



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: Marion M. McFadden, Principal Deputy Assistant Secretary, D

SUBJECT: Availability of Waivers of Community Planning and  
Development Grant Program and Consolidated Plan  
Requirements to Facilitate Recovery from Guam Typhoon Mawar

PURPOSE:

This memorandum explains the availability of suspensions and waivers of certain statutory and regulatory requirements associated with several Community Planning and Development (CPD) grant programs to address damage and facilitate recovery from Guam Typhoon Mawar (the “**disaster**”) in the area covered by a major disaster declaration under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), DR-4715-GU, dated May 25, 2023, as may be amended (the “**declared-disaster area**”).

This memorandum covers the following CPD programs:

- Community Development Block Grant (CDBG)
- HOME Investment Partnerships (HOME)
- Housing Trust Fund (HTF)
- Housing Opportunities for Persons With AIDS (HOPWA)
- Emergency Solutions Grant (ESG)
- Continuum of Care Program (CoC)

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

## SUPPORTING DOCUMENTATION AND NOTIFICATION PROCESS:

The Territory of Guam may use the statutory suspensions and regulatory waivers described in this memorandum to assist affected CPD program beneficiaries and CPD program-eligible families to address damage caused by the disaster. CDBG, CoC, ESG, and HOPWA grantees may also use some of the waivers outside of the declared-disaster area, as explained in those program-specific sections below. The grantee 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 three days before the grantee anticipates using the suspension or waiver flexibility. Further directions on notifying HUD can be found in Attachment #1. Each recipient must also update its program records to include written documentation of the specific conditions that justify each use of a waiver, consistent with the justifications provided below.

CPD cautions grantees to be aware of potential duplication of benefits when providing financial assistance to address losses that result from the disaster. See CPD Notice 17-06, *Using Community Planning and Development (CPD) funds for Disaster Response and Recovery*, for guidance on using CPD funds for immediate disaster response and long-term recovery.

## SUSPENSION AND WAIVER AUTHORITY:

Typhoon Mawar caused substantial damage throughout Guam. Many individuals and families residing in the declared-disaster area have been displaced from their homes, including the current beneficiaries of various CPD programs, and families eligible to receive CPD program assistance. Some may continue to live in homes with habitability deficits, particularly related to potable water and electricity. CPD-funded grantees and subrecipients are in the process of locating these beneficiaries and CPD program-eligible families and placing them in available housing, facilities, and hotels and motels on an emergency basis, or assisting with emergency repairs. Some grantees and subrecipients have inquired about the availability of suspensions and waivers of various CPD program requirements to facilitate assistance to individuals and families.

Section 122 of the Housing and Community Development Act of 1974 (HCDA), as amended (42 U.S.C. 5321), and Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended (42 U.S.C. 12840), authorize HUD to suspend, respectively, certain CDBG and HOME statutory requirements to assist grantees of these programs in addressing the damage in the area for which the President has declared a disaster under title IV of the Stafford Act.

Upon determination of good cause, in accordance with 24 CFR 5.110, HUD may waive regulatory provisions, subject to statutory limitations. Additional regulatory waiver authority is in 24 CFR 91.600 and 24 CFR 570.5. These provisions provide HUD the authority to make waiver determinations for the CDBG, HOME, HTF, HOPWA, ESG, and CoC programs. To adequately address damage caused by the disaster and disaster recovery needs of Guam and assist CDBG, HOPWA, ESG, and CoC grantees outside of the declared-disaster area to respond to needs resulting from the disaster, I hereby find good cause to provide the statutory suspensions and regulatory waivers of CPD grant program requirements as set forth below. Provisions that are not specifically suspended or waived remain fully effective.

ESG, COC, and HOPWA WAIVER AVAILABILITY: Unless otherwise provided in this memorandum, the following waivers are available for existing grants under the ESG, CoC, and HOPWA Programs consistent with the terms of this memorandum. Subject to funding availability, these waivers will apply to future grants to the same extent as provided for existing grants, unless otherwise prohibited or provided by HUD. Recipients are responsible for documenting that each waiver is used only under the circumstances and conditions permitted under this memorandum.

## **CONSOLIDATED PLAN REQUIREMENTS**

### **1. Citizen Participation Public Comment Period for Consolidated Plan Amendment**

Citations: 24 CFR 91.105(c)(2) and (k) and 24 CFR 570.440(i)(2)

Explanation: Guam may amend an approved consolidated plan in accordance with 24 CFR 91.505 and 24 CFR 570.440(i). Substantial amendments to the consolidated plan, such as the addition of new activities or a change in the use of grant funds from one eligible activity to another, are subject to the citizen participation process in the grantee's citizen participation plan. The citizen participation plan must provide citizens with 30 days to comment on substantial amendments.

Justification: Given the need to expedite actions to respond to damage caused by the disaster, HUD waives the 30-day public comment requirement of 24 CFR 91.105(c)(2) and (k) and 24 CFR 570.440(i)(2), and reduces the public comment period to no less than seven days. In reducing the comment period to seven days, HUD is balancing the need to quickly assist families dealing with the effects of the disaster while continuing to provide reasonable notice and opportunity for citizens to comment on the proposed uses of CDBG, HOME, HTF, and ESG funds.

Applicability: This authority is in effect through the end of Guam's 2023 program year and is limited to facilitating preparation of FY 2023 Plan substantial amendments and substantial amendments to prior year plans.

