



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

PRINCIPAL DEPUTY ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

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

FROM: James A. Jemison, II, Principal Deputy Assistant Secretary, Office of Community Planning and Development, D

SUBJECT: 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

PURPOSE

This memorandum explains the availability of waivers of certain regulatory requirements associated with several Community Planning and Development (CPD) grant programs to prevent the spread of COVID-19 and to facilitate assistance to eligible communities and households economically impacted by COVID-19. This memorandum covers program-specific waivers for the following CPD programs, including for grants that have not yet been awarded (e.g., funds awarded under the FY 2021 Appropriations Act):

- Continuum of Care (CoC);
- Youth Homelessness Demonstration Program (YHDP); and
- Housing Opportunities for Persons With AIDS (HOPWA).

This memorandum also announces a simplified notification process for recipients of these programs to use this waiver flexibility to expedite the delivery of assistance. CPD Field Office Directors, Deputy Directors, and Program Managers are instructed to inform CPD recipients operating within their jurisdictions of the content of this memorandum.

NOTIFICATION PROCESS

Recipients may use the waivers described in this memorandum to assist affected CPD program beneficiaries and CPD program eligible households to prevent the spread of COVID-19 and to mitigate against the economic impact caused by COVID-19 for eligible households. To use the waiver flexibility provided in this memorandum, the recipient must provide notification in writing, either through mail or e-mail, to the CPD Director of the HUD Field Office serving its jurisdiction no less than two days before the recipient anticipates using the waiver flexibility. Further directions on notifying HUD can be found in Attachment #1.

WAIVER AUTHORITY

Due to COVID-19, many CPD recipients are facing challenges in ensuring appropriate shelter options are available for program participants who need to be separated from others because they are exhibiting symptoms, training staff on how to safely work with program participants and prevent spreading the virus, obtaining supplies to prevent the spread of the virus, maintaining necessary staffing levels during the outbreak, and finding available housing in tight rental markets to house households experiencing homelessness. Further, many program participants are suffering economic consequences from the mass shutdown of businesses and lack of availability of traditional mainstream benefits. A number of recipients have inquired about the availability of waivers of various CPD program requirements to facilitate assistance to program participants and prevent the spread of the virus.

In accordance with 24 CFR 5.110, HUD may, upon a determination of good cause and subject to statutory limitations, waive regulatory provisions.

On March 31, 2020, CPD issued its first waivers of regulatory authority to help recipients prevent and mitigate the spread of COVID-19. On May 22, 2020, CPD issued its second set of waivers of regulatory authority to prevent and mitigate the spread of COVID-19. On September 30, 2020, CPD issued its third set of waivers of regulatory authority to prevent and mitigate the spread of COVID-19. On December 30, 2020, CPD issued its fourth set of waivers of regulatory authority to prevent and mitigate the spread of COVID-19. On January 7, 2021, CPD issued a fifth waiver of requirements related to the Point-in-Time Count to prevent and mitigate the spread of COVID-19. On March 31, 2021, CPD issued a sixth set of waivers of regulatory authority to prevent and mitigate the spread of COVID-19. This memorandum extends select waivers from these earlier waivers set to expire on June 30, 2021. Some of these waivers have been extended until September 30, 2021 to allow recipients time to update policies and procedures and adjust staffing levels to come back into compliance with regulatory requirements now that social distancing measures are lifting. Others have been extended to December 31, 2021 as the flexibilities remain critical to help individuals experiencing homelessness obtain and maintain housing in tight rental markets resulting from COVID-19. Additionally, this memorandum establishes an expiration date of September 30, 2021 for waivers previously authorized until public health officials determine no additional special measure are necessary to prevent the spread of COVID-19.

WAIVER AVAILABILITY

To provide additional flexibility to communities to prevent the spread of COVID-19 and better assist individuals and families, including those experiencing homelessness infected with the virus or economically impacted by the virus, I hereby find good cause to provide the regulatory waivers below. To use each waiver, each recipient must follow the notification process described above and update its program records to include written documentation of the specific conditions that justify the recipient's use of the waiver, consistent with the justifications and applicability provisions below. Provisions that are not specifically waived remain in full effect.

**CONTINUUM OF CARE PROGRAM and YOUTH HOMELESSNESS
DEMONSTRATION PROGRAM**

Unless otherwise specified in the waiver, the following waivers are available to CoC Program and YHDP recipients.

