



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

ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

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

FROM: James Arthur Jemison, II, Principal Deputy Assistant Secretary, D

SUBJECT: Availability of Waivers of Community Planning and Development
Grant Program and Consolidated Plan Requirements to Facilitate
Recovery from 2021 Texas Severe Winter Weather

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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 severe winter weather in areas covered by a major disaster declared under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), DR-4586-TX, dated February 19, 2021, as amended (the “**declared-disaster areas**”).

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), and
- Emergency Solutions Grant (ESG).

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:

CPD grantees located in the counties included in the declared-disaster areas 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. The waiver flexibility made available under this memorandum must be used to assist only eligible families who have registered with the Federal Emergency Management Agency (FEMA). 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 the recipient's use of the waiver, consistent with the justifications provided below.

WAIVER AUTHORITY:

The severe winter weather that began on February 11, 2021, and was the subject of the disaster declaration DR-4586-TX, dated February 19, 2021, as amended (the "disaster"), caused substantial damage to communities in the declared-disaster areas. As a consequence, many individuals and families residing in the declared-disaster areas have been displaced from their homes, including the current beneficiaries of various CPD programs, and families eligible to receive CPD program assistance. Some may be continuing to live in homes with habitability deficits, particularly related to potable water. 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 USC 5321), and Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended (42 USC 12840), authorize HUD to suspend, respectively, certain CDBG and HOME statutory requirements to assist grantees of these programs in addressing the damage in areas 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, and ESG programs. To adequately address damage caused by the disaster and disaster recovery needs among the affected jurisdictions in the declared-disaster areas, 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.

WAIVER AVAILABILITY:

1. Citizen Participation Public Comment Period for Fiscal Year (FY) 2021 Consolidated Plan and Consolidated Plan Amendments

Requirement: 30-day Public Comment Period

Citations: 24 CFR 91.105(b)(4), (c)(2), and (k); 24 CFR 91.115(b)(4), (c)(2), and (i); and 24 CFR 91.401

Explanation: With the coming announcement of FY 2021 CPD formula allocations, several grantees in the declared-disaster areas will be commencing or soon concluding their FY2021 consolidated planning process. Development of the consolidated plan is subject to the citizen participation process set forth in the grantee's citizen participation plan. A CPD grantee may also amend an approved consolidated plan in accordance with 24 CFR 91.505. 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 also 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 draft consolidated plans and substantial amendments.

Justification: Given the need to expedite actions to respond to the disaster, HUD waives the 30-day public comment requirement of 24 CFR 91.105(b)(4), (c)(2), and (k), 91.115(b)(4), (c)(2), and (i) and 91.401 and reduces the public comment period for grantees preparing Fiscal Year (FY) 2021 Plans, amendments thereto, and amendments to prior year plans to no less than five days. In reducing the comment period to five days, HUD is balancing the need to quickly assist families dealing with the aftereffects of the disaster while continuing to provide reasonable notice and opportunity for citizens to comment on the proposed uses of CDBG, HOME, HTF, HOPWA, and ESG funds.

Applicability: This authority is in effect through September 30, 2021, and is limited to facilitating preparation of the grantee's FY 2021 Consolidated Plan or Annual Action Plan, FY 2021 Plan substantial amendments, and substantial amendments to prior year plans.

2. CDBG – Suspension of Public Services Cap

Requirement: Cap on Public Services Expenditures

Citations: Section 105(a)(8) of the HCDA, 24 CFR 570.201(e)(1) or (2) (Entitlements)

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 HCDA and waives 24 CFR 570.201(e) to permit CDBG grantees to exceed the 15 percent cap on public service expenditures.

The waiver will allow CDBG grantees to pay for additional support services related to the effects of the severe winter weather 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 areas until long-term recovery resources become available. These costs are eligible under the public services provision of Section 105(a)(8) of HCDA

and 24 CFR 570.201(e) of the regulations.

Applicability: This suspension and waiver shall be available to CDBG grantees assisting persons and families who have registered with FEMA in connection with the disaster. Grantees will be required to annotate their performance reports in such a way that activities for which waivers have been granted are distinguishable from regular program activities. Also, the grantee 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 the grantee's 2021 program year. If at that time any grantee believes additional time is needed to carry out public service activities over the 15 percent public service cap or its exception percentage pursuant to 24 CFR 570.201(e)(2), then the Department is willing to consider an additional request for suspension of a grantee's public services cap.