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

Citations: 24 CFR 91.105(c)(2) and (k) and 24 CFR 570.441(b)

Explanation: As noted above, the regulations at 24 CFR 91.105 and 24 CFR 570.441(b) set forth the citizen participation plan requirements for Guam. For substantial amendments to the consolidated plan, the regulations require Guam to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given.

**Justification:** HUD recognizes the destruction wrought by the disaster makes it difficult for Guam to provide notice to citizens in accordance with its citizen participation plan. Therefore, HUD waives 24 CFR 91.105(c)(2) and (k) and 24 CFR 570.441(b) to allow Guam to determine what constitutes reasonable notice and opportunity to comment given its circumstances.

**Applicability:** This authority is in effect through the end of Guam's 2023 program year and is limited to facilitating preparation of FY 2023 Plan substantial amendments and substantial amendments to prior year plans.

## **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

### **3. CDBG – New Housing Construction**

**Citations:** Section 105(a) of the HCDA, 24 CFR 570.420(b)(3)(ii), and 24 CFR 570.207(b)(3)

**Explanation:** New housing construction is not generally an eligible activity under Section 105 of HCDA. It may be undertaken indirectly through CDBG assistance provided to Community Based Development Organizations or other nonprofit entities specified in Section 105(a)(15) of the HCDA.

**Justification:** HUD recognizes that the disaster caused damage and destruction to a large number of housing units within the declared-disaster area. Allowing new housing construction will enable Guam to replace affordable housing units that were lost as a result of the disaster. To expedite the rebuilding process, HUD suspends Section 105(a) of the HCDA and waives 24 CFR 570.420(b)(3)(ii) and 24 CFR 570.207(b)(3) to permit Guam to directly use CDBG funds for new housing construction activities to address damage from the disaster. In addition to the flexibility provided by the suspension of the statute, Guam is encouraged to take advantage of the reconstruction provisions at Section 105(a)(4) of the HCDA.

**Applicability:** This suspension and waiver will remain in effect through the end of Guam's 2023 program year.

Guam must document how the activity will address damage in the declared area. Guam may demonstrate this need to address damage by showing that the persons and families seeking assistance were impacted by the disaster and have a need for CDBG assistance to respond to the disaster. For example, Guam may accept FEMA registration or other evidence as documentation of impact and need for CDBG assistance. Guam may also use other means to document how the activity will address damage in the declared area. This may occur when individual verification is impractical, such as for an activity that meets the national objective criteria for benefiting a primarily residential, low- and moderate-income area. Additionally, CDBG assistance must be necessary and reasonable to recover from the disaster.

### **4. CDBG – Suspension of Public Services Cap**

**Citations:** Section 105(a)(8) of the HCDA, 24 CFR 570.420(b)(3)(ii), and 24 CFR 570.201(e)(1) or (2)

**Explanation:** Section 105(a)(8) and 24 CFR 570.201(e) limit the amount of CDBG funds that may be used to provide public services to 15 percent of the grantee's most recent CDBG grant plus 15 percent of program income received.

**Justification:** HUD suspends the provision of Section 105(a)(8) of the HCDA and waives 24 CFR 570.420(b)(3)(ii) and 24 CFR 570.201(e) to permit Guam to exceed the 15 percent cap on public service expenditures.

The waiver will allow Guam to pay for additional support services related to the effects of the disaster on individuals and families. Anticipated services include, but are not limited to, the provision of food and bottled water, emergency shelter, case management, and related services to help residents in the declared-disaster area until long-term recovery resources become available. These costs are eligible under the public services provision of Section 105(a)(8) of the HCDA and 24 CFR 570.201(e) of the regulations.

**Applicability:** This suspension and waiver shall be available to Guam. Guam must document how the activity will address damage in the declared area. Guam may demonstrate this need to address damage by showing that the persons and families seeking assistance were impacted by the disaster and have a need for CDBG assistance to respond to the disaster. For example, Guam may accept FEMA registration or other evidence as documentation of impact and need for CDBG assistance. Guam may also use other means to document how the activity will address damage in the declared area. This may occur when individual verification is impractical, such as for an activity that meets the national objective criteria for benefiting a limited clientele who are generally presumed to be principally low- and moderate-income persons. Additionally, CDBG assistance must be necessary and reasonable to recover from the disaster.

Guam will be required to annotate its performance reports in such a way that activities for which waivers have been granted (public services activities that exceed the statutory funding limitation) are distinguishable from regular program activities (such as public services activities that do not exceed the cap). Also, Guam will be required to describe each activity in its annual action plan so the activity is clearly distinguishable as a designated disaster recovery activity.

This authority is in effect through the end of Guam's 2023 program year. If at that time Guam believes additional time is needed to carry out public service activities over the 15 percent public service cap pursuant to 24 CFR 570.201(e)(2), then the Department is willing to consider an additional request for suspension of Guam's public services cap.

#### 5. CDBG – Emergency Grant Payments for up to Six Months

**Citation:** 24 CFR 570.420(b)(3)(ii) and 24 CFR 570.207(b)(4)

**Explanation:** The CDBG regulations at 24 CFR 570.207(b)(4) prohibit income payments, but permit emergency grant payments for three months. "Income payments" means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities. Emergency

grant payments made over a period of up to three consecutive months to the providers of such items and services on behalf of an individual or family are eligible public services.

