

Addendum 1: COVID-19 Waivers

Addendum to Santa Clara Countywide Quality Assurance Standards for Homeless Housing & Service Programs

The Santa Clara County CoC Quality Assurance Standards (“QAS”) serve as the CoC’s written standards for providing assistance, in accordance with the CoC Program Interim Rule at 24 C.F.R. Part 578.7(a)(9). This addendum temporarily expands those written standards to cover waivers that HUD has made available to CoC Program and ESG Program grant recipients during the COVID-19 pandemic, as outlined in four memorandums from HUD Assistant Secretary Gibbs:

1. A March 31, 2020 memorandum entitled “Availability of Waivers of Community Planning and Development (CPD) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19;”
2. A May 22, 2020 memorandum entitled “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;”
3. A September 30, 2020 memorandum entitled “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;”
4. A December 30, 2020 memorandum entitled “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;”
5. A March 31, 2021 memorandum entitled “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;”
6. A June 30, 2021 memorandum entitled “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;” and
7. A December 30, 2021 memorandum entitled “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.”

The purpose of this addendum is to ensure continued compliance with CoC and ESG Program requirements during implementation of the waivers.

I. How to Request a Waiver

- a. Notification to HUD (March 2020 – March 31, 2022)

Before implementing any of the available waivers for a CoC or ESG Program grant, the grant recipient must notify the local HUD Field Office. Notification must be sent to Kimberly Nash, Community Planning and Development Director for the San Francisco Regional Office at the following email address: CPD_COVID-19WaiverSFO@HUD.gov. The email notification must be sent two calendar days before the grantee intends to begin using the waiver.

Grant recipients should use the notification template provided by HUD. The notification must include:

- 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.

Grant recipients should retain a copy of this notification to HUD, including the notification form and the enclosing email showing the date of the notification.

b. Expedited Waivers (June 15 – July 31, 2022)

A notice issued by HUD on June 15, 2022 established an expedited waiver process for certain regulatory requirements for CoC, ESG, YHDP, or HOPWA recipients. In order to receive an expedited HUD review of a waiver request, a recipient must utilize the process set forth by HUD and provide a good cause justification consistent with preventing the spread of COVID-19 and to facilitate assistance to households economically impacted by COVID-19.

Waiver requests must be received by HUD between June 15 and July 31, 2022 to be designated for expedited waiver processing. Unless indicated for a specific type of waiver, the expedited process set forth by HUD's June 15, 2022 notice will only be used for approving waivers with an effective end date no later than March 31, 2023.

The expedited waiver request can only be applied to the following regulatory requirements:

- CoC/YHDP - Suitable Dwelling Size and Housing Quality Standards – Permanent Housing – Rapid Re-housing Projects
- CoC/YHDP - Fair Market Rent for Individual Units and Leasing Costs
- CoC/YHDP – One - Year Lease Requirement
- CoC/YHDP - Permanent Housing Rapid Re-housing Limit to 24 Months of Rental Assistance
- CoC/YHDP Disability Documentation for Permanent Supportive Housing
- ESG – Assisting Program Participants with Subleases
- ESG - Durational Limits on Housing Relocation and Stabilization Services
- ESG - 24-Month Limit on Rental Assistance
- ESG - Restriction of Rental Assistance to Units with Rent at or Below FMR

Grant recipients seeking an expedited waiver review must email the request to SNAPSinfo@hud.gov and copy their local field office CPD director. Each request must include the following information:

- An email subject line of: “Expedited Pandemic Regulatory Waiver Request”
- The following information in the body of the email:
 - Recipient information, including the name of recipient and name and contact information of a person within the organization to contact with questions about the waiver request
 - The grant number(s) the recipient is requesting the waiver of regulatory requirements apply to
 - Specific waiver flexibilities requested, including requested effective period and other conditions under which grantee proposes to use the waiver, consistent with the specific conditions for expedited waiver processing discussed in Section D.1
 - A specific justification for each waiver that shows good cause consistent with HUD’s reasons for expediting the waiver review under this Notice (i.e., to help recipients and subrecipients prevent the spread of COVID-19 and to facilitate assistance to eligible communities and households economically impacted by COVID-19)
 - A good cause justification must include:
 - Why the recipient needs the waiver
 - The impact on the recipient’s ability to help people experiencing homelessness (or for a HOPWA waiver, people living with HIV) obtain or maintain housing if the waiver is not provided
 - The proposed waiver duration, which may not exceed March 31, 2023, unless otherwise stated for a specific waiver.

HUD has provided an optional template for use to provide the above information.

c. Non-Expedited Waivers (After June 30, 2022)

Recipients may initiate regulatory waiver requests with the appropriate field office. Each regulatory waiver request must identify the regulation from which relief is sought and present a good cause justification pursuant to 24 CFR 5.110.

The general process for non-expedited waiver requests is as follows:

1. The recipient submits the request for a waiver identifying the grant number(s) the waiver would apply to and with good cause justification pursuant to 24 CFR 5.110 to the CPD Director at its Field Office

2. The Field Office submits the request with its recommendation to HUD Headquarters

3. The CPD Program Office prepares a final determination for approval by its Assistant Secretary

4. Recipients receive the signed response to its waiver request by email. HUD may request additional information from the recipient when preparing its final determination.