3. CDBG – Emergency Grant Payments for up to Six Months

Requirement: Emergency Grant Payments

Citation: 24 CFR 570.207(b)(4) (Entitlements)

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 570.207(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 power outages, burst water pipes, and other damage associated with the disaster. The waiver will allow CDBG grantees, including grantees providing assistance to evacuees outside the declared-disaster areas, to pay for the basic daily needs of individuals and families affected by the disaster on an interim basis.

Applicability: This waiver is available to CDBG grantees, located within and outside of the declared-disaster areas, to assist persons and families who have registered with FEMA in connection with the severe winter weather in Texas. This authority is in effect through the end of the grantee's 2021 program year. This waiver aligns with

waivers currently in effect for CDBG coronavirus (CDBG-CV) grants. The six-month periods allowed by waiver for CDBG and CDBG-CV shall not be used consecutively for the same beneficiary.

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

Requirement: Certification Related to Use of HOME Funds for (TBRA)

Citations: Section 212(a)(3)(A)(i) of NAHA, 24 CFR 91.225(d)(1) (Local Governments), 24 CFR 91.325(d)(1) (States), 24 CFR 91.425(a)(2)(i) (Consortia), and 24 CFR 92.209(b) (Certifications)

Explanation: A participating jurisdiction 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 relieve participating jurisdictions of the administrative burden of determining and certifying needs that are obvious.

Applicability: The suspension of the TBRA certification requirements applies to FY 2021 and FY 2022 consolidated plan/annual action plans for participating jurisdictions located in the declared-disaster areas (including the state participating jurisdiction).

5. HOME – Suspension of the 10% Administration and Planning Cap

Requirement: Limitation on the Use of HOME Funds for Administrative Costs

Citations: Section 212(c) of NAHA and 24 CFR 92.207

Explanation: These provisions limit the amount of HOME funds that a participating jurisdiction may use for administrative and planning costs associated with its HOME program to 10 percent of its annual HOME allocation, plus any program income received. These provisions are suspended to enable the participating jurisdiction to expend up to 20 percent of its FY 2021 allocation and program income received for administrative and planning costs.

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

Applicability: This suspension and waiver apply to the FY 2021 HOME allocations of participating jurisdictions in the declared-disaster areas (including the state participating jurisdiction).

6. HOME – Suspension of Matching Contribution Requirements

Requirement: Match Contributions

Citation: 24 CFR 92.218 and 92.222(b)

Explanation: This provision requires all HOME participating jurisdictions to make contributions through the fiscal year to housing that qualifies as affordable housing under the HOME program. The contributions must total no less than 25 percent of the HOME funds drawn from the participating jurisdiction's HOME Investment Trust Fund Treasury account. Reducing the match requirement for the participating jurisdiction by 100 percent for FY 2021 and FY 2022 will eliminate the need for the participating jurisdiction to identify match for HOME projects related to the damage caused by the disaster. The requirement that the participating jurisdiction must submit a copy of the Presidential major disaster-declaration is waived.

Justification: Given the urgent housing needs created by the disaster and the substantial financial impact the participating jurisdiction will face in addressing those needs, the approval of a match reduction will relieve the participating jurisdiction from the need to identify and provide matching contributions to HOME projects.

Applicability: This match reduction applies to funds expended by a participating jurisdiction located in the declared-disaster areas (including the state participating jurisdiction) from October 1, 2020 through September 30, 2022. For a state participating jurisdiction, this match reduction only applies to HOME funds expended in the declared-disaster areas.

7. HOME – Suspension and Waiver of CHDO Set-aside

Requirement: Set-aside for Community Housing Development Organizations (CHDOs)

Citations: Section 231 of NAHA and 24 CFR 92.300(a)(1)

Explanation: These provisions establish a set-aside for CHDOs. The participating jurisdiction must use 15 percent of each annual allocation for housing owned, developed, or sponsored by CHDOs.

Justification: This suspension and waiver are required to relieve the participating jurisdiction of requirements that may impede the obligation and use of funds to expeditiously provide housing to displaced persons and repair damaged properties in the declared-disaster areas.

Applicability: This requirement is reduced to zero percent for the FY 2021 and FY 2022 allocations of participating jurisdictions located in the declared-disaster areas (including the state participating jurisdiction).

