

Third Set of CPD Waivers for CoC, YHDP, and ESG Programs

Updated 10.6.20

Background

The Department of Housing and Urban Development (HUD) has issued a series of waivers of regulatory requirements associated with several Community Planning and Development (CPD) grant programs. The purpose of the waivers is to prevent the spread of COVID-19 and to facilitate assistance to eligible communities and households who are impacted by COVID-19.

- On March 31, 2020 (announced April 1, 2020) HUD released a [memorandum](#) which detailed available waivers to Continuum of Care (CoC), Housing Opportunities for Persons with AIDS (HOPWA), Emergency Solutions Grants (ESG), and Consolidated Plan program requirements in light of COVID-19.
- On May 22, 2020 (announced May 27, 2020), HUD released [a second memorandum](#) explaining the availability of additional waivers for CoC, HOPWA, ESG, and the Youth Homeless Demonstration Project (YHDP).

New HUD Program Waivers

On September 30, 2020, HUD released a third [memorandum](#) in a series explaining the availability of waivers of some of the regulations that would otherwise apply to the following CPD programs:

- Continuum of Care (CoC);
- Youth Homelessness Demonstration Program (YHDP); and
- Emergency Solutions Grant (ESG).

Some of these September 30th waivers are extensions of waivers that were announced in the first two memoranda in this series, and some of the waivers offer new kinds of flexibility.

How to Apply for a Waiver

In order to use a 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. The writing must be sent **at least two days before** the recipient anticipates using the flexibility granted by the waiver. **Waivers should be re-requested at this time even if the new waiver will be merely extending a previously granted waiver.**

- Required details of the written notification can be found in Appendix A

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 Memoranda. **Provisions that are not specifically waived remain in full effect.**

Please note that the San Francisco CPD field office has updated their waiver notification template to reflect HUD waiver and memoranda guidance current as of September 30, 2020. You can find the template [here](#).

Waiver Updates from HUD's September 30, 2020 Memo

REGULATORY REQUIREMENT	APPLIES TO	PREVIOUS WAIVER	CURRENT AVAILABLE WAIVER FROM HUD'S 9/30/20 MEMO	WAIVER EXPIRATION DATE
1. Third-Party Documentation of Income. Per 24 CFR 578.103(a)(7)(iv), program participants cannot be assessed rent or occupancy charges without a documented attempt to obtain third-party confirmation of the amount of the participant's income. Self-verification of income can be used only when third-party verification is unavailable.	CoC, YHDP	No prior waiver.	Until 12/31/2020, programs may instead rely on the participant's first-party written confirmation of the amount of income the program participant is reasonably expected to receive over the three-month period following the evaluation even if third party documentation are obtainable.	Waiver expires 12/31/20
2. Initial Inspection of Unit. Per 24 CFR 578.75(b)(1), recipients must physically inspect each unit to ensure it meets minimum housing quality standards (HQS) before HUD funds can be used to pay for that unit.	CoC, YHDP	<p>Prior waiver: Physical inspection of unit is waived if</p> <ul 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 until October 1, 2020.</p>	Until 12/31/2020, instead of physical inspection or virtual inspection, programs may rely on a certification by the owner of a unit that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit, if the recipient has written policies to physically inspect the unit within 3 months after public health officials determine no additional special measures are needed to prevent spread of COVID-19.	Waiver expires 12/31/20
3. Suitable Dwelling Size. Per 24 CFR 758.75(c), units funded through the CoC or YHDP must have at least one bedroom per two people.	CoC, YHDP	No prior waiver.	<p>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 Rehousing assistance for leases and occupancy agreements executed by recipients and subrecipients between the date of this memorandum 9/30/20 and 12/31/20.</p> <p>This waiver may be used until 12/31/2020 or until the initial lease term expires, whichever comes later.</p>	Waiver expires 12/31/20 or until initial lease expires (whichever is later)

