

# Flexibilities/Waivers Granted by the CARES Act + Mega Waiver and Guidance

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## **CARES ACT FUNDING ALLOCATION**

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[CPD CARES Act Allocations](#) page shows CPD Program Formula Allocations for FY 2020 and CARES Act Supplemental Funding. These spreadsheets provide full-year allocations for the Office of Community Planning and Development's (CPD) formula programs: Community Development Block Grants (CDBG); CDBG Recovery Housing Program (RHP); HOME Investment Partnerships (HOME); Housing Opportunities for Persons with AIDS (HOPWA); Emergency Solutions Grants (ESG); Housing Trust Fund (HTF); and Coronavirus Aid, Relief, and Economic Security (CARES Act) supplemental funding.

Congress provided \$5 billion (\$10 million taken off the top for TA) in the CARES Act for the Community Development Block Grant (CDBG) program, specifically noting three different allocation methods:

- 1) Round 1. HUD allocated the first \$2 billion based on the same formula used for the regular FY 2020 CDBG formula allocation. HUD announced allocations on April 2, 2020.
- 2) Round 2. This [document](#) describes the methodology for allocating the second round of CDBG CARES Act funding (CDBG-CV). The CARES Act requires HUD to allocate the second round of \$1 billion to state and insular area governments by May 11, 2020. The allocation targets public health, coronavirus, and housing and economic disruption needs.
- 3) Round 3. \$1.990 billion to be allocated for cities, counties, and/or states on a rolling basis based on criteria to be determined by the Secretary, prioritizing risk of transmission, coronavirus cases compared to the national average, and economic and housing market disruptions. The CARES Act does not establish a deadline to allocate funds, but HUD must obligate all funds by September 30, 2022. HUD will describe the third round of allocations in a later allocation announcement.

Congress provided \$4 billion (\$40 million taken off the top for TA) in the CARES Act for the Emergency Solutions Grant (ESG) Program with two rounds of funding:

- 1) Round 1. \$1 billion. Allocated under the normal ESG formula to the roughly 363 grantees (cities, counties, states, insulars).
- 2) Round 2. \$2.960 billion. HUD has committed \$40 million of the appropriated funds to technical assistance to recipients of ESG to build capacity and facilitate speedy implementation. The remaining \$2.96 billion is to be allocated under a formula “for the benefit of unsheltered homeless, sheltered homeless, and those at risk of homelessness, to geographical areas with the greatest need based on factors to be determined by the Secretary, such as risk of transmission of coronavirus, high numbers or rates of sheltered and unsheltered homeless, and economic and housing market conditions as determined by the Secretary.”

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## **CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) PERFORMANCE REPORT**

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A waiver of the regulatory requirement at 24 CFR 91.520(a), that within 90-days of the end of a jurisdiction's program year a grantee shall submit to HUD a performance report known as the Consolidated Annual Performance and Evaluation Report (CAPER) has been authorized. The CAPER is associated with several CPD grant programs.

As a result of the COVID-19 virus, a majority of States have declared a state of emergency with most shutting down large gathering places and limiting the movement of residents. More State and local governments are operating under extenuating circumstances and may need additional time for certain administrative requirements.

Under the authority of 24 CFR 5.110 and 24 CFR 91.600, HUD may, upon a determination of good cause and subject to statutory limitations, waive regulatory provisions. The Acting Assistant Secretary for Community Planning and Development, has determined that there is good cause to waive the following regulatory requirement for the program year 2019 CAPER, subject to the condition that grantees comply with the modified requirement in the applicability section below:

**Requirement:** The Consolidated Annual Performance and Evaluation Report (performance report) submission to HUD within 90 days after the close of a jurisdiction's program year. Citation: 24 CFR 91.520(a).

**Explanation:** The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year. Justification: Under the authority at 24 CFR 91.600, HUD is authorized to waive this requirement when a determination of good cause is made and supported by documentation. Given the outbreak of the coronavirus known as SARSCoV-2 and the extenuating circumstances placed on state and local governments, and citizens, HUD has determined that there is good cause for waiving this provision. The extenuating circumstances and administrative strain supporting this waiver are well documented in the broad public news coverage related to the outbreak.

**Applicability:** For program year 2019 CAPERs, the requirement that grantees submit a performance report within 90 days after the close of a jurisdiction's program year is waived, subject to the condition that within 180 days after the close of a jurisdiction's program year the jurisdiction shall submit its performance report.

If you need additional information regarding this waiver, please contact your Headquarters program office desk officer(s).

<https://www.hud.gov/sites/dfiles/CPD/documents/CPD-COVID-19-CAPER-Waiver-050420-signed-JG.pdf>

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## CDBG - COMMUNITY DEVELOPMENT BLOCK GRANT

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### CARES Act Flexibilities

- **Public Services:** The CARES Act eliminates the 15 percent\* cap on the amount of grant funds that can be used for public services activities. *Following enactment, the cap in section 105(a)(8) of the HCD Act and 24 CFR 570.201(e) has no effect. \*While the cap is generally 15%, section 105(a)(8) of the Housing and Community Development Act of 1974, provides a different percentage cap for some grantees.*
- **Reimbursement of Costs for Coronavirus:** The CARES Act clarifies that grantees may use CDBG-CV\* grant funds to reimburse allowable costs to prevent, prepare for, and respond to coronavirus that were incurred by a State or locality, regardless of the date on which the State or locality incurred the costs. *This provision does not apply to FY 20 and FY 19 CDBG grant funds. \*However, for State CDBG Grantees, pre-agreement costs are reimbursable in accordance with 24 CFR 570.489(b). For Entitlement CDBG Grantees, pre-award costs are reimbursable in accordance with 24 CFR 570.200(h).*
- **Citizen Participation and Public Hearings for Consolidated Plans (including Action Plans):** The CARES Act clarifies that grantees may amend citizen participation plans to establish expedited procedures to draft, propose, or amend consolidated plans. Expedited procedures must include notice and reasonable opportunity to comment of no less than 5 days. In-person public hearings are not required. Grantees may meet public hearing requirements with virtual public hearings if: 1) national/local health authorities recommend social distancing and limiting public gatherings for public health reasons; and 2) virtual hearings provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses.
- **Deadline to Submit Consolidated Plans (including CDBG-CV Action Plans and Annual Action Plans):** The CARES Act extends the deadline for grantees to submit action plans and other updates to their consolidated plans submissions for fiscal years 2019\* and 2020\* to August 16, 2021. Grantees are not required to wait and HUD expects most grantees to apply for both grants promptly. *\*Without extension, the deadline for fiscal year 2020 grants would be August 16, 2020, in accordance with section 116(b) of the HCD Act and 24 CFR 91.15. The deadline for fiscal year 2019 passed on August 16, 2019 (plans due then have been submitted). This deadline also applies to CDBG-CV Action Plan submissions, which are amendments to the consolidated plan.*
- **Waiver and Alternative Requirement Authority:** The CARES Act authorizes the Secretary to issue statutory and regulatory waivers/alternative requirements for CDBG-CV and some CDBG FY19 and FY20 funds when necessary to expedite or facilitate the use of grant funds to prevent, prepare for, and respond to coronavirus. It prohibits waivers/alternative requirements related to fair housing, nondiscrimination, labor standards, and the environment.

## Regulatory Waivers in the Mega Waiver

- **Citizen Participation Comment Period:** Reduces the period from 30 to 5 days. This only covers substantial amendments through the end of the grantees 2020 program year and only covers 2020 funds. Grantees wanting to amend prior year plans must do so with their 2021 plans.
- **Citizen Participation Reasonable Notice and Opportunity to Comment:** Allows the grantee to determine what is reasonable notice and opportunity to comment and is available through the end of the grantees 2020 program year.

## Waiver for Plan Amendments

In addition to urging all States and localities not to wait to apply for their allocations, the memorandum grants a waiver for plan amendments with instructions on how a grantee may submit an amendment for allocated CDBG coronavirus response (CDBG-CV) funds. The expedited process allows a grantee to incorporate CDBG-CV funds within the most recent annual action plan, including a 2019 annual action plan.

The guide outlines the CARES Act flexibilities for CDBG grantees. The flexibilities expand the usefulness of CDBG-CV grants and fiscal years 2019 and 2020 CDBG grants for coronavirus response. The CARES Act also authorizes HUD to grant waivers and alternative requirements to be released in the forthcoming implementation notice. You can view the memo.

<https://www.hudexchange.info/resource/6018/cares-act-flexibilities-for-cdbg-funds-used-to-support-coronavirus-response/>

## Setting Up a Substantial Amendment for CARES Act Funding

This guide is for CARES Act Substantial amendments in order to incorporate CDBG-CV, ESG-CV, and HOPWA-CV funding into a grantee's most recent approved Annual Action Plan (AAP). Grantees adding CARES Act funds to a new 2020 Consolidated Plan/Annual Action Plan, see the addendum to this guide. Following the process in this guide allows HUD to complete reviews most expeditiously and best enables later completion of the consolidated annual performance report (CAPER).

<https://files.hudexchange.info/resources/documents/Setting-Up-a-Substantial-Amendment-for-CARES-Act-Funding.pdf>

## Quick Guide - CDBG Eligible Activities to Support Infectious Disease Response

This Quick Guide to Community Development Block Grant (CDBG) Eligible Activities to Support Infectious Disease Response provides grantees with information on implementing CDBG funds in a coordinated effort with local health authorities before undertaking any activity to support state or local pandemic response. Grantees may use CDBG funds for a range of eligible activities that prevent and respond to the spread of infectious diseases such as the coronavirus disease 2019 (COVID-19).

[Quick Guide to CDBG Eligible Activities to Support Infectious Disease Response](#)

## [CDBG-DR COVID-19 FAQs](#)

These frequently asked questions (FAQs) provide information to Community Development Block Grant Disaster Recovery (CDBG-DR), CDBG National Disaster Resilience (CDBG-NDR), and CDBG Mitigation (CDBG-MIT) grantees on flexibilities HUD is granting on timelines, eligible activities, and citizen participation as communities work to prevent and respond to the spread of COVID-19.

## [CDBG-DR COVID-19 FAQs](#)

### [Staff Costs and Unused and Partially Utilized Space Q&A](#)

This question and answer provides information on the eligible use of Community Development Block Grant (CDBG) funds for costs associated with staff who are on leave due to the closure of the grantee or subrecipient's office, and the costs of the grantee or subrecipient's unused or partially utilized space in response to COVID-19.

### [CDBG COVID-19 Q&A: Using CDBG Funds for Staff Costs and Unused and Partially Utilized Space \(PDF\)](#)

## [Section 108 Q&A](#)

Many communities used Section 108 funds to make loans to businesses undertaking economic development projects. Some of these businesses are experiencing reductions in revenue due to the economic impact of coronavirus and are now requesting relief, e.g., forbearance on their payment obligations under their loans. Since repayments of the business loans are the intended source for repayment of the Section 108 loans, the ability of a community to grant relief to a business borrower may depend on the relief HUD can provide the community on the Section 108 loan.

### [Section 108 Q&A for Borrowers Seeking Relief as a Result of Coronavirus](#)



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## **CONSOLIDATED PLAN REQUIREMENTS**

### *HOME, CDBG, HTF, ESG, AND HOPWA PROGRAMS*

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#### **Citizen Participation Public Comment Period for Plan Amendment**

- Requirement:** 30-day Public Comment Period.
- Citations:** 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) and 24 CFR 91.401
- Explanation:** A CPD grantee may amend an approved consolidated plan in accordance with 24 CFR 91.505. Substantial amendments to the consolidated plan are subject to the citizen participation process in the grantee’s citizen participation plan. The citizen participation plan must provide citizens with 30 days to comment on substantial amendments.
- Justification:** Given the need to expedite actions to respond to COVID-19, HUD waives 24 CFR 91.105(c)(2) and (k), 91.115(c)(2) and (i) as specified below, in order to balance the need to respond quickly to the growing spread and effects of COVID-19 with the statutory requirement to provide reasonable notice and opportunity for citizens to comment on substantial amendments concerning the proposed uses of CDBG, HOME, HTF, HOPWA or ESG funds.
- Applicability:** This 30-day minimum for the required public comment period is waived for substantial amendments, provided that no less than 5 days are provided for public comments on each substantial amendment. The waiver is available through the end of the recipient’s 2020 program year. Recipients wishing to undertake further amendments following the 2020 program year can do so during the development of its FY 2021 Annual Action Plan.

#### **Citizen Participation Reasonable Notice and Opportunity to Comment**

- Requirement:** Reasonable Notice and Opportunity to Comment.
- Citations:** 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) and 24 CFR 91.401
- Explanation:** As noted above, the regulations at 24 CFR 91.105 (for local governments) and 91.115 (for States) set forth the citizen participation plan requirements for recipients. For substantial amendments to the consolidated plan, the regulations require the recipient to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given.
- Justification:** HUD recognizes the efforts to contain COVID-19 require limiting public gatherings, such as those often used to obtain citizen participation, and that there is a need to respond quickly to the growing spread and effects of COVID-19. Therefore, HUD waives 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) and 24 CFR 91.401 as specified below to allow these grantees to determine what constitutes reasonable notice and opportunity to comment given their circumstances.
- Applicability:** This authority is in effect through the end of the 2020 program year.