II. Establishing Policies and Procedures

Each CoC or ESG Program grant recipient and/or subrecipient must establish a written policy and procedures for implementing available waivers. Policies and procedures should, at a minimum, include:

- The date that the grant recipient informed the CPD Director for the San Francisco Regional Office of its intent to implement the waivers;
- The waivers that the recipient anticipates using;
- The recipient and/or subrecipient's process for determining when usage of each waiver is necessary; and
- Documentation and recordkeeping standards for usage of each waiver.

Recipients and/or subrecipients are encouraged to use the following sections of this addendum as a model for their own policies.

III. Available Waivers for CoC Grants

To maintain administrative records for the waived provisions, CoC grant recipients and/or subrecipients must obtain the documentation described, or comparable documentation demonstrating compliance with CoC Program regulations and the applicability of the waiver. Documentation must be maintained in client files and must include a specific written justification for each use of waiver flexibility. The CoC has provided [documentation forms for this purpose, which are available on the CoC website](#).

A. Fair Market Rent for Individual Units and Leasing Costs – Leasing Projects Only (Updated June 15, 2022)

Effect of Waiver

Generally, rent payments for individual units with leasing dollars may not exceed Fair Market Rent ("FMR") (24 CFR 578.49(b)(2)). The QAS references this requirement at sections C.II.2.c,

C.V.A, and E.II.2.b, related to Permanent Supportive Housing (“PSH”) and Temporary Housing (“TH”).

HUD’s March 31, 2020 memo waived the FMR restriction for any lease executed by a recipient or subrecipient to provide TH or PSH during the six-month period beginning March 31, 2020. For leases executed in this six-month period (March 31 – Sept. 30, 2020), the waiver lasts for the length of the lease. However, the recipient or subrecipient must still ensure that rent paid for individual units that are leased with CoC Program leasing dollars meets the rent reasonableness standard in 24 C.F.R. § 578.49(b)(2).

HUD’s subsequent memos extended the availability of this waiver to any lease executed by a recipient or subrecipient to provide TH or PSH through March 31, 2022.

Use of Waiver after June 15, 2022:

Most recently, HUD’s June 15, 2022 memo created two regulatory waiver processes ,outlined in Section 1(b) and 1(c) of this addendum, for any lease executed by a recipient or subrecipient to provide TH or PSH through March 31, 2023 although the recipient may request that the waiver remain applicable to a lease of an individual unit in which a program participant is assisted during that time period may continue to benefit from this waiver through until the earlier of the end of the lease or the end of the period of performance/approved budget period(s) for the recipient’s grant(s) covered by the waiver.

Time Frame of Waiver Availability

March 31, 2020 – March 31, 2022

June 15, 2022 - March 31, 2023, although the recipient may request that the waiver remain applicable to a lease of an individual unit in which a program participant is assisted during that time period may continue to benefit from this waiver through until the earlier of the end of the lease or the end of the period of performance/approved budget period(s) for the recipient’s grant(s) covered by the waiver

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A copy of the lease clearly displaying the date of execution;
2. A completed rent reasonableness analysis; and
3. A note to file with the date of HUD’s waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client’s lease. The CoC has provided a form for this purpose: [“Usage of Waiver: FMR for Individual Units and Leasing Costs.”](#)

B. Disability Documentation for Permanent Supportive Housing (PSH) (Updated January 11, 2022)

Effect of Waiver

Generally, PSH programs must document a qualifying disability of one of the household's members, and, when documentation of disability is the intake worker's observation, the recipient must obtain additional confirming documentation from a medical professional within 45 days (24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B)). The QAS references this requirement at section C.III.C.3.

HUD's March 31, 2020 memo waived the PSH program requirement that intake staff-recorded observation of disability be confirmed and accompanied by third-party documentation within 45 days for the six-month period beginning March 31, 2020. Recipients and subrecipients are not required to later obtain additional evidence of the disability for program participants admitted to the program during this time.

Use of Waiver After June 15, 2022:

Most recently, HUD's June 15, 2022 memo created two regulatory waiver processes, outlined in Section 1(b) and 1(c) of this addendum, to waive the regulatory requirements that staff-recorded observation of disability be confirmed and accompanied by other evidence no later than 45 days from the application for assistance documentation until March 31, 2023. Note that a written certification by the individual seeking assistance that they have a qualifying disability will be acceptable documentation approved by HUD until March 31, 2023.