**Justification:** HUD waives the provisions of 24 CFR 570.420(b)(3)(ii) and 24 CFR 570.207(b)(4) to permit emergency grant payments for items such as food, clothing, housing (rent or mortgage), or utilities for up to six consecutive months. While this waiver allows emergency grant payments to be made for up to six consecutive months, the payments must still be made to service providers as opposed to the affected individuals or families.

Many individuals and families have been forced to abandon their homes due to damage associated with the disaster. The waiver will allow Guam to pay for the basic daily needs of individuals and families affected by the disaster on an interim basis, including when providing assistance to evacuees outside the declared-disaster area.

**Applicability:** Guam must document how the activity will address damage in the declared area. Guam may demonstrate this need to address damage by showing that the persons and families seeking assistance were impacted by the disaster and have a need for CDBG assistance to respond to the disaster. For example, Guam may accept FEMA registration or other evidence as documentation of impact and need for CDBG assistance. Guam may also use other means to document how the activity will address damage in the declared area. This may occur when individual verification is impractical, such as for an activity that meets the national objective criteria for benefiting a primarily residential, low- and moderate-income area. Additionally, CDBG assistance must be necessary and reasonable to recover from the disaster.

This authority is in effect through the end of Guam's 2023 program year. This waiver aligns with waivers currently in effect for CDBG CARES Act (CDBG-CV) grants. The six-month periods allowed by waiver for CDBG and CDBG-CV shall not be used consecutively for the same beneficiary.

## HOME PROGRAM

### 6. HOME – Relief from Certification Requirements on Use of HOME Funds for Tenant-Based Rental Assistance (TBRA)

Citations: Section 212(a)(3)(A)(i) of NAHA, 24 CFR 91.225(d)(1), and 24 CFR 92.209(b) (Certifications)

Explanation: An insular area that intends to use HOME funds to provide TBRA is required to certify that the provision of such assistance is an essential part of its consolidated plan.

Justification: This suspension and waiver is required to alleviate administrative burden and permit the insular area to use HOME funds for TBRA to respond quickly to disaster needs without completing the certification requirements.

Applicability: The suspension of the TBRA certification requirements applies to the insular area's FY 2022 and FY 2023 consolidated plan/annual action plans.

### 7. HOME – Amendment to Program Description and Relief from Certification Requirements for TBRA

Citations: 24 CFR 92.61(b)(5), 92.61(c)(2); and 24 CFR 92.63

Explanation: The requirement at 92.61(b)(5) requires an insular area to provide a program description of how the program will be administered consistent with the minimum requirements contained in 24 CFR 92.209.

The requirement at 92.61(c)(2) requires an insular area that intends to use its funds for TBRA to submit the required certification in 24 CFR 92.209 with its program description.

The regulation at 24 CFR 92.63 requires an insular area that does not have an existing TBRA program to amend its program description and obtain HUD approval of the amendment to use its HOME funds for TBRA.

Justification: This waiver is required to alleviate administrative burden and permit the insular area to use HOME funds for TBRA to respond quickly to disaster needs without amending its program description and submitting a certification.

Applicability: The waiver of the requirement that an insular area must provide a program description of how the program will be administered consistent with the minimum requirements at 24 CFR 92.209 applies to the insular area's program description for FY 2023 HOME funds. The waiver of the requirement that an insular area submit the certification required by 24 CFR 92.209 with the program description applies to



FY 2022 and FY 2023 HOME funds. The waiver of the requirement that an insular area must amend its program description and obtain HUD approval of the amendment to use its funds for TBRA applies to the insular area's program description for FY 2022 HOME funds.

8. HOME – Suspension of the 15% Administration and Planning Cap

Citations: Section 212(c) of NAHA and 24 CFR 92.64(a)(1)

Explanation: These provisions limit the amount of HOME funds that an insular area may use for administrative and planning costs associated with its HOME program to 15 percent of its annual HOME allocation, plus any program income received. The statutory provisions is suspended and regulation is waived to enable the insular area to expend up to 20 percent of its FY 2023 and FY 2024 allocation and program income received for administrative and planning costs.

Justification: This suspension and waiver are required to provide the insular area adequate funds to pay for the increased cost of administering HOME-related disaster relief activities, and to relieve the insular area of the burden of identifying other general funds to pay these costs.

Applicability: This suspension and waiver applies to the FY 2023 and FY 2024 HOME allocations of the insular area.

## 9. HOME – Waiver of Property Standards for HOME-assisted Units

Citations: 24 CFR 92.251

Explanation: This provision requires that housing assisted with HOME funds meet property standards based on the activity undertaken, i.e., acquisition of housing including through homebuyer assistance, and state and local standards and codes or model codes for rehabilitation and new construction. Property standard requirements are waived for repair of properties damaged by the disaster. Units must meet State and local health and safety codes. The lead housing safety regulations established in 24 CFR Part 35 are not waived. Also, accessibility requirements at 24 CFR 92.251(a)(2)(i) are not waived.

Justification: This waiver is required to enable the insular area to meet the critical housing needs of families whose housing was damaged and families who were displaced by the disaster.

Applicability: This waiver applies to housing units which were damaged by the disaster and to which HOME funds are committed within two years of the date of this memorandum.