## Substantial Amendment Guide

This [guide](#) is for CARES Act Substantial amendments in order to incorporate CDBG-CV, ESG-CV, and HOPWA-CV funding into a grantee's most recent approved Annual Action Plan (AAP). Grantees adding CARES Act funds to a new 2020 Consolidated Plan/Annual Action Plan, see the addendum to this guide. Following the process in this guide allows HUD to complete reviews most expeditiously and best enables later completion of the consolidated annual performance report (CAPER).

<https://files.hudexchange.info/resources/documents/Setting-Up-a-Substantial-Amendment-for-CARES-Act-Funding.pdf>

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## ***EMERGENCY SOLUTIONS GRANTS PROGRAM (ESG)***

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### **CARES Act Flexibilities**

#### **SUMMARY:**

- \$4 Billion appropriation
- No Emergency Shelter/Street Outreach cap
- Increase of admin from 7.5% to 10%
- Increase of income limit from 30% to 50% AMI for Homelessness Prevention component
- Eliminates matching requirement
- Allows deviation from applicable procurement standards when procuring goods and services to prevent, prepare for, and respond to coronavirus;
- Prohibits using any funds to require people experiencing homelessness to receive treatment or perform any other prerequisite activities as a condition for receiving shelter, housing, or other services.
- No citizen participation or consultation requirements
- No minimum period of use for emergency shelters

The Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Public Law 116-136) makes available \$4 billion in supplemental Emergency Solutions Grants (ESG) Program and \$65 million in supplemental Housing Opportunities for Persons With AIDS (HOPWA) funding for grants to prevent, prepare for, and respond to coronavirus (ESG-CV grants). Additionally, the CARES Act provides various flexibilities and authority for HUD to issue waivers and alternative requirements to make it easier for ESG and HOPWA grantees to use ESG-CV and HOPWA-CV grant funds and annual ESG and HOPWA grant funds for coronavirus response.

ESG and HOPWA grantees are advised to amend or prepare their plans as soon as possible. Grantees have the option of incorporating CARES Act funding into their FY20 Consolidated Plans currently being drafted. However, HUD recommends that grantees submit a substantial amendment to their most recent annual Action plan to expedite their access to CARES Act funding. Similarly, grantees should not wait for HUD to allocate the remaining \$2.96 billion of the \$4 billion provided by the CARES Act for the ESG Program

ESG and HOPWA grantees should proceed with all amendments and plans now by adding the ESG-CV and HOPWA-CV allocations into their plans as available resources for the year. This memorandum transmits the attached instructions for submitting substantial amendments in the eCon Planning Suite for CDBG, ESG, and HOPWA programs.

ESG recipients have the immediate ability to omit the citizen participation and consultation requirements for substantial amendments and new consolidated plan submissions for ESG-CV funding. However, each grantee must publish how it has used and will use its allocation, at a minimum, on the Internet at the appropriate Government website or through other electronic media. Please note that these new provisions are only applicable to ESG funding from the CARES Act.

For HOPWA, the Availability of Waivers of Community Planning and Development (CPD) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 memo allowed flexibility to waive 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) to the extent necessary to allow the grantee to provide no fewer than 5 calendar days for citizen comment (rather than 30 days) for its substantial amendment. Grantees should post the substantial amendment on its official website along with a summary of citizen comments received within the comment period.

To expedite grantees' use of ESG-CV funds to prevent, prepare for, and respond to coronavirus as authorized by the CARES Act, HUD is waiving the requirements at 42 U.S.C. 12705(a)(2) to the extent it requires updates to the housing and homeless needs assessment, housing market analysis and strategic plan. For both ESG-CV and HOPWA-CV funds, HUD is also waiving 24 CFR 91.220 and 91.320, pursuant to its authority under 24 CFR 91.600, to the extent the action plan is limited to a specific program year to permit grantees to prepare substantial amendments to their most recent annual action plan, including their 2019 annual action plan. Grantees must identify the proposed use of all funds and how the funds will be used to prevent, prepare for, and respond to coronavirus.

To the extent necessary for the required submission of a substantial amendment to HUD in accordance with 24 CFR 91.500, the Department is also waiving 24 CFR 91.505(c), pursuant to 24 CFR 91.600, to facilitate the expedited use of ESG-CV and HOPWA-CV funds. To receive an ESG-CV or HOPWA-CV grant, a grantee must also submit a signed SF-424, SF-424D and the certifications at 24 CFR 91.225(a), (c) and (e), or 24 CFR 91.325(a), (c), and (e). HUD will provide new certifications consistent with the alternative requirements provided by the CARES Act.

Please send additional inquiries to the HUD Exchange Ask A Question (AAQ) portal.

## Mega Waiver

### HMIS Lead Activities

**Requirement:** ESG funds may be used to pay the costs of managing and operating the HMIS, provided that the ESG recipient is the HMIS Lead.

**Citation:** 24 CFR 576.107(a)(2)

**Explanation:** To enable ESG-funded projects to participate in HMIS as required by section 416(f) of the McKinney-Vento Homeless Assistance Act,

24 CFR 576.107(a)(2) authorizes the use of ESG funds for managing and operating the HMIS (e.g., hosting and maintaining HMIS software or data, upgrading, customizing, and enhancing the HMIS), only where the ESG recipient is the HMIS Lead, as designated by the CoC.

**Justification:** Waiving the rule as specified below would allow more recipients to use ESG funding to upgrade or enhance the HMIS as needed to incorporate ESG program data related to COVID-19.

**Applicability:** The condition that the recipient must be the HMIS Lead to pay costs under 24 CFR 576.102(a)(2) is waived to the extent necessary to allow any recipient to use ESG funds to pay costs of upgrading or enhancing its local HMIS to incorporate data on ESG Program participants and ESG activities related to COVID-19. This waiver is in effect for 6-months beginning on the date of this memorandum.

### Re-evaluations for Homelessness Prevention Assistance

**Requirement:** Homelessness prevention assistance is subject to re-evaluation of each program participant's eligibility need for assistance not less than once every 3 months.

**Citation:** 24 CFR 576.401(b)

**Explanation:** The ESG regulations at 24 CFR 576.401(b) requires recipients or subrecipients providing homelessness prevention assistance to re-evaluate the program participant's eligibility, and the types and amounts of assistance the program participant needs not less than once every 3 months.

**Justification:** Waiving re-evaluation requirement for homelessness prevention assistance as specified below is necessary to help program participants remain stable in housing during the economic uncertainty caused by COVID-19.

**Applicability:** The required frequency of re-evaluations for homelessness prevention assistance under section 576.401(b) is waived for up to 2-years beginning on the date of this memorandum, so long as the recipient or subrecipient conducts the required re-evaluations not less than once every 6 months.

### Housing Stability Case Management

To the extent that funding provided under the CARES Act for the ESG program is subject to the same requirements in 24 CFR part 576 that apply to ESG funding provided through annual appropriations, the waivers made available on March 31, 2020 for ESG are made available with respect to the CARES Act funding for the same justifications and subject to the same conditions.

Additionally, the following housing stability case management waiver is made available with respect to all ESG grants, whether funded under the CARES Act or annual ESG appropriations.

**Requirement:** Program participants receiving homelessness prevention or rapid re-housing assistance must meet with a case manager not less than once per month, unless certain statutory prohibitions apply.

**Citation:** 24 CFR 576.401(e)

**Explanation:** Under 24 CFR 576.401(e), the recipients or subrecipients must require program participants to meet with a case manager not less than once per month to assist them in ensuring long-term housing stability, unless the Violence Against Women Act of 1994 or Family Violence Prevention and Services Act prohibits the recipient or subrecipient from making its shelter or housing conditional on the participant's acceptance of services. As provided by the CARES Act, people experiencing homelessness cannot be required to receive treatment or perform any other prerequisite activities as a condition for receiving shelter, housing, or other services funded with ESG grants provided under the CARES Act. Accordingly, 24 CFR 576.401(e) does not apply to the extent the assistance is provided with CARES Act funding to people who qualified as homeless at the start of that assistance.

**Justification:** HUD originally waived this requirement for 2-months on March 31, 2020. Recipients are continuing to report limited staff capacity as staff members are home for a variety of reasons related to COVID-19 (e.g., quarantining, children home from school, working elsewhere in the community to manage the COVID-19 response). In addition, not all program participants have capacity to meet via phone or internet. Waiving the monthly case management requirement as specified below will allow recipients to provide case management on an as needed basis and reduce the possible spread and harm of COVID-19.

**Applicability:** This waiver is in effect for an additional three months beginning on March 31, 2020.

## Restriction of Rental Assistance to Units with Rent at or Below FMR

- Requirement:** Restriction of rental assistance to units with rent at or below FMR.
- Citation:** 24 CFR 576.106(d)(1)
- Explanation:** Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR Part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.
- Justification:** Quickly moving people into permanent housing is especially critical in preventing the spread of COVID-19. Waiving the limit on rental assistance to rents that are equal to or less than the FMR, established by HUD, will assist recipients and subrecipients in more quickly locating additional units to house individuals and families experiencing homelessness.
- Applicability:** The FMR restriction is waived for any individual or family receiving Rapid Re-housing or Homelessness Prevention assistance who executes a lease for a unit during the 6-month period beginning on the date of this memorandum. The ESG recipient or subrecipient must still ensure that the units in which ESG assistance is provided to these individuals and families meet the rent reasonableness standard.

[Availability of Waivers of CPD Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 \(March 31, 2020\)](#)

[Availability of Waivers of Community Planning and Development \(CPD\) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19](#)

[Availability of Additional Waivers for Community Planning and Development \(CPD\) Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 \(May 22, 2020\)](#)

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## *HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)*

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[HOME COVID-19 guidance](#) and the necessary statutory suspensions and regulatory waivers to enable HOME participating jurisdictions (PJs) affected by the Coronavirus Disease 2019 (COVID-19) pandemic to use HOME funds to address immediate housing needs and to help prevent spread of the virus. This is divided into two sections. Section I addresses PJs located in areas covered by a major disaster declaration made under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). Section II describes regulatory waivers available to all HOME PJs, not just those included in a major disaster declaration. Provisions that are not specifically suspended or waived remain in full effect.

CPD Field Offices shall inform PJs of the availability of these suspensions and waivers. A PJ that intends to implement the HOME statutory suspensions and/or regulatory waivers identified below, must send written notification via e-mail to the CPD Division in its local HUD Field Office before it implements the waiver or suspension. This written notification must identify which suspensions and/or waivers the PJ plans to use.

### [Waiver and Suspension Authority](#)

Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended, authorizes HUD to suspend HOME statutory requirements to assist PJs in addressing the damage in an area for which the President has issued a major disaster declaration under Title IV of the Stafford Act and to assist them in disaster recovery.

Upon determination of good cause, in accordance with 24 CFR 5.110, HUD may waive regulatory provisions subject to statutory limitations. These provisions provide HUD the authority to make waiver determinations for the HOME program.

### [Section I: Statutory Suspensions and Regulatory Waivers Available Only to Major Disaster Areas](#)

Pursuant to the authority provided in Section 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justifications that follow, to suspend the statutory provisions and waive the related regulatory provisions described below for PJs covered by a major disaster declaration under Title IV of the Stafford Act as a result of the COVID-19 pandemic. These suspensions and waivers are also available to any PJ that receives a major disaster declaration related to the COVID-19 pandemic after the date of this memo. These suspensions and waivers are intended to provide maximum administrative flexibility to PJs and better assist low- and very low-income households as they deal with the effects of the COVID-19 pandemic.

### [10% Administration and Planning Cap](#)

<b>Requirement:</b>	Limitation on the Use of HOME Funds for Administrative Costs
<b>Citations:</b>	Section 212(c) of NAHA and 24 CFR 92.207
<b>Explanation:</b>	These provisions limit the amount of HOME funds that a PJ may use for administrative and planning costs associated with its HOME award. A PJ may expend up to 10 percent of its annual HOME allocation, plus any program income received, for administrative and planning costs. These provisions are suspended to enable the PJ to expend up to 25 percent of its FY 2019 and FY 2020 allocations and program income received for administrative and planning costs.
<b>Justification:</b>	This suspension is required to provide the PJ adequate funds to pay for the increased cost of administering HOME-related activities to address the effects of COVID-19, including attempts

to prevent the spread of the virus. The suspension is also intended to relieve the PJ of the burden of identifying other general funds to pay HOME administrative and planning costs at a time when the State and local tax revenues that provide general operating revenue are decreasing.

**Applicability:** This suspension and waiver applies to the FY 2019 and FY 2020 HOME allocations of PJs that are covered by a major disaster declaration.

### CHDO Set-aside Requirement

**Requirement:** Set-aside for Community Housing Development Organizations (CHDOs)

**Citations:** Section 231 of NAHA and 24 CFR 92.300(a)(1)

**Explanation:** These provisions establish a set-aside for CHDOs. The PJ must use 15 percent of each annual allocation of HOME funds only for housing owned, developed, or sponsored by CHDOs.