1. Third-Party Documentation of Income

Requirement: Where a program participant pays rent or an occupancy charge in accordance with 24 CFR 578.77, 24 CFR 578.103(a)(7) requires recipients and subrecipients to keep on file an income evaluation form specified by HUD along with one of the following types of back-up documentation: (1) source documents for the assets held by the program participant and income received before the date of the evaluation; (2) to the extent that source documents are unobtainable, a written statement by the relevant third party or the written certification of the recipient's or subrecipient's intake staff of the relevant third party's oral verification of the income the program participant received over the most recent period; or (3) to the extent that source documents and third-party verification are unobtainable, the program participant's own written certification of income that the program participant is reasonably expected to receive over the 3-month period following the evaluation.

Citation: 24 CFR 578.103(a)(7)(iv)

Explanation: 24 CFR 578.103(a)(7) requires the recipient or subrecipient to keep records of the program participant's income and the back-up documentation they relied on to determine income. The regulation establishes an order of preference for the type of documentation that recipients can rely upon. Only if source documents and third-party verification are unobtainable is a written certification from the program participant acceptable documentation of income. HUD is waiving "To the extent that source documents and third-party verification are unobtainable" in 578.103(a)(7)(iv).

Justification: On September 30, 2020, HUD waived the requirement to attempt to document that third-party verification of income was unobtainable in order for recipients and subrecipients to permit a program participant's own self-certification of income until December 31, 2020 because that documentation may be difficult to obtain as a result of COVID-19 pandemic and housing program participants quickly was important to prevent the spread of COVID-19. On December 30, 2020, HUD extended this waiver to March 31, 2021. On March 31, 2021, HUD extended this waiver to June 30, 2021. It continues to be important to move people into their own housing quickly to enable social distancing

and prevent the spread of COVID-19. Additionally, recipients need time to prepare staff and to re-adjust policies and procedures to obtain third-party documentation of income as a first order of priority. Therefore, HUD is waiving the requirement that source documents and third-party documentation be unobtainable in order for recipients or subrecipients to rely on a program participant's own certification of their income.

Applicability: The waiver of the requirement at 24 CFR 578.103(a)(7)(iv) that the recipient or subrecipient may only rely on program participant self-certification of income if the other permitted types of documentation are unobtainable when conducting the initial or subsequent rent or occupancy charge calculations is in effect until September 30, 2021, 2021. During this time, 24 CFR 578.103(a)(7)(iv) is waived to the extent necessary to allow recipients or subrecipients to document annual income with the written certification by the program participant of the amount of income that the program participant is reasonably expected to receive over the 3-month period following the evaluation, even if source documents and third-party verification, are obtainable.

2. Housing Quality Standards – Initial 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 the 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 278.75(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: On March 31, 2020, HUD waived the physical inspection requirement at 24 CFR 578.75(b)(1) for 6-months so long as recipients or subrecipients were able to visually inspect the unit using technology to ensure the unit met HQS before any assistance was provided and recipients or subrecipients had written policies in place to physically reinspect the unit within 3 months after the health officials determined special measures to prevent the spread of COVID-19 are no longer necessary. On September 30, 2020, HUD waived the physical inspection requirement at 24 CFR 578.75(b)(1) until December 31, 2020, which HUD then extended until March 31, 2021, so long as recipients and subrecipients could meet certain criteria outlined in the waiver. HUD again extended the waiver on March 31, 2021 until June 30, 2021, so long as recipients and subrecipients could meet the criteria outlined in the waiver. It continues to be important to move people quickly into their own housing to enable

social distancing and prevent the spread of COVID-19. Additionally, recipients need time to prepare staff to inspect (and re-inspect as discussed below) units for HQS. Therefore, HUD is waiving the initial inspection requirement at 24 CFR 578.75(b)(1) as further specified below to allow recipients to move people from the streets and shelters into housing more quickly, which enables social distancing, and helps 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 until September 30, 2021 for recipients and subrecipients that are able to meet the following criteria:
- a. The owner certifies that they have no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question; and
 - b. The recipient or subrecipient has written policies to physically inspect the units not previously physically inspected by December 31, 2021.

