nonprofit loan pools (as in case study #2, the CIC model) shift riskier multi-family loans to a nonprofit partner. In cases involving commercial loans to contractors, government loan guarantee programs (such as SBA loan programs) may also be helpful. As government interest in green jobs grows, more loan guarantee programs for green businesses (including weatherization and environment service companies) are likely to emerge.

Government grants, tax credits and loan guarantee programs cover some risk. However, lenders are justified in weighing the risk that public grant programs will change or end. Certainty and predictability in government funding is a real issue. In the current risk-averse lending climate, deeper public subsidies may be needed to stimulate private investment in nontraditional financing programs. For example, grants may need to cover more than 50% of improvement cost in very low income areas in order for private investors to address more limited property values and cash flow in these areas.

3. Work with a nonprofit partner to pool funds, secure government subsidies and mesh public and private funds.

Nonprofit financial intermediaries play a key role in larger nontraditional loan programs that are targeted to low-income areas. Nonprofit mortgage finance companies like the Community Investment Corporation in Chicago pool private CRA funds from dozens of Chicago lenders to minimize risk to any single lender. The Delta Redevelopment Institute has also used its allocation of New Markets Tax Credits to minimize risk by subscribing multiple banks as tax credit investors and lenders in its leveraged loan fund.

Nonprofit organizations also play a key role in securing government grants. For-profit lenders are unlikely to be selected to administer public grant funds. In addition, traditional lenders may have difficulty meshing public and private funding due to limitations on the use of public grant funds. For example, most public grants or tax credit subsidies impose rigorous reporting and administrative requirements but severely limit the amount of grant funds that may spent on

program administration. Restrictions on program income from lending public grant funds may also pose problems for private lenders.

4. Limit loan amounts to 50% or less of improvement cost.

All of the existing nontraditional programs highlighted in this Guidebook limit rehab or remediation loans to \$10,000 or less. This is in part because they are intended to match public grants that are similarly limited in size, and in part to limit risk associated with lending in low-income areas.

Some programs provide smaller loans of \$5,000-\$6,000 per unit to match public grants for housing rehab or home safety improvements. These improvements may or may not include lead remediation. Loan programs that do not currently require contractors to be certified in lead safe work should recognize that new federal laws will soon require rehab work in older housing to be conducted by certified contractors and this may increase the cost of rehab. Additional grant funds may be needed to help building owners in low-income areas remediate or remove lead-based paint in addition to conducting rehab work in a lead-safe manner. Early indications from the changes underway in Delta's program suggest that changing the private funds to grant funds ratio from 50%-50% to 25%-75% does have a significant increase on demand for lead remediation financing.

5. Recognize underwriting tradeoffs for different types of loan programs

Loans to contractors for housing repair financing involve different underwriting and administrative burdens than direct loans to landowners or homeowners. Loans to contractors focus on the contractor. Lenders are not involved in the contractor's subsequent loans to building owners even though lenders may be better equipped to underwrite loans than a contractor. Banks that finance contractors need to be comfortable with the contractor's underwriting criteria upfront.

A bank in Milwaukee also rejected a financing program involving government grant subsidies where the bank's role was to market the program and administer loans, but the government agency managed most of the underwriting decisions. Government underwriting focused on eligibility requirements, including public health inspections. This slowed the process down considerably leading to much longer loan processing times than more traditional loan programs. The bank ended its involvement with this program and is now much happier with handling its own underwriting of matching loans to borrowers who have already qualified for government grants for 50% of the improvement cost.

The downside of the new arrangement is that homeowners or building owners are not obligated to borrow from the bank to get the government grant. The homeowner is free to fund their share of the improvement cost from any source. Similarly, in Omaha, First National Bank offers matching loans to homeowners, but owners are not required to utilize First National's program. Banks that have more freedom to underwrite loans in a traditional way may also have a lower volume of business.

6. Structure single-family and multi-family programs differently to address different underwriting approaches.

Different criteria must be used for single-family (up to 3 units) and multi-family loans. These types of loans are typically considered in different parts of a bank and are underwritten using different standards. In addition to equity, single-family loans are based upon the credit of the borrower and multi-family loans are based upon the cash flow (income) of the building.

There are currently few public lead remediation grant programs for multi-family buildings with more than 4 units. Multi-family programs involve bigger loan amounts and larger numbers of units. Few cities have sufficient public funds for a multi-family program.

7. Establish flexible financing terms.

Banks prefer programs that allow flexibility to set the terms of each loan based on the perceived risk and the market conditions at the time of the loan. Government agencies favor programs where terms and income are set out at the beginning of the program and that ensure that loans are affordable to the greatest number of building owners or homeowners in low-income areas. Flexibility can be added for the lender by allowing key loan terms (especially interest rates) to float within a range to adjust to market conditions but also satisfy government grant administrators.

PART 2: BOOSTING DEMAND FOR NONTRADITIONAL FINANCING

This part of the Guidebook focuses on the “demand side” or what lenders, government and nongovernment organizations can do to boost demand for innovative nontraditional lending programs for lead and healthy home improvements. Limited demand for loan programs that are targeted to low-income areas where owners can least afford improvements was the biggest single issue for lenders that provided input for the Guidebook. However, we were encouraged that some lenders nevertheless would like to continue existing programs if public subsidies are extended.