**Justification:** The suspension and waiver are required to relieve the PJ of requirements that may impede the obligation and use of funds to expeditiously assist families affected by the COVID-19 pandemic. Suspension of the CHDO set-aside will immediately make additional HOME funds available for activities such as tenant-based rental assistance for which CHDO set-aside funds cannot be used.

**Applicability:** The CHDO set-aside requirement is reduced to zero percent for the fiscal year 2017, 2018, 2019, and 2020 allocations of State and local PJs.

### Limits and Conditions on CHDO Operating Expense Assistance

**Requirement:** Operating Assistance for Community Housing Development Organizations (CHDOs)

**Citations:** Section 212(g) and 234(b) of NAHA; 24 CFR 92.208 and 24 CFR 92.300(e) and (f)

**Explanation:** Section 212(g) of NAHA and 24 CFR 92.208 limit the amount of CHDO operating assistance that a PJ may provide to 5% of each annual HOME allocation. Section 234(b) of NAHA and 24 CFR 92.300(f) limit the amount of CHDO operating assistance, in combination with certain other forms of assistance, that each CHDO may receive to the greater of 50% of its annual operating budget or \$50,000. 24 CFR 92.300(e) requires a CHDO receiving operating assistance that is not currently receiving CHDO set-aside funding for a specific project must be expected to receive such funding within 24 months.

These statutory provisions are suspended and regulatory provisions are waived to permit a PJ to provide up to 10% of its FY 2019 and FY 2020 HOME allocations as operating assistance to CHDOs and to permit a CHDO to receive funding to fill operating budget shortfalls, even if the amount exceeds the higher of \$50,000 or 50% of its annual operating budget. Furthermore, PJs will not be required to include a provision in the written agreement with the CHDO that the CHDO is expected to receive CHDO set-aside funds within 24 months of receiving the additional operating assistance, as required in 24 CFR 92.300(e).

**Justification:** The suspension and waiver of these requirements is required to ensure that CHDOs are able to maintain operations and retain staff capacity to own, develop and sponsor housing with CHDO set-aside funds to serve communities impacted by the COVID-19 pandemic



**Applicability:** PJs in areas covered by a major disaster declaration may use up to 10% of their FY 2019 and FY 2020 allocations for CHDO operating assistance. A CHDO receiving increased operating assistance must use the assistance to maintain organizational capacity during the COVID-19 pandemic. CHDOs may receive increased operating assistance under these suspensions and waivers through June 30, 2021.

### Matching Contribution Requirement

**Requirement:** Reduction of Matching Contributions

**Citation:** 24 CFR 92.218 and 92.222(b)

**Explanation:** The provisions of 24 CFR 92.218 and 24 CFR 92.222(b) require all HOME PJs to contribute throughout the fiscal year to housing that qualifies as affordable housing under the HOME program. The contributions must total no less than 25 percent of the HOME funds drawn from the PJ's HOME Investment Trust Fund Treasury account. The COVID-19 pandemic has drastically reduced economic activity, reducing state and local tax revenues and placing financial strain on PJs as they deliver urgently needed public health, emergency housing, education, community and social services. Reducing the matching requirement for PJs in areas covered by a major disaster declaration by 100 percent for FY 2020 and FY 2021 will ease the economic burden on PJs and eliminate the need for them to identify other sources of match for HOME activities

**Justification:** Given the urgent housing and economic needs created by COVID-19, and the substantial financial impact the PJ will face in addressing those needs, waiver of these regulations will relieve the PJ from the need to identify and provide matching contributions to HOME projects.

**Applicability:** This match reduction applies to funds expended by a PJ located in Presidentially declared-disaster area between October 1, 2019 and September 30, 2021.

### Section II: Regulatory Waivers Available to All Participating Jurisdictions

The following regulatory waivers are available to all PJs, not just those PJs covered by a major disaster declaration under Title IV of the Stafford Act. Pursuant to the authority provided in 24 CFR 5.110, I hereby waive the HOME regulatory requirements specified below for all HOME PJs.

#### Citizen Participation Reasonable Notice and Opportunity to Comment

**Citation:** 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), and, 24 CFR 91.235(e) (Insular areas) 24 CFR 91.401 (Consortia)

**Explanation:** The regulations at 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia) set forth the citizen participation requirements for PJs. For substantial amendments to the consolidated plan, the regulations require the PJ to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given. This waiver will permit PJs amending their plans as a result of the COVID-19 pandemic to reduce the comment period to 5 days.

**Justification:** Given the unprecedented economic disruptions caused by the COVID-19 pandemic, PJs may need to expeditiously reprogram HOME funds to activities that more directly meet their immediate housing needs, including reprogramming funds to cover increased administrative

costs or away from other development activities. Requiring these PJs to complete the required public comment period would cause undue delays in the face of urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing need caused by the COVID-19 pandemic.

**Applicability:** This waiver is in effect for any necessary substantial amendments to FY 2020 and earlier consolidated plans or action plans

## Income Documentation

**Requirement:** Source Documentation for Income Determinations

**Citations:** 24 CFR 92.203(a)(1) and (2), 24 CFR 92.64(a) (Insular Areas)

**Explanation:** These sections of the HOME regulation require initial income determinations for HOME beneficiaries by examining source documents covering the most recent two months. 24 CFR 92.64(a) applies these requirements to Insular Areas.

**Justification:** This waiver permits the PJ to use self-certification of income, as provided at §92.203(a)(1)(ii), in lieu of source documentation to determine eligibility for HOME assistance of persons requiring emergency assistance related to COVID-19. Many families affected by actions taken to reduce the spread of COVID-19, such as business closures resulting in loss of employment or lay-offs, will not have documentation that accurately reflects current income and will not be able to qualify for HOME assistance if the requirement remains effective.

**Applicability:** The waiver applies to individuals and families that have lost employment or income either permanently or temporarily due to the COVID-19 pandemic and who are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program. This waiver also applies to homeless individuals and families who are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program. Timely provision of this assistance will reduce the spread of COVID-19.

If a PJ chooses to use this waiver availability, the PJ must ensure that self-certified income takes into consideration all income, including any unemployment and emergency benefits the applicant will receive. However, for purposes of an applicant's self-certification, emergency tax relief (commonly referred to as stimulus payments) is not to be included as an emergency benefit. Also, the PJ must arrange to conduct on-site rent and income reviews within 90 days after the waiver period. The PJ must include tenant income certifications in each project file. This waiver remains in effect through December 31, 2020.

## On-Site Inspections of HOME-assisted Rental Housing

**Requirement:** Ongoing Periodic Inspections of HOME-assisted Rental Housing

**Citation:** 24 CFR 92.504(d)(1)(ii) and 24 CFR 92.64(a) (Insular Areas)

**Explanation:** These provisions require that during the period of affordability PJs perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards at §92.251 and to verify the information submitted by the owners in accordance with the income and rent requirements of §92.252. On-site inspections must occur at least once every three

years during the period of affordability. 24 CFR 92.64(a) applies these requirements to Insular Areas.

**Justification:** Waiving the requirement to perform ongoing on-site inspections will help protect PJ staff and limit the spread of COVID-19. To protect PJ staff and reduce the spread of COVID-19, this waiver extends the timeframe for PJs to perform on-site reviews to determine a HOME rental project's compliance with rent and income requirements if the project owner is unable to make the documentation available electronically.

**Applicability:** The waiver is applicable to ongoing periodic inspections and does not waive the requirement to perform initial inspections of rental properties upon completion of construction or rehabilitation. The waiver is in effect through December 31, 2020. Within 120 days of the end of this waiver period, PJs must physically inspect units that would have been subject to HQS inspections during the waiver period.

### Annual Inspection of Units Occupied by Recipients of HOME Tenant-Based Rental Assistance (TBRA)

**Requirement:** Annual Inspections of TBRA Units

**Citation:** 24 CFR 92.504(d)(1)(iii); 24 CFR 92.209(i) requirement for annual re-inspections. 24 CFR 92.64(a) (Insular Areas)

**Explanation:** These provisions require PJs to annually inspect each unit occupied by a recipient of HOME TBRA. 24 CFR 92.64(a) applies these requirements to Insular Areas.

**Justification:** Waiving the requirement that these annual inspections be performed according to schedule will protect the health of both inspectors and TBRA tenants by observing physical distancing recommendations to limit the spread of COVID-19.

**Applicability:** The waiver is applicable to annual HQS re-inspections required to occur from the date of this memorandum through December 31, 2020. At the end of this waiver period, PJs must inspect units that would have been subject to HQS inspections during the waiver period within 90 days of the expiration of the waiver. In addition, PJs shall make reasonable efforts to address any tenant-reported health and safety issues during the waiver period.

### Four-Year Project Completion Requirement

**Requirement:** Four-Year Project Completion Deadline

**Citation:** 24 CFR 92.205(e)(2) and 24 CFR 92.64(a) (Insular Areas)

**Explanation:** The provision requires that projects assisted with HOME funds be completed within 4 years of the date that HOME funds were committed. If the project is not complete, in accordance with the definition of "project completion" at 24 CFR 92.2, by the deadline, the project is involuntarily terminated in HUD's Integrated Data Information System (IDIS), and the PJ must repay all funds invested in the project. The regulations permit a PJ to request an extension of the deadline for up to one-year. 24 CFR 92.64(a) applies these requirements to Insular Areas.

**Justification:** This waiver is necessary to provide additional time to permit completion of HOME-assisted projects that may be delayed as a result of the impact of COVID-19 on project timelines. These delays may occur as a result of worker illnesses or efforts to reduce the spread of COVID-19, such as smaller construction crews or delays in local permitting or inspections due to government office closures.

**Applicability:** This waiver applies to projects for which the 4-year project completion deadline will occur on or after the date of this memorandum. The completion deadlines for covered projects are extended to December 31, 2020.

### Nine-Month Deadline for Sale of Homebuyer Units

**Requirement:** Qualification as Affordable Housing: Homeownership

**Citation:** 24 CFR 92.254(a)(3) and 24 CFR 92.64(a) (Insular Areas)

**Explanation:** This provision requires that a homebuyer housing unit developed with HOME funds have a ratified contract for sale to an eligible homebuyer within 9 months of the date of completion of construction or rehabilitation. If there is no ratified sales contract with an eligible homebuyer within 9 months of completion of construction or rehabilitation, the housing must be rented to an eligible tenant in accordance with §92.252. 24 CFR 92.64(a) applies these requirements to Insular Areas.

**Justification:** Many PJs will not be able to meet this deadline due to the effect the COVID-19 pandemic will have on the ability of eligible households to qualify for mortgages due to income losses or to schedule inspections, titles searches, or closings during periods of business closures. The waiver is necessary to prevent the loss of homeownership opportunities for HOME-eligible families and temporarily suspend the required corrective actions of repayment of HOME funds or conversion of the homebuyer units to rental housing.

**Applicability:** The waiver applies to projects for which the 9-month homebuyer sale deadline occurs on or after the date of this memorandum and extends the deadline for those projects to December 31, 2020. This waiver does not apply to the remaining requirements of the regulation, including that a homebuyer must receive housing counseling, and that a PJ must determine eligibility of a family by including the income of all persons living in the housing.

### Use of HOME Funds for Operating Reserves for Troubled HOME Projects

**Requirement:** Troubled HOME Projects

**Citations:** 24 CFR 92.210(a) and (b) and 24 CFR 92.64(a) (Insular Areas)

**Explanation:** 24 CFR 92.210 establishes provisions to permit HOME rental projects that are not financially viable (i.e., projects for which operating costs significantly exceed operating revenue) to be preserved through the use of HOME funds to recapitalize project reserves. 24 CFR 92.210(a) requires HUD to review market needs, available resources, and the likelihood of long-term viability of the project before approving this use of HOME funds. 24 CFR 92.210(b) requires a written memorandum of agreement between HUD and the PJ as a precondition of this funding and certain limitations on the amount of funding. 24 CFR 92.64(a) applies these requirements to Insular Areas.

**Justification:** The waiver is necessary to enable PJs to take rapid action to preserve the financial viability of HOME-assisted affordable rental projects currently under a HOME period of affordability. Because existing tenants in HOME units may be unable to meet their rent obligations due to the economic impact of the COVID-19 pandemic, HOME rental projects may experience operating deficits due to the sudden decrease in rental revenue

**Applicability:** The waiver applies to HOME-assisted rental projects currently within the period of affordability established in the HOME written agreement. PJs will not be required to obtain HUD approval or execute a memorandum of agreement with HUD before providing this assistance. PJs may only exercise this waiver authority when the project owner agrees to forego: 1) any distributions of residual receipts resulting from the project throughout the waiver period and for a period of 6 months thereafter; 2) any right under the existing lease agreement or State or local law to pursue legal action against tenants of HOME-assisted units for non-payment of rent and the collection of any fees associated with late payments without prior approval of the PJ; and 3) any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ

The PJ may provide additional HOME funds to recapitalize operating deficit reserves for HOME-assisted rental projects if the PJ determines that the project is experiencing operating deficits related to the economic effects of the COVID-19 pandemic during the waiver period. The PJ may only provide this assistance to projects experiencing operating deficits that will not be covered by insurance or other sources (e.g., other private, local, state, or federal funds)

The maximum amount of HOME assistance that may be provided is equal to the total of the project's operating expenses, previously scheduled payments to a replacement reserve, and actual debt service (excluding debt service of loans in forbearance) multiplied by the proportionate share of HOME-assisted units to the total number of units in the project for the period beginning on April 1, 2020 and ending on December 31, 2020. Project operating expenses may be demonstrated by one of the following:

- The Owner's most recent year to date financials for the project;
- Certified project-level accounting records covering the most recent 3 months; and
- Copies of project-level bank statements covering the most recent 3 months.