8. HOME – Waiver of Property Standards for HOME-assisted Units

Requirement: HOME Property Standards for Units Rehabilitated with HOME Assistance

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., 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.

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

Applicability: This waiver applies only to housing units located in the declared-disaster areas which were damaged by the disaster and to which HOME funds are committed within two years of the date of this memorandum. Consistent with local and state law, units must still meet any applicable state and local health and safety codes and requirements. The lead housing safety regulations established in 24 CFR Part 35 are not waived.

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

Requirement: 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 participating jurisdiction 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 the area in which the housing is located.

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 participating jurisdiction with the needed flexibility to assist affected low-income families.

Applicability: This suspension and waiver applies to projects in the declared-disaster areas that receive commitments of HOME funds within two years of the date of this memorandum.

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

Requirement: Homeownership 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 area median sales price.

Justification: This suspension and waiver is necessary to provide the participating jurisdiction 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 in the declared-disaster areas that were damaged by the disaster and 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.

11. HOME- Suspension of Various TBRA Program Requirements

Requirement: Tenant-Based Rental Assistance: Subsidy and program requirements

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

Explanation: Section 212(a)(3)(A)(ii) of NAHA requires a participating jurisdiction 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 be based on local housing needs and priorities established in the participating jurisdiction'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 a participating jurisdiction may pay toward a TBRA recipient's rent to the difference between the participating jurisdiction'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 these provisions will provide the participating jurisdiction with greater flexibility to use tenant-based rental assistance as an emergency housing resource.

Applicability: The suspension of the requirements related to the content of the consolidated plan applies to the FY 2021 and FY 2022 consolidated plan/annual action plans of the participating jurisdiction located in the declared-disaster areas (including the state participating jurisdiction).

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 executed by a participating jurisdiction located in the declared-disaster areas (including the state participating jurisdiction) with persons or families displaced by the disaster. This waiver will be in effect 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 requirement in 24 CFR 92.209(h)(1) limiting the maximum TBRA subsidy amount a participating jurisdiction in the declared-disaster areas (including the state participating jurisdiction) may provide to a family under TBRA is waived for a period of 24 months after the date of this memorandum for TBRA recipients who are displaced by the disaster. The other requirements in 24 CFR 92.209(h) are not waived.

The waiver of the housing quality standards requirements at 24 CFR 92.209(i) applies for a period of 24 months after the date of this memorandum to units leased by TBRA recipients who were displaced by the disaster and are being assisted through a HOME TBRA program funded by the participating jurisdiction in the declared-disaster areas (including the state participating jurisdiction). 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.

12. HOME- Income Documentation

Requirement: Source Documentation for Income Determinations for HOME

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

Explanation: The HOME regulations of 24 CFR 92.203(a)(1) and (2) 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 participating jurisdiction to use self-certification of income, as provided in 24 CFR 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 participating jurisdictions in the declared-disaster areas (including the state participating jurisdiction) to assist families displaced by the disaster (as documented 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 participating jurisdiction 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.

13. HTF- Income Documentation

Requirement: Source Documentation for Income Determinations for HTF

Citations: 24 CFR 93.151(c)

Explanation: The HTF regulation at 24 CFR 93.151(c) requires initial income determinations for HTF beneficiaries by examining source documents for at least 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 grantee to use self-certification of income, as provided in section 93.151(d)(2), in lieu of source documentation to determine eligibility of persons displaced by the disaster for HTF assistance.

Applicability: This waiver applies only to families displaced by the disaster (as documented 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 grantee 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.

14. HOPWA – Property Standards

Requirement: Property Standards for HOPWA

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

Explanation: This section of the HOPWA regulations provides that all acquisition, rehabilitation, conversion, lease, or repair; new construction of single room occupancy dwellings and community residences; project or tenant-based rental assistance; or operating costs must meet the applicable housing quality standards (HQS) outlined in the regulations.

Justification: This waiver is required to enable grantees and project sponsors to expeditiously meet the critical housing needs of the many eligible families in the declared-disaster areas.

Applicability: The property standard requirements in 24 CFR 574.310(b)(2) are waived for units in the declared-disaster areas that are or will be occupied by HOPWA-eligible households, provided that the units are free of life-threatening conditions as defined in Notice PIH 2017-20 (HA). Grantees must ensure that these units meet HOPWA HQS within 60 days of the date of this memorandum.