HOW LENDERS CAN HELP BOOST DEMAND

Lenders can help boost demand for non-traditional loan programs by keeping interest rates as affordable as possible and seeking larger grant incentives (more than 50%) for very low-income housing. It may be important to build flexibility into legal agreements involving government grants to allow for adjustments in interest rates with changing market conditions.

In addition, lenders might consider stricter environmental due diligence for all residential lending – not just nontraditional loans – to require inspection for potentially serious health hazards in older (pre-1978) housing that is used as collateral. Lenders can also require borrowers to certify that they will comply with all environmental laws, including laws relating to lead poisoning prevention, but an inspection requirement would provide the borrower with better information to make an informed decision before purchasing or renovating an older home. Although public awareness about the life-long impacts of lead poisoning on young children or the link between radon and lung cancer has not yet resulted in many lawsuits in comparison to exposure to asbestos or even second-hand smoke, continued education on the seriousness of these Healthy Housing risks and publicity about a few recent cases⁷ is likely to generate additional litigation

⁷ For example, Boston-based real estate corporation The Community Builders, Inc. (TCB) and nearly two dozen associated property owners recently agreed to pay a \$200,000 penalty and spend more than \$2 million in lead paint abatement work at residential properties to settle an enforcement action brought by the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Housing and Urban Development (HUD). The suit alleged that TCB and the owners failed to inform households that their units might contain potentially dangerous levels of lead—in violation of the federal Lead Disclosure Rule—at properties in 11 Massachusetts and Connecticut communities.

in the future. Risk-averse lenders may be more willing to consider a proactive underwriting stance.

New “green” lenders may also include home inspection (including lead inspection) costs as a feature of new mortgage products for green and healthy homes. The idea is to provide potential borrowers with information about the operating costs and health risks associated with the purchase or repair of an older home at no additional cost. Green Choice Bank, a new bank in Chicago, is currently exploring this type of new “green choice” mortgage.

Not all demand strategies are targeted to lenders. Government and nongovernment policy and advocacy organizations can also help boost demand for lead and healthy home improvements and nontraditional financing programs by strengthening environmental health and housing codes, code enforcement and considering reforms to government grant programs.

HOW GOVERNMENT CAN HELP BOOST DEMAND THROUGH STRONGER CODES & CODE ENFORCEMENT

The biggest concern for private lenders is the limited demand for nontraditional financing programs that are targeted to low-income homeowners or landlords. Landlords in low-income areas may be less willing or able to afford building improvements. Stronger codes would not only increase demand for repair and remediation services but would also ensure that lead inspections take place before a poisoned child is identified. Some lead ordinances already require preventive measures but enforcement is limited to cases where there is medical evidence of poisoning.

Even with the incentive of grants or favorable financing, landlords and homeowners in low-income areas are not likely to voluntarily invite public health inspectors into their homes and apartments to cite them for code violations in order to qualify for grant funding unless they are forced involuntarily through code enforcement.

Many cities have local lead poisoning prevention ordinances that authorize local health or housing departments to take legal action when evidence of a lead poisoned child is discovered.⁸ In most cities, enforcement of local ordinances is

⁸ See Appendix 4 for a sampling of local lead laws.

slow and does not result in steady enough work to support non-traditional financing programs at any meaningful scale.

The need for more aggressive local code enforcement is an issue that has been discussed in reports by national groups such as the Alliance for Healthy Homes.⁹

Contractors also have little reason to care about lead remediation at present however; this attitude may change next year when the new EPA Renovation, Repair and Painting (RRP) rule is fully enforceable in April of 2010. Federal law does not currently require the use of lead safe practices or certified contractors in housing rehabilitation unless the rehab is being done with federal assistance under a program administered by HUD.

When the RRP rule takes effect, contractors doing renovation, repair or painting work in virtually all dwellings, schools and childcare facilities, built before 1978, must be certified in lead-safe repair work and keep records that work is done in accordance with lead safe practices.

The mainstreaming of lead laws with the integration of building code enforcement in state and local building departments is vital. The problem is that lead laws are usually administered by health departments but enforced by building departments. The RRP rule will help and is a great opportunity to get building departments involved in making sure contractors have an RRP certificate.

Although the RRP rule may help drive interest in financing by some housing rehabilitation contractors, a few lenders involved in preparing this Guidebook believe that lead laws alone without strong local enforcement will not have much impact on demand for lead remediation financing programs.

Nonetheless, some of the government representatives who participated in this Guidebook felt that more could be done to strengthen local ordinances as well as to educate contractors, landlords and lenders about new federal regulations. More might also be done to strengthen lender obligations relating to community reinvestment especially for lenders that accept federal assistance. Possible banking regulation reform is raised in the section on Policy Development and Regulatory Reform below.

⁹ See 2002 and 2006 reports by the Alliance for Healthy Homes listed in Appendix 2, below.

GOVERNMENT SUBSIDIES

Government grants provide 50% of the cost of housing improvements in most of the existing leveraged financing programs featured in this Guidebook.

Apartment buildings with very-low or low-income tenants face special difficulty meeting traditional underwriting criteria due to limited cash flow and appreciation. In addition, many subsidy programs also require landlords to keep rents affordable for a certain number of years.