Project operating expenses may also be adjusted due to COVID-19-related expenditures and foregone expenses due to social distancing measures and other COVID-19-related impacts. An owner may demonstrate these expenses with recent receipts, copies of work orders, revised budgets that have been certified by the project owner as true, accurate representations of current expenditures.

In order to take advantage of this waiver, PJs must amend the HOME written agreement with the project owner to include the amount of HOME funds that will be provided to an operating reserve (i.e., the proportion of total costs attributable to HOME units as described in the paragraph above), the costs eligible to be paid with HOME funds in the operating reserve (i.e., operating expenses, scheduled payments to a replacement reserve, and qualifying debt service), and the documentation the PJ is required to maintain to demonstrate the allowable amounts and eligibility of costs paid with the HOME funds in the operative reserve.

The written agreement must specify that the owner must forego: 1) any distributions of residual receipts during the period this waiver is in effect and for a period of 6 months thereafter; 2) any right under the existing lease agreement or State or local law to pursue legal action against tenants of HOME-assisted units for non-payment of rent and the collection of any fees associated with late payments without prior approval of the PJ; and 3) any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ.

Within 6 months following the waiver period, the PJ must review the project's records of actual revenue and operating expenses, total amount of HOME funds expended from the operating reserve, and the eligibility of expenses by examining invoices and receipts. The written agreement must require the project owner to repay any expenditures for costs determined to be ineligible and any balance of HOME funds remaining in the reserve after December 31, 2020. Any HOME funds repaid to the PJ must be deposited in the local HOME account and reported as program income in IDIS.

The waiver is effective through December 31, 2020.

### [Timeframe for a Participating Jurisdiction's Response to Findings of Noncompliance](#)

<b>Requirement:</b>	Corrective and Remedial Actions
<b>Citations:</b>	24 CFR 92.551(b)(1) and 24 CFR 92.64(a) (Insular Areas)
<b>Explanation:</b>	24 CFR 92.551(b)(1) requires that if HUD determines preliminarily that a PJ has not met a provision of the HOME regulations, the PJ must be notified and given an opportunity to respond within a time period prescribed by HUD, not to exceed 30 days. 24 CFR 92.64(a) applies this requirement to Insular Areas.
<b>Justification:</b>	The waiver is necessary to permit HUD to provide a PJ with an extended period to respond to findings of noncompliance in recognition of the unanticipated circumstances created by the COVID-19 pandemic. While HUD must continue its oversight function for the HOME Program, requiring PJs to respond to all findings of noncompliance within 30 days may interfere with a PJ's ability to address the unprecedented housing needs caused by the COVID-19 pandemic.
<b>Applicability:</b>	The waiver applies to all findings of noncompliance with the HOME regulations issued from the date of this memorandum through December 31, 2020. In the notice of findings, HUD will specify a time period for the PJ's response based on the nature of the noncompliance and required corrective action(s). HUD may also, upon request by the PJ, extend time periods imposed before the date of this memorandum.

### [Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID-19 Pandemic](#)

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## ***HOME-ASSISTED TENANT-BASED RENTAL ASSISTANCE (TBRA) FOR EMERGENCY AND SHORT-TERM ASSISTANCE***

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### **HOME – TBRA – Suspensions and Regulatory Waivers**

Guidance and the necessary statutory suspensions and regulatory waivers to enable HOME participating jurisdictions (PJs) affected by the Coronavirus Disease 2019 (COVID-19) pandemic to use HOME tenant-based rental assistance (TBRA) funds to facilitate urgent housing assistance to the communities and families experiencing financial hardship. It is divided into two sections. Section I addresses PJs located in the areas covered by a major disaster declaration made under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). Section II describes regulatory waivers available to all HOME PJs not just those PJs included in a major disaster declaration. Provisions that are not specifically suspended or waived remain in full effect.

While HOME program funds are primarily a resource for the physical development of affordable housing, the Department recognizes that the COVID-19 pandemic has caused widespread economic damage and created an unprecedented need for housing assistance among individuals and families directly affected by these unanticipated economic changes. The suspensions and waivers provided will allow PJs to use HOME funds for TBRA to individuals and families experiencing financial hardship as a result of the COVID-19 pandemic, including 1) providing immediate rental assistance to individuals and families seeking housing, 2) assisting households that have housing but face reduced or lost wages, and 3) assisting existing TBRA families that need additional assistance due to reduced or lost wages.

CPD Field Offices shall inform PJs of the availability of these suspensions and waivers. A PJ that intends to implement the HOME statutory suspensions and/or regulatory waivers identified below must send written notification via e-mail to the CPD Division in its local HUD Field Office before it implements the waiver and/or suspension. This written notification must identify which suspensions and/or waivers the PJ plans to use.

#### **Waiver and Suspension Authority**

Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended, authorizes HUD to suspend, respectively, HOME statutory requirements to assist PJs in addressing the damage in an area for which the President has issued a major disaster declaration under Title IV of the Stafford Act and to assist them in disaster recovery.

Upon determination of good cause, in accordance with 24 CFR 5.110, HUD may waive regulatory provisions subject to statutory limitations. These provisions provide HUD the authority to make waiver determinations for the HOME program.

#### **Section I: Statutory Suspensions and Regulatory Waivers Available Only to Major Disaster Areas**

Pursuant to the authority provided in Section 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justifications that follow, to suspend HOME statutory requirements and waive related regulatory requirements specified below for PJs covered by a major disaster declaration under the Title IV of the Stafford Act as a result of the COVID-19 pandemic.



## Consolidated Plan – HOME Certification, Analysis of Local Market Conditions, and Citizen Participation

- Citations:** Section 212(a)(3)(A)(i) of NAHA and 24 CFR 92.209(b)  
24 CFR 91.105(c)(2) and (k), 24 CFR 91.215(b)(1) and (e) and 24 CFR 91.225(d)(1) (Local governments), 24 CFR 91.115(c)(2) and (i), 24 CFR 91.315(b)(1) and (e) and 24 CFR 91.325(d)(1) (States), 24 CFR 91.401, 24 CFR 91.415 and 24 CFR 91.425(2)(i) (Consortia), and 24 CFR 91.235(e) and 24 CFR 92.61 (Insular Areas)
- Explanation:** Section 212(a)(3)(A)(i) of NAHA requires that a PJ that intends to use HOME funds for TBRA certify that the provision of such assistance is an essential part of its Consolidated Plan based on an analysis of local market conditions. This requirement is codified in 24 CFR 92.209(b) and for Insular Areas 24 CFR 92.61, as well as in the Consolidated Submissions for Community Planning and Development Programs regulations at 24 CFR 91.215(b)(1) and (e) and 91.225(d)(1) (for local governments), 24 CFR 91.315(b)(1) and (e) and 91.325(d)(1) (for States), and 24 CFR 91.415 and 91.425(2)(i) (for Consortia). When amending its Consolidated Plan, a PJ must follow the citizen participation plan it developed and adopted in accordance with 24 CFR 91.105(c)(2) and (k) (for local governments), 24 CFR 91.115(c)(2) and (i) (for States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (for Consortia). The citizen participation plan must provide citizens with reasonable notice and an opportunity to comment. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given and provide a period of not less than 30 calendar days to allow citizens to submit comments.
- This suspension will eliminate: 1) the requirement for PJs to amend their Consolidated Plans to include or revise an analysis of local market conditions before implementing a TBRA program; and 2) the requirement that PJs certify that the use of HOME funds for TBRA is an essential element of the Consolidated Plan and that it has conducted an analysis of local needs. PJs that choose to use HOME TBRA to address the urgent housing needs resulting from the COVID-19 pandemic may do so by amending their Annual Action Plan to reflect the use of HOME funds for TBRA without meeting these requirements.
- Justification:** Given the unprecedented economic disruptions and associated job losses caused by the COVID-19 pandemic, there is an urgent need for TBRA assistance in communities across the country. Requiring PJs to conduct an analysis of local market conditions, amend their Consolidated Plan, and complete the required public comment period would cause undue delays in commencing TBRA programs to address the urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing needs created by the COVID-19 pandemic.
- Applicability:** This suspension and regulatory waiver is applicable to a PJ's current 5-year Consolidated Plan and any Consolidated/Action Plans being amended to reprogram funds to TBRA to address housing needs related to the COVID-19 pandemic.



## Tenant Selection and Targeted Assistance

- Citation:** Section 212(a)(3)(A)(ii) of NAHA, 24 CFR 92.209(c) and 24 CFR 92.64(a) (Insular Areas)
- Explanation:** Section 212(a)(3)(A)(ii) of NAHA requires a PJ to establish written tenant selection criteria for its TBRA program. In accordance with 24 CFR 92.209(c), or 24 CFR 92.64(a) for Insular Areas, those criteria must be consistent with the local housing needs and priorities established in the PJ's Consolidated Plan. This suspension will eliminate the need for PJs to develop or revise written tenant selection criteria and will allow PJs to assist individuals requiring immediate housing assistance as a result of the COVID-19 pandemic.
- Justification:** Given the sudden onset and severe effects of the COVID-19 pandemic, PJs could not anticipate the urgent, widespread housing needs created by the pandemic or reflect those needs and priorities in the Consolidated Plan. Suspending this provision will provide PJs with greater flexibility to expeditiously use TBRA as a resource to assist individuals and families affected by the COVID-19 pandemic.
- Applicability:** Suspending Section 212(a)(3)(A)(ii) of NAHA and waiving 24 CFR 92.209(c) and 24 CFR 92.64(a) for Insular Areas eliminates the requirement for PJs to establish new or revise existing tenant selection criteria for the HOME TBRA program. The statutory suspension and regulatory waiver are in effect through December 31, 2020, for TBRA provided in response to the COVID-19 pandemic. However, a PJ must document its criteria for selecting individuals and families to be assisted by the TBRA program.

## Section II: Regulatory Waivers Available to All Participating Jurisdictions

The following regulatory waivers are available to all PJs, not just those PJs covered by a major disaster declaration under Title IV of the Stafford Act. Pursuant to the authority provided in 24 CFR 5.110, I hereby waive the HOME regulatory requirements specified below for all HOME PJs.

### Citizen Participation Reasonable Notice and Opportunity to Comment

- Citation:** 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia)
- Explanation:** The regulations at 24 CFR 91.105(c)(2) and (k) (Local governments), 24 CFR 91.115(c)(2) and (i) (States), 24 CFR 91.235(e) (Insular Areas), and 24 CFR 91.401 (Consortia) set forth the citizen participation requirements for PJs. For substantial amendments to the Consolidated Plan, the regulations require the PJ to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given. This waiver will permit PJs amending their plans as a result of the COVID-19 pandemic to reduce the comment period to 5 days.
- Justification:** Given the unprecedented economic disruptions caused by the COVID-19 pandemic, the need for this type of assistance in communities across the country is clear. Requiring these PJs to complete the required public comment period would cause undue delays in commencing TBRA programs to address an urgent and growing need. PJs must have the ability to respond immediately to the unprecedented housing need caused by the COVID-19 pandemic.
- Applicability:** This waiver applies to any approved Annual Action Plan being amended to reprogram funds to TBRA to address housing needs related to the COVID-19 pandemic.

## Rent Reasonableness

- Citations:** 24 CFR 92.209(f) and 24 CFR 92.64(a) (Insular Areas)
- Explanation:** In accordance with the HOME regulations at 24 CFR 92.209(f), a PJ must disapprove a lease if the rent is not reasonable, based on an assessment of rents charged for comparable unassisted rental units. The HOME regulations at 24 CFR 92.64(a) applies this requirement to Insular Areas. This waiver will permit PJs to provide immediate rental assistance to individuals and families seeking housing and assist individuals and families that have housing but are experiencing reduced or lost wages, without requiring an assessment of rents charged for comparable unassisted rental units.
- Justification:** Given the unprecedented need for rental assistance for individuals facing financial hardship during the pandemic, requiring PJs to conduct a rent comparison prior to providing rental assistance presents an undue administrative burden. PJs must focus on providing immediate housing for income-eligible individuals currently not in stable housing, as well as assistance to income-eligible individuals that currently have housing, but are unable to pay rent and/or utilities due to lost or reduced wages. In the latter case, some households affected by sudden economic disruptions may be occupying housing with rents that would exceed a PJ's established rent reasonableness standard. Without this waiver, those households could not be assisted with HOME TBRA.
- Applicability:** This waiver is applicable to TBRA provided to individuals and tenant households experiencing financial hardship because of a reduction or loss of income. This requirement is waived through December 31, 2020, for TBRA provided in response to the COVID-19 pandemic. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant.