3. Suitable Dwelling Size and Housing Quality Standards

- Requirement:** Units funded with CoC Program or YHDP funds must have at least one bedroom or living/sleeping room for each two persons.
- Citation:** 24 CFR 578.75(c) and 24 CFR 982.401(d)(2)(ii) as required by 24 CFR 578.75(b)
- Explanation:** 24 CFR 578.75(c), suitable dwelling size, and 24 CFR 982.401(d)(2)(ii) as required by 24 CFR 578.75(b), Housing Quality Standards, requires units funded with CoC Program funds to have at least one bedroom or living/sleeping room for each two persons.
- Justification:** On September 30, 2020, HUD waived the requirements at 24 CFR 982.401(d)(2)(ii) and 24 CFR 578.75(c) to allow households experiencing homelessness to obtain permanent housing that is affordable and that they assess is adequate. HUD extended these flexibilities on December 30, 2020 to the later of 1) the end of the initial term of the lease or occupancy agreement; or 2) March 31, 2021. HUD again extended these flexibilities on March 31, 2021, to the later of 1) the end of the initial term of the lease or occupancy agreement; or 2) June 30, 2021. Recipients continue to report that households experiencing homelessness remain unable to afford the limited supply of affordable housing in many jurisdictions across the country and this has been made even more challenging due to the economic impact of COVID-19. HUD is waiving the requirements at 24 CFR 982.401(d)(2)(ii) and 24 CFR

578.75(c) as further specified below to reduce the spread of COVID-19 by allowing households to move into housing instead of staying in congregate shelter. Consistent with the *Executive Order on Fighting the Spread of COVID-19 by Providing Assistance to Renters and Homeowners*, grantees should balance use of this waiver with the recommendations of public health officials to limit community spread, and reduce risks to high-risk populations. For example, a large unit with rooms that can be partitioned for privacy and distancing, or the waiver can be applied for units that will house only one family household.

Applicability: The requirement that each unit assisted with CoC Program funds or YHDP funds have at least one bedroom or living/sleeping room for each two persons is waived for recipients providing Permanent Housing-Rapid Re-housing assistance for leases and occupancy agreements executed by recipients and subrecipients between the date of this memorandum and December 31, 2021. Assisted units with leases of occupancy agreements signed during the waiver period may have more than two persons for each bedroom or living/sleeping room until the later of 1) the end of the initial term of the lease or occupancy agreement; or 2) December 31, 2021. As a reminder, recipients are still required to follow State and local occupancy laws.

4. Assistance Available at Time of Renewal

Requirement: 24 CFR 578.33(c) provides that assistance for each year of a renewal period may be for 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 of the project.

Justification: HUD originally waived this requirement for grant agreement amendments signed between March 31, 2020 and October 1, 2020 to allow recipients to move funds between budget line items in a project in response to the COVID-19 pandemic and still apply for renewal in the next FY CoC Program funding cycle based on the budget line items in the grants before they were amended. HUD again waived this requirement for all grant agreements signed from October 1, 2020 until December 31, 2020. HUD again waived this requirement for all grants signed between December 30, 2020 and March 31,

2021. HUD again waived this requirement for all grant agreements signed from March 31, 2021 until June 30, 2021. Recipients continue to report needing to shift budget line items to respond to the COVID-19 pandemic (e.g., providing different supportive services necessitated by the pandemic and the economic impacts created by the pandemic or serving fewer people because 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 further waived for all projects that amend their grant agreements to move funds between budget line items in a project in response to the COVID-19 pandemic between the date of this memorandum and December 31, 2021. Recipients may then apply in the next FY CoC Program funding cycle 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 to move funds between budget line items in response to the COVID-19 pandemic executed between July 1, 2021 and December 31, 2021 as notification to HUD.

5. Permanent Housing-Rapid Re-housing Monthly Case Management

Requirement: Recipients must require program participants of permanent housing – rapid re-housing 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 or Family Violence Prevention and Services Act prohibits the recipient carrying out the project from making its shelter or housing conditional on the participant's acceptance of services.

Justification: HUD originally waived this requirement for 2-months on March 31, 2020. On May 22, 2020 HUD again waived this requirement for an additional 3 months and on September 30, 2020 HUD once again waived this requirement until December 31, 2020. On December 30, 2020, HUD again waived this requirement until March 31, 2021. On March 31, 2021, HUD again waived this requirement until June 30, 2021. While many social distancing measures that were making it difficult to conduct the monthly case management are being lifted, recipients need time to prepare staff to

provide monthly case management in accordance with the regulatory requirement. Waiving the monthly case management requirement as specified below will allow recipients time to shift back to providing case management on a monthly basis instead of on an as needed basis.