A higher percentage of grant subsidy (75%) is being implemented in the Chicago Lead Safe initiative to boost demand in cases involving multi-family units with very-low-income housing.

Consistent and higher level government grant funding is critical to the continued success of leveraged financing programs. Cities such as Milwaukee that have model programs have been heavily oversubscribed and have not been successful in securing HUD lead abatement grants in recent years.

Outside of the one-time increase in stimulus funds, Congressional support for the Office of Healthy Housing & Lead Hazard Control's grant programs has leveled off in recent years to around \$140 million. Of that, only \$20 million targets hazards beyond lead. Grant requests regularly outstrip funding. In the last funding round, HUD was able to fund only 46% of all qualified grant applications and only 20% of healthy homes demonstration grant applications. Increased funding is critical to the continued success of leveraged financing programs.

Continued funding for education and outreach is especially important in boosting demand for grant programs. The federal stimulus package includes \$100 million in additional funding for regular lead abatement HUD grants for 2009 but does not include Operation Lead Elimination Action Program (LEAP) or outreach grants to nonprofit groups. It may be difficult to deploy additional funds for abatement without outreach to increase public awareness of the seriousness of lead poisoning for young children or laws that ban lead hazards in housing units.

STRONGER SUPPORT FOR EDUCATION & OUTREACH

Non-profit health and lead poisoning prevention groups can help boost demand for lead remediation services and other types of home improvements through advocacy and education. There is a drastic need for more primary prevention, or action before a lead poisoned child is identified, through education and outreach.

NGOs can help encourage voluntary participation in targeted areas where hazards are more prevalent. Almost all remediation of lead paint and other hazardous housing conditions in low-income apartment buildings are driven by enforcement of local lead poisoning and housing codes. Community education and outreach has been catalytic to more intensive enforcement efforts targeted to high risk areas in cities such as Milwaukee and Los Angeles.

NGO's that work with contractors and housing rehabilitation groups can also play a role in giving them an early heads up on EPA's Renovation, Repair and Painting rule which will take effect in April 2010. This rule will require virtually every contractor working in pre-1978 homes and multi-family housing units to be trained and certified in lead safe work practices or face stiff federal fines. Working with the EPA is critical to ensure the RRP rule is enforced and education is available.

Community banks or new green banks may be willing to partner with community groups to disseminate information to their customers about the new EPA rule and develop new loan programs to finance green and healthy home improvements. First National bank in Omaha is one example of a bank that was willing to work with a local lead safe group to provide low-interest loans for healthy home improvements in targeted zip codes. The Delta Redevelopment Institute is also working with Green Choice Bank in Chicago to develop a new Green Choice mortgage.

REMOVING GOVERNMENT BARRIERS

Federal and local lead grant managers should consider reforming existing HUD lead grant programs to ease burdensome grant requirements that discourage landlords and homeowners from seeking assistance, such as:

Exclusion of some units (studio apartments) in a multi-unit building

One factor limiting interest by owners of larger apartment buildings in remediation financing programs is the exclusion of studio units from incentive programs – even when a lead poisoned child is known to reside in that unit. Landlords who are required to eliminate lead in all housing units in a building (including studios) may avoid using programs that exclude work in some units.

HUD might consider seeking legislative amendments to allow grant funds to be used for lead remediation in studio apartment units because of mounting evidence that poisoned children live in these units.¹⁰

Fear of public health inspectors

Lead risk assessment requires specialized training and is sometimes offered by home mortgage inspectors as an additional service for a nominal fee. However HUD grants require a full lead risk assessment by a certified inspector. In Chicago and some other places, an inspection with a finding of a lead hazard is considered a violation of an ordinance resulting in a citation. Few landlords are willing to be cited in order to apply for financial assistance. With new EPA contractor rules coming into effect soon, the question is whether private contractors, who are certified in lead safe work, might also be certified as risk assessors.

Difficulty verifying tenant income

Owners of larger apartment buildings also avoid government incentives for lead remediation because of the burdensome requirement for verifying the income of tenants.¹¹ Tenants are not involved in contracting for the work and are reluctant to divulge personal information to help a landlord secure financing. This grant requirement has driven some landlords to avoid seeking lead abatement grants for occupied housing. Chicago, for example, unfortunately has very few vacant affordable apartment buildings.

Basing eligibility on landlord certification of affordable rent levels rather than tenant verification of income would encourage greater participation by landlords with occupied buildings. HUD could consider legislative amendments to base eligibility for lead abatement grants on landlord certification of affordable rent levels rather than tenant verification of income. This would make lead abatement grants more consistent with other types of federal block grants, and would not discourage remediation in occupied multi-family housing.

¹⁰ Elimination of the exclusion of studio units would require amendment of the Residential Lead-based Paint Hazard Reduction Act of 1992 (PL 102-55) or Title X of the Housing & Community Development Act of 1992.

¹¹ Sec. 1101(a)(1) of Title X restricts grants to units that occupied by or made available to families with certain income levels (50% of grant funded units must be for families at or below 50% of the area median income and remaining grant funded units must be for families at or below 80% of the area median income.

