



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

OFFICE OF THE ASSISTANT SECRETARY FOR  
COMMUNITY PLANNING AND DEVELOPMENT

**MEMORANDUM FOR:** All CPD Field Office Directors and Program Managers

**FROM:** James Arthur Jemison, II, Principal Deputy Assistant Secretary, D

**SUBJECT:** Additional Revision, and Extension of December 2020 and April 2020 Memorandum- Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID -19 Pandemic

This memorandum revises certain statutory suspensions and waivers in the memorandum, *Revision, Extension and Update of April 2020 Memorandum Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID -19 Pandemic*, issued on December 4, 2020 (the “**December 2020 Memo**”). The April 2020 memorandum, issued on April 10, 2020 (the “**April 2020 Memo**”) and amended by the December 2020 Memo, announced the availability of certain statutory suspensions and regulatory waivers to enable HOME participating jurisdictions (PJs) affected by the Coronavirus Disease 2019 (COVID-19) pandemic to use HOME Investment Partnerships Program (HOME) funds to address immediate housing needs and to help prevent spread of the virus. The December 2020 Memo extended certain statutory suspensions and regulatory waivers described in the April 2020 Memo through September 30, 2021 and added a new statutory suspension and regulatory waiver. As described in the specific suspensions and waivers below, this memorandum, effective as of September 30, 2021, amends the December 2020 memo to further revise or extend certain statutory suspensions and regulatory waivers.

Specifically, effective September 30, 2021, this memorandum revises the matching contribution waiver to include fiscal year (FY) 2022. This memorandum also revises the statutory suspension and regulatory waivers of the maximum per unit subsidy limit to restrict its applicability to projects that are currently underway or projects to which HOME funds will be committed on or before March 31, 2022. In addition, this memorandum extends the waiver to perform onsite inspections of HOME-assisted rental housing and annual re-inspections of units assisted with HOME Tenant-Based Rental Assistance (TBRA) to December 31, 2021 and extends the timeframe to physically inspect units that would have been subject to on-going inspections during the waiver period from 120 days from September 30, 2021 to 180 days from December 31, 2021. Finally, the waiver of 24 CFR 92.205(e)(2) and 24 CFR 92.64(a) (Insular Areas), which extends the four-year project completion deadline, is revised to clarify the timing of the required written notification and the project completion deadline.

### **Waiver and Suspension Authority**

As described in both the April 2020 Memo and the December 2020 Memo, Section 290 of the NAHA 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.

Pursuant to the authority provided in Section 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justification that follows, to suspend the statutory provisions and waive the related regulatory provisions described below and to extend the statutory suspensions and waivers previously issued for any PJ in a State covered by a major disaster declaration under Title IV of the Stafford Act as a result of the COVID-19 pandemic. The 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.

### **Availability of Suspensions and Waivers**

CPD Field Offices shall inform PJs of the revised suspensions and waivers in this memorandum. If a PJ intends to implement a statutory suspension or regulatory waiver that it has not previously implemented and which has been revised and/or extended pursuant to this memorandum, the PJ must send written notification via e-mail to the CPD Division in its local HUD Field Office through the appropriate Field Office mailbox listed in Attachment 1 and to the Office of Affordable Housing Programs (OAHP) at [HOMECOVID19@hud.gov](mailto:HOMECOVID19@hud.gov). PJs should notify CPD of their intent to use a suspension and/or waiver within a reasonable timeframe. The written notification is an administrative requirement that allows HUD to track a PJ's implementation of suspensions and waivers. CPD may issue a concern if a PJ fails to send written notification to CPD prior to implementation of the waiver. If a PJ has previously notified HUD of its intent to implement any of the statutory suspensions and regulatory waivers that are extended pursuant to this memorandum, the PJ is not required to re-send written notification to CPD of its implementation of the revised suspensions and waivers in this memorandum.

### **Extension of Matching Contribution Waiver**

The waiver to reduce the match requirement by 100 percent for FYs 2020 and 2021 is extended to FY 2022. The existing waiver described in the April 2020 Memo is superseded as of September 30, 2021 by the following waiver with revisions highlighted in italics.

#### Matching Contribution Requirements

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, and community and social services. Reducing the matching requirement for PJs in areas

covered by a major disaster declaration by 100 percent for FY 2020, 2021 *and* FY 2022 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 waiver is in effect from October 19, 2019 until September 30, 2022 and applies to funds expended by a PJ for FY 2020, FY 2021, and FY 2022.*

### **Revision of Suspension and Waiver of Maximum Per Unit Subsidy Limit**

The statutory suspension of Section 212(e) of NAHA and regulatory waiver of 24 CFR 92.250(a) and 24 CFR 92.64(a) (Insular Areas) applies to projects currently underway or projects to which HOME funds will be committed on or before the end date of the extended waiver period (September 30, 2021), as described in the December 2020 Memo. The statutory suspension and regulatory waiver also apply to completed HOME rental projects under a period of affordability that are receiving additional HOME funds for operating reserve payments under the terms of the December 2020 Memo. This revision restricts the applicability of the suspension and waiver provided in the December 2020 Memo to new projects and projects that are currently underway or in the planning stages. The existing statutory suspension and waiver for projects currently underway or projects to which HOME funds will be committed on or before the end of the extended waiver period described in the December 2020 Memo is superseded as of September 30, 2021 by the following.

#### Suspension and Waiver of Maximum Per Unit Subsidy Limit

**Requirement:** Maximum Per Unit Subsidy Limit

**Citations:** Section 212(e) of NAHA, 24 CFR 92.250(a) and 24 CFR 92.64(a) (Insular Areas)

**Explanation:** The total amount of HOME funds that the PJ may invest on a per unit basis may not exceed the per unit dollar limitations established under section 221(d)(3) of the National Housing Act (12 USC 1715l(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located. 24 CFR 92.64(a) applies these requirements to Insular Areas.