To document disability under this waiver, CoC-funded programs must either:

1. Document the intake staff's observation of the client's disability. Staff must use their professional judgement, based on their observation of the client or on other reliable evidence, to determine whether the client has a disability that meets one of HUD's definitions. The CoC has provided a form for this purpose: "[Intake Staff Observation of Disability Under COVID-19 Waiver.](#)"

OR

2. Obtain self-certification of disability from the prospective client. Self-certification can be in the form of a photograph or scanned copy of a signed certification, or it can be in the form of an email from the client. The CoC has provided a sample form for this purpose: "[Self-Certification of Disability Under COVID-19 Waiver.](#)"

Time Frame of Waiver Availability

March 31, 2020 – March 31, 2023

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of staff observation of the client's disability. The CoC has provided a form for this purpose: "[Staff Observation of Disability Under COVID-19 Waiver.](#)"

OR

2. Dated copy of client self-certification. The CoC has provided a form for this purpose: "[Self-Certification of Disability Under COVID-19 Waiver](#)." A printout of an email from the client is also sufficient documentation, but the email must contain the same information that would be certified in the CoC's form.

C. Homeless Definition – Temporary Stays in Institutions of 90 Days or Less (Updated January 11, 2022)

Effect of Waiver

Category 1 of the CoC Program definition of homelessness includes "an individual who is exiting an institution where he or she has 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" (see CoC Program Interim Rule at 24 CFR 578.3(1)(iii).) The QAS references this requirement in section X. Definitions, within the definition of "Homeless."

HUD's September 30, 2020 memo recognized that clients may be residing in institutions for longer periods of time as a result of COVID-19, for example due to court closings, court operating at reduced capacity, and longer hospital stays related to COVID-19. The memo waived the 90-day limit and allowed clients to qualify as homeless under Category 1 if they are exiting an institution after a stay of 120 days or less and were in an emergency shelter or place not meant for human habitation immediately before entering the institution. The waiver was in effect for a period of six months beginning on September 30, 2020.

HUD's subsequent memos extended the availability of this waiver through March 31, 2022.

Time Frame of Waiver Availability

September 30, 2020 – March 31, 2022, **This waiver is no longer available.**

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of the client's stay in the institution that includes the start and end dates of the stay. Third-party documentation of the institutional stay is preferred; if no third-party documentation is available, the recipient or subrecipient must document their attempts to obtain it before relying on client self-certification of the institutional stay.
2. Documentation that the client was residing in an emergency shelter or place not meant for human habitation immediately prior to their stay in the institution. Third-party documentation of the client's living situation is preferred; if no third-party documentation is available, the recipient or subrecipient must document their attempts to obtain it before relying on client self-certification.

3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: Temporary Stays in Institutions.](#)"

D. Limit on Eligible Housing Search and Counseling Services (Updated July 9, 2021)

Effect of Waiver

Generally, CoC Program Supportive Services funds may not be used for costs of utility or rent arrears. Housing Search and Counseling services funds are limited to those costs listed in the Interim Rule (24 CFR 578.53(e)(8)(ii)(B)).

HUD's March 31, 2020 memo waived the limitation on eligible housing search and counseling activities so that CoC Program Supportive Services funds may be used for up to six months of a program participant's utility arrears and up to six months of a program participant's rent arrears when those arrears make it difficult to obtain housing. This waiver was in effect for one year, beginning March 31, 2020.

HUD's March 31, 2021 memo extended the availability of this waiver through December 31, 2021.

Time Frame of Waiver Availability

March 31, 2020 – December 31, 2021, **This waiver is no longer available.**

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation demonstrating the client's inability to obtain housing as a direct result of rent and utility arrears.
 - a. *Example:* Written notice from a landlord or property manager that they have rejected or will reject a client's application due to rental or utility arrears.
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: Limit on Housing Search & Counseling Services.](#)"

E. Permanent Housing-Rapid Re-housing (PH-RRH) Monthly Case Management (Updated July 9, 2021)

Effect of Waiver

Generally, recipients must require PH-RRH program participants to meet with a case manager at least monthly (24 CFR 578.37(a)(1)(ii)(F)). The QAS references this requirement at sections D.VII.A.1.h and D.VII.B.

HUD's initial memo waived the monthly case management meeting requirement for two months, beginning March 31, 2020, and subsequent memos extend the availability of the waiver through September 30, 2021; however, as a result of COVID-19 and the public health response, many clients may be particularly in need of support during this time. Rapid Rehousing providers should make every effort to maintain regular contact and case management with clients over the phone, video, or through other means that maintain the safety of both clients and staff.

Time Frame of Waiver Availability

March 31, 2020 – September 30, 2021, **This waiver is no longer available**

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: RRH Monthly Case Management.](#)"

F. Housing Quality Standards (HQS) – Initial Inspection of Unit (Updated January 11, 2022)

Effect of Waiver

Generally, 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 (24 CFR 578.75(b)(1)). The QAS references this requirement at sections C.V.A. (PSH) and D.V.A (RRH).

March 31, 2020 – September 30, 2020: HUD's March 31, 2020 memo waived the requirement 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 for six months, from March 31, 2020 to September 30, 2020. Programs using this waiver between March 31, 2020 and September 30, 2020 must: (1) visually inspect the unit using technology, such as video or photographs, to ensure the unit meets HQS before any assistance is provided; and (2) have written policies to physically re-inspect the unit within three months after the health officials determine special measures to prevent the spread of COVID-19 are no longer necessary.