Capacity of government health departments to manage rehab financing programs

Public health officials have a legitimate role in identifying health risks, but may have little experience in overseeing housing rehab financing. Eligibility for what are essentially housing rehabilitation grants should be expanded to include housing departments and nonprofit organizations that have experience managing housing and community development work. This is especially important in 2009 when HUD grants to nonprofit organizations are no longer being offered.¹² Alternatively, federal grant managers should consider reforming limits on the use of grant funds for program administration.

More dialogue with U.S. Department of Housing & Urban Development (HUD), the biggest provider of public subsidies for lead hazard remediation, is recommended on the subject of changing grant requirements that discourage building owners and homeowners from seeking assistance.

OTHER POLICY & REGULATORY REFORM

In addition to the policy and legislative changes relating to HUD's grant programs described above, changes to other policies and laws could support increased demand for hazard remediation leading to greater interest by lenders in participating in public-private financing programs.

Broadening uses of HUD lead hazard control and other affordable housing funding

Although the federal policy agenda has broadened in the past 9 years since the President's Task Force report in 2000, the primary federal funding priority is still on lead hazard remediation. Other hazard remediation or weatherization work could be accomplished at the same time as lead remediation with relatively modest incremental cost.ⁱⁱⁱ Additional research is needed to determine whether healthy home improvements could be required in conjunction with the acquisition or transfer of housing with other federal affordable housing funding such as CDBG or Neighborhood Stabilization Program funding.

¹² EPA is still offering grants to NGOs. See program descriptions in Appendix 3.

HUD & EPA Work With Treasury Department

HUD might broach discussions with the Treasury Department about the potential for extending HUD's lead-safe rehabilitation rule pertaining to the renovation of federally-owned or assisted housing¹³ to housing that receives federal tax credit subsidies or block grant funding.

Tie Into New Banking Regulations for Banks that Accept Bailout Funds- Seek a Treasury Department Rule Requiring a Healthy Housing Inspection and Remediation for pre-1978 Homes

Stronger federal regulation of some mortgage lenders may provide an opportunity for healthy home advocates to seek a new Treasury Department rule to require mortgage lenders that accept bailout funds to require a "Healthy Housing inspection" and disclosure of lead and other major health hazards for pre-1978 homes prior to closing. Federal subsidies (bailout money) would provide the justification for new regulations.

There are currently no mandates relating to testing or mitigation for health hazards such as radon or asbestos in homes at the time of sale. Federal and state laws currently require disclosure of specific known health hazards such as the presence of lead-based paint or radon levels at the time of sale, but only a few states currently require testing and mitigation for hazards such as radon for specific types of buildings such as schools or child-care centers.

Although the immediate focus would be on banks that accept bail-out money, healthy home inspection requirements at the time of sale could ideally be included in new banking regulations that are developed by Congress in the aftermath of the banking crises. More legal advice is needed to determine whether new due diligence requirements could be adopted by regulation or whether legislation would be required.

Advocate for an FHA-funded Public Education Campaign Targeting Market-rate Housing

FHA already requires rigorous home inspection but does not currently require a specific lead or radon inspection except for insured multi-family housing conversion or rehab. HUD /FHA do not require the same level of inspection for single-family housing. Efforts to extend the HUD lead-based paint rule to single-

¹³ 24 CFR part 35 pertaining to the renovation of federally-owned or assisted housing

family were defeated by the real estate interests in the late 1990s. However, HUD/FHA have been given additional scientific evidence on the serious health risks from lead and radon poisoning in particular so the timing may be right to offer buyers of FHA insured homes the option of paying for an expanded inspection (for a slightly higher inspection fee) that would include lead and radon inspections.

EPA Legislation to Strengthen Brownfield Laws

Lenders are required to conduct “all appropriate inquiries” relating to brownfield properties to secure immunity from liability under federal environmental laws. This inquiry is limited in scope to investigation of soil or groundwater contamination, not building contamination. EPA could propose amendment of existing law to require consideration of building contamination for residential buildings or other buildings where children are likely to be present such as schools and child care facilities. Alternatively, EPA might support a voluntary “Healthy Home Audit” pilot program.

Promote and Evaluate a Voluntary “Healthy Home Audit” Upon Property Sale

EPA might work with HUD, the Treasury Department, lenders and the real estate industry to promote a voluntary pilot Healthy Home Audit program as part of a home inspection, and then evaluate its costs and benefits. While banks are generally reluctant to *require* borrowers to remediate specific health hazards absent a legal mandate, some community and “green” banks may be willing to *encourage* a health or energy audit as part of the loan due diligence process. A few may also be willing to provide the audit or approve a higher property valuation based on proposed improvements. Lenders, however, will remain hesitant to offer non-traditional loans without assurances that they will be accepted by the secondary mortgage market and appraisal industry, and that such audits can be done quickly and cost-effectively. Coordination with FHA and other federal mortgage insurance agencies may be needed to ensure that new mortgage products are accepted on the secondary market.

Legislation or promotion of new voluntary policies and programs could accelerate the pace of hazard reduction in the nation’s older housing stock.

ACKNOWLEDGMENTS

Many of the strategies in the Guidebook stem from the Delta Institute's own experiences administering a public-private financing programs for lead remediation and weatherization work in affordable apartment buildings in Chicago together with the Chicago Department of Public Health and a private lead abatement contractor. Janice Kriwanek of Fifth Third Bank in Chicago was kind enough to share her opinions on how this program might be improved.