**Justification:** For projects currently underway or in the planning stages, this waiver is necessary to ensure that sufficient HOME funds may be invested to cover increased project development costs resulting from efforts to prevent spread of COVID-19 or the economic effects of the COVID-19 pandemic (e.g., increased costs of materials or appliances.) The maximum per unit subsidy limits for HOME-assisted projects may impede the development of HOME-assisted housing. Suspending the maximum per unit subsidy limit will provide PJs with the flexibility to help create new units to assist affected low-income families.

Applicability: The suspension and waivers apply to HOME projects that are currently underway or projects to which HOME funds will be committed on or before March 31, 2022.

### **Revision to Waiver of On-Site Inspections of HOME-assisted Rental Housing**

The waiver of on-site inspections of HOME-assisted rental housing, described in the April 2020 Memo and extended by the December 2020 Memo, is further amended to revise the end date of the extended waiver period to December 31, 2021. The waiver is also amended to extend the period to perform delayed onsite inspections after the waiver period from 120 days to 180 days. The existing waiver is superseded as of September 30, 2021 by the following waiver with revisions highlighted in italics.

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

Requirement: Ongoing Periodic Inspections of HOME-assisted Rental Housing

Citations: 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 24 CFR 92.251 and to verify the information submitted by the owners in accordance with the income and rent requirements of section 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-going periodic inspections and on-site reviews to determine a HOME rental project's compliance with property standards and rent and income requirements.

Applicability: The waiver is applicable to ongoing periodic inspections. (The requirement to perform initial inspections of HOME-assisted projects upon completion of construction or rehabilitation is not waived.) Within *180 days of the end of this waiver period*, PJs must physically inspect units that would have been subject to on-going inspections since the waiver period began on April 10, 2020. The waiver is also applicable to on-site reviews to determine a HOME rental project's compliance with rent and income requirements if the project owner is unable to make documentation available electronically. The waiver is in effect through *December 31, 2021*.

### **Revision to Waiver for Inspections of TBRA Units**

The waiver of the requirement that PJs initially and annually re-inspect units occupied by TBRA tenants is revised to limit the waiver to only annual Housing Quality Standards (HQS)

inspections. The waiver is also revised to extend the period by which the PJ must perform inspections on units that were not initially inspected and units where an annual inspection was not performed during the waiver period. The existing waiver is superseded as of September 30, 2021 by the following waiver.

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

Requirement: Housing Quality Standards –Annual Inspections of TBRA Units

Citation: 24 CFR 92.504(d)(1)(iii); 24 CFR 92.209(i) requirement for annual re-inspections and 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 annual re-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 April 10, 2020, through December 31, 2021 and for units that were not initially inspected because of the PJ's use of a previous waiver under the April 2020 Memo and/or the December 2020 Memo. PJs must make reasonable efforts to address any tenant-reported health and safety issues during the waiver period. HUD encourages PJs to conduct ongoing inspections during the waiver period to the greatest extent feasible and consistent with employee and tenant safety. After December 31, 2021, all housing occupied by households receiving HOME TBRA must meet the housing quality standards (HQS) at 24 CFR 982.401. Within 180 days of the end of this waiver period, PJs must physically inspect units that would have been subject to inspections since the waiver period began on April 10, 2020. This waiver does not apply to the lead hazard reduction requirements at 24 CFR 35.1215. 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.

**Revision of Required Notice - Four-Year Project Completion Requirement Waiver**

The waiver of 24 CFR 92.205(e)(2) and 24 CFR 92.64(a) (Insular Areas), which extends the four-year project completion deadline, is revised as of September 30, 2021 to clarify the notice requirement for any HOME project underway. The existing waiver is superseded by the following waiver with revisions highlighted in italics.

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 because of the impact of COVID-19 on project timelines. These delays may occur because 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 with 4-year project completion deadlines that occurred or will occur on after April 10, 2020, including projects with deadlines that were extended for one-year pursuant to an approved request under 24 CFR 92.205(e)(2) if such extension was in effect on or after April 10, 2020.

*If a PJ has previously notified HUD of its intent to implement this waiver for projects with deadlines before September 30, 2021 and plans to use this waiver for the same projects between September 30, 2021 and March, 31, 2022, the PJ is not required to re-notify HUD of its intent to use this waiver.*

*For projects with project completion deadlines occurring between October 1, 2021, and March 31, 2022, if the PJ will implement this waiver and has not notified HUD of its implementation of the waiver for the project, the PJ must notify HUD within a reasonable time prior to the date of the four-year project completion deadline. CPD may issue a concern if a PJ fails to send written notification to HUD prior to implementation of the waiver.*

The completion deadlines for covered projects will be extended to March 31, 2022.

### **Extension of Waiver Deadline**

In addition to the waivers discussed above, the following waiver described in the April 2020 Memo and extended in the December 2020 Memo is further extended from September 30, 2021 to an end date of *March 31, 2022*. All provisions of the following waiver, other than the end date, remain in effect.

Timeframe for a Participating Jurisdiction’s Response to Findings of Noncompliance – 24 CFR 92.551(b)(1) and 24 CFR 92.64(a) (Insular Areas)

Statutory suspensions and waivers not extended pursuant to this memorandum expire September 30, 2021. Field Offices may direct questions regarding this memorandum to the Office of Affordable Housing Programs. Participating jurisdictions and other HOME Program participants should contact the CPD Division in their local HUD Field Office.

## Attachment 1

**EMAIL BOX**

[CPD\\_COVID-19WaiverABQ@HUD.gov](mailto:CPD_COVID-19WaiverABQ@HUD.gov)  
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