September 30, 2020 – September 30, 2021: HUD's subsequent memos waived the requirement that the recipient or subrecipient physically inspect each unit to assure that the unit meet HQS before providing assistance from September 30, 2020 to September 30, 2021. No visual inspection by video or photograph is required under this waiver between September 30, 2020 and September 30, 2021, provided that recipients and subrecipients meet the following criteria: 1) 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 2) The recipient or subrecipient has written policies to physically inspect the unit by December 31, 2021.

December 30, 2021 – March 31, 2023: HUD's December 30, 2021 memo recognized continued obstacles to HQS inspections due to staffing shortages and participant concern regarding COVID-19, and the memo reinstated the waiver of the requirement 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 for three months, from December 30, 2021 to March 31, 2023. Programs using this waiver between December 30, 2021 and March 31, 2023 must:

- 1) Visually inspect the unit using technology, such as video streaming, to ensure the unit meets HQS before any assistance is provided; and
- 2) Have written policies to physically inspect units not previously physically inspected by June 30, 2022.

June 15, 2022 – March 21, 2022

Time Frame of Waiver Availability

Waiver of in-person initial inspection: March 31 – September 30, 2020; December 30, 2021 – March 31, 2022

Waiver of initial inspection: September 30, 2020 – September 30, 2021

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: HQS – Initial Physical Inspection](#)";
2. Required from March 31 – September 30, 2020 and from December 30, 2021 – March 31, 2022:
 - a. A completed HQS inspection form noting the method of observation (*no longer required after September 30, 2020*); and
 - b. A recording or copies of the video or photographic inspection, which must include date stamps within the waiver time frame.
3. Required from September 30 – September 30, 2021:
 - a. Written certification from the owner or landlord that they have no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question. If the landlord or owner cannot provide written certification, the program can make a written record of a certification provided orally.

G. HQS – Re-Inspection of Units (Updated January 11, 2022)

Effect of Waiver

Generally, 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 (24 CFR 578.75(b)(2)). The QAS references this requirement at sections C.V.A. (PSH) and D.V.A (RRH).

March 31, 2020 – September 2021: HUD's March 31, 2020 memo waived the requirement that the recipient or subrecipient annually inspect all units for which leasing or rental assistance funds are used to ensure they continue to meet HQS, for one year beginning March 31, 2020. However, programs are encouraged to maintain regular contact with residents, including regarding any housing quality issues that may arise. HUD's subsequent memos extended the availability of this waiver through September 30, 2021, when the waiver expired.

December 30, 2021 – March 31, 2023: HUD’s December 30, 2021 memo reinstated the waiver of the annual physical HQS re-inspection from December 30, 2021 through March 31, 2023, provided the recipient is able to:

- 1) Visually re-inspect the unit using technology, such as video streaming, to ensure the unit meets HQS.

Time Frame of Waiver Availability

Without visual re-inspection: March 31, 2020 – September 30, 2021

With remote visual re-inspection: December 31, 2021 – March 31, 2023

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A note to file with the date of HUD’s waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client’s lease. The CoC has provided a form for this purpose: “[Usage of Waiver: HQS – Re-Inspection.](#)”
2. Required from December 31, 2021 – March 31, 2023:
 - i. A recording or copies of the video or photographic re-inspection, which must include date stamps within the waiver time frame.

H. Suitable Dwelling Size and Housing Quality Standards (Updated June 15, 2022)

Effect of Waiver

Generally, CoC-funded units must have at least one bedroom or living/sleeping room for every two occupants (see the CoC Program Interim Rule at 24 CFR 578.75(c)). The QAS references this requirement in section C.V (Permanent Supportive Housing) and D.V (Rapid Re-housing).

HUD’s September 30, 2020 memo recognized that households experiencing homelessness often struggle to locate housing they can afford and waived the occupancy limit in the CoC Program Interim Rule for leases and occupancy agreements signed between September 30, 2020 and December 31, 2020, as necessary for a client to obtain housing that is both affordable and that the client considers adequate.

HUD’s subsequent memos extended the availability of this waiver to leases and occupancy agreements executed by recipients and subrecipients September 30, 2020 – March 31, 2022. The requirement that each unit assisted with CoC funds have at least one bedroom or living/sleeping room for each two persons is waived until the later of:

- 1) The end of the initial lease or occupancy agreement term (for leases signed during the waiver period); or

2) March 31, 2022

This means that households who move into a unit with more than two people per bedroom or living/sleeping room must locate other housing before the later of these two deadlines, unless the household size has reduced.

This waiver only applies to the occupancy limits in the CoC Program Interim Rule. It does not waive State or local occupancy standards or limits, and CoC recipients must continue to comply with any applicable State and local occupancy standards.

Recipients and subrecipients must continue to respect and prioritize client choice in selection of housing and should balance the flexibility provided by this waiver with the recommendations of health officials to limit community spread, including any guidance or information regarding the impacts of residential overcrowding. Before using this waiver on behalf of a client, CoC recipients and subrecipients must discuss all identified housing options with the client, inform the client of typical occupancy limits, and ensure that the client understands that they may need to seek other housing at the end of the waiver period.