## Eligible Tenant-based Rental Assistance Costs and Maximum TBRA Subsidy

- Citation:** 24 CFR 92.209(a) and (h) and 24 CFR 92.64(a) (Insular Areas)
- Explanation:** The HOME regulations at 24 CFR 92.209(a) state that eligible TBRA costs include rental assistance and security deposit payments made to income-eligible households. PJs can also use HOME funds to provide utility deposit assistance if such assistance is provided in conjunction with TBRA or a security deposit payment. The amount of monthly utility costs included in HOME TBRA is limited by the utility allowance established by the PJ for its TBRA program, irrespective of whether those utilities are paid by the landlord or the tenant.
- In accordance with 24 CFR 92.209(h), the maximum amount of monthly assistance a PJ may pay to, or on behalf of, a tenant, may not exceed the difference between the PJ's rent standard and 30 percent of the tenant's monthly adjusted income. The PJ must establish a minimum tenant contribution to rent, and a rent standard that is based on local market conditions or the subsidy standards under the Section 8 Housing Choice Voucher Program. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas.
- This waiver will allow PJs to pay the full cost of monthly utilities in addition to rental assistance and security deposit payments for new and existing TBRA families affected by the COVID-19 pandemic. PJs may provide up to 100 percent subsidy for rent, security deposit payments, and utility bills paid by tenants affected by a reduction or loss of income from the COVID-19 pandemic. The waiver also eliminates the need for the PJ to establish utility allowances for different types and sizes of units for its TBRA program, which eliminates a significant administrative burden.

**Justification:** The COVID-19 pandemic has caused widespread loss or reduction of income, significantly affecting the financial stability of households, including existing TBRA families, and rendering many unable to pay rent and/or utilities. Households must be able to maintain the basic utilities required to ensure housing remains safe and sanitary. Permitting PJs to use HOME funds to pay for utilities will enable affected households to maintain decent, safe and sanitary housing, which necessarily requires electricity, water, and/or gas service during the pandemic.

As individuals experience financial hardship, the amount of assistance required to ensure they remain housed will often exceed the PJ's payment standard. In addition, individuals may be unable to pay the PJ's minimum required tenant contribution toward rent. Requiring PJ's to establish or revise payment standards and the minimum tenant contribution to rent policies in the current emergency would be burdensome and delay the provision of TBRA in response to the pandemic.

**Applicability:** This waiver is applicable to TBRA provided to individuals or families experiencing financial hardship, including existing TBRA families that have experienced a loss or reduction in income due to the COVID-19 pandemic. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant for a term mutually agreed upon by all parties, but not to exceed the December 31, 2020, waiver period. The PJ may make utility payments directly to the tenant or utility company based on utility bills submitted for the assisted unit, either by mail or electronically.

### Term of Rental Assistance Contract

**Citation:** 24 CFR 209(e) and 24 CFR 92.64(a) (Insular Areas)

**Explanation:** The HOME regulations at 24 CFR 209(e) state that the term of the rental assistance contract must begin on the first day of the term of the lease. For a rental assistance contract between a PJ and an owner, the term of the contract must terminate upon termination of the lease. For a rental assistance contract between a PJ and a family, the term of the contract is not required to terminate upon the termination of the lease, but no payments may be made after lease termination until the family executes a new lease. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver eliminates the requirement that the rental assistance contract must begin on the first day of the term of lease.

**Justification:** This waiver is necessary to enable PJs to assist tenants that are currently housed, including existing TBRA households, but have experienced sudden financial hardship as a result of the COVID-19 pandemic. Because affected households already have an executed lease, it is impossible for the TBRA contract to begin on the first day of the term of the lease.

**Applicability:** This requirement is waived through December 31, 2020, for TBRA provided in response to the COVID-19 pandemic. The PJ's requirement to execute a rental assistance contract with the owner or tenant is not waived. PJs using this waiver authority must execute a rental assistance contract with the owner or tenant for a term mutually agreed upon by all parties, but not to exceed the December 31, 2020, waiver period.

## Tenant Protections – Lease

- Citation:** 24 CFR 92.209(g) and 24 CFR 92.64(a) (Insular Areas)
- Explanation:** The HOME regulations at 24 CFR 92.209(g) require that each HOME-assisted tenant have a lease that complies with the tenant protection requirements of 24 CFR 92.253(a) and (b). In accordance with 24 CFR 92.253(a), there must be a lease between the tenant and the owner of rental housing assisted with HOME TBRA. The lease must have a term of not less than one year, unless both parties mutually agree to a shorter period. The lease cannot contain any of the prohibited lease terms defined in 24 CFR 92.253(b). The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver will permit PJs to assist individuals currently housed but facing financial hardship, where an executed lease is already in place.
- Justification:** During the COVID-19 pandemic, PJs may assist individuals that are already in rental units but are unable to pay rent and/or utilities due to job loss or reduced wages. These individuals already have an executed lease that may include one or more of the prohibited lease terms included in 24 CFR 92.253(b). Requiring PJs to immediately execute or amend leases creates an undue administrative burden and may disqualify some in-place tenants from receiving TBRA.
- Applicability:** In response to the COVID-19 pandemic, the requirement that a tenant assisted by TBRA have a lease that complies with the requirements of 24 CFR 92.253(a) and (b) is waived through December 31, 2020, for rental assistance provided to tenants already housed who have an executed lease. PJs using this waiver authority are required to execute a rental assistance contract with the tenant for a term mutually agreed upon by all parties, but not to exceed the waiver period ending on December 31, 2020. PJs must still comply with all VAWA requirements contained in 24 CFR 92.359 by including, at a minimum, a lease addendum that addresses all VAWA requirements.

## Housing Quality Standards

- Citation:** 24 CFR 92.209(i) and 24 CFR 92.64(a) (Insular Areas)
- Explanation:** The HOME regulations at 24 CFR 92.209(i) require that all housing occupied by households receiving HOME TBRA must meet the housing quality standards (HQS) at 24 CFR 982.401. The PJ is required to inspect the unit for compliance prior to occupancy and annually thereafter. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver will permit the PJ to rapidly house or assist individuals affected by the COVID-19 pandemic without requiring an initial HQS inspection.
- Justification:** The COVID-19 pandemic has created an unprecedented need for rental assistance for tenant households facing financial hardship. PJs must act quickly to address these needs and requiring HQS inspections of all units where HOME TBRA assistance is provided would create an administrative burden and reduce PJs' ability to respond timely to the housing needs created by the pandemic. In addition, requiring initial HQS inspections would increase housing inspectors' risk of contracting or spreading the COVID-19 virus.
- Applicability:** This waiver is applicable to TBRA provided to tenant households experiencing financial hardship. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. The lead-safe housing requirements of 24 CFR part 35, subpart M, made applicable to units leased by recipients of HOME TBRA by the HOME

regulation at 24 CFR 92.355, cannot be waived. Consequently, units built before 1978 must undergo visual evaluation and paint repair in accordance with 24 CFR Part 35, subpart M. PJs using this waiver authority must establish procedures to minimize the risk that tenants are in housing that does not meet HQS, as well as procedures for conducting physical inspections within 120 days following the end of the December 31, 2020, waiver period.

### Annual Inspection of Units Occupied by Recipients of HOME TBRA

- Citation:** 24 CFR 92.504(d)(1)(iii); 24 CFR 92.209(i) and 24 CFR 92.64(a) (Insular Areas)
- Explanation:** Provisions require PJs to annually inspect each unit occupied by a recipient of HOME TBRA.
- Justification:** Waiving the requirement that these annual inspections be performed according to schedule will protect the health of both inspectors and tenants by observing physical distancing recommendations to limit the spread of COVID-19.
- Applicability:** The waiver applies to annual HQS re-inspections required to occur from the date of this memo through December 31, 2020. Within 120 days of the end of this waiver period, PJs must physically inspect units that would have been subject to HQS inspections during the waiver period.

### Income Determinations

- Citations:** 24 CFR 92.203(a)(2) and 24 CFR 92.64(a) (Insular Areas)  
The HOME regulations at 24 CFR 92.203(a)(2) require the PJ to determine a TBRA tenant's annual income by examining at least 2 months of source documentation evidencing income and projecting anticipated income forward for the next 12 months. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas. This waiver will permit PJs to follow the regulations at 24 CFR 92.203(a)(1)(ii) in lieu of requiring a review of source documentation. The HOME regulations at 24 CFR 92.203(a)(1)(ii) allow the PJ to obtain a written statement of the amount of the family's anticipated annual income and household size, along with a certification that the information is complete and accurate.
- Justification:** Given the rapid and unanticipated economic disruptions caused by the COVID-19 pandemic, source documentation from the past two months may not reflect the current financial circumstances of many households. Requiring PJs to determine an individual's annual income using source documentation would be administratively burdensome, may not reflect current or anticipated income, and may result in individuals or families being incorrectly disqualified from receiving TBRA.
- Applicability:** This waiver is applicable to TBRA provided to individuals or families experiencing financial hardship. This requirement is waived through December 31, 2020, for rental assistance provided in response to the COVID-19 pandemic. The PJ must ensure that the tenant's self-certification indicates how the tenant's financial situation has changed, (i.e., job loss or reduced wages), and includes all income, including any unemployment or emergency benefits received by the tenant as a result of the pandemic. However, for purposes of a tenant's self-certification, emergency tax relief (commonly referred to as stimulus payments) should not be included as an emergency benefit. The PJ must include tenant income certifications in each project file.

### [Suspensions and Waivers to Facilitate Use of HOME-Assisted TBRA for Emergency and Short-term Assistance in Response to COVID-19 Pandemic](#)

## HOME Investment Partnerships Program FAQs

These frequently asked questions (FAQs) provide guidance on Section 4024 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act which imposes a temporary moratorium on evictions.

View [HOME Investment Partnerships Program \(HOME\)](#) Frequently Asked Questions (FAQs) on the [HOME landing page](#).

In addition, these documents contain HOME FAQs organized by topic.

[HOME FAQs - All](#)

[HOME FAQs - Broadband Infrastructure](#)

[HOME FAQs - Community Housing Development Organization](#)

[HOME FAQs - COVID-19 & CARES Act](#)

[HOME FAQs - Cross Cutting Requirements](#)

[HOME FAQs - Homebuyer Housing](#)

[HOME FAQs - Homeowner Rehabilitation](#)

[HOME FAQs - Planning and Coordination](#)

[HOME FAQs - Program Requirements](#)

[HOME FAQs - Rental Housing](#)

[HOME FAQs - Tenant-based Rental Assistance](#)

[HOME FAQs - Underwriting and Project Selection](#)

<https://www.hudexchange.info/onecpd/assets/File/HOME-FAQs-COVID-19.pdf>

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## *HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)*

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### **SUMMARY:**

- [HOPWA Guidance for COVID-19 can be found here.](#)
- \$65 million appropriation, of which:
  - Not less than \$50 million for formula grants (using same data elements as 2020 formula);
  - Up to \$10 million for competitive grants (for existing grantees providing permanent supportive housing, in proportionate share to existing grants; not required to spend funds on permanent supportive housing); and
  - Up to 2 percent for technical assistance (via increase to prior awards of existing technical assistance providers)
- the authority to provide housing assistance payments for rent, mortgage, utilities for up to 24 months;
- the authority to use funds to self-isolate, quarantine, or provide other CDC-recommended infection control services for household members not living with HIV/AIDS;
- the authority to use funds to provide relocation services (including lodging at hotels, motels, or other locations) for persons living with HIV/AIDS and household members not living with HIV/AIDS

## HOPWA (Housing Opportunities for Persons with AIDS) Mega Waiver Self-Certification of Income and Credible Information on HIV Status

**Requirement:** Source Documentation for Income and HIV Status Determinations.

**Citation:** 24 CFR 574.530, Recordkeeping

**Explanation:** Each grantee must maintain records to document compliance with HOPWA requirements, which includes determining the eligibility of a family to receive HOPWA assistance.

**Justification:** This waiver will permit HOPWA grantees and project sponsors to rely upon a family member's self-certification of income and credible information on their HIV status (such as knowledge of their HIV-related medical care) in lieu of source documentation to determine eligibility for HOPWA assistance of families and grantees affected by COVID-19.

**Applicability:** Eligibility is restricted to a low-income person who is living with HIV/AIDS and the family of such person. This waiver is in effect for recipients who require written certification of the household seeking assistance of their HIV status and income, and agree to obtain source documentation of HIV status and income eligibility within 3 months of public health officials determining no additional special measures are necessary to prevent the spread of COVID-19.

## FMR Rent Standard

**Requirement:** Rent Standard for HOPWA Rental Assistance

**Citation:** 24 CFR 574.320(a)(2), Rent Standard

**Explanation:** Grantees must establish rent standards for their rental assistance programs based on FMR (Fair Market Rent) or the HUD-approved community-wide exception rent for unit size. Generally, the rental assistance payment may not exceed the difference between the rent standard and 30 percent of the family's adjusted income.

**Justification:** This waiver of the FMR rent standard limit permits HOPWA grantees to establish rent standards, by unit size, that are reasonable, and based upon rents being charged for comparable unassisted units in the area, taking into account the location, size, type, quality, amenities, facilities, management and maintenance of each unit. Grantees, however, are required to ensure the reasonableness of rent charged for a unit in accordance with §574.320(a)(3).