We are also grateful to others who shared their experiences with leveraged funding programs for housing rehabilitation or lead remediation, especially: Mike Bielawa of Community Investment Corp (CIC); Robert Brueggeman of TCF Bank in Milwaukee; Richard Geata from the City of Milwaukee; and Ann Evens of the Chicago Center for Neighborhood Technology.

Local lead poisoning prevention advocates such as Jeanine Arrighi of Lead Safe St. Louis and Kara Eastman of Omaha Healthy Kids Alliance also helped us identify other existing leveraged financing programs.

Matt Ammon, Deputy Director of HUD's Office of Lead Hazard Control & Healthy Homes, provided insights on a few regulatory issues relating to HUD lead grant programs.

Patrick MacRoy and Jane Malone of the Alliance for Healthy Homes, and Maryann Suero from the U.S. EPA Region V office also referred us to a number of useful reports on related topics. (See Appendix 2 for a summary of related reports.)

Finally, we are especially thankful to financial industry representatives who are not currently involved in leveraged lead remediation or healthy home programs, including Joel Freehling of Shorebank Chicago, Torrence Moore, formerly of Bank of America, and Paul Freeman of the Indiana Bankers Association, but who nonetheless were willing to share their thoughts and advice despite the current economic climate.

APPENDICES

APPENDIX 1	Interview Contacts
APPENDIX 2	References
APPENDIX 3	Traditional Public Funding Programs
APPENDIX 4	Lead Safe Laws

APPENDIX 1 - INTERVIEW CONTACTS

Bank representative

- Robert Brueggeman, TCF Bank
- Joel Freehling, Shore Bank
- Janice Kriwanek, Fifth Third Bank
- Torrence Moore, Kiwanja Redevelopment Fund (formerly of Bank of America)

Other financial institutions

- Mike Bielawa, Community Investment Corp (CIC)
- Paul Freeman, Indiana Bankers Association
- Kate Ansorge, Local Initiatives Support Corporation (LISC/Chicago)

Government

- Richard Geata, City of Milwaukee
- Matt Ammon, HUD's lead abatement office

Nongovernmental Organizations

- Paul Haan, Healthy Homes Coalition of West Michigan
- Patrick MacRoy, Alliance for Healthy Homes
- Kara Eastman, Omaha Healthy Kids Alliance
- Ann Evens, Center for Neighborhood Technology
- Anita Weinberg, Illinois Lead Safe Housing Task Force at Loyola University Chicago School of Law
- Jeanine Arrighi, Lead Safe St. Louis

APPENDIX 2 - REFERENCES

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2. Jacobs, David, The Centers for Disease Control and Prevention, National Center for Environmental Health Lead Poisoning Prevention Branch, The Low-Income Housing Tax Credit and Childhood Lead Poisoning Prevention (2007). This report examines how the Low Income Housing Tax Credit (LIHTC) program has handled childhood lead poisoning associated with lead-based paint hazards in old housing undergoing rehabilitation and describes what additional measures should be taken to ensure that lead-safe practices and certified contractors are used.
3. Alliance for Healthy Homes and the Lead Poisoning Prevention Branch of the Centers for Disease Control and Prevention, Building Blocks for Primary Prevention (October 2005). This publication offers a comprehensive collection of 70 “building blocks,” which are primary prevention strategies that merit consideration by state and local governments and others in position to reduce exposure to lead and healthy home hazards. There is a section in the report dedicated to financing and subsidies which reviews different methods that utilize existing entitlement programs, develop and channel funds into prevention efforts, assess fees on property owners, target related funding sources, and provide tax incentives to help address funding needs. [pdf available for download at www.afhh.org/resources.]
4. Alliance for Healthy Homes, Effective Practices for Enforcing Codes to Ensure Decent Housing Condition (updated August 2006) This report provides summaries of and citations for some of the nation’s most innovative state and local policies and programs that help speed enforcement and compliance for lead hazard control and other housing code enforcement orders related to dangerous and hazardous conditions. These strategies have been implemented in a variety of areas throughout the country and include well-designed enforcement measures, more efficient use of existing mechanisms and processes, partnerships, financial incentives for property owners served with lead hazard control and housing code enforcement orders, and more. [pdf available for download at www.afhh.org/resources.]

5. Alliance for Healthy Homes, Ten Effective Strategies for Preventing Childhood Lead Poisoning Through Code Enforcement (Revised April 2002). This report briefly reviews the status of childhood lead poisoning and makes the case for incorporating lead safety explicitly into code enforcement. The report then outlines ten strategies for maximizing lead poisoning prevention through code enforcement, citing programs where work to incorporate these strategies is underway. [pdf available for download at www.afhh.org/resources.]
6. Philip J. Landrigan, Clyde B. Schechter, Jeffrey M. Lipton, Marianne C. Fahs, and Joel Schwartz, *Environmental Pollutants and Disease in American Children: Estimates of Morbidity, Mortality, and Costs for Lead Poisoning, Asthma, Cancer, and Developmental Disabilities* in Environmental Health Perspectives 110:721–728 (2002). This report calculates the cost of child illnesses related to pollutants and disease. The report looks at lead, asthma, cancer and development disabilities. The costs are calculated through a formula that factors in the disease rate, population size, cost per case and the EAF or environmentally attributable fraction. [Available for download at <http://www.ehponline.org/members/2002/110p721-728landrigan/EHP110p721PDF.PDF>]