Use of Waiver After June 15, 2022:

Most recently, HUD's June 15, 2022 memo created two regulatory waiver processes, outlined in Section 1(b) and 1(c) of this addendum, that allow for the availability of this waiver to leases and occupancy agreements executed by recipients and subrecipients June 15, 2022 – March 31, 2023.

Time Frame of Waiver Availability

September 30, 2020 – March 31, 2023

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A copy of the lease or occupancy agreement clearly displaying the date of execution and including the initial term and automatic renewal; and
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: Suitable Dwelling Size and Housing Quality Standards.](#)"

I. One-Year Lease Requirement (Updated June 15, 2022)

Effect of Waiver

Generally, program participants residing in permanent housing must be the tenant on a lease for a term of at least one year that is renewable and terminable for cause (24 CFR

578.3, definition of permanent housing, 24 CFR 578.51(l)(1)). The QAS references this requirement at sections C.II.2.d. (PSH) and D.II.2.e (RRH).

HUD's March 31, 2020 memo waived the requirement that PSH and RRH program participants be on a lease for at least one year for leases signed within the six-month period beginning March 31, 2020. The initial lease term for all leases must be for at least one month.

HUD's subsequent memos extended the availability of this waiver to leases signed through March 31, 2022, so long as the initial term of the lease is for at least one month.

Use of Waiver after June 15:

Most recently, HUD's June 15, 2022 memo created two regulatory waiver processes, outlined in Section 1(b) and 1(c) of this addendum. The memo provides for expedited processing of recipient requests to waive the regulatory requirements at 24 CFR 578.3 and 24 CFR 578.51(l)(1) that recipients execute a lease that is for a term of less than one year, so long as the initial term of the lease is at least one month.

Time Frame of Waiver Availability

March 31, 2020 – March 31, 2023

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A copy of the lease clearly displaying the date of execution and including the initial term and automatic renewal; and
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: One-Year Lease Requirement.](#)"

J. Permanent Housing-Rapid Re-housing (PH-RRH) Limit to 24 Months of Rental Assistance (Updated June 15, 2022)

Effect of Waiver

Generally, CoC program funds can be used to provide short-term (up to three months) or medium-term (up to 24 months) rental assistance for participants in a RRH project (24 CFR 578.37(a)(1)). The QAS references this requirement at section D.II.2.a.

HUD's May 22, 2020 memo waived the 24-month limit on rental assistance for RRH participants who reach 24 months of rental assistance on or after May 22, 2020, until public health officials determine special measures are no longer necessary to prevent the spread of COVID-19. Subsequent memos established an end to this waiver of March 31, 2022.

This waiver can be applied to RRH participants who reach 24 months of rental assistance by March 31, 2022. Rental assistance may continue, as necessary for the participant to remain housed, until March 31, 2022.

Use of Waiver after June 15, 2022:

Most recently, HUD's June 15, 2022 memo created two regulatory waiver processes, outlined in Section 1(b) and 1(c) of this addendum. Program participants who have reached their 24-months of rental assistance between June 15, 2022 and March 31, 2023 who will not be able to afford their rent without additional rental assistance will be eligible to receive additional rental assistance until March 31, 2023. Recipients can request expedited processing of this waiver request for these participants.

Time Frame of Waiver Availability

May 22, 2020 – March 31, 2023

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of 24+ months of rental assistance payments, with the payment for the 24th month between May 22, 2020 and March 31, 2022;
2. Documentation, covering each month of rental assistance, of how the client's portion of rent was calculated, which complies with the CoC's Quality Assurance Standards and the program's own policies and procedures; and
3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: RRH Limit to 24 Months of Rental Assistance.](#)"

K. Limit to be Eligible for DedicatedPLUS Project When Coming from Transitional Housing Being Eliminated (Added May 22, 2020)

Effect of Waiver

Generally, to be eligible for a DedicatedPLUS project, an individual or family must meet the criteria of DedicatedPLUS in the Notice of Funding Availability under which the grant was awarded. One of the possible criteria is residing in transitional housing (TH) that will be eliminated and meeting the definition of chronically homeless in effect at the time in which the individual or family entered the TH project.

HUD's May 22 memo waives the definition of DedicatedPLUS project for projects funded in the FY 2018 and FY 2019 CoC Program Competitions to allow these projects to serve clients coming from TH, whether it is being eliminated or not, as long as the client met the definition of chronically homeless upon entry to the TH.

Time Frame of Waiver Availability

Grants funded in the FY 2018 and FY 2019 CoC Program Competitions

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation that the client was living in TH people experiencing homelessness within the 14 days prior to the client's enrollment into the DedicatedPLUS program;
2. Documentation of the client's chronically homeless status at entry into the TH program, including homeless status at entry, duration of homelessness, and disability; and
3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has

provided a form for this purpose: "[Usage of Waiver: Limit on DedicatedPLUS Eligibility From TH.](#)"

L. Third-Party Documentation of Income (Updated July 9, 2021)

Effect of Waiver

Generally, CoC-funded projects that charge rent or occupancy charges must document client income in compliance with the CoC Program Interim Rule at 24 CFR 578.103(a)(7). This section of the rule establishes the following order of priority for income documentation and requires recipients and subrecipients to obtain higher-priority forms of documentation whenever they are available:

- 1) Source documentation of clients' assets and recent income (e.g., pay stubs, bank statements);
- 2) Written third-party verification of recent income (e.g., employer letter); and
- 3) Client self-certification of expected income over the three months following the income evaluation.