This waiver is required to expedite efforts to identify suitable housing units for rent to HOPWA beneficiaries and HOPWA-eligible families that have been affected by COVID-19, and to provide assistance to families that must rent units at rates that exceed the HOPWA grantee's normal rent standard as calculated in accordance with §574.320(a)(2).

**Applicability:** Such rent standards may be used for up to one year beginning on the date of this memorandum may be used for up to one year beginning on the date of this memorandum.



## Property Standards for HOPWA

- Requirement:** Property Standards for HOPWA
- Citation:** 24 CFR 574.310(b), Housing Quality Standards
- Explanation:** This section of the HOPWA regulations provides that all housing assisted with acquisition, rehabilitation, conversion, lease, or repair; new construction of single room occupancy dwellings and community residences; project or tenant-based rental assistance; or operating costs must meet the applicable housing quality standards outlined in the regulations.
- Justification:** This waiver is required to enable grantees and project sponsors to expeditiously meet the critical housing needs of the many eligible families that have been affected by COVID-19 while also minimizing the spread of coronavirus.
- Applicability:** This waiver is in effect for one year beginning on the date of this memorandum for grantees and project sponsors that are able to meet the following criteria:
- a. The grantee or project sponsor is able to visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and
  - b. The grantee or project sponsor has written policies to physically reinspect the unit after the health officials determine special measures to prevent the spread of COVID-19 are no longer necessary.

## Property Standards for TBRA

- Requirement:** Property Standards for Tenant-Based Rental Assistance (TBRA)
- Citation:** 24 CFR 574.310(b), Housing Quality Standards
- Explanation:** This section of the HOPWA regulations provides that units occupied by recipients of HOPWA TBRA meet the Housing Quality Standards (HQS) established in this section.
- Justification:** This waiver is required to enable grantees and project sponsors to expeditiously meet the critical housing needs of the many eligible families that have been affected by COVID-19 while also minimizing the spread of the coronavirus.
- Applicability:** This waiver is in effect for one year beginning on the date of this memorandum for recipients and project sponsors that are able to meet the following criteria:
- a. The recipient or project sponsor is able to visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and
  - b. The recipient or subrecipient has written policies to physically re-inspect the unit after the health officials determine special measures to prevent the spread of COVID-19 are no longer necessary.



## Space and Security

- Requirement:** Adequate Space and Security.
- Citation:** 24 CFR 574.310(b)(2)(iii), Space and security
- Explanation:** This section of the HOPWA regulations provide that each resident must be afforded adequate space and security for themselves and their belongings.
- Justification:** This waiver is required to enable grantees and project sponsors operating housing facilities and shared housing arrangements the flexibility to use optional appropriate spaces for quarantine services of eligible households affected by COVID-19. Optional spaces may include the placement of families in a hotel/motel room where family members may be required to utilize the same space not allowing for adequate space and security for themselves and their belongings.
- Applicability:** This space and security requirement is waived for grantees addressing appropriate quarantine space for affected eligible households during the allotted quarantined time frame recommended by local health care professionals.

## Time Limits for Short-Term Housing Facilities and Short-Term Rent, Mortgage, and Utility Payments

- Requirement:** Time Limits for Short-Term Supported Housing
- Citation:** 24 CFR 574.330(a)(1), Time Limits
- Explanation:** A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six-month period. Short-Term Rent, Mortgage, and Utility (STRMU) payments to prevent the homelessness of the tenant or mortgagor of a dwelling may not be provided for costs accruing over a period of more than 21 weeks in any 52-week period.
- Justification:** This waiver is required to prevent homelessness or discharge to unstable housing situations for households residing in short-term housing facilities or units assisted with STRMU if permanent housing cannot be achieved within the time limits specified in the regulation.
- Applicability:** On an individual household basis, grantees or project sponsors may assist eligible households for a period that exceeds the time limits specified in the regulations. A short-term supported housing facility may provide residence to any individual for a period of up to 120 days in a six-month period. STRMU payments to prevent the homelessness of the tenant or mortgagor of a dwelling may be provided for costs accruing up to 52 weeks in a 52-week period.
- This waiver is in effect for one year beginning on the date of this memorandum for grantees and project sponsors that are able to meet the following criteria:
- a. The grantee or project sponsor documents that a good faith effort has been made on an individual household basis to assist the household to achieve permanent housing within the time limits specified in the regulations but that financial needs and/or health and safety concerns have prevented the household from doing so; and

- b. The grantee or project sponsor has written policies and procedures outlining efforts to regularly reassess the needs of assisted households as well as processes for granting extensions based on documented financial needs and/or health and safety concerns.

[Availability of Waivers of Community Planning and Development \(CPD\) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19](#)

[Availability of Additional Waivers for Community Planning and Development \(CPD\) Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 \(May 22, 2020\)](#)

[HUD COVID-19 Resources and Fact Sheets](#)

## HOPWA Program Flexibilities

### CARES Act Instructions and Related Flexibilities for HOPWA

The purpose of this [Notice](#) is to provide instructions for implementing the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, provisions to the Housing Opportunities for Persons With AIDS (HOPWA) program, and provide additional information for HOPWA grantees and project sponsors related to coronavirus disease 2019 (COVID-19) response.

The CARES Act includes \$65 million in supplemental grant funding for the HOPWA program that the Department will distribute in the following manner:

- \$53.7 million will be allocated to formula grantees using the same data elements from the statutory allocation formula (42 U.S.C. § 12903) used to determine FY 2020 HOPWA formula allocations.
- \$10 million in additional one-time, non-renewable funding will be allocated to HOPWA permanent supportive housing competitive grantees that were initially funded with appropriated funds from FY 2010 or earlier and are currently administering grant awards. The supplemental grant funding will be allocated to such competitive renewal grantees in a manner proportionate to their existing grants.
- \$1.3 million in funding will be awarded, without competition, to increase prior awards made to existing HOPWA technical assistance (TA) providers. The purpose of the TA funding is to provide an immediate increase in capacity building and TA available to grantees.

#### Eligible Activities

##### A. General

The supplemental grant funds authorized under the CARES Act are to be used as additional funding to maintain operations, and for rental assistance, supportive services, and other necessary actions, in order to prevent, prepare for, and respond to COVID-19.

These funds may be used to provide the eligible HOPWA activities identified at 24 CFR Part 574, so long as these funds are used for activities that are consistent with grantees' community needs for COVID-19 preparedness and response, as discussed more fully below. In order to protect persons living with HIV/AIDS, the CARES Act provides

that the supplemental grant funds may be used to self-isolate, quarantine, or provide other coronavirus infection control services as recommended by the Centers for Disease Control and Prevention for household members not living with HIV/AIDS.

Grantees may consider using the supplemental grant funds authorized under the CARES Act for activities such as:

- Stays at hotels, motels, or other locations to self-isolate, quarantine, or provide other infection control for HOPWA-eligible individuals or their family members (See Section III.D);
- Providing transportation services for eligible households to access medical care, supplies, and food or to commute to places of employment;
- Assisting HOPWA-eligible households in accessing essential services and supplies such as food, medications, medical care, personal protective equipment (PPE) and information;
- Providing nutrition services for eligible households in the form of food banks, groceries, and meal deliveries;
- Educating assisted households on ways to reduce the risk of contracting or spreading COVID-19 to others; and
- Costs related to infection control measures such as cleaning and disinfectant supplies, gloves, PPE, and other safety-related supplies for staff and assisted households.

As provided by the CARES Act, these supplemental funds may be used to cover or reimburse allowable costs as of the date a grantee or project sponsor began preparing for coronavirus, which HUD shall presume to be no earlier than January 21, 2020 – the date the first confirmed case was reported in the United States according to the Centers for Disease Control and Prevention (CDC). Grantees and project sponsors must maintain documentation demonstrating when they began preparing for COVID-19, such as notes on formal planning meetings or calls, and must maintain documentation to support any costs incurred by the recipient that the recipient plans to cover or reimburse with CARES Act grant funding.

Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), prohibits the duplication of benefits for programs that provide financial assistance to people or entities suffering losses as a result of a Federally-declared disaster or emergency. The duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs. HOPWA grantees must establish and maintain adequate procedures to prevent any duplication of benefits with CARES Act funds. HUD will issue additional guidance to facilitate compliance with this requirement.

#### B. Administrative Costs

The CARES Act provides that a grantee may use up to six (6) percent of the supplemental grant funding received under the CARES Act for administrative purposes, and a project sponsor may use up to ten (10) percent of its subaward under the CARES Act for administrative purposes. The administrative cost limits for grantees and project sponsors specified in the CARES Act are only applicable to the supplemental grant funds received under the CARES Act and to any portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID-19 pandemic as described in section V of this Notice. All other HOPWA awards remain subject to 42 U.S.C. § 12905(g), which limits costs for administrative expenses to three (3) percent of the grant amount for grantees and seven (7) percent of the amount received by project sponsors.

### C. Short-Term Rent, Mortgage, and Utility Assistance

The CARES Act provides that the supplemental grant funding may be used to provide short-term rent, mortgage, and utility (STRMU) assistance payments to prevent homelessness of a tenant or mortgagor of a dwelling for a period of up to 24 months. The 24-month limit on STRMU assistance specified by the CARES Act is only applicable to the supplemental grant funds received under the CARES Act and any portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID-19 pandemic as described in section V of this Notice. STRMU assistance provided under all other HOPWA awards remains subject to 42 U.S.C. § 12907(b)(3)(B), which limits STRMU assistance to a period of no more than 21 weeks of any 52-week period.

Although the CARES Act increases the term limit on STRMU assistance in 42 U.S.C. § 12907(b)(3)(B) to 24 months, the other provisions related to STRMU in § 12907 remain unchanged and in effect for the supplemental grant funds received under the CARES Act. This includes the provisions that assistance with rent, mortgage, and utility payments be provided in a manner appropriate to maintain the assisted household in their residence; and that each assisted household be provided the opportunity to receive case management services from appropriate social service agencies (see 42 U.S.C. § 12907(b)(5) and (6)).

### D. Hotel/Motel Stays

The supplemental grant funding provided under the CARES Act and any portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID-19 pandemic as described in section V of this Notice may be used to pay for relocation services including lodging at hotels, motels, or other locations for eligible persons living with HIV/AIDS as well as household members who are not living with HIV/AIDS. Such funding may also be used to lodge one or more household members who may need to temporarily isolate from other members of the household. Members of households that currently reside in HOPWA-subsidized units are not precluded from receiving additional assistance for hotel/motel stays if isolation is needed.

HUD recommends that grantees and project sponsors limit hotel/motel stays to no more than 60 days in a six-month period, with exceptions related to COVID-19 related health and safety concerns. Grantees should ensure they have policies in place regarding hotel/motel stays that detail time limits as well as processes for granting extensions based on documented household health and safety concerns in accordance with CDC guidance, if needed.

## [Using HOPWA Program Funds for Infectious Disease Preparedness and Response](#)

This resource below describes how Housing Opportunities for Persons With AIDS (HOPWA) grantees and project sponsors may use HOPWA funds to prepare for and respond to infectious diseases such as the coronavirus disease 2019 (COVID-19).

### [Using HOPWA Program Funds for Infectious Disease Preparedness and Response](#)

## [Formula Grant Agreement Execution](#)

Formula grantees will sign a grant agreement in order to accept the supplemental grant funds from HUD. Each Field Office will inform their respective grantees of the process for executing the grant agreement.

## Consolidated Plan Amendments for Formula Grantees

HUD is waiving 24 CFR 91.505(c) -Amendments to the Consolidated Plan- to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with this Notice. To receive its supplemental CARES Act grant allocation, a grantee must submit to HUD for review a signed standard federal form SF-424, SF-424D, the certifications at 24 CFR 91.225(a) and (e) or 24 CFR 91.325(a) and (e), and a substantial FY 2019 Action Plan amendment meeting the requirements of 24 CFR part 91 and this Notice. HUD recommends that the substantial amendment and other required documents be received by HUD within 15 business days of publication of this Notice.

HUD has waived 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) to the extent necessary to allow the grantee to provide no fewer than 5 calendar days for citizen comment (rather than 30 days) for its consolidated plan substantial amendment (see Section XII of this Notice). Grantees should post the approved substantial amendment on its official website along with a summary of citizen comments received within the comment period.

Each substantial amendment submitted to HUD will be subject to the review process set forth in 24 CFR 91.500. HUD intends to expedite its review.

If the substantial amendment is not disapproved, both HUD and the grantee will sign the grant agreement and then HUD will establish the grantee's line of credit in the amount of funds included in the FY 2019 Action Plan substantial amendment, up to the allocation amount.

HUD is exercising its authority under the CARES Act to allow HOPWA formula grantees to use a portion of their FY 2020 allocations on allowable activities to prevent, prepare for, and respond to COVID-19, including the provision of PPE, provided such activities are identified and approved in their FY 2020 AAPs and that all CARES Act funding has been expended. Grantees with previously approved FY 2020 AAPs that are interested in using a portion of their FY 2020 formula funds to prevent, prepare for, and respond to COVID-19 may amend such AAPs and resubmit for approval. All FY 2020 formula funds used for COVID-19 response will receive the same benefits and flexibilities as the CARES Act funding described in sections III.B, III.C, and III.D of this Notice.

