

# Applicability of Waivers for ESG and ESG CV

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# CARES Act Allocations

- ESG CV- 1<sup>st</sup> allocation- 1 billion through FY20 ESG formula
- ESG CV- 2<sup>nd</sup> allocation- 2.96 billion through new formula based on need

Both allocations will go to FY20 ESG recipients; amounts will be different because the allocations are based on different formulas

# Available Waivers for ESG/ESG CV

- Availability of Waivers of CPD Grant Prg. And Con Plan requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 (Mega- Waiver)
  - Covers CoC, ESG (non-CV), and Consolidated Plan Requirements (to the extent funds are used for COVID)
- CPD COVID-19 CAPER Waiver
  - Extends deadlines for reporting (180 from end of Pg. Yr.)
- ESG CV CARES Act requirements
  - Certain requirements are relaxed or dropped based on language in the CARES Act.

# ESG: Mega-Waiver & CARES Act Highlights

## ESG Mega-Waivers

- 1. HMIS Lead Activities**  
24 CFR 576.107(a)(2)
- 2. Re-Evaluations for Homelessness Prevention Assistance**  
24 CFR 576.401(b)
- 3. Housing Stability Case Management**  
24 CFR 576.401(e)
- 4. Restriction of Rental Assistance to Units with Rent at or Below FMR**  
24 CFR 576.106(d)(1)

## CARES Act (ESG-CV)

- No matching requirement
- No spending cap on emergency shelter and street outreach
- Up to 10% of the grant can be spent on administrative activities
- Income eligibility 50% of AMI for homelessness prevention
- Allows deviation from applicable procurement standards
- May not require program participants to receive treatment or perform any other prerequisite activities as a condition for receiving shelter, housing, or services
- Citizen participation/consultation requirements is dropped
- No minimum period of use for emergency shelters

# Who Can Submit a Waiver Notification?

Can the following entity submit a waiver notification?	Yes/No	How to submit a waiver notification
CoC lead on behalf of ALL (multiple grant recipients)	No	CoC lead agency may not submit a blanket waiver on behalf of all participants. However, the CoC may gather individual notifications from participating grant recipients and submit them simultaneously.
CoC lead on behalf of itself (sole recipient)	Yes	E-mail waiver notification to local field office mailbox.
HOPWA, ESG or CoC Subrecipient	No	Contact your grant recipient(s) to initiate waiver process.
CDBG Subrecipient	No	Contact your grant recipient(s) to initiate waiver process.
CoC grant recipient with grants in multiple CoCs	Yes	E-mail waiver notification indicating grants/CoCs to be covered, along with other required information, to local field office mailbox.
Entitlement/State grantee with multiple programs	Yes	E-mail waiver notification indicating grants/CoCs to be covered, along with other required information, to local field office mailbox.

# Waiver Submission FAQs

Q: What's the effective date of the Memo?

- *A: The official date of the memorandum is March 31, 2020, but grantees must notify the local Field Office and wait two calendar days before implementation of a waiver.*

Q: The waiver doesn't state that notifications must include grant numbers. Does this mean the waiver applies to all active grants within a grantee's portfolio?

- *A: Yes, the waiver applies to a grantee's entire HUD portfolio. However, Per the Waiver Availability section of the COVID Memorandum:  
“...update its program records to include written documentation of the specific conditions that justify the recipient's use of the waiver...”*

# Citizen Participation Public Comment Period for Consolidated Plan Amendment -17/18/19 funds

Requirement	Applicability	Other Provisions
<p>A CPD grantee may amend an approved consolidated plan in accordance with 24 CFR 91.505. Substantial amendments to the consolidated plan are subject to the citizen participation process in the grantee's citizen participation plan. The citizen participation plan must provide citizens with 30 days to comment on substantial amendments.</p>	<p><b>Through the end of the recipient's 2020 program year</b>, the 30-day minimum for the required public comment period is waived for substantial amendments</p>	<p>Grantees must provide <b>no less than 5 days</b> for public comments on <b>each substantial amendment</b></p> <p>Any recipient wishing to undertake further amendments to prior year plans following the 2020 program year can do so during the development of its FY 2021 Annual Action Plan</p>

# Citizen Participation Public Comment Period for Consolidated Plan Amendment

## Suggested Recipient Documentation

- 1) Documentation of the need to expedite the amendment and demonstrating both publication and 5-day comment period;
- 2) A record of all comments received, and responses must be submitted with the amendment;
- 3) Copy of waiver notification sent to HUD;
- 4) Emergency recordkeeping policies and procedures



# Citizen Participation Reasonable Notice