HUD's September 30 memo waived the requirement to obtain source documentation or third-party verification whenever those forms of documentation are available. The waiver allows recipients and subrecipients to rely on client self-certification of the income they anticipate over the three months following the income evaluation, even when source documentation or third-party verification are available, for any initial or subsequent income calculations conducted between September 30, 2020 and December 31, 2020. To use this waiver, the recipient or subrecipient must explain why use of self-certification is necessary in order to move the client into permanent housing quickly.

HUD's subsequent memos extended the availability of this waiver to September 30, 2021.

Time Frame of Waiver Availability

September 30, 2020 – September 30, 2021. **This waiver is no longer available.**

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Dated copy of client self-certification of income expected over the next three months; and
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: Third-Party Documentation of Income.](#)"

M. Assistance Available at Time of Renewal (Updated July 9, 2021)

Effect of Waiver

Generally, when a CoC program recipient applies to renew a grant, the budget for each line item in the renewal application must be equal to or less than the amount of funding for that line item in the most recent grant budget. This means that, if a recipient amends its budget prior to a CoC Program Competition, the recipient's renewal application must be based on the amended budget.

HUD's May 22 memo waived the requirement that recipients renew grants based on the line items in the most recent grant budget. For all projects that amend their grant agreement between March 31, 2020 and October 1, 2020 to move funds between budget line items, recipients may apply in the next FY CoC Program Competition based on the budget line items in the grants before they were amended. In effect, this waiver allows recipients to temporarily amend a grant budget to respond to COVID-19 needs but renew that grant with pre-COVID-19 line items.

Subsequent memos extended the availability of this waiver to all projects that amend their grant agreement between March 31, 2020 and December 31, 2021.

Recipients using this waiver do not need to follow the notification process outlined above. Instead, HUD will consider any grant agreement amendment executed between March 31, 2020 and June 30, 2021 to move funds between budget line items in response to the COVID-19 pandemic as notification to HUD.

Time Frame of Waiver Availability

Grant amendments executed between March 31, 2020 and December 31, 2021.

Documentation

Programs must maintain the following administrative records each time the waiver flexibility is applied:

1. Documentation of grant amendment, including:
 - a. The original (pre-amendment) grant agreement and budget;
 - b. The project's written request to HUD amend the grant by moving funds between budget line items, which explicitly states that the changes are in response to the COVID-19 pandemic;
 - c. All communications with HUD regarding the project's request and the grant amendment; and
 - d. The amended grant agreement and budget.

IV. Available Waivers for ESG Grants

To maintain administrative records for the waived provisions, ESG grant recipients and/or subrecipients must obtain the documentation described, or comparable documentation demonstrating compliance with ESG Program regulations and the applicability of the waiver. Documentation must be maintained in client files and must include a specific written justification for each use of waiver flexibility. The CoC has provided [documentation forms for this purpose, which are available on the CoC website](#).

A. HMIS Lead Activities

Effect of Waiver

Generally, ESG funds may be used to pay the costs of managing and operating the HMIS only if the ESG recipient is the HMIS Lead (24 CFR 576.107 (a)(2)).

HUD's March 31, 2020 memo waived the condition that the recipient must be the HMIS Lead. Any recipient may use ESG funds to the extent necessary to upgrade or enhance its local HMIS to incorporate data on ESG participants and activities related to COVID-19. This waiver was in effect for six months beginning March 31, 2020.

Before using this waiver flexibility, grantees must consult with the CoC regarding HMIS customization required as a result of COVID-19.

Time Frame of Waiver Availability

March 31 – September 30, 2020. **This waiver is no longer available.**

Documentation

The recipient must maintain the following administrative records each time the waiver flexibility is applied:

1. Documentation that recipient consulted with the CoC regarding HMIS customization;
 - a. *Example:* An outline of additional elements provided by or developed in collaboration with the CoC and a bill from the vendor.
2. A description of the specific customization that is required as a result of the COVID-19; and
3. Documentation of the amount of the expense.
 - a. *Example:* A bill from the vendor

B. Re-evaluations for Homeless Prevention Assistance

Effect of Waiver

Generally, homelessness prevention assistance is subject to re-evaluation of each program participant's eligibility need for assistance, including the types and amounts of assistance needed, not less than once every three months (24 CFR 576.401(b)).

HUD's March 31, 2020 memo waived the required frequency of re-evaluations for homelessness prevention, so long as the recipient or subrecipient conducts the required re-evaluations not less than once every six months. This waiver is in effect for two years beginning March 31, 2020.

Time Frame of Waiver Availability

March 31, 2020 – March 31, 2022

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of re-assessment completed every six months; and
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: Re-evaluations for Homelessness Prevention Assistance](#)."