## Competitive Grant Agreement Execution

Competitive grantees will sign a grant agreement in order to accept the supplemental grant funds from HUD. Within 15 business days of the publication of this Notice, each competitive grantee is expected to submit a brief description of planned uses for the supplemental grant funds to the Office of HIV/AIDS Housing (OHH) at HUD headquarters via the HOPWA email box at [HOPWA@HUD.gov](mailto:HOPWA@HUD.gov).

This brief description should list the type and amount of each eligible activity the grantee anticipates undertaking with the funding, the process that will take place to carry out the work quickly, and how eligible households will access the assistance during any period of time the grantee's main operations are closed due to local public health department directive. Each grantee must also include a completed HOPWA budget form HUD-40110-B and completed forms SF-424 and SF-424D in its submission.

HUD will review the descriptive packages in accordance with the following process:

- HUD will expedite its approval or disapproval of the descriptive packages;
- HUD recommends that jurisdictions with disapproved descriptions revise and resubmit within 15 business days after HUD sends the first notification of its disapproval; and

- HUD will expedite its approval or disapproval of the revised descriptions after receiving the resubmission.

OHH will forward approved submissions to respective field offices and inform field offices when the grant agreement may move forward for execution. Local HUD field offices will inform their respective grantees of the process for executing the grant agreement after the grantee description is submitted, reviewed, and approved by OHH.

## Expectations for Competitive Grantees

Competitive grantees are expected to continue implementing their current grant as approved. The supplemental grant funding provided under the CARES Act is not required to be spent on permanent supportive housing activities, but rather can be used for eligible activities under 24 CFR part 574, in accordance with the CARES Act and as set forth in section III.A of this Notice that are necessary actions in order to prevent, prepare for, and respond to COVID-19.

## Project Sponsor Agreements

Grantees are expected to execute new or amend existing project sponsor agreements for the supplemental funds within fourteen calendar (14) days of execution of the formula or competitive grant agreements. The selection of project sponsors under the HOPWA program is not subject to the procurement requirements of 2 CFR part 200, subpart D (see 24 CFR 574.3).

## Technical Assistance

The TA funding provided under the CARES Act will be used for the development of webinars, resource guides, and other TA materials to assist grantees in administering the supplemental grant funds and implementing activities related to COVID-19 preparedness and response. Grantees in need of individualized TA related to responding to COVID-19 or regular HOPWA program administration should submit a TA request via the “Request Program Assistance” webpage on the HUD Exchange portal: <https://www.hudexchange.info/program-support/technical-assistance/>. In the TA request submission process select “HOPWA: Housing Opportunities for Persons With AIDS” as the topic and write “Health Preparedness and Response” in the subject line.

## Reporting

HOPWA grantees that accept the supplemental grant funding authorized under the CARES Act will be required to report on the activities undertaken with such funding. Consistent with 24 CFR 574.520, grantees will report information to HUD on the use of the supplemental grant funds, including the number of individuals assisted and the types of assistance provided. This information will be reported in the HOPWA Consolidated Annual Performance and Evaluation Report (Form HUD-40110-D) for formula grantees or HOPWA Annual Progress Report (Form HUD-40110-C) for competitive grantees, or similar combined data collection instrument to be specified by HUD.

24 CFR 91.520 requires HOPWA formula grantees to submit a Consolidated Annual Performance and Evaluation Report (CAPER) to HUD within 90 days after the close of the grantee’s program year. The HOPWA Grant Agreement requires competitive grantees to submit an Annual Progress Report (APR) in accordance with 24 CFR 574.520(b) within 90 days of the end of each 12-month operating period. Any HOPWA grantee with a CAPER or APR due to HUD within six months of the date of this Notice may have up to a 90-day extension to submit their reports. The extension will allow a grantee to submit their APR or CAPER within 180 days of the end of their program or operating year. Grantees that wish to utilize the extension should submit an email to [HOPWA@hud.gov](mailto:HOPWA@hud.gov) and notify the grantee’s local HUD Field Office.

## Additional CARES Act Reporting

Section 15011 of the CARES Act requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. As outlined in the Office of Management and Budget (OMB) memorandum, M20-21, existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and format for this reporting is still under development and will need to be reviewed against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further guidance will be released by the Department in the near future.

## Waivers

HUD issued a memorandum providing regulatory waivers of certain HOPWA and other CPD program requirements to prevent the spread of COVID-19 and provide additional supports to eligible individuals and families who are economically impacted by COVID-19. The memorandum is available online at:

[https://www.hud.gov/sites/dfiles/CPD/documents/COVID-19 Mega Waiver 03-31-2020.pdf](https://www.hud.gov/sites/dfiles/CPD/documents/COVID-19%20Mega%20Waiver%2003-31-2020.pdf).

The memorandum includes a simplified notification process for grantees to use the waiver flexibility to expedite the delivery of assistance. Grantees wishing to utilize any of the waivers provided in the memorandum should notify their local CPD Director, by email to their COVID-19 specific email address, of their intent to utilize a specific waiver flexibility two days before they anticipate using the waiver flexibility.

Additionally, it is expected that the Department will issue further waivers addressing identified needs by grantees and guidance on the administrative flexibilities provided under Office of Management and Budget (OMB) Memo M-20-17. These waivers will be made available online at: [https://www.hud.gov/program offices/comm planning/hopwa covid-19](https://www.hud.gov/program%20offices/comm%20planning/hopwa%20covid-19).

Regulatory waiver flexibilities offered by HUD specific to the use of amounts in the HOPWA program in response to the COVID-19 pandemic may be deemed effective as of the date a grantee began preparing for coronavirus, which HUD shall presume to be no earlier than January 21, 2020 – the date the first confirmed case was reported in the United States according to the CDC. Grantees and project sponsors must maintain documentation demonstrating when the recipient began preparing for COVID-19, such as notes on formal planning meetings or calls, and must maintain documentation to support any costs incurred by the recipient that the recipient plans to cover or reimburse with CARES Act grant funding.

[Flexibilities and Plan Amendment Waiver for HOPWA Funds Used to Support Coronavirus Response All Grantees of ESG-CV, ESG Grants \(FY 2020 and older\), and HOPWA-CV and All CPD Field Office Directors](#)

## Materials Posted: Infectious Disease Preparedness Guidance for Homeless Assistance Providers

HUD posted the following Centers for Disease Control and Prevention (CDC) guidance and Technical Assistance (TA) materials on the [HUD Exchange Disease Risks and Homelessness Page](#):

- [CDC: Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 \(COVID-19\)](#)
- [Questions to Assist CoCs and Public Health Authorities to Limit the Spread of Infectious Disease in Homeless Programs](#)
- [Specific Considerations for Public Health Authorities to Limit Infection Risk Among People Experiencing Homelessness](#)
- [Eligible ESG costs for Infectious Disease Preparedness](#)

Families and individuals experiencing homelessness are more vulnerable to infectious diseases due to lack of access to primary care, mobility, and poor health status from extended episodes of homelessness. HUD strongly encourages Continuums of Care (CoCs) to contact local public health departments, Healthcare for the Homeless agencies, and other local health partners to ensure the unique needs and opportunities related to the homeless service system are incorporated. CoCs can take steps now to develop preparedness and response plans to protect against infection.

### Further Information

All questions related to this Notice should be directed to the “HOPWA Ask A Question” portal available online at <https://www.hudexchange.info/program-support/my-question/>. In Step 2 of the question submission process, select “HOPWA: Housing Opportunities for Persons With AIDS” from the “My question is related to” drop down list and write “Health Preparedness and Response” in the subject line.



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## CONTINUUM OF CARE PROGRAM (CoC)

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### CoC – Mega Waiver

#### Fair Market Rent for Individual Units and Leasing Costs

- Requirement:** Rent payments for individual units with leasing dollars may not exceed Fair Market Rent (FMR).
- Citation:** 24 CFR 578.49(b)(2)
- Explanation:** The CoC Program regulation at 24 CFR 578.49(b)(2) prohibits a recipient from using grant funds for leasing to pay above FMR when leasing individual units, even if the rent is reasonable when compared to other similar, unassisted units.
- Justification:** Waiving the limit on using grant leasing funds to pay above FMR for individual units above FMR, but not greater than the reasonable rent will assist recipients in locating additional units to house individuals and families experiencing homelessness and reduce the spread and harm of COVID-19.
- Applicability:** The FMR restriction is waived for any lease executed by a recipient or subrecipient to provide transitional or permanent supportive housing during the 6-month period beginning on the date of this memorandum. The affected recipient or subrecipient must still ensure that rent paid for individual units that are leased with CoC Program leasing dollars meet the rent reasonableness standard in 24 CFR 578.49(b)(2).

#### Disability Documentation for Permanent Supportive Housing (PSH)

- Requirement:** A recipient providing PSH must serve individual and families where one member of the household has a qualifying disability (for dedicated projects and DedicatedPlus projects that individual must be the head of household). Further, the recipient must document a qualifying disability of one of the household members. When documentation of disability is the intake worker's observation, the regulation requires the recipient to obtain additional confirming evidence within 45 days.
- Citation:** 24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B)
- Explanation:** 24 CFR 578.103(a) requires recipients to maintain records providing evidence they met program requirements and 24 CFR 578.103(a)(4)(i)(B) establishes the requirements for documenting disability for individuals and families that meet the "chronically homeless" definition in 24 CFR 578.3. Acceptable evidence of disability includes intake-staff recorded observations of disability that, no later than 45 days from the application for assistance, is confirmed and accompanied by evidence in paragraphs 24 CFR 578.103(a)(4)(i)(B)(1), (2), (3), or (5). HUD is waiving the requirement to obtain additional evidence.
- Justification:** Waiving 24 CFR 578.103(a)(4)(i)(B)(4) as specified below will allow recipients to house people by relying on intake staff-recorded observation of disability while providing recipients' intake staff with additional time to confirm the disability. This will help households with observed

disabilities to be housed quickly and obtain the necessary documentation once healthcare workers are no longer inundated by COVID-19 responses.

**Applicability:** The requirement that intake staff-recorded observation of disability be confirmed and accompanied by other evidence no later than 45 days from the application for assistance documentation requirement is waived for any program participants admitted into PSH funded by the CoC Program for the 6-month period beginning on the date of this memorandum.

**Note:** For the purposes of individuals and families housed in PSH from the date of this memorandum until public health officials determine no additional special measures are necessary to prevent the spread of COVID-19, a written certification by the individual seeking assistance that they have a qualifying disability is considered acceptable documentation approved by HUD under 24 CFR 578.103(a)(4)(i)(B)(5).

### Limit on Eligible Housing Search and Counseling Services

**Requirement:** With respect to program participant's debts, 24 CFR 578.53(ed)(8)(ii)(B) only allows the costs of credit counseling, accessing a free personal credit report, and resolving personal credit issues. 24 CFR 578.53(d) limits the use of CoC Program funds for providing services to only those costs listed in the interim rule.

**Citation:** 24 CFR 578.53(e)(8)(ii)(B) and 578.53(d)

**Explanation:** 24 CFR 578.53(e)(8) allows recipients and subrecipients to use CoC funds to pay for housing search and counseling services to help eligible program participants locate, obtain, and retain suitable housing. For program participants whose debt problems make it difficult to obtain housing,

24 CFR 578.53(e)(8)(ii)(B) makes eligible the costs of credit counseling, accessing a free personal credit report, and resolving personal credit issues. However, payment of rental or utility arrears is not included as an eligible cost. 24 CFR 578.53(d) limits eligible supportive service costs to those explicitly listed in 24 CFR 578.53(e), which is a more limited list than is eligible under the McKinney-Vento Act.

**Justification:** Waiving the limitation of housing search and counseling eligible activities to allow recipients and subrecipients to pay for up to 6 months of rental arrears and 6 months of utility arrears will help recipients and subrecipients remove barriers to obtaining housing quickly and help reduce the spread and harm of COVID-19.

**Applicability:** The limitation on eligible housing search and counseling activities is waived so that CoC Program funds may be used for up to 6 months of a program participant's utility arrears and up to 6 months of program participant's rent arrears, when those arrears make it difficult to obtain housing. This waiver is in effect one-year beginning on the date of this memorandum.

### Permanent Housing-Rapid Re-housing Monthly Case Management

**Requirement:** Recipients must require program participants of permanent housing – rapid rehousing projects to meet with a case manager at least monthly.

**Citation:** 24 CFR 578.37(a)(1)(ii)(F)

**Explanation:** The CoC Program interim rule at 24 CFR 578.37(a)(1)(ii)(F) requires program participants to meet with a case manager not less than once per month to assist them in ensuring long-term housing stability. The project is exempt from this requirement already if the Violence Against Women Act of 1994 (42 U.S.C. 13925 et seq.) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) prohibits the recipient carrying out the project from making its housing conditional on the participant's acceptance of services.

**Justification:** HUD originally waived this requirement for 2-months beginning March 31, 2020. Recipients are continuing to report limited staff capacity as staff members are home for a variety of reasons related to COVID-19 (e.g., quarantining, children home from school, working elsewhere in the community to manage the COVID-19 response). In addition, not all program participants have capacity to meet via phone or internet. Waiving the monthly case management requirement as specified below will allow recipients to provide case management on an as-needed basis and reduce the possible spread and harm of COVID-19.

