



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MEMORADUM FOR: All Community Planning and Development Field Office Directors,
Deputy Directors and Program Managers

FROM: John Gibbs, Principal Deputy Assistant Secretary, D

SUBJECT: Availability of Waivers for the Biennial Point-in-Time Count of
Unsheltered Homelessness

PURPOSE

This memorandum explains the availability of waivers to the Continuum of Care (CoC) program's biennial point-in-time count of unsheltered homelessness requirements at 24 CFR 578.3, 24 CFR 578.7(c)(2), 24 CFR 578.7(c)(2)(i), and 24 CFR 578.7(c)(2)(iii). This memorandum also announces a simplified notification process for CoCs to use these waiver flexibilities. To use the waiver flexibilities provided in this memorandum, CoCs must first provide HUD with written notification by following the notification process described below and update its program records to include written documentation of the specific conditions that justify the use of the waiver, consistent with the justifications and applicability provisions below.

CoCs that use the waivers of 24 CFR 578.3, 24 CFR 578.7(c)(2) and 24 CFR 578.7(c)(2)(i) must still conduct their FY2021 biennial point-in-time count of sheltered homeless persons if one is required in FY2021 but may forgo the FY2021 point-in-time count of people experiencing unsheltered homelessness. CoCs that only use the waiver of 24 CFR 578.7(c)(2)(iii) and do not use the waivers of 24 CFR 578.3, 24 CFR 578.7(c)(2) and 24 CFR 578.7(c)(2)(i) must still conduct their FY2021 biennial point-in-time count of homeless person for both sheltered and unsheltered homeless persons if one is required in FY2021, but the waiver of 24 CFR 578.7(c)(2)(iii) removes some of the data collection requirements in Notice CPD-18-08: 2019 HIC and PIT Data Collection for CoC and ESG Programs associated with the point-in-time count for unsheltered homeless persons.

This memorandum does not waive the requirement at 24 CFR 578.7(c)(2) for CoCs to conduct a biennial point-in-time count of sheltered homelessness and follow the point-in-time requirements in Notice CPD-18-08 for sheltered homelessness. CoCs that are required to conduct a point-in-time count in FY2021 and do not take advantage of the waivers provided in this memorandum must still conduct a FY2021 point-in-time count of sheltered and unsheltered homeless persons and follow the requirements in Notice CPD-18-08.

NOTIFICATION PROCESS

CoCs may use the waivers described in this memorandum to prevent the spread of COVID-19 in their communities and address the challenges of conducting a point-in-time count of unsheltered homeless persons due to COVID-19. To use the waiver flexibility provided in this



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memorandum, CoCs must provide notification in writing through email to 2021PIT@hud.gov and include the name of the CoC and the specific waiver flexibility it intends to use (i.e., waivers necessary to waive the requirement that CoCs conduct a biennial point-in-time count of people experiencing unsheltered homelessness in FY2021, or, alternatively, waivers necessary to waive portions of Sections 4.4 and 4.5 of Notice CPD-18-08 as they related to people experiencing unsheltered homelessness for the CoCs required to conduct a FY2021 unsheltered point-in-time count) no later than January 20, 2021 at 5:00 pm eastern time.

WAIVER AUTHORITY

In December 2019, a new coronavirus known as SARS-CoV-2 was first detected in Wuhan, Hubei Province, People's Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. The first case was reported in the United States in January 2020. In March 2020, the World Health Organization declared the coronavirus outbreak a pandemic and President Trump declared the outbreak a national emergency. During this time, the majority of states have declared states of emergency with most shutting down large gathering places and limiting the movement of their residents. As a consequence, many CPD recipients are facing challenges in ensuring appropriate shelter options are available for program participants who need to be separated from others because they are exhibiting symptoms, training staff on how to safely work with program participants and prevent spreading the virus, obtaining supplies to prevent the spread of the virus, and maintaining necessary staffing levels during the outbreak. Further, many program participants are suffering economic consequences from the mass shutdown of businesses and lack of availability of traditional mainstream benefits. A number of recipients have inquired about the availability of waivers of various CPD program requirements to facilitate assistance to program participants and prevent the spread of the virus.

In accordance with 24 CFR 5.110, HUD may, upon a determination of good cause and subject to statutory limitations, waive regulatory provisions. Additional regulatory waiver authority is provided in 24 CFR 91.600. On March 31, 2020, CPD issued its first waivers of regulatory authority to help recipients prevent and mitigate the spread of COVID-19. On May 22, 2020, CPD issued its second set of waivers of regulatory authority to prevent and mitigate the spread of COVID-19. A third set of waivers were issued on September 30, 2020. A fourth set of waivers were issued on December 29, 2020. This memorandum includes additional waivers for the CoC program.

WAIVER AVAILABILITY

To provide additional flexibilities to communities to prevent the spread of COVID-19, I hereby find good cause to provide the regulatory waivers below. To use each waiver, each CoC must follow the notification process described above and update its program records to include written documentation of the specific conditions that justify the recipient's use of the waiver, consistent with the justifications and applicability provisions below. Provisions that are not specifically waived remain in full effect.