C. Housing Stability Case Management

Effect of Waiver

Generally, program participants receiving homelessness prevention or RRH assistance must meet with a case manager not less than once per month to assist them in ensuring long-term housing stability, unless certain statutory prohibitions apply (24 CFR 576.401(e)). The QAS references this requirement at section D.VII.B.

HUD's memos waived the monthly case management requirement to allow recipients to provide case management on an as-needed basis for two months, beginning March 31, 2020, and then for an additional three months, beginning on May 22, 2020; however, as a result of COVID-19 and the public health response, many clients may be particularly in need of support during this time. Providers should make every effort to maintain regular contact and case management with clients over the phone, video, or through other means that maintain the safety of both clients and staff.

Time Frame of Waiver Availability

March 31, 2020 – August 22, 2020. **This waiver is no longer available.**

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: Housing Stability Case Management.](#)"

D. Restriction of Rental Assistance to Units with Rent at or Below FMR (Updated June 15, 2022)

Effect of Waiver

Generally, rental assistance is restricted to units with rent at or below FMR (24 CFR 576.106(d)(1)).

HUD's March 31, 2020 memo waived the FMR restriction for any individual or family receiving Rapid Re-Housing or Homelessness Prevention assistance who executes a lease for a unit during the six-month period beginning March 31, 2020. However, the ESG recipient or subrecipient must still ensure that the units in which ESG assistance is provided meet the rent reasonableness standard.

HUD's December 30, 2021 memo applied this waiver to FY21 ESG grant funds for leases and subleases entered into between December 30, 2021 and March 31, 2022, provided the unit meets the rent reasonableness standard and the recipient or subrecipient can document that use of the waiver is necessary to prevent the spread of COVID-19 by quickly identifying housing in a tight rental market.

Use of Waiver after June 15, 2022:

HUD's June 15, 2022 memo provides for expedited processing of recipient requests to waive the FMR-based limitation in 24 CFR Section 576.106(d)(1), so that a recipient can provide rental assistance to program participants in units that are above FMR, so long as the rent is reasonable when compared to other similar unassisted units.

However, to be considered for expedited processing, the waiver request must specify the period during which the recipient needs to house program participants using this flexibility, and that period must not extend beyond March 31, 2023, although the recipient may request that the waiver remain applicable to any unit in which a program participant is assisted during that time period may continue to benefit from this waiver through until the earlier of the end of the program participant's otherwise allowable term of assistance or the end of the period of performance/approved budget period(s) for the recipient's grant(s) covered by the waiver.

Time Frame of Waiver Availability

March 31 – September 30, 2020; December 30, 2021 – March 31, 2023, although the recipient may request that the waiver remain applicable to any unit in which a program

participant is assisted during that time period may continue to benefit from this waiver through until the earlier of the end of the program participant's otherwise allowable term of assistance or the end of the period of performance/approved budget period(s) for the recipient's grant(s) covered by the waiver.

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A copy of the lease clearly displaying the date of execution;
2. A completed rent reasonableness analysis demonstrating that the unit meets the rent reasonableness standard; and
3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: ["Usage of Waiver: Restriction of Rental Assistance to Units with Rent at or Below FMR."](#)

E. Homeless Definition – Temporary Stays in Institutions of 90 Days or Less (Updated January 11, 2022)

Effect of Waiver

The definition of homeless in the ESG Program Interim Rule, at 24 CFR 576.2, includes "an individual who is exiting an institution where he or she has 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."

HUD's September 30, 2020 memo recognized that clients may be residing in institutions for longer periods of time as a result of COVID-19, for example due to court closings, court operating at reduced capacity, and longer hospital stays related to COVID-19. The memo waived the 90-day limit and allowed clients to qualify as homeless under Category 1 if they are exiting an institution after a stay of 120 days or less and were in an emergency shelter or place not meant for human habitation immediately before entering the institution. The waiver was in effect for a period of six months beginning on September 30, 2020.

HUD's March 31, 2021 memo extended the availability of this waiver through June 30, 2021.

HUD's December 30, 2021 memo made this waiver available for individuals whose homeless status is determined from December 30, 2021 – March 31, 2022.

Time Frame of Waiver Availability

September 30, 2020 – June 30, 2021; December 30, 2021 – March 31, 2022

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of the client's stay in the institution that includes the start and end dates of the stay. Third-party documentation of the institutional stay is preferred; if no third-party documentation is available, the recipient or subrecipient must document their attempts to obtain it before relying on client self-certification of the institutional stay.
2. Documentation that the client was residing in an emergency shelter or place not meant for human habitation immediately prior to their stay in the institution. Third-party documentation of the client's living situation is preferred; if no third-party documentation is available, the recipient or subrecipient must document their attempts to obtain it before relying on client self-certification.
3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: Temporary Stays in Institutions.](#)"

F. Assisting Program Participants with Subleases (Updated June 15, 2022)

Effect of Waiver

The ESG Program Interim Rule, in 24 C.F.R. sections 576.105 and 576.106, prohibits recipients from providing rental assistance and certain housing relocation and stabilization services to participants in units that are subleased or are leased from someone other than the owner of the unit or their agent.