<p>4. Coordinated Entry Stakeholder Consultation. Per Section II.B.15 of Notice CPD-17-01, CoCs must consult with stakeholders once each year by soliciting feedback from projects and households who have participated in coordinated entry.</p>	CoC	No prior waiver.	From October 2020 through September 30, 2021 this requirement is waived. No annual consultation will be required for Coordinated Entry.	Waiver expires 9/30/21
<p>5. Temporary Stays in Institutions (CoC / YHDP). The definition of homelessness at 24 CFR 578.3(1)(iii) includes clients who have resided in an institution for <u>up to 90 days</u> and who were homeless before entering that institution.</p>	CoC, YHDP	No prior waiver.	Until March 30, 2021 this requirement is expanded to also include clients who have resided in an institution for <u>up to 120 days</u> and who were homeless before entering that institution.	Waiver expires 3/30/21.
<p>6. Assistance Available at Time of Renewal. Stability of Budget Line-Items - Per 24 CFR 578.33(c), projects must keep the same budget line-items from year to year as they renew their grants, unless they formally amend their grants in consultation with the HUD field office.</p>	CoC, YHDP	<p>Prior Waiver: The requirement that the renewal grant 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.</p> <p>*Notification* Recipients do not need to follow the notification process in Appendix A. 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.</p>	The previous waivers are extended until 12/31/2020, so that projects may temporarily shift funding between 3/31/2020 and 12/31/2020. Unlike the other waivers made available, no special e-mail notice is required to use this waiver.	Waiver expires 12/31/20
<p>7. Monthly Case Management in RRH. Per 24 CFR 578.37(a)(1)(ii)(F), participants in Rapid Re-Housing (RRH)</p>	CoC, YHDP	Prior Waiver: In previous waivers, HUD waived the monthly RRH case management meeting	The previous waiver is extended until 12/31/2020, so that between 3/31/2020 and 12/31/2020, projects need not	

must meet with a case manager at least once per month.		requirement through September 22, 2020. Programs should provide case management on as-needed basis to prevent spread of COVID-19.	meet with each RRH client each month.	Waiver expires 12/31/20
8. Fair Market Rent. Per 24 CFR 578.49(b)(2), leasing dollars may not pay for units above the Fair Market Rent (FMR) when leasing individual units.	CoC, YHDP	Prior Waiver: The FMR restriction is waived for any lease executed by a recipient or subrecipient to provide transitional or permanent supportive housing through October 1, 2020. Must still meet rent reasonableness.	The previous waiver is extended until 12/31/2020, so that projects may pay for leases above the FMR between 3/31/2020 and 12/31/2020.	Waiver expires 12/31/20
9. Disability Documentation for PSH. Per 24 CFR 578.103(a), Permanent Supportive Housing (PSH) projects must document evidence that each of their clients has a qualifying disability. If the initial disability is documented by an intake worker's observation rather than by a medical professional, then additional confirming evidence must be obtained <u>within 45 days</u> .	CoC, YHDP	Prior Waiver: Additional evidence requirement is waived. Recipients can rely on intake staff-recorded observation of disability through October 1, 2020. Self-certification of qualifying disability is acceptable documentation until public health officials determine no additional special measures needed to prevent spread of COVID-19.	The previous waiver is enhanced so that additional confirming evidence will <u>never</u> be required for a PSH client who is observed by an intake worker to have a qualifying disability. Observations made by intake workers for clients who are being admitted during the crisis will be treated as conclusive. This waiver will continue until public health officials determine that no additional special measures are necessary to prevent the spread of COVID-19.	Use of this waiver expires only when public health officials determine that no additional special measures are necessary to prevent the spread of COVID-19
10. One-Year Lease Requirement. Per 24 CFR 578.51(1)(1), RRH and PSH clients must be tenants on leases with an initial term of at least <u>one year</u> .	CoC, YHDP	Prior Waiver: The one-year lease requirement is waived until October 1, 2020 so long as the initial lease term of all leases is for more than one month.	The previous waiver is extended until 12/31/2020, so that clients may sign leases with an initial term as short as <u>one month</u> between 3/31/2020 and 12/31/2020.	Waiver expires 12/31/20.
11. Temporary Stays in Institutions (ESG). The definition of homelessness at 24 CFR 578.3(1)(iii) includes clients who have resided in an institution for <u>up to 90 days</u> and who were homeless before entering that institution.	ESG, ESG-CV	No prior waiver.	Until March 30, 2021 this requirement is expanded to also include clients who have resided in an institution for <u>up to 120 days</u> and who were homeless before entering that institution.	Waiver expires 3/30/21

Please visit the Homebase [COVID-19 response webpage](#) for more information.