## 10. HOME – Suspension and Waiver of Maximum Per Unit Subsidy Limit

Citations: Section 212(e) of NAHA, 24 CFR 92.250(a)

Explanation: The total amount of HOME funds that the insular area 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 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to an area in which the housing is located. As HUD has discontinued the section 221(d)(3) mortgage insurance program, HUD established an interim policy directing insular areas to use the Section 234-Condominium Housing basic mortgage limits, for elevator-type projects that apply to the area in which the housing is located. This interim policy and the underlying statutory and regulatory requirements are being suspended and waived.

Justification: Due to the damage caused by the disaster, many housing units may require substantial funding to either complete the renovation or reconstruction. In addition, the costs for new construction of affordable housing may escalate due to the demand for labor and materials. These high or escalating costs may exceed the established maximum per unit subsidy limits for HOME-assisted projects. Suspending the maximum per unit subsidy limit will provide the insular area with the needed flexibility to assist affected low-income families.

Applicability: This suspension and waiver only applies to projects that receive a commitment of HOME funds within two years of the date of this memorandum.

## 11. HOME – Suspension of Owner-Occupied Housing Maximum Value/Sales Price Limitation

Citations: Section 215(b)(1) (NAHA), 24 CFR 92.254(a)(2)

Explanation: This provision requires that the sales price or maximum after-rehabilitation value of HOME-assisted homeownership housing not exceed 95 percent of the area median sales price.

Justification: This suspension and waiver is necessary to provide the insular area with flexibility to assist affected low-income homeowners to repair damage to their homes caused by the disaster and low-income homebuyers to purchase available, standard housing in local market areas.

Applicability: This suspension and waiver applies to: 1) units damaged by the disaster that are being rehabilitated or reconstructed with HOME funds; or 2) units being purchased by persons directly affected by the disaster (as evidenced by FEMA registration) to which HOME funds are committed within two years of the date of this memorandum.

## 12. HOME – Suspension and Waiver of Various TBRA Program Requirements

Citations: Section 212(a)(3)(A)(ii) of NAHA and 24 CFR 92.209(c), (e), (h)(1) and (i)

Explanation: Section 212(a)(3)(A)(ii) of NAHA requires an insular area to establish written tenant selection policies and criteria for TBRA and 24 CFR 92.209(c) of the regulation requires those tenant selection policies and criteria to be based on the local housing needs and priorities established in the insular area's consolidated plan.

Section 92.209(e) requires that the term of a HOME TBRA contract made with a landlord begin on the first day of the lease.

Section 92.209(h)(1) limits the subsidy that an insular area may pay toward a TBRA recipient's rent to the difference between the insular area's rent standard for the unit size and 30 percent of the family's monthly adjusted income.

Section 92.209(i) requires that units occupied by TBRA recipients meet the housing quality standards established in 24 CFR 982.401.

Justification: Suspending and waiving these provisions will provide the insular area with greater flexibility to use tenant-based rental assistance as an emergency housing resource.

Applicability: All of these suspensions and waivers are only available to the insular area in accordance with the applicable conditions described below.

The suspension of the requirements related to the content of the consolidated plan applies to the FY 2022 and FY 2023 consolidated plan/annual action plans of the insular area.

The requirement in 24 CFR 92.209(e) that the start date of a TBRA contract begin on the first day of the term of a tenant's lease is waived for TBRA contracts the insular area executes for persons or families displaced by the disaster, as evidenced by the tenant's FEMA registration or other relevant documentation acceptable to the insular area, for a period of 24 months after the date of this memorandum. The other requirements in 24 CFR 92.209(e) are not waived.

The provision of 24 CFR 92.209(h)(1) imposing the maximum amount of TBRA assistance the insular area may provide to a family under HOME TBRA is waived for TBRA recipients who are displaced by the disaster, as evidenced by the family's FEMA registration, for a period of 24 months after the date of this memorandum. The other provisions of 24 CFR 92.209(h) are not waived.

The waiver of the housing quality standards requirements at 24 CFR 92.209(i) applies to units leased by TBRA recipients who were displaced by the disaster, as evidenced by the recipient's FEMA registration, and are being assisted through a HOME TBRA program funded by the insular area for a period of 24 months after the date of this memorandum. Units must meet any applicable State and local health and safety codes and requirements. The lead safe housing requirements of 24 CFR part 35, subpart M, made applicable to units leased by recipients of HOME TBRA by the HOME regulation at 24 CFR 92.355, are not waived.

### 13. HOME – Income Documentation

Citations: 24 CFR 92.203(a)(1) and (2)

Explanation: These sections of the HOME regulation require initial income determinations for HOME beneficiaries by examining source documents covering the most recent two months. Many families whose housing was destroyed or damaged by the disaster will not have any documentation of income and will not be able to qualify for HOME assistance if the requirement remains effective.

Justification: This waiver permits the insular area to use self-certification of income, as provided in §92.203(a)(1)(ii), in lieu of source documentation to determine eligibility for HOME assistance of persons displaced by the disaster.

Applicability: This waiver applies only to families displaced by the disaster (as evidenced by FEMA registration) whose income documentation was destroyed or made inaccessible by the disaster and remains in effect for six months from the date of this memorandum. The insular area or, as appropriate, HOME project owner, is required to maintain: 1) a record of FEMA registration to demonstrate that a family was displaced by the disaster; and 2) a statement signed by appropriate family members certifying to the family's size and annual income and that the family's income documentation was destroyed or is inaccessible.