**Applicability:** This requirement in 24 CFR 578.37(a)(1)(ii)(F) that projects require program participants to meet with case managers not less than once per month is waived for all permanent housing- rapid re-housing projects for an additional three months beginning on the date of this memorandum.

### Housing Quality Standards (HQS) – Initial Physical Inspection of Unit

**Requirement:** Recipients are required to physically inspect any unit supported with leasing or rental assistance funds to assure that the unit meets housing quality standards (HQS) before any assistance will be provided on behalf of a program participant.

**Citation:** 24 CFR 578.75(b)(1)

**Explanation:** 24 CFR 578.75(b)(1) requires that recipients or subrecipients physically inspect each unit to assure that it meets HQS before any assistance will be provided for that unit on behalf of a program participant.

**Justification:** Waiving the physical initial inspection requirement 24 CFR 578.75(b)(1) as specified below will allow recipients to help prevent the spread of COVID-19.

**Applicability:** This waiver of the requirement in 24 CFR 578.75(b)(1) that the recipient or subrecipient physically inspect each unit to assure that the unit meets HQS before providing assistance on behalf of a program participant is in effect for 6-months beginning on the date of this memorandum for recipients and subrecipients that are able to meet the following criteria:

- a. The recipient is able to visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and
- b. The recipient or subrecipient has written policies to physically re-inspect the unit within 3 months after the health officials determine special measures to prevent the spread of COVID-19 are no longer necessary.

### HQS – Re-Inspection of Units

**Requirement:** Recipients or subrecipients must inspect all units for which leasing or rental assistance funds are used, at least annually to ensure they continue to meet HQS.

**Citation:** 24 CFR 578.75(b)(2)

- Explanation:** 24 CFR 578.75(b)(2) requires that recipients or subrecipients are required to inspect all units supported by leasing or rental assistance funding under the CoC Program at least annually during the grant period to ensure the units continue to meet HQS.
- Justification:** Waiving the annual re-inspection 24 CFR 578.75(b)(2) requirement during this public health crisis as specified below will help allow recipients to prevent the spread of COVID-19.
- Applicability:** This requirement in 24 CFR 578(b)(2) is waived for 1-year beginning on the date of this memorandum.

### One-Year Lease Requirement

- Requirement:** Program participants residing in PSH must be the tenant on a lease for a term of at least one year that is renewable and terminable for cause.
- Citation:** 24 CFR 578.3, definition of permanent housing, 24 CFR 578.51(l)(1)
- Explanation:** The CoC Program regulation at 24 CFR 578.3, definition of permanent housing, and 24 CFR 578.51(l)(1) requires program participants residing in permanent housing to be the tenant on a lease for a term of one year that is renewable and terminable for cause.
- Justification:** Waiving the one-year lease requirement as specified below will allow recipients to more quickly identify permanent housing for individuals and families experiencing homelessness, which is helpful in preventing the spread of COVID-19.
- Applicability:** The one-year lease requirement is waived for six-months beginning on the date of this memorandum, so long as the initial lease term of all leases is for more than one month.

### YHDP - Permanent Housing Rapid Re-housing Limit to 24 Months of Rental Assistance

To the extent Youth Homelessness Demonstration Program (YHDP) grants are subject to the same requirements in 24 CFR part 578 that apply to grants provided under the CoC Program, the same waivers made available on March 31, 2020 for grants provided under the CoC Program are made available to YHDP grants for the same justifications and subject to the same conditions. Additionally, the following waivers are available to CoC Program and YHDP recipients.

### Permanent Housing Rapid Re-housing Limit to 24 Months of Rental Assistance

- Requirement:** CoC Program funds may be used to provide short-term (up to 3 months) and/or medium-term (for 3 to 24 months) tenant-based rental assistance.
- Citation:** 24 CFR 578.37(a)(1)(ii), 24 CFR 578.37(a)(1)(ii)(C), and 24 CFR 578.51(a)(1)(i)
- Explanation:** The CoC Program regulation at 24 CFR 578.37(a)(1)(ii) and 24 CFR 578.51(a)(1)(i) defines medium-term rental assistance as 3 to 24 months and 578.37(a)(1)(ii) and 24 CFR 578.37(a)(1)(ii)(C) limits rental assistance in rapid re-housing projects to medium-term rental assistance, or no more than 24 months.
- Justification:** Waiving the limit on using rental assistance in rapid re-housing projects to pay more than 24 months will ensure that individuals and families currently receiving rapid re-housing assistance do not lose their assistance, and consequently their housing, during the COVID-19 public health

crisis and the subsequent economic downturn. This will reduce the spread and harm of COVID-19 by enabling affected program participants to continue to socially isolate in their housing.

**Applicability:** The 24-month rental assistance restriction is waived for program participants in a permanent housing rapid re-housing project who will have reached 24 months of rental assistance beginning on the date of this memorandum until a state or local public health official has determined special measures are no longer necessary to prevent the spread of COVID-19. Program participants who have reached 24 months of rental assistance during this time and who will not be able to afford their rent without additional rental assistance will be eligible to receive rental assistance until 3 months after a state or local public health official has determined that special measures are no longer necessary to prevent the spread of COVID-19.

### Limit to be Eligible for DedicatedPLUS Project When Coming from Transitional Housing Being Eliminated

**Requirement:** To be eligible for a DedicatedPLUS project an individual or family must meet the criteria of DedicatedPLUS in the Notice of Funding Availability under which the grant was awarded. One of the possible criteria is residing in transitional housing *that will be eliminated* and meeting the definition of chronically homeless in effect at the time in which the individual or family entered the transitional housing project.

**Citation:** Section III.C.3.f.(2) of the FY 2018 CoC Program Competition NOFA and  
Section III.C.2.g.(2) of the FY 2019 CoC Program Competition NOFA.

**Explanation:** Section III.C.3.f.(2) of the FY 2018 CoC Program Competition NOFA and  
Section III.C.2.g.(2) of the FY 2019 CoC Program Competition NOFA  
define a DedicatedPLUS project as a PSH project where 100 percent of the beds are dedicated to serve individuals and families residing in one of six places at intake, including residing in a transitional housing project that will be eliminated.

**Justification:** Waiving the requirement within the definition of DedicatedPLUS project that the transitional housing project is being eliminated will expand permanent housing options available for people moving out of transitional housing and will make more transitional housing beds available to others who need it. Expanding permanent housing options for persons in transitional housing will assist in preventing the spread of COVID-19 by allowing more people to move off the streets and into transitional housing.

**Applicability:** The definition of DedicatedPLUS project is waived for DedicatedPLUS projects funded in the FY 2018 and FY 2019 CoC Program Competitions to allow these projects to serve individuals and families residing in transitional housing, whether it is being eliminated or not, as long as the individual or family met the definition of chronically homeless upon entry to the TH.

### Assistance Available at Time of Renewal

**Requirement:** With respect to renewing CoC Program awards, 24 CFR 578.33(c) requires that assistance for a renewal period will be up to 100 percent of the amount available for supportive services and HMIS costs in the final year of the prior funding period, up to 100 percent of the amount for leasing and operating in the final year of the prior funding period adjusted in proportion to changes in FMR for the geographic area, and for rental assistance up to 100 percent of the result

of multiplying the number and unit size(s) in the grant agreement by the number of months in the grant agreement and the applicable FMR.

**Citation:** 24 CFR 578.33(c)

**Explanation:** 24 CFR 578.33(c) requires that budget line item amounts a recipient is awarded for renewal in the CoC Program Competition will be based on the amounts in the final year of the prior funding period for the project.

**Justification:** Waiving the requirement that the renewal grant amount is based on the budget line items in the final year of the grant being renewed will allow recipients to amend their budgets temporarily to address the needs of its program participants in responding to COVID-19 (e.g., providing different supportive services necessitated by the pandemic or serving fewer people because of the layout of the housing does not meet local social distancing recommendations) without changing the original design of the project when it is not operating in a public health crisis and can resume normal operations.

**Applicability:** The requirement that the renewal grant amount be based on the budget line items in the final year of the grant being renewed is waived for all projects that amend their grant agreement between March 31, 2020 and October 1, 2020 to move funds between budget line items in a project in response to the COVID-19 pandemic. Recipients may then apply in the next FY CoC Program Competition based on the budget line items in the grants before they were amended.

**Notification:** Recipients utilizing this waiver flexibility do not need to follow the notification process outlined in Attachment #1. Instead, HUD will consider any grant agreement amendment executed between March 31, 2020 and October 1, 2020 to move funds between budget line items in response to the COVID-19 pandemic as notification to HUD.

### Permanent Housing-Rapid Re-housing Monthly Case Management

**Requirement:** Recipients must require program participants of permanent housing – rapid rehousing projects to meet with a case manager at least monthly.

**Citation:** 24 CFR 578.37(a)(1)(ii)(F)

**Explanation:** The CoC Program interim rule at 24 CFR 578.37(a)(1)(ii)(F) requires program participants to meet with a case manager not less than once per month to assist them in ensuring long-term housing stability. The project is exempt from this requirement already if the Violence Against Women Act of 1994 (42 U.S.C. 13925 *et seq.*) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*) prohibits the recipient carrying out the project from making its housing conditional on the participant's acceptance of services.

**Justification:** HUD originally waived this requirement for 2-months beginning March 31, 2020. Recipients are continuing to report limited staff capacity as staff members are home for a variety of reasons related to COVID-19 (e.g., quarantining, children home from school, working elsewhere in the community to manage the COVID-19 response). In addition, not all program participants have capacity to meet via phone or internet. Waiving the monthly case management requirement as specified below will allow recipients to provide case management on an as-needed basis and reduce the possible spread and harm of COVID-19.

**Applicability:** This requirement in 24 CFR 578.37(a)(1)(ii)(F) that projects require program participants to meet with case managers not less than once per month is waived for all permanent housing- rapid re-housing projects for an additional three months beginning on the date of this memorandum.

[Availability of Waivers of Community Planning and Development \(CPD\) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19](#)

[Availability of Additional Waivers for Community Planning and Development \(CPD\) Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 \(May 22, 2020\)](#)

[HUD COVID-19 Resources and Fact Sheets](#)

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## ENVIRONMENTAL REVIEW PROCESS

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Guidance on conducting environmental reviews pursuant to 24 CFR Part 58 for activities undertaken in response to the public health emergency as a result of COVID-19 Please note that this guidance is in addition to OEE's guidance on:

- [Guidance for RROF and AUGF Signature and Certification Process](#)
  - 7015.15 Request for Release of Funds (RROF) forms may be signed by the Certifying Officer via an e-signature.
  - RROFs may be submitted to HUD via email.
  - HUD may submit the 7015.16 Authority to Use Grants Funds via email, including an e-signature.
- [Consultation, Review, and Comment on the Environmental Review Record \(ERR\)](#)
  - Responsible Entities (REs) may provide a copy of the ERR via email or via the RE website during the public comment period
  - Objections to HUD's release of funds may be sent via email during the objection period
  - Communication regarding Section 106 reviews should be submitted via email
- [HUD Expedited Section 106 Review of Undertakings Responding to COVID-19 Emergency Declarations](#)
  - The Advisory Council on Historic Preservation approved an extended emergency period for expedited Section 106 review.
  - HUD-assisted COVID response projects can comply with Section 106 through a 7-day comment period instead of the usual 30-day consultation and concurrence process (through May 29, 2020).

### [HUD Expedited Section 106 Review of Undertakings Responding to COVID-19 Emergency Declarations](#)

HUD-assisted COVID-19 related projects that are reviewed through May 29, 2020 can comply with Section 106 through a notification and seven-day comment period for State and Tribal Historic Preservation Officers (SHPOs and THPOs) instead of the usual 30-day consultation and concurrence process. The Advisory Council on Historic Preservation approved the extended emergency period and it may be further extended if necessary. The shortened emergency review process only applies to COVID-19 response projects. <https://files.hudexchange.info/resources/documents/HUD-Extension-Regarding-Section-106-Review-of-Undertakings-Responding-to-COVID-19-Emergency-and-Disaster-Declarations.pdf>

### [Guidance for RROF and AUGF Signature and Certification Process](#)

During the National Emergency concerning the Novel Coronavirus Disease (COVID-19) Outbreak, HUD's Office of Environment and Energy (OEE) is temporarily allowing for flexibilities in the signature and certification process for the 7015.15 Request Release of Funds (RROF) and 7015.16 Authority to Use Grant Funds (AUGF) forms. RROF and AUGF forms submitted using the following guidelines will meet the legal obligations for environmental review purposes. <https://files.hudexchange.info/resources/documents/RROF-AUGF-Signature-Certification-Process-COVID-19.pdf>

### [Consultation, Review, and Comment on the Environmental Review Record](#)

Due to COVID-19, HUD's Office of Environment and Energy (OEE) is expanding the options for public review of the Environmental Review Record (ERR). This resource provides guidance on how to accept public comments and submit objections as well as information on Section 106 consultation.

<https://files.hudexchange.info/resources/documents/Consultation-Review-Comment-on-Environmental-Review-Record-COVID-19.pdf>