Prior Waivers for YHDP, CoC and ESG Still in Effect and Unchanged as of October 2020

REGULATORY REQUIREMENT	APPLIES TO	AVAILABLE WAIVER	WAIVER EXPIRES ON
<p>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>	CoC,	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 until March 31, 2021.	<i>Waiver expires 3/31/2021</i>
<p>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>	CoC	The annual re-inspection requirement is waived until March 31, 2021.	<i>Waiver expires 3/31/2021</i>
<p>Limit to be Eligible for DedicatedPLUS Project When Coming from Transitional Housing Being Eliminated To be eligible for DedicatedPLUS, an individual or family must meet the criteria of DedicatedPLUS in the NOFA under which the grant was awarded. One of the possible criteria is residing in transitional housing <i>that will be eliminated</i> and meeting the definition of chronically homeless in effect at the time in which the individual or family entered the transitional housing project.</p>	CoC	The definition of DedicatedPLUS project is waived for DedicatedPLUS projects funded in FY18 and FY19 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.	<i>Waiver is available for DedicatedPLUS Projects funded under FY18 & FY19. Waiver will not be applicable once participants are no longer being served with the FY18 and FY19 funding.</i>
<p>Permanent Housing Rapid Re-housing Limit to 24 Months of Rental Assistance CoC Program funds may be used to provide short- term (up to 3 months) and/or medium-term (3 to 24 months) tenant-based rental assistance.</p>	CoC, YHDP	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 HUD's additional memo until public health officials determine special measures no longer needed to prevent 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 until public health officials determine special measures no longer needed to prevent spread of COVID-19	<i>Waiver expires 3 months after public health officials determine special measures are no longer needed to prevent spread of COVID-19</i>

<p>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>ESG, ESG-CV</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, until March 31, 2022.</p>	<p>.</p>
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Please see [here](#) for Con Plan HOPWA waivers still in effect

Expired Prior Waivers for ESG Programs and as of October 2020

Please note: While the waivers outlined in HUD's previous memos have expired, they have been extended via the [ESG-CV Notice](#).

REGULATORY REQUIREMENT	APPLIES TO	AVAILABLE WAIVER	EXPIRED
<p>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>ESG, ESG-CV</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><i>Expired on 9/30/2020. Extended in the ESG-CV Notice.</i></p>
<p>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>ESG, ESG-CV</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. HUD originally waived this requirement for 2-months on March 31, 2020. This Waiver is in effect for an additional three months beginning on the date of HUD's additional memo.</p>	<p><i>Expired on 8/22/20. Extended in the ESG-CV Notice.</i></p>
<p>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>ESG, ESG-CV</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>	<p><i>Expired on 9/30/20; Extended in the ESG-CV Notice.</i></p>

Please see [here](#) to review any expired waivers for Con Plan and HOPWA.

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 (CPD_COVID-19WaiverOKC@HUD.gov). 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. Third-Party Documentation of Income (CoC / YHDP)
 2. Housing Quality Standards – Initial Inspection of Unit (CoC / YHDP)
 3. Suitable Dwelling Size and Housing Quality Standards (CoC / YHDP)
 4. Coordinated Entry – Annual Ongoing Planning and Stakeholder Consultation (CoC)
 5. Homeless Definition – Temporary Stays in Institutions of 90 Days or Less (CoC / YHDP)
 6. Assistance Available at Time of Renewal (CoC / YHDP)
 7. Permanent Housing-Rapid Re-housing Monthly Case Management (CoC / YHDP)
 8. Fair Market Rent for Individual Units and Leasing Costs (CoC / YHDP)
 9. Disability Documentation for Permanent Supportive Housing (CoC / YHDP)
 10. One-Year Lease Requirement (CoC / YHDP)
 11. Homeless Definition – Temporary Stays in Institutions of 90 Days or Less (ESG)