## HOUSING TRUST FUND (HTF) PROGRAM

### 14. HTF – Income Documentation

Citations: 24 CFR 93.151(c)

Explanation: This section of the HTF regulation requires initial income determinations for HTF beneficiaries by examining source documents covering the most recent two months. Many families whose homes were destroyed or damaged by the disaster will not have any documentation of income and will not be able to qualify for HTF assistance if the requirement remains effective.

Justification: This waiver permits the insular area to use self-certification of income, as provided in section 93.151(d)(2), for HTF assisted units in lieu of source documentation to determine initial eligibility of persons displaced by the disaster.

Applicability: This waiver applies only to families displaced by the disaster (as evidenced by FEMA registration or other documentation acceptable to the insular area) whose income documentation was destroyed or made inaccessible by the disaster and remains in effect for six months from the date of this memorandum. The insular area or, as appropriate, HTF project owner, is required to maintain: 1) a record of FEMA registration to demonstrate that a family was displaced by the disaster; and 2) a statement signed by appropriate family members certifying to the family's size and annual income and that the family's income documentation was destroyed or is inaccessible.

## **HOUSING OPPORTUNITY FOR PERSONS WITH AIDS (HOPWA) PROGRAM**

### 15. HOPWA – Self-Certification of Income and HIV Status

Citation: 24 CFR 574.530, Recordkeeping

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

Justification: This waiver will permit HOPWA grantees and project sponsors, located within and outside of the declared-disaster area, to rely upon a family member's self-certification of income and HIV status in lieu of source documentation to determine eligibility for HOPWA assistance for individuals and families displaced by the disaster. Many individuals and families displaced by the disaster whose homes have been destroyed or damaged will not have immediate access to documentation of income or medical records and, without this waiver, will be unable to document their eligibility for HOPWA assistance.

Applicability: The recordkeeping requirement at 24 CFR 574.530 is waived to the extent necessary to allow HOPWA grantees, located within and outside of the declared-disaster area, to assist displaced persons and families, provided that the grantees (1) require written certification of HIV status and income of such individuals and families seeking assistance and (2) obtain source documentation of HIV status and income eligibility within six months of the date of this memorandum.

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

### 16. ESG – Term Limits on Rental Assistance and Housing Relocation and Stabilization Services

Citations: 24 CFR 576.106(a), 576.105(a)(5), 576.105(b)(2), 576.105(c)

Explanation: The ESG regulation at 24 CFR 576.106(a) prohibits a program participant from receiving more than 24 months of ESG rental assistance during any three-year period. Section 576.105(a)(5) prohibits a program participant from receiving more than 24 months of utility payments under ESG during any three-year period. Section 576.105(b)(2) limits the provision of housing stability case management to 30 days while the program participant is seeking permanent housing and 24 months while the program participant is living in housing. 24 CFR 576.105(c) limits the total amount of time a program participant may receive services under 24 CFR 576.105(b), except for housing stability case management, to 24 months during any three-year period.

Justification: Waiving the 24-month caps on rental assistance, and housing relocation and stabilization services will assist individuals and families, both those already receiving assistance and those who will receive assistance after the date of this memorandum, to maintain stable permanent housing in place or in another area and help them return to their hometowns, as desired, when additional permanent housing is available. As the disaster recovery process may take several years, affecting program participants' ability to return to their hometowns, this waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area.

Applicability: The 24-month limits on rental assistance and housing relocation and stabilization services are waived for individuals and families who meet both of the following criteria:

1. The individual or family lives in a declared-disaster area or was displaced from a declared-disaster area as a result of the disaster; and
2. The individual or family is currently receiving rental assistance or housing relocation stabilization services or begins receiving rental assistance or housing relocation and stabilization services within two years after the date of this memorandum.

For these individuals and families, ESG funds may be used to provide up to 36 consecutive months of rental assistance and housing relocation and stabilization services, in addition to the 30 days of housing stability case management that may be provided before the move into permanent housing under 24 CFR 576.105(b)(2). This waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area. HUD will also

consider further waiver requests to allow assistance to be provided for longer than three years, if the recipient demonstrates good cause.

17. ESG – Restriction of Rental Assistance to Units with Rent at or Below Fair Market Rent (FMR)

Citation: 24 CFR 576.106(d)(1)

Explanation: Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR Part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

Justification: This waiver is required to enable ESG recipients to meet the critical housing needs of individuals and families whose housing was damaged, who were displaced, or who are struggling to find housing as a result of the disaster. Waiving the FMR restriction will make more units available to individuals and families in need of permanent housing. The disaster is likely to affect housing markets outside of the disaster area as people move to find available housing, thus this waiver may be used for individuals and families affected by the disaster, even if they are residing outside of the disaster area.

Applicability: The FMR restriction is waived for any rent amount that takes effect during the two-year period beginning on the date of this memorandum. However, the affected recipients and their subrecipients must still ensure that the units in which ESG assistance is provided to these individuals and families meet the rent reasonableness standard. This waiver may be used for individuals and families affected by the disaster, even if they are residing outside of the disaster area. HUD will consider requests to waive the FMR restriction for rent amounts that take effect after the two-year period, if a recipient demonstrates good cause.

18. ESG – Housing Standards

Citation: 24 CFR 576.403(c)

Explanation: If ESG funds are used to help a program participant remain in or move into housing, the housing must meet the minimum habitability standards provided in 24 CFR 576.403(c).