Applicability: The 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 until September 30, 2021.

6. 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: HUD originally waived this requirement for 6-months on March 31, 2020. On September 30, 2020 HUD again waived this requirement until December 31, 2020. On December 30, 2020, HUD again waived this requirement until March 31, 2021. On March 31, 2021, HUD again waived this requirement until June 30, 2021. Extending this waiver of the limit on using grant leasing funds to pay above FMR for individual units, but not greater than reasonable rent, will assist recipients in locating additional units to house individuals and families experiencing homelessness in tight rental markets and reduce the spread and harm of COVID-19.

Applicability: The FMR restriction continues to be waived for any lease executed by a recipient or subrecipient to provide transitional or permanent supportive housing until December 31, 2021. The affected recipient or subrecipient must still ensure that rent paid for individual units that are leased with leasing dollars meet the rent reasonableness standard in 24 CFR 578.49(b)(2).

7. One-Year Lease Requirement

Requirement: Program participants residing in permanent housing (including Rapid Re-housing and Permanent Supportive Housing) 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: HUD originally waived this requirement for 6-months on March 31, 2020, again until December 31, 2020 on September 30, 2020, again until March 31, 2021 on December 30, 2020, and again on March 31, 2021 until June 30, 2021 to help recipients more quickly identify permanent housing for individuals and families experiencing homelessness, which is helpful in preventing the spread of COVID-19. Extending this waiver is necessary because recipients report challenges in identifying housing for program participants in tight rental markets due to the economic impact of COVID-19. Additionally, helping program participants move into housing quickly will continue to decrease the risk of people experiencing homelessness of contracting COVID-19 even after special measures are no longer necessary to prevent the spread of COVID-19.

Applicability: The one-year lease requirement is waived for leases executed between the date of this memorandum and December 31, 2021, so long as the initial term of all leases is at least one month.

8. Limit on Eligible Housing Search and Counseling Services

Requirement: With respect to program participants' debts, 24 CFR 578.53(e)(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: HUD originally waived this requirement for 1-year on March 31, 2020 and, on March 31, 2021 extended the waiver until June 30, 2021, to allow

recipients and subrecipients to pay up to 6 months of rental arrears and 6 months of utility arrears to remove barriers to obtaining housing quickly and help reduce the spread and harm of COVID-19. Extending this waiver is necessary to remove barriers that would prevent program participants from finding housing quickly, particularly as more people find themselves with rental arrears due to 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 a program participant's rent arrears, when those arrears make it difficult to obtain housing. This waiver is in effect until December 31, 2021.

9. HQS – Re-Inspection of Units

Requirement: Recipients and 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 and YHDP Programs at least annually during the grant period to ensure the units continue to meet HQS.

Justification: HUD originally waived the requirement for 1-year on March 31, 2020 to help recipients and subrecipients prevent the spread of COVID-19. On March 31, 2021, HUD extended the waiver until June 30, 2021. While many social distancing measures that were making it difficult to re-inspect a unit for HQS are being lifted, recipients need time to prepare staff to re-inspect (and inspect as discussed above) units for HQS. Therefore, HUD is extending the waiver as described below.

Applicability: The requirement at 24 CFR 578.75(b)(2) is waived until September 30, 2021.

10. Homeless Definition – Temporary Stays in Institutions of 90 Days or Less

Requirement: The definition of homeless in 24 CFR 578.3 includes under paragraph (1)(iii) an individual who is exiting an institution where he or she resided for 90 days or less and has resided in an emergency shelter or place not meant for human habitation immediately before entering that institution, which is an interpretation of §103(a)(4) of the McKinney-Vento Act which includes an individual who resided in a shelter or place not meant for

human habitation and who is exiting an institution where he or she temporarily resided (*emphasis added*).

Citation: 24 CFR 578.3, definition of “homeless” (1)(iii)

Explanation: An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution are considered homeless per 24 CFR 578.3, definition of "homeless."

