

CPD Waivers for CoC, ESG, HOPWA and Con Plan Regulatory Requirements

Updated 4.2.20

On March 31, 2020 (announced April 1, 2020), HUD's Office of Community Planning and Development (CPD) released a memorandum¹ ("HUD's memo") explaining the availability of waivers of consolidated plan requirements for formula programs and program-specific waivers for the following CPD programs:

- Continuum of Care (CoC);
- Emergency Solutions Grant (ESG); and
- Housing Opportunities for Persons with AIDS (HOPWA).

These waivers are intended to prevent the spread of COVID-19 and to facilitate assistance to eligible communities and households economically impacted by COVID-19.

How to Apply for a Waiver

To use the waiver, the grant recipient must provide notification in writing, either through mail or e-mail, to the CPD Director of the HUD Field Office serving its jurisdiction **at least two days before** the recipient anticipates using the waiver.

- Required details of the written notification can be found in Appendix A
- Emails for CPD Directors can be found in Appendix B

Each recipient must also 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 outlined in HUD's Memorandum.

Provisions that are not specifically waived remain in full effect.

¹ HUD CPD memorandum, *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 for CoC, ESG, and HOPWA*, 31 Mar 2020.

Waiver Availability

Continuum of Care (CoC) Program

REGULATORY REQUIREMENT	AVAILABLE WAIVER
<p>1. Fair Market Rent for Individual Units & Leasing Costs Rent payments for individual units with leasing dollars may not exceed Fair Market Rent (FMR).</p>	<p>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 HUD's memo. Must still meet rent reasonableness.</p>
<p>2. Disability Documentation for PSH Recipients must document a qualifying disability of a household member; when through intake worker's observation, must obtain additional evidence within 45 days.</p>	<p>Additional evidence requirement is waived. Recipients can rely on intake staff-recorded observation of disability for the 6-month period of HUD's memo. Self-certification of qualifying disability is acceptable documentation until public health officials determine no additional special measures needed to prevent spread of COVID-19.</p>
<p>3. Limit on Eligible Housing Search and Counseling Services With respect to program participant's debts, normally only the costs of credit counseling, accessing a free personal credit report, and resolving personal credit issues are allowed.</p>	<p>The limitation on eligible housing search and counseling activities is waived so funds may be used for utility arrears and rent arrears (up to 6 months), when those arrears make it difficult to obtain housing. This waiver is in effect one year beginning on the date of HUD's memo.</p>
<p>4. Rapid Re-housing Monthly Case Management Recipients must require program participants of RRH projects to meet with a case manager at least monthly; exempt if VAWA prohibits making housing conditional on acceptance of services.</p>	<p>The monthly RRH case management meeting requirement is waived for all rapid re-housing projects for two months beginning on the date of HUD's memo. Provide case management on as-needed basis to prevent spread of COVID-19.</p>
<p>5. Housing Quality Standards (HQS) – Initial Physical Inspection of Unit 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.</p>	<p>Physical inspection of unit is waived if</p> <ol style="list-style-type: none"> able to visually inspect the unit using technology (e.g., video) to ensure unit meets HQS, and recipient or subrecipient has written policies to physically re-inspect within 3 months after public health officials determine special measures no longer needed to prevent spread of COVID-19. <p>Waiver in effect for 6 months beginning on the date of HUD's memo.</p>
<p>6. HQS – Re-Inspection of Units 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.</p>	<p>The annual re-inspection requirement is waived for 1 year beginning on the date of HUD's memo.</p>
<p>7. One-Year Lease 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.</p>	<p>The one-year lease requirement is waived for six months beginning on the date of HUD's memo, so long as the initial lease term of all leases is for more than one month.</p>

Consolidated Plan

REGULATORY REQUIREMENT	AVAILABLE WAIVER
<p>8. Citizen Participation Public Comment Period for Consolidated Plan Amendment The citizen participation plan must provide citizens with 30 days to comment on substantial amendments.</p>	<p>The 30-day 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. Any recipient wishing to undertake further amendments to prior year plans following the 2020 program year can do so during the development of its FY 2021 Annual Action Plan.</p>
<p>9. Citizen Participation Reasonable Notice and Opportunity to Comment 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.</p>	<p>The requirement for the recipient to follow its citizen participation plan is waived. As efforts to contain COVID-19 require limiting public gatherings, HUD will allow recipients to determine what constitutes reasonable notice and opportunity to comment given their circumstances. This authority is in effect through the end of the 2020 program year.</p>

Emergency Solutions Grant (ESG)