Justification: This waiver is needed to enable ESG recipients to expeditiously meet the critical housing needs of many eligible individuals and families in the declared disaster area.

Applicability: The ESG housing standards at 24 CFR 576.403(c) are waived for units in the declared disaster area that are or will be occupied by individuals or families



eligible for ESG Rapid Re-housing or Homelessness Prevention assistance, provided that:

1. Each unit must still meet applicable state and local standards;
2. Each unit must be free of life-threatening conditions as defined in Notice PIH 2017-20 (HA); and
3. Recipients must make sure all units in which program participants are assisted meet the ESG housing standards within 60 days of the date of this memorandum.

#### 19. ESG – Shelter Standards

Citation: 24 CFR 576.403(b)

Explanation: If ESG funds are used for shelter operations costs, the shelter must meet the minimum safety, sanitation and privacy standards under 24 CFR 576.403(b). If ESG funds are used to convert a building into a shelter, rehabilitation a shelter, or otherwise renovate a shelter, the shelter must meet the minimum safety, sanitation, and privacy standards in 24 CFR 576.403(b) as well as applicable state or local government safety and sanitation standards.

Justification: This waiver is needed to enable ESG recipients to expeditiously meet the critical emergency shelter needs of many eligible individuals and families in the declared disaster area.

Applicability: The ESG shelter standards at 24 CFR 576.403(b) are waived for shelters in the declared disaster area that are or will be occupied by individuals and families eligible for ESG emergency shelter assistance, provided that:

1. Each shelter must meet applicable state and local standards;
2. Each shelter must be free of life-threatening conditions defined in Notice PIH 2017-20 (HA); and
3. Recipients must ensure that these shelters meet ESG shelter standards within 60 days of the date of this memorandum.

#### 20. ESG – Limited Waiver of 24-Month Expenditure Deadline for Rapid Re-housing and Homelessness Prevention Assistance and Related Administrative and HMIS Costs

Citation: 24 CFR 576.203(b)

Explanation: Section 576.203(b) of the ESG regulations requires all expenditures under an ESG grant to be made within 24 months after the date HUD signs the grant agreement with the recipient. For purposes of this requirement, expenditure means either an actual cash disbursement for a direct charge for a good or service or an indirect cost, or the accrual of a direct charge for a good or service or an indirect cost.

**Justification:** Providing a limited waiver of the expenditure deadline as described in the applicability paragraph below will support recipients' ability to assist individuals and families as provided by waivers 16 and 17 above and waiver 21 below. This includes assisting people affected by the disaster who are residing outside of the disaster area.

**Applicability:** The expenditure deadline is waived only for costs of providing homelessness prevention and rapid re-housing assistance to individuals and families under the flexibility provided by waivers 16, 17, and 21 in this memorandum and reasonable HMIS and administrative costs related to that assistance. This waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area. However, no expenditure may be made or charged to any grant on or after the date Treasury closes the relevant account as provided by 31 U.S.C. § 1552.

## 21. ESG – Assisting Program Participants with Subleases

**Citations:** 24 CFR 576.105 and 24 CFR 576.106

**Explanation:** The use of “owner” and “lease” in 24 CFR 576.105 and 576.106 prohibit program participants from receiving rental assistance under 24 CFR 576.106 and certain services under 24 CFR 576.105 with respect to units that program participants rent from a person other than the owner or the owner’s agent.

**Justification:** By increasing the permissible housing options, including housing options outside the disaster declared area, for program participations, this waiver would allow the recipient to meet the critical housing needs of more eligible individuals and families who live in the declared-disaster area or were displaced from the declared-disaster area as a result of the disaster.

**Applicability:** The requirements in 24 CFR 576.105 and 576.106 are waived to the extent that the references to “owner” and “lease” in 24 CFR 576.105 and 576.106 restrict an individual or family from receiving assistance in a unit they rent from the primary leaseholder, provided that all of the following criteria are met:

1. The individual or family lives in the declared-disaster area or was displaced from the declared-disaster area as a result of the disaster;
2. The individual or family is currently receiving ESG-funded rental assistance as the leaseholder or housing relocation stabilization services or begins receiving rental assistance or housing relocation stabilization services within two years after the date of this memorandum;
3. The individual or family chooses to rent a unit through a legally valid sublease or lease with the primary leaseholder for the unit; and
4. The recipient has developed written policies to apply the requirements of 24 CFR 576.105, 24 CFR 576.106, 24 CFR 576.409, and 24 CFR 576.500(h)

with respect to that program participant by reading the references to “owner” and “housing owner” to apply to the primary leaseholder and reading the references to “lease” to apply to the program participant’s sublease or lease with the primary leaseholder.

This waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area, including by recipients operating rapid re-housing and homelessness prevention assistance outside of the declared-disaster area.

## **CONTINUUM OF CARE (COC) PROGRAM**

### 22. CoC – Permanent Housing Rapid Re-Housing Limit to 24 Months of 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 rapid re-housing projects to medium-term rental assistance, or no more than 24 months.