HUD's December 30, 2021 memo waives this requirement for FY2021 ESG funding and allows rapid re-housing and homelessness prevention assistance to be provided to participants with legal subleases, as necessary to help participants reduce their risk of COVID-19 infection by obtaining or maintaining housing. This waiver is available for leases and subleases entered into between December 30, 2021 and March 31, 2022. Recipients may continue to use FY2021 grant funds to assist participants under this waiver through the end of their allowable term of assistance.

A similar provision in Notice CPD-21-08: Waivers and Alternative Requirements to the ESG Program Under the CARE Act, July 19, 2021, waived this requirement for FY2020 ESG and CARES Act funding.

Use of Waiver after June 15, 2022:

HUD's June 15, 2022 memo provides for expedited processing of recipient requests to waive the regulatory requirements in 24 CFR sections 576.105 and 576.106 to the extent that the references to "owner" and "lease" in 24 CFR 576.105 and 576.106 restrict program

participants from receiving assistance in units they sublease from the primary leaseholder, provided that the recipient is able to assure HUD that:

To be considered for expedited processing, the waiver request must specify the period during which the recipient needs to house program participants using this flexibility, and that period must not extend beyond March 31, 2023, although the recipient may request that the waiver remain applicable to any sublease approved during that period until the earlier of the end of the program participant's otherwise allowable term of assistance or the end of the period of performance/approved budget period(s) for the recipient's grant(s) covered by the waiver.

Time Frame of Waiver Availability

For FY2021 ESG grants: December 30, 2021 – March 31, 2023, although the recipient may request that the waiver remain applicable to any sublease approved during that period until the earlier of the end of the program participant's otherwise allowable term of assistance or the end of the period of performance/ approved budget period for the recipient's grant covered by the waiver.

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of a legally valid sublease with the primary leaseholder for the unit; and
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: Assisting Program Participants with Subleases.](#)"

Programs must develop written policies to apply the requirements of 24 CFR 576.105, 24 CFR 576.106, 24 CFR 576.409, and 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.

G. Helping Current Program Participants Maintain Housing – Housing Relocation and Stabilization Services (Updated June 15, 2022)

Effect of Waiver

The ESG Program Interim Rule, in 24 C.F.R section 576.105(a)(5), (b)(2), and (c) prohibits ESG recipients from providing more than 24 months of ESG housing relocation and stabilization services for a participant during any three-year period.

HUD's December 30, 2021 memo waives this requirement for FY2021 ESG funding and allows more than 24 months of ESG housing relocation and stabilization services to be provided to participants receiving RRH and homelessness prevention assistance who reach the end of the 24-month limit between December 30, 2021 and March 31, 2022. Extended assistance must be necessary to help participants reduce their risk of COVID-19 infection by obtaining or maintaining housing, and it must end on March 31, 2022.

A similar provision in Notice CPD-21-08: Waivers and Alternative Requirements to the ESG Program Under the CARE Act, July 19, 2021, waived this requirement for FY2020 ESG and CARES Act funding.

Use of Waiver after June 15, 2022:

HUD's June 15, 2022 memo provides for expedited processing of recipient requests to waive one or more of the 24-month limits under 24 CFR Sections 576.105(a)(5), 576.105(b)(2), and 576.105(c) for program participants who continue to need assistance beyond the 24-month limit(s) to maintain housing stability. Additionally, this notice provides for expedited process of recipient requests to waive 24 CFR Section 576.105(b)(2) to allow recipients to pay for housing stability case management for up to 60 days while the program participant is seeking housing.

Time Frame of Waiver Availability

For FY2021 ESG grants: December 30, 2021 – March 31, 2023

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of all housing relocation and stabilization payments and services using ESG funds, with dates; and
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: Helping Current Program Participants Maintain Housing: Housing Relocation and Stabilization Services.](#)"

H. Helping Current Program Participants Maintain Housing – Rental Assistance (Added January 11, 2022)

Effect of Waiver

The ESG Program Interim Rule, in 24 C.F.R section 576.106(a), prohibits ESG recipients from providing more than 24 months of ESG rental assistance to a participant during any three-year period.

HUD's December 30, 2021 memo waives this requirement for FY2021 ESG funding and allows more than 24 months of ESG rental assistance to be provided to participants who reach the end of the 24-month limit between December 30, 2021 and March 31, 2022. Extended rental assistance must be necessary to help participants reduce their risk of COVID-19 infection by obtaining or maintaining housing, and it must end on March 31, 2022.

A similar provision in Notice CPD-21-08: Waivers and Alternative Requirements to the ESG Program Under the CARE Act, July 19, 2021, waived this requirement for FY2020 ESG and CARES Act funding.

Use of Waiver after June 15:

HUD's June 15, 2022 memo provides for expedited processing of a recipient request to waive the 24-month limit on rental assistance under 24 CFR Section 576.106(a) for program participants who have received 24- months of rental assistance over a 3-year period, but will not be able to afford their rent without additional rental assistance.

Time Frame of Waiver Availability

For FY2021 ESG grants: December 30, 2021 – March 31, 2023

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of all rental assistance payments using ESG funds, with dates of payments; and
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: Helping Current Program Participants Maintain Housing: Rental Assistance.](#)"