REGULATORY REQUIREMENT	AVAILABLE WAIVER
<p>10. HMIS Lead Activities ESG funds may be used to pay the costs of managing and operating the HMIS, provided that the ESG recipient is the HMIS Lead.</p>	<p>The condition that the recipient must be the HMIS Lead is waived to allow any recipient to use ESG funds to pay costs of upgrading or enhancing its local HMIS to incorporate data on ESG participants and activities related to COVID-19. This waiver is in effect for 6 months beginning on the date of HUD's memo.</p>
<p>11. Re-evaluations for Homelessness Prevention Assistance Homelessness prevention assistance is subject to re-evaluation of each participant's eligibility need for assistance not less than once every 3 months.</p>	<p>The required 3-month frequency of re-evaluations for homelessness prevention assistance is waived so long as the recipient or subrecipient conducts the required re-evaluations not less than once every 6 months, for up to 2 years beginning on the date of HUD's memo.</p>
<p>12. Housing Stability Case Management 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.</p>	<p>The monthly case management requirement is waived. Recipients are to provide case management on an as needed basis and reduce the possible spread of COVID-19. This waiver is in effect for two months beginning on the date of HUD's memo.</p>
<p>13. Restriction of Rental Assistance to Units with Rent at or Below FMR Rental assistance cannot be provided unless total rent is at or below FMR and complies with rent reasonableness.</p>	<p>The FMR restriction is waived for any individual or family receiving RRH or Homelessness Prevention assistance who executes a lease for a unit during the 6-month period beginning on the date of HUD's memo. Must still meet rent reasonableness.</p>

Housing Opportunities for Persons with AIDS (HOPWA)

REGULATORY REQUIREMENT	AVAILABLE WAIVER
<p>14. HOPWA – Self-Certification of Income and Credible Information on HIV Status Each grantee must maintain records (source documentation for income and HIV status determinations) to document compliance with HOPWA requirements, which includes determining the eligibility of a family to receive HOPWA assistance.</p>	<p>This waiver will permit grantees & project sponsors to rely upon a family member’s self-certification of income & credible information on their HIV status for those affected by COVID-19. Eligibility is restricted to a low-income person who is living with HIV/AIDS and the family of such person. In effect for recipients who require written certification HIV status & income and agree to obtain source documentation within 3 months of public health officials determining no additional special measures are needed to prevent the spread of COVID-19.</p>
<p>15. HOPWA – FMR Rent Standard Grantees must establish rent standards for their tenant-based rental assistance programs based on FMR (Fair Market Rent) or the HUD- approved community-wide exception rent for unit size. Generally, the TBRA payment may not exceed the difference between the rent standard and 30 percent of the family’s adjusted income.</p>	<p>This waiver of the FMR rent standard limit permits 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 & maintenance of each unit. Units must still meet rent reasonableness. Such rent standards may be used for up to 1 year beginning on the date of HUD’s memo.</p>
<p>16. HOPWA – Property Standards for TBRA HOPWA regulations provide that units occupied by recipients of HOPWA TBRA must meet Housing Quality Standards (HQS).</p>	<p>Physical inspection of unit is waived if</p> <ul style="list-style-type: none"> c. recipient of project sponsor is able to visually inspect the unit using technology (e.g., video) to ensure unit meets HQS, and d. recipient or subrecipient has written policies to physically re-inspect after public health officials determine special measures no longer needed to prevent spread of COVID-19. <p>Waiver in effect for 1-year beginning on the date of HUD’s memo.</p>
<p>17. HOPWA Space and Security This section of the HOPWA regulations provide that each resident must be afforded adequate space and security for themselves and their belongings.</p>	<p>The 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. This waiver provides 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.</p>

Appendix A: Required details of the written notification

Grantees must mail or email notification to the CPD Director of the HUD Field Office serving the grantee (See Appendix B). The mail or email notification must be sent 2 days before the grantee anticipates using waiver flexibility, and include the following details:

- Requestor's name, title, and contact information;
- Declared-disaster area(s) where the waivers will be used;
- 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 Program - Fair Market Rent for Individual Units and Leasing Costs
 2. CoC Program - Disability Documentation for Permanent Supportive Housing (PSH)
 3. CoC Program - Limit on Eligible Housing Search and Counseling
 4. CoC Program - Permanent Housing-Rapid Re-housing Monthly Case Management
 5. CoC Program - Housing Quality Standards (HQS) – Initial Physical of Unit
 6. CoC Program - HQS – Re-Inspection of Units
 7. CoC Program – One-Year Lease Requirement