**Justification:** Waiving the 24-month cap on rapid re-housing rental assistance will assist individuals and families affected by the disaster, including those already receiving rental assistance as well as those who will receive rental assistance within 2 years of the date of this memorandum, to maintain stable permanent housing in another area and help them return to their hometowns, as desired, when additional permanent housing becomes available. It will also provide additional time to stabilize individuals and families in permanent housing where vacancy rates are extraordinarily low due to the disaster. Experience with prior disasters has shown us some program participants need additional months of rental assistance to identify and stabilize in housing of their choice, which can mean moving elsewhere until they are able to return to their hometowns. As the disaster recovery process may take several years, affecting program participants' ability to return to their hometowns, this waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area.

**Applicability:** For two years from the date of this memorandum, the 24-month limit on rental assistance is waived for individuals and families who meet the following criteria:

1. The individual or family lives in a declared-disaster area or was displaced from a declared-disaster area, as a result of the disaster; and
2. The individual or family is currently receiving rental assistance or begins receiving rental assistance within two years after the date of this memorandum.

This waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area.

### 23. CoC – One Year Lease Requirement

**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 only for cause.

**Justification:** Waiving the one-year lease requirement will allow program participants receiving PSH or RRH assistance under the CoC Program to enter into leases that have an initial term of less than one year, so long as the leases have an initial term of more than one month. While some program participants desire to identify new housing, many program participants displaced during the disaster desire to return to their original permanent housing units when repairs are complete because of proximity to schools and access to public transportation and services. This includes cases where the program participant moves outside of the declared disaster area for a period of time. Additionally, it will permit new program participants to identify permanent housing units in a tight rental market where many landlords prefer lease terms of less than one year and might not be willing to alter their policies regarding the length of lease terms when considering permanent housing applicants. Therefore, HUD had determined that waiving the one-year lease requirement will improve the housing options available to program participants in permanent housing projects.

**Applicability:** The one-year lease requirement is waived for two years beginning on the date of this memorandum, so long as the initial lease term of all leases is for more than one month, and the leases are renewable for terms that are a minimum of one month long and the leases are terminable only for cause.

This waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area.

#### 24. CoC – One-time Limit on Moving Costs

**Citation:** 24 CFR 578.53(e)(2)

**Explanation:** The CoC Program regulation at 24 CFR 578.53(e)(2) limits recipients of supportive service funds to using those funds to pay for moving costs to provide reasonable moving assistance, including truck rental and hiring a moving company, to only one-time per program participant.

**Justification:** Waiving this provision will permit recipients to pay for reasonable moving costs for program participants more than once and will assist program participants affected by the disaster as well as those who become homeless in the area impacted by the disaster to stabilize in housing locations of their choice, which may include locations outside of the declared disaster area. Many current program participants received assistance moving into their assisted units prior to being displaced by the disaster, and experience with prior disasters has shown us some program participants will need additional assistance moving to a new unit while others will need assistance moving back to their original units after repairs are completed. Further, until the housing market stabilizes, experience has shown many program participants will need to move more than once during their participation in a program to find a unit that best meets their needs.

Applicability: The one-time limit on moving costs is waived for two years beginning on the date of this memorandum.

This waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area.

## 25. CoC – Fair Market Rent (FMR) Cap on Rent Paid with Leasing Funds

Citation: 24 CFR 578.49(b)(2)

Explanation: The CoC Program regulation at 24 CFR 578.49(b)(2) prohibits a recipient from using grant funds for leasing to pay above FMR when leasing individual units, even if the rent is reasonable when compared to other similar, unassisted units.

Justification: Waiving the limit on using leasing funds to pay above FMR for individual units above FMR, but not greater than reasonable rent, will provide recipients and subrecipients with more flexibility in identifying housing options for program participants in declared-declared area. The rental markets in areas impacted by disasters are often more expensive after the disaster due to decreased housing stock and increased rents. Rents are likely to increase in areas outside of the declared disaster areas as people displaced by the disaster seek any available housing. These more expensive rents are not reflected in the HUD-determined FMRs.

Applicability: The FMR restriction is waived for any lease executed by a recipient or subrecipient to provide transitional or permanent supportive housing during the 2-year period beginning on the date of this memorandum. The affected recipient or subrecipient must still ensure that rent paid for individual units that are leased with CoC Program leasing dollars meet the rent reasonableness standard in 24 CFR 578.49(b)(2) meaning the rent paid must be reasonable in relation to rents being charged for comparable units, taking into account the location, size, type, quality, amenities, facilities, and management services.

This waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area.

## 26. CoC – Disability Documentation for Permanent Supportive Housing (PSH)

Citation: 24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B)

Explanation: The CoC Program regulation at 24 CFR 578.103(a) requires recipients to maintain records providing evidence they met program requirements and 24 CFR 578.103(a)(4)(i)(B) establishes the requirements for documenting disability for individuals and families that meet the “chronically homeless” definition in 24 CFR 578.3. Acceptable evidence of disability includes intake-staff recorded observations of disability 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.

**Justification:** Waiving the requirement to obtain additional evidence of disability as provided in 24 CFR 578.103(a)(4)(i)(B)(4) as specified below will allow recipient to house people impacted by the disaster by relying on intake staff-recorded observations of disability or a written self-certification by the program participant. This will help individuals and families with disabilities to expeditiously receive needed housing assistance when paperwork from the Social Security Administration or medical professionals cannot be quickly obtained.