Justification: HUD originally waived this requirement on September 30, 2020, until March 31, 2021 to keep housing options open for individuals who otherwise would have been homeless but were reporting longer stays in institutions as a result of COVID-19 (e.g., longer time in jail due to a postponed court dates due to courts closings or courts operating at reduced capacity and longer hospital stays when infected with COVID-19). HUD again waived this requirement on March 31, 2021 until June 30, 2021. Allowing someone who was residing in an emergency shelter or place not meant for human habitation prior to entering the institution to maintain their homeless status while residing in an institution for longer than 90 days is necessary to prevent the spread of and respond to COVID-19 by expanding housing options for people who were experiencing homelessness and institutionalized for longer than traditionally required due to COVID-19. Recipients continue to report potential program participants are staying in institutions for longer periods of time due to COVID-19; therefore, HUD is extending this waiver to allow someone who was residing in an emergency shelter or place not meant for human habitation prior to entering the institution to maintain their homeless status while residing in an institution for longer than 90 days.

Applicability: An individual may qualify as homeless under paragraph (1)(iii) of the homeless definition in 24 CFR 578.3 so long as he or she is exiting an institution where they resided for 120 days or less and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. This waiver is in effect until December 31, 2021.

11. 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 3-24 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 24 CFR 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: HUD originally waived this requirement on May 22, 2020 until 3 months after a state or local public health official has determined special measures are no longer necessary to prevent the spread of COVID-19. Recipients continue to report program participants are experiencing difficulty affording rent even after receiving 24 months of rental assistance. Therefore, HUD is continuing to offer this waiver flexibility, but is establishing an end date of December 31, 2021. 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 number of people who become homeless again due to the economic impact of COVID-19.

Applicability: The 24-month rental assistance restriction is waived for program participants in permanent housing rapid re-housing project who will have reached 24 months of rental assistance until December 31, 2021. 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 December 31, 2021.

12. Disability Documentation for Permanent Supportive Housing (PSH)

Requirement: A recipient providing PSH must serve individuals 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 recipient 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 no later than 45 days from the date of application

for assistance, which 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 to confirm staff-recorded observations of disability.

Justification: On March 31, 2020 HUD waived the requirement to obtain additional evidence within 45 days and instead allowed recipients up to 6-months from the date of application for assistance to confirm intake staff-recorded observations of disability with other evidence because recipients were reporting difficulty obtaining third-party documentation of disability in the middle of a pandemic, impacting their ability to house potential program participants quickly. On September 30, 2020, HUD waived, in its entirety, the requirement to obtain additional evidence to verify intake staff-recorded observations of disability until public health officials determine no additional special measures are necessary to prevent the spread of COVID-19. While public health measures are lifting in many areas of the country, recipients are reporting that obtaining documentation still takes longer than usual as a result of reduced staffing and hours of agencies and providers that can provide the documentation during COVID-19. Therefore, HUD is continuing this waiver flexibility and is establishing an end date of December 31, 2021.

Note: A written certification by the individual seeking assistance that they have a qualifying disability will be acceptable documentation approved by HUD under 24 CFR 578.103(a)(4)(i)(B)(5) until December 31, 2021. This supersedes the allowance provided in the March 31, 2020 and September 30, 2020 allowance that an individual could provide a written certification of a qualifying disability until public health officials determine no additional special measure are necessary to prevent the spread of COVID-19.

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)

Unless otherwise noted, the following waivers are made available with respect to all HOPWA grants, whether funded under the CARES Act, annual HOPWA formula allocations, or under a HOPWA Renewal Notice or competitive Notice of Funding Opportunity.

13. HOPWA – 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: HUD originally waived this requirement on May 22, 2020 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 could not be achieved within the time limits specified in the regulation. HUD again waived this requirement on March 31, 2021 until June 30, 2021. Grantees and project sponsors continue to report that households require longer periods of assistance due to financial and health-related hardships stemming from the COVID-19 pandemic. Extending this waiver until December 31, 2021 will help prevent households from becoming homeless due to the economic impacts of COVID-19.

Applicability: This waiver is made available for all HOPWA grants except those covered by Notice CPD-20-05, which provides special flexibility as authorized by the CARES Act for grants funded under the CARES Act and for the 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 Notice CPD-20-05.

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 until December 31, 2021 for grantees and project sponsors that can meet the following criteria:

1. 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
2. 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.

14. HOPWA – Property Standards

Requirement: Property Standards for HOPWA

Citation: 24 CFR 574.310(b)(2), Housing Quality Standards (HQS)

Explanation: Section 574.310(b)(2) of the HOPWA regulations provides minimum housing quality standards that apply to all housing for which HOPWA funds are used for 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 under 24 CFR 574.300(b)(3), (4), (5), or (8).