APPENDIX 3 – TRADITIONAL PUBLIC FUNDING PROGRAMS

HUD GOALS

HUD's primary goal for lead and healthy homes is to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible, including:

- Provide grants to community projects for implementing Lead hazard abatement and other Healthy Homes Initiatives;
- Provide regulatory guidance to ensure Healthy Homes
- Implement *Healthy Homes for Healthy Kids* information campaign
- Continue enforcement of Lead Abatement compliance

HUD GRANT PROGRAMS

Lead-based Paint Hazard Control Program (LHC)

Assists States, Native American Tribes and local governments in creating wide-ranging programs to identify and control lead-based paint hazards in eligible privately owned housing. Each year the Office of Healthy Homes and Lead Hazard Control (OHHLHC) awards roughly 30 grants of up to \$3M per grant. Applicants must provide a 10% match (non-federal) to participate.

Lead Hazard Reduction Demonstration Program (LHRD)

Assists States, Native American Tribes and local governments with high numbers of rental units built in 1940 or earlier in creating wide-ranging programs to identify and control lead-based paint hazards in eligible privately owned housing. Each year the OHHLHC awards roughly 12 grants of up to \$4M per grant. Applicants must provide a 25% match (non-federal) to participate.

Operation Lead Elimination Action Program (LEAP) ¹⁴

Assists private sector, non-profit and for-profit organizations (provided no fees are charged for services) in creating wide-ranging programs to identify and control lead-based paint hazards in eligible privately owned housing by leveraging private sector funding. Each year the OHHLHC awards roughly 6 grants of up to \$2M per grant. Applicants are not required to provide a match to participate, but are evaluated (in part) on the amount of leveraged funds dedicated to the applicant's proposal.

Lead Outreach Program (LOR) ¹⁵

Assists academic institutions, non-profit and for-profit organizations (provided no fees are charged for services), States, Native American Tribes and local governments to raise public awareness of childhood lead poisoning prevention, provide training and education. Each year the OHHLHC awards roughly 4 grants of up to \$500,000 per grant. Applicants must provide a 10% match (non-federal) to participate.

Lead Technical Studies Program (LTS) ¹⁶

Assists academic institutions, non-profit and for-profit organizations (provided no fees are charged for services), States, Native American Tribes and local governments to conduct research to gain knowledge on improving the efficacy and cost-effectiveness of methods for evaluation and control of residential lead-based paint hazards. Each year the OHHLHC awards roughly 5 grants of up to \$1M per grant. Applicants are not required to provide a match to participate.

Healthy Homes Technical Studies Program (HHTS)

Assists academic institutions, non-profit and for-profit organizations (provided no fees are charged for services), States, Native American Tribes and local governments to develop the most promising, cost-effective methods for identifying and controlling housing related hazards, and build local capacity to operate sustainable programs to prevent, minimize, and control housing-related hazards in eligible residences. Each year the OHHLHC awards roughly 3

¹⁴ Grant funding under this program and other outreach programs is not offered in 2009.

¹⁵ This program was not funded in 2009.

¹⁶ This program was not funded in 2009.

cooperative agreements of up to \$1M per agreement. Applicants are not required to provide a match to participate.

Healthy Homes Demonstration Program (HHD)

Assists academic institutions, non-profit and for-profit organizations (provided no fees are charged for services), States, Native American Tribes and local governments to address environmental triggers that may be contributing to the child's illness, conduct education and outreach that furthers the goal of protecting children from environmentally induced illness, and build capacity in the target community to assure long-term progress of healthy homes efforts. Each year the OHHLHC awards roughly 5 cooperative agreements of up to \$1M per agreement. Applicants are not required to provide a match to participate.

[NOTE: New information about current grant programs that are offered in 2009 is under review and will be added in the next edition of this Guidebook.]

EPA GOALS

EPA's primary goal is to regulate and provide guidance for the complete elimination of lead and healthy home hazards, program areas include:

- Regulation to remove lead from air and water, and notifying citizens of potential lead hazards.
- Provide information and guidance on lead
- Provide grants for brownfields assessment and cleanup, which may in some limited cases include lead and asbestos removal in buildings that must be demolished in order to complete site remediation
- Provide grants for lead education and outreach, lead safe work practice training and screening of children for elevated blood lead levels.
- Continue enforcement of Lead Abatement compliance
- Insures a trained and certified lead hazard reduction workforce

EPA GRANT PROGRAMS¹⁷

EPA's National Community-Based Lead Grant Program

This program is aimed at promoting efforts to prevent or reduce childhood lead poisoning. In 2007 the Agency awarded more than \$3.1 million in grant dollars.

EPA's Targeted Lead Grant Program

This program funds projects in areas with high incidences of children with elevated blood-lead levels in vulnerable populations. In 2007 the Agency awarded more than \$5.2 million in grant dollars.

Tribal Lead Grant Program

Approximately \$500,000 per year is available to support education and outreach relating to lead-based paint hazards by recognized tribal organizations.

¹⁷ This does not include EPA's funding to states for administration of 402 and now RRP.