Biennial Point-in-Time Count of Unsheltered Homelessness

Requirement: The definition of “Point-in-time count” in 24 CFR 578.3, and 24 CFR 578.7(c)(2) and 24 CFR 578.7(c)(2)(i) require CoCs to plan for and conduct, at least biennially, a point-in-time count of homeless persons within the geographic area and count as unsheltered homeless persons individuals who are living in a place not designated or ordinarily used as a regular sleeping accommodation for humans. 24 CFR 578.7(c)(2)(iii) also requires CoCs to comply with other requirements established by HUD by Notice for the point-in-time count.

Citation: The definition of “Point-in-time count” in 24 CFR 578.3, and 24 CFR 578.7(c)(2), 24 CFR 578.7(c)(2)(i), 24 CFR 578.7(c)(2)(iii), and Sections 4.4 and 4.5 of the Notice CPD-18-08: 2019 HIC and PIT Data Collection for CoC and ESG Programs

Explanation: The definition of “Point-in-time count” in 24 CFR 578.3, and 24 CFR 578.7(c)(2) and 24 CFR 578.7(c)(2)(i) require CoCs to plan for and conduct, at least biennially, a point-in-time count of homeless persons within the geographic area that includes a count of homeless persons that are living in a place not designed or ordinarily used as a regular sleeping accommodation for humans. These individuals are counted as people experiencing unsheltered homelessness.

24 CFR 578.7(c)(2)(iii) requires CoCs to comply with additional requirements established by HUD by Notice for the point-in-time count. HUD has established additional point-in-time count requirements through Notice CPD-18-08: 2019 HIC and PIT Data Collection for CoC and ESG Programs. Sections 4.4 and 4.5 of Notice CPD-18-08 include data requirements for the point-in-time count of both sheltered and unsheltered homeless persons.

Justification: Conducting a point-in-time count of people experiencing unsheltered homelessness requires countless hours of planning and volunteers. Additionally, on the night of the count, it requires people to approach people experiencing unsheltered homelessness to collect data. Because of COVID-19, CoCs have been short staffed and busy preparing for and implementing measures to prevent the spread of COVID-19 in their communities. Additionally, CoCs are reporting challenges in finding volunteers to survey individuals experiencing unsheltered homelessness on the night of the count due to fears of COVID-19. Further, CoCs are



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reporting challenges obtaining personal protective equipment (PPE) necessary to equip volunteers and people experiencing unsheltered homelessness to have the conversations necessary to collect the required data. These challenges are present in every part of the country. As of December, every single state had at least 9 new COVID cases per day per 100,000 population. For these reasons, providing waiver flexibility for the FY2021 point-in-time count for unsheltered homelessness helps prevent the spread of COVID-19.

Applicability:

For CoCs that follow the notification process to use these waivers, HUD is waiving the definition of “Point-in-time count” in 24 CFR 578.3 and the requirements at 24 CFR 578.7(c)(2)(i) and 24 CFR 578.7(c)(2) to the extent necessary to remove the requirement that CoCs conduct a biennial point-in-time count in FY2021 of people experiencing unsheltered homelessness, even if the CoC did not conduct a point-in-time count of people experiencing unsheltered homelessness in FY2020. This waiver of the requirements at 24 CFR 578.3, 24 CFR 578.7(c)(2)(i) and 24 CFR 578.7(c)(2) that CoCs conduct a FY2021 biennial point-in-time count of unsheltered homeless is available for CoCs that complete the notification process by the deadline as described above.

CoCs that use the waivers of 24 CFR 578.3, 24 CFR 578.7(c)(2) and 24 CFR 578.7(c)(2)(i) must still conduct their FY2021 biennial point-in-time count of sheltered homeless persons if one is required in FY2021 consistent with the requirements in Notice CPD-18-08. CoCs that do not use the waivers of 24 CFR 578.3, 24 CFR 578.7(c)(2)(i) and 24 CFR 578.7(c)(2) must still conduct their FY2021 biennial point-in-time count of homeless persons for both sheltered and unsheltered homeless persons if one is required in FY2021, but may choose to use the waiver of 24 CFR 578.7(c)(2)(iii) described below, which removes some of the data collection requirements in Notice CPD-18-08: 2019 HIC and PIT Data Collection for CoC and ESG Programs associated with the point-in-time count for unsheltered homeless persons.

HUD is also waiving 24 CFR 578.7(c)(2)(iii) to the extent necessary to remove the following requirements of Notice CPD-18-08 as they relate to unsheltered homeless persons for CoCs that do not take advantage of the above waiver (and must therefore conduct a FY2021 unsheltered point-in-time count) but follow the notification process to use this waiver:

- In Section 4.4 of the Notice, and for unsheltered persons only, HUD is now only requiring CoCs to collect data on the total number of people sleeping in unsheltered situations on the night of each CoC’s point-in-time count, with no household, demographic,



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or subpopulation data. The requirements of Section 4.4 of the Notice remain unchanged for sheltered homeless persons.

- In Section 4.5 of the Notice HUD is now eliminating the requirement that CoCs report on additional homeless population data for unsheltered persons. The requirements of Section 4.5 remain unchanged for sheltered homeless persons.

This waiver of the requirements at 24 CFR 578.7(c)(2)(iii) that requires CoCs to comply with additional requirements established by HUD in Sections 4.4 and 4.5 of Notice CPD-18-08 for the FY2021 biennial point-in-time count of unsheltered homeless persons is available for CoCs that complete the notification process by the deadline as described above.



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