Justification: On March 31, 2020 HUD waived the physical inspection requirement for tenant-based rental assistance at 24 CFR 574.310(b) for one year so long as grantees or project sponsors were able to visually inspect the unit using technology to ensure the unit met HQS before any assistance was provided and grantees or project sponsors had written policies in place to physically reinspect the unit after health officials determined special measures to prevent the spread of COVID-19 were no longer necessary.

On May 22, 2020 HUD waived the physical inspection requirement for 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 for one year so long as grantees or project sponsors met the criteria outlined in the waiver. On March 31, 2021, HUD again waived this requirement for all applicable housing types until June 30, 2021.

While many social distancing measures that were making it difficult to conduct unit inspections are being lifted, it continues to be important to move people quickly into their own housing to enable social distancing and prevent the spread of COVID-19. Additionally, grantees and project sponsors need time to prepare staff to physically inspect units for HQS. Therefore, HUD is extending the waiver as described below.

Applicability: This waiver is in effect until September 30, 2021 for grantees and project sponsors that can meet the following criteria:

1. The grantee or project sponsor can visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and

2. The grantee or project sponsor has written policies to physically reinspect the units not previously physically inspected by December 31, 2021.

15. HOPWA – 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.
- Justification:** HUD originally waived the FMR rent standard requirement for tenant-based rental assistance for one year on March 31, 2020. On May 22, 2020 HUD waived this requirement for one year for all rental assistance types. On March 31, 2021, HUD again waived this requirement for all rental assistance types until June 30, 2021. Extending this waiver of the FMR rent standard limit, while still requiring that the unit be rent reasonable in accordance with §574.320(a)(3), will assist grantees and project sponsors in locating additional units to house low-income people living with HIV in tight rental markets and reduce the spread and harm of COVID-19.
- Applicability:** The FMR requirement continues to be waived until December 31, 2021. Grantees and project sponsors must still ensure the reasonableness of rent charged for a unit in accordance with §574.320(a)(3).

16. HOPWA – 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:** HUD originally waived the requirement for source documentation of income and HIV status on March 31, 2020 for grantees that 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. The waiver permits 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.

While public health measures are lifting in many areas of the country, grantees are reporting that obtaining documentation still takes longer than usual because of reduced staffing and hours of agencies and providers that can provide the documentation during COVID-19. Additionally, grantees need time to prepare staff and to re-adjust policies and procedures to obtain source income of HIV status and income. Therefore, HUD is continuing this waiver flexibility and is establishing an end date of September 30, 2021.

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 grantees 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 by September 30, 2021.

Attachment #1 to Memorandum:

Procedure for Using Available Waivers of Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19

This attachment provides further information on the process that grantees must follow to use the waiver flexibility provided in the memorandum.

Grantees must mail or email notification to the Community Planning and Development Director of the HUD Field Office serving the grantee.

The email notification must be sent two days before the grantee anticipates using waiver flexibility, and include the following details:

- Requestor's name, title, and contact information;
- Date on which the grantee anticipates first use of the waiver flexibility; and
- A list of the waiver flexibilities the grantee will use:
 1. CoC/YHDP: Third-Party Documentation of Income
 2. CoC/YHDP: Housing Quality Standards – Initial Inspection of Unit
 3. CoC/YHDP: Suitable Dwelling Size and Housing Quality Standards
 5. CoC/YHDP: Permanent Housing-Rapid Re-housing Monthly Case Management
 6. CoC/YHDP: Fair Market Rent for Individual Units and Leasing Costs
 7. CoC/YHDP: One-Year Lease Requirement
 8. CoC/YHDP: Limit on Eligible Housing Search and Counseling Services
 9. CoC/YHDP: HQS-Re-inspection of Units
 10. CoC/YHDP: Homeless Definition – Temporary Stays in Institutions of 90 Days or Less
 11. CoC/YHDP: Permanent Housing Rapid Re-housing Limit to 24 Months of Rental Assistance
 12. CoC/YHDP: Disability Documentation for Permanent Supportive Housing (PSH)
 13. HOPWA – Time Limits for Short-Term Housing Facilities and Short-Term Rent, Mortgage, and Utility Payments
 14. HOPWA – Property Standards
 15. HOPWA – FMR Rent Standard
 16. HOPWA – Self-Certification of Income and Credible Information HIV Status