APPENDIX 4 – LEAD SAFE LAWS

FEDERAL HOUSING RENOVATION, REPAIR AND PAINTING REGULATIONS

Federal laws provide a baseline of protection for a broad class of tenants and homebuyers across the nation. Federal agencies have also adopted lead safe rules but these are more limited in scope (applicable only to federally owned or assisted housing) or have yet to be fully implemented.

State and local laws need to be at least as stringent but are often pre-date and are stronger than federal laws. Maryland is an example of a state with a strong law. Chicago and New York both have strong local ordinances. Examples of other local laws in the Midwest are included below.

HUD Lead-Safe Housing Rule (1999)

The U.S. Department of Housing and Urban Development (HUD) issued regulations in 1999 pertaining to the renovation of federally-owned or assisted housing [24 CFR part 35]. This rule has only been applied for HUD-assisted housing programs and has not been used consistently in other types of federal housing assistance programs. (See, for example, the 2007 report by the Center for Disease Control, The Low-Income Housing Tax Credit and Childhood Lead Poisoning Prevention.) The complete text of this Rule is available at <http://www.hud.gov/offices/lead/enforcement/lshr.cfm> .

EPA Lead-Safe Renovation Repair and Painting Rule (2008)

On March 31st, 2008, the U.S. EPA issued a rule the Renovation, Repair, and Painting Rule (RRP), section § 403(2)c of TSCA, requiring lead safe work practices to reduce exposure to lead hazards created by renovation, repair and painting activities that disturb lead-based paint in almost all housing, schools and child care facilities built prior to 1978. (40 CFR 745.80 subpart E – Residential Property Renovation). Contractors must provide pre-renovation notification to housing occupants and parents at schools and child care centers; however, by April 1st, 2010, contractors must become trained and certified by EPA-accredited programs and must keep records that work was performed in a lead safe manner or face potentially hefty fines, of up to \$25,000 per day. This new rule has potentially much broader impact on housing rehab and painting contractors and, if effectively enforced, may drive demand for business loans to contractors to make the new lead safe repair work more affordable to property owners. The complete text of this Rule is available at <http://www.epa.gov/fedrgstr/EPA->

[TOX/2008/April/Day-22/t8141.pdf](#) . Effective enforcement of lead hazard ordinances or housing codes through local housing court is an important issue in driving demand for the removal of lead hazards and other hazardous housing conditions.

Residential Lead Based Paint Disclosure Rule/Section§ 1018 of Title X

Under the U.S. EPA Residential Lead-Based Paint Disclosure Rule (Section 1018 of the Toxic Substances Control Act), landlords, rental agents or home sellers must give prospective tenants or home buyers a copy of the pamphlet, “Protect Your Family from Lead in Your Home,” and must inform them of any known lead-based paint hazards in the residential unit and common areas. Landlords and sellers are not required to test for lead paint or remove it but must offer prospective tenants or buyers a 10-day opportunity to have a lead inspection or risk assessment performed. Buyers are not obligated to sign a contract until given this opportunity, although the parties may agree to adjust the 10 day period.

STATE LEAD POISONING PREVENTION LAWS

State and local laws are in some cases are more stringent than federal laws and place additional requirements on property owners.

Many state laws focus on screening (blood tests) for preschool children to identify possible lead poisoning. Illinois' Lead Poisoning Prevention Act has been amended in recent years to go beyond screening and place specific requirements on some property owners (retailers, child care centers) and the Illinois Department of Public Health to focus on prevention.

Illinois Lead Poisoning Prevention Act, as amended by PA 94-0879.

Illinois Comprehensive Lead Poisoning Education Reduction and Window Replacement Act (CLEAN-WIN) signed into law in 2007 (95-0492) albeit without an appropriation. This act provides that the Illinois Department of Public Health must reimburse eligible owners of dwellings for replacing windows in living units deemed lead paint hazards by the Department. It also requires IDPH to appropriate funds for a pilot program, adopt rules to implement the program and provide insurance subsidies.

Advocacy groups such as the Illinois Lead Safe Housing Task Force are hoping that some funding from a capital funding bill might be used to cover the cost of a pilot project. They are also pushing for inclusion of window replacement and thus lead hazard removal as an eligible use of weatherization grant funds through the federal Recovery Act.

The National Conference of State Legislators has a good library of state laws.

NCSL's Lead Hazards Project assists states on the issue of lead poisoning prevention by facilitating information exchange among the states and by promoting improved coordination between the states and EPA's Office of Pollution Prevention and Toxics. Major activities undertaken by the project include publication of *Lead Poisoning Prevention: A Guide for Legislators*, numerous articles and memos on lead hazard reduction, summarizing legislation and regulatory programs that address lead hazards, providing technical assistance to state legislatures on lead hazard reduction, organizing a series of meetings between state policy makers and EPA, and promoting states' interests in the development of federal policies addressing lead poisoning and hazard reduction.

For more information on NCSL's Lead Hazards Project and access to it's online search tool of state laws, go to:

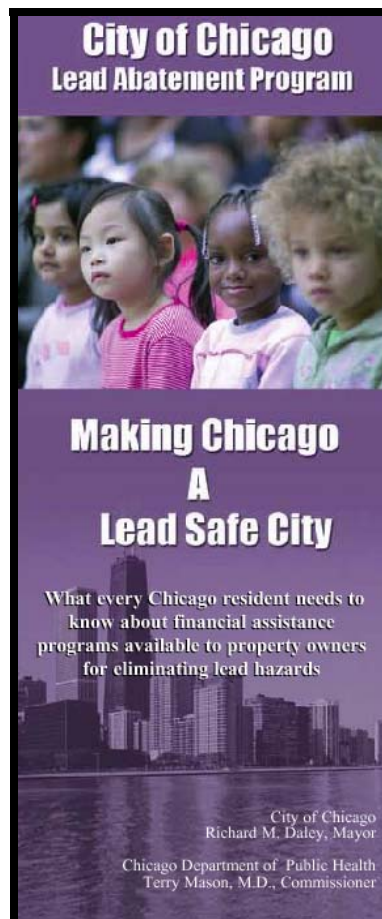
<http://www.ncsl.org/programs/enviro/health/LEADDES.htm>

LOCAL ORDINANCES AND HOUSING CODES

The regulation of hazardous housing conditions in privately-owned housing is the bailiwick of local health departments and housing courts. The federal ban on lead-based paint in 1978 and the growing scientific evidence on the toxicity of even very small levels of lead since then have prompted many cities with pre-1978 housing stock to adopt local ordinances banning lead. Examples include:

Chicago's Lead-Bearing Substances Ordinance

This is very broad and prohibits the presence of lead hazards (including lead-based paint) in all residential property.



The City of Chicago guide to Lead Abatement

Chicago's lead ordinance also requires licensed child care or preschool facility owners to obtain a statement that the child has been screened for lead poisoning. The Chicago Department of Public Health is authorized to inspect child care facilities, schools and residential buildings to determine if lead hazards are present. If hazardous substances are found, the city may issue an emergency order requiring the owner to remedy the condition within the period of time specified in the order. If not performed, the City may abate the condition and recover the cost from the owner. The Chicago Department of Public Health also provides grants for up to 100% of the abatement cost for moderate-income single-family owners in buildings with up to 3 units. It also funds a financing program (loans with 50% forgiveness) for owners of affordable apartment buildings with 4 or more units. Both incentive programs are administered by non-profit delegate agencies. Neighborhood Housing Services (NHS) administers the single-family grant program and the Delta Institute administers the multi-family loan program.

Milwaukee's Lead Poisoning Prevention and Control Ordinance¹⁸

Originally passed in 1991, this ordinance provides the Milwaukee Health Department with the authority to issue legally binding work orders to property owners when a lead-poisoned child has been identified. The work orders specify treatments to remedy lead-based paint hazards, including treatments to window surfaces (or more rarely, window replacement). A high concentration of lead poisoned children in two high-risk neighborhoods with older housing stock prompted the city to adopt a more ambitious pilot ordinance in 1999 to eliminate all lead hazards in pre-1950 homes in these two neighborhoods. All rental property owners were required to register their properties in the program, which ran through 2002. The City conducted risk assessments in all units. The City took a "carrot and stick" approach by funding the lead treatment of windows but also using enforcement measures when necessary with reluctant landlords.¹⁹

Cleveland Lead-Based Paint Ordinance²⁰

It passed in 2004 makes lead paint hazards in residences schools and child care facilities a "nuisance" under city code, which empowers the City environment

¹⁸ MCO 66-20 City of Milwaukee Lead Ordinance

¹⁹Source: Alliance for Healthy Homes (2006), Effective Practices for enforcing Codes to Ensure Decent Housing Condition.

²⁰ Cleveland Ordinance 1027-04

commissioner to require the property owner to immediately control the hazards. If the owner fails to act, the City can send a contractor to abate the hazard and place a lien on the property to recover the cost.

In addition to lead ordinances, many cities have also amended their housing codes to include lead paint hazards on the list of hazardous conditions that may trigger city enforcement action. A 2006 report by the Alliance for Healthy Homes²¹ summarizes a number of other housing code enforcement programs in other cities.

New York City Housing Code Violations

New York City law classifies a variety of housing code violations including peeling lead paint in dwellings where a child under 7 resides, as “Class C” conditions and empowers the city’s Housing and preservation Department (HPD) to cite property owners and, if not corrected within a certain number of days, to use city workers to make repairs and place a lien for the cost.

San Francisco “Substandard Housing Conditions”

State and local laws define “substandard housing conditions” related to indoor air quality to include excessive dampness in habitable rooms, infestation by insects and rodents or general dilapidation or improper maintenance. The process for abating is similar to other lead ordinances but the city may also ask the municipal court to imprison property owners who wantonly disregard repair orders and fail to pay for city-operated abatement to lead abatement contractors.

ⁱ U.S. Surgeon General Health Advisory on Radon, January 13, 2005.
www.surgeongeneral.gov/pressreleases/sg01132005.html

ⁱⁱ <http://www.nchh.org/Research/Asthma-and-Allergen-Sampling-Study-in-Boston.aspx>

ⁱⁱⁱ In the Delta Institute’s lead remediation program, additional weatherization work adds roughly \$1300 per unit to the \$5200 per unit average cost of window replacement and lead remediation work.

²¹ See footnote 1 above.