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

Requirement: Term limits on Rental Assistance and Housing Relocation and Stabilization Services

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

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.

Justification: Waiving the 24-month caps on rental assistance, utility payments, and housing stability case management assistance will assist individuals and families, both those already receiving assistance and those who will receive assistance subsequent to 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.

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 severe winter weather; and
2. The individual or family is currently receiving rental assistance or housing relocation stabilization services or begins receiving rental assistance or

housing relocation 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, utility payments, and housing stability case management, 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). HUD will also consider further waiver requests to allow assistance to be provided for longer than three years, if the recipient demonstrates good cause.

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

Requirement: 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 or who were displaced due to the severe winter weather. Waiving the FMR restriction will make more units available to individuals and families in need of permanent housing.

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 for any individual or family who is renting or executes a lease for a unit in a declared-disaster area. However, the affected recipients and their subrecipients must still ensure that the unit in which ESG assistance is provided to these individuals and families meet the rent reasonableness standard. 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.

17. ESG – Housing Standards

Requirement: Restriction of ESG Rapid Re-housing and Homelessness Prevention assistance for units that do not meet the minimum standards for permanent housing.

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 assure all units in which program participants are assisted meet the ESG housing standards within 60 days of the date of this memorandum.

18. ESG – Shelter Standards

- Requirement:** Restriction of using ESG funds to pay for emergency shelter operations or renovation costs for shelter facilities that do not meet the minimum 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 or 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.

ADDITIONAL INFORMATION:

Due to the ongoing coronavirus pandemic, HUD has already provided certain suspensions, waivers, and alternative requirements to all CPD grantees. Grantees in the declared-disaster areas may also take advantage of the coronavirus suspensions, waivers, and alternative requirements. This includes the waiver and alternative requirement allowing CPD grantees in preparing their FY21 Consolidated Plans, Action Plans, and substantial amendments to FY21 or prior year plans to hold virtual hearings in lieu of in-person public hearings. Further details may be found in the [Waiver of Community Planning and Development \(CPD\) Grant Program and Consolidated Plan Requirements to Allow for Virtual Public Hearings in the Preparation of FY 2021 Consolidated Plans and Annual Action Plans](#). To facilitate a grantee's ability to incur pre-award costs, HUD has also granted a waiver for HOME and CDBG grantees to allow the date of the grant agreement to be the program year start date or the date the consolidated plan is received, whichever is earlier. More details on this waiver provision may be found at [Availability of Waivers of Community Planning and Development Grant Program Requirements to Facilitate the Ability to Incur Pre-Award Costs in FY 2021](#).

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: <https://www.hudexchange.info/programs/cpd-field-office-directory/>.

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.

If you, or any member of your staff, have any questions concerning this memorandum, you may contact the following persons regarding the waivers and suspensions requested peculiar to the program office: regarding the citizen participation and CDBG waivers, James E. Höemann, Director, OBGA Entitlement Communities Division at (202) 708-1577; regarding the HOME and HTF waivers, Virginia Sardone, Director, OAHP at (202) 708-2684; regarding the HOPWA waivers, Rita Harcrow, Director, OHH at (202) 708-1934; and regarding the 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 Areas

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(s) 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. Citizen Participation Public Comment Period for FY21 Consolidated Plan and Consolidated Plan Amendments
 2. CDBG – Suspension of Public Services Cap
 3. CDBG – Emergency Grant Payments for up to Six Months
 4. HOME – Relief from Certification Requirements on Use of HOME Funds for TBRA
 5. HOME – Suspension of the 10% Administration and Planning Cap
 6. HOME – Suspension of Matching Contribution Requirements
 7. HOME – Suspension and Waiver of CHDO Set-aside
 8. HOME – Waiver of Property Standards for HOME-assisted Units
 9. HOME – Suspension and Waiver of Maximum Per Unit Subsidy Limit
 10. HOME – Suspension of Owner-Occupied Housing Maximum Value/Sales Price Limitation
 11. HOME – Suspension of Various TBRA Program Requirements
 12. HOME – Income Documentation
 13. HTF – Income Documentation
 14. HOPWA – Property Standards
 15. ESG – Term Limits on Rental Assistance and Housing Relocation and Stabilization Services
 16. ESG – Restriction of Rental Assistance to Units with Rent At or Below Fair Market Rent (FMR)
 17. ESG – Housing Standards
 18. ESG – Shelter Standards