**Applicability:** The requirement that intake-staff recorded observations of disability be confirmed and accompanied by other evidence no later than 45 days from the date of application for assistance is waived for any program participant admitted into PSH funded by the CoC program one-year from the date of this memorandum so long as one of the following requirements is met:

1. The intake-staff records observations of disability in the client file at time of application; or
2. The individual seeking assistance provides written certification that they have a qualifying disability is provided at time of application.

This waiver may be used for program participants affected by the disaster, even if they are residing outside of the disaster area.

### ADDITIONAL INFORMATION:

Due to the ongoing coronavirus pandemic, HUD has already provided certain waivers, program flexibilities, and alternative requirements to all CPD grantees that grantees in the declared-disaster area may also take advantage of in amending their FY22 and prior year Consolidated Plans. Grantees are encouraged to go to [CPD's COVID-19 page](#) and follow the links there to identify additional waivers and flexibilities and check it often for updates.

Grantees that are assisting CPD program beneficiaries and CPD program-eligible persons and their families displaced by the disaster may require additional relief from the CPD program requirements beyond the waivers described in this memorandum. If a grantee identifies such a need, it should contact the CPD Director in the appropriate HUD field office. Contact information for CPD field offices are available at: [CPD Staff HQ & Field Offices | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#).

CPD Directors in receipt of notification from a grantee intending to use the waiver flexibilities listed in this memorandum should forward the grantee's mail or email notification to the appropriate CPD Headquarters program Office Director, noted below, within 14 days for statutory waiver-reporting purposes.

Grantees are encouraged to maximize the available resources and opportunities to streamline their environmental and historic preservation review requirements as part of the mandated "Unified Federal Review" (UFR) and to ensure expeditious recovery. The UFR established a means for unified and expedited interagency review processes and ensure data and environmental analysis are shared across Agencies, Departments, and those with their delegated authorities to serve on their behalf. The UFR provides an opportunity to expedite environmental and historic preservation reviews that must be completed prior to the release of Federal assistance or permits to allow disaster recovery project to proceed without unnecessary delays and should be used to the greatest extent practicable in the recovery efforts. For additional information, please contact G. Morgan Griffin, Regional Environmental Officer, at [Morgan.Griffin@hud.gov](mailto:Morgan.Griffin@hud.gov). Additional resources can be found at: [FEMA's Unified Federal Review - HUD Exchange](#).

Contact the following persons regarding questions concerning the waivers and suspensions requested peculiar to the program office: regarding the citizen participation and CDBG waivers, Robert C. Peterson, Director, OBGAs States and Small Cities Division at (202) 341-0533; regarding the HOME and HTF waivers, Virginia Sardone, Director, OAHF at (202) 708-2684; regarding the HOPWA waivers, Rita Harcrow, Director, OHH at (202) 708-1934; and regarding the CoC and ESG waivers, Norm Suchar, Director, SNAPS at (202) 402-5015.

Attachment



**Attachment #1 to Memorandum:  
Availability of Suspensions and Waivers of CPD Grant Program and Consolidated Plan  
Requirements to Address Damage and Facilitate Recovery in the Declared-Disaster Area**

This attachment provides further information on the process that CPD grantees shall be instructed to follow when taking advantage of the suspension and waiver flexibility of CPD statutory and regulatory requirements addressed in the memorandum.

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

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

- Requestor's name, title, and contact information;
- Declared-disaster area where the waivers will be used;
- Date on which the grantee anticipates first use of the statutory suspension and/or waiver flexibility; and
- A list of the suspensions and waiver flexibilities the grantee will use:
  1. Consolidated Planning – Citizen Participation Public Comment Period for Consolidated Plan Amendment
  2. Consolidated Planning – Citizen Participation Reasonable Notice and Opportunity to Comment
  3. CDBG – New Housing Construction
  4. CDBG – Suspension of Public Services Cap
  5. CDBG – Emergency Grant Payments for up to Six Months
  6. HOME – Relief from Certification Requirements on Use of HOME Funds for Tenant-Based Rental Assistance (TBRA)
  7. HOME – Amendment to Program Description and Relief from Certification Requirements for TBRA
  8. HOME – Suspension of the 15% Administration and Planning Cap
  9. HOME – Waiver of Property Standards for HOME-assisted Units
  10. HOME – Suspension and Waiver of Maximum Per Unit Subsidy Limit
  11. HOME – Suspension of Owner-Occupied Housing Maximum Value/Sales Price Limitation
  12. HOME – Suspension and Waiver of Various TBRA Program Requirements
  13. HOME – Income Documentation
  14. HTF – Income Documentation
  15. HOPWA – Self-Certification of Income and HIV Status
  16. ESG – Term Limits on Rental Assistance and Housing Relocation and Stabilization Services
  17. ESG – Restriction of Rental Assistance to Units with Rent at or Below Fair Market Rent (FMR)
  18. ESG – Housing Standards

19. ESG – Shelter Standards
20. ESG – Limited Waiver of 24-Month Expenditure Deadline for Rapid Re-housing and Homelessness Prevention Assistance and Related Administrative and HMIS Costs
21. ESG – Assisting Program Participants with Subleases
22. CoC – Permanent Housing Rapid Re-Housing Limit to 24 Months of Rental Assistance
23. CoC – One Year Lease Requirement
24. CoC – One-time Limit on Moving Costs
25. CoC – Fair Market Rent (FMR) Cap on Rent Paid with Leasing Funds
26. CoC – Disability Documentation for Permanent Supportive Housing (PSH)