 8. Consolidated Planning Requirements - HOME, CDBG, HTF, ESG, and HOPWA Programs – Citizen Participation Public Comment Period for Consolidated Plan Amendment
 9. Consolidated Planning Requirements - HOME, CDBG, HTF, ESG, and HOPWA Programs – Citizen Participation Reasonable Notice and Opportunity to Comment

 10. ESG Program - HMIS Lead Activities
 11. ESG Program - Re-evaluations for Homelessness Prevention Assistance
 12. ESG Program - Housing Stability Case Management
 13. ESG Program - Restriction of Rental Assistance to Units with Rent at or Below FMR

 14. HOPWA Program - Self-Certification of Income and Credible Information on HIV Status
 15. HOPWA Program - FMR Rent Standard
 16. HOPWA Program - Property Standards for TBRA
 17. HOPWA Program - Space and Security

Appendix B: Emails for CPD Directors

EMAIL	CPD Office
CPD_COVID-19WaiverABQ@HUD.gov	ALBUQUERQUE
CPD_COVID-19WaiverANC@HUD.gov	ANCHORAGE
CPD_COVID-19WaiverATL@HUD.gov	ATLANTA
CPD_COVID-19WaiverBAL@HUD.gov	BALTIMORE
CPD_COVID-19WaiverBHM@HUD.gov	BIRMINGHAM
CPD_COVID-19WaiverBOS@HUD.gov	BOSTON
CPD_COVID-19WaiverBUF@HUD.gov	BUFFALO
CPD_COVID-19WaiverCHI@HUD.gov	CHICAGO
CPD_COVID-19WaiverCSC@HUD.gov	COLUMBIA
CPD_COVID-19WaiverCOL@HUD.gov	COLUMBUS
CPD_COVID-19WaiverDEN@HUD.gov	DENVER
CPD_COVID-19WaiverDET@HUD.gov	DETROIT
CPD_COVID-19WaiverFTW@HUD.gov	FT. WORTH
CPD_COVID-19WaiverGRB@HUD.gov	GREENSBORO
CPD_COVID-19WaiverHAT@HUD.gov	HARTFORD
CPD_COVID-19WaiverHNL@HUD.gov	HONOLULU
CPD_COVID-19WaiverHOS@HUD.gov	HOUSTON
CPD_COVID-19WaiverIND@HUD.gov	INDIANAPOLIS
CPD_COVID-19WaiverJA@HUD.gov	JACKSON
CPD_COVID-19WaiverJAX@HUD.gov	JACKSONVILLE
CPD_COVID-19WaiverKC@HUD.gov	KANSAS CITY
CPD_COVID-19WaiverKN@HUD.gov	KNOXVILLE
CPD_COVID-19WaiverLIT@HUD.gov	LITTLE ROCK
CPD_COVID-19WaiverLA@HUD.gov	LOS ANGELES
CPD_COVID-19WaiverLOU@HUD.gov	LOUISVILLE
CPD_COVID-19WaiverMIA@HUD.gov	MIAMI
CPD_COVID-19WaiverMIL@HUD.gov	MILWAUKEE
CPD_COVID-19WaiverMIN@HUD.gov	MINNEAPOLIS
CPD_COVID-19WaiverNO@HUD.gov	NEW ORLEANS
CPD_COVID-19WaiverNY@HUD.gov	NEW YORK
CPD_COVID-19WaiverNK@HUD.gov	NEWARK
CPD_COVID-19WaiverOKC@HUD.gov	OKLAHOMA CITY
CPD_COVID-19WaiverOMA@HUD.gov	OMAHA
CPD_COVID-19WaiverPHI@HUD.gov	PHILADELPHIA
CPD_COVID-19WaiverPIT@HUD.gov	PITTSBURGH
CPD_COVID-19WaiverPOR@HUD.gov	PORTLAND
CPD_COVID-19WaiverRIC@HUD.gov	RICHMOND
CPD_COVID-19WaiverSAT@HUD.gov	SAN ANTONIO
CPD_COVID-19WaiverSFO@HUD.gov	SAN FRANCISCO
CPD_COVID-19WaiverSJU@HUD.gov	SAN JUAN
CPD_COVID-19WaiverSEA@HUD.gov	SEATTLE
CPD_COVID-19WaiverSTL@HUD.gov	ST. LOUIS
CPD_COVID-19WaiverDC@HUD.gov	WASHINGTON DC

Please visit the *Homebase COVID-19 response webpage*² for more information.

² <https://www.homebaseccc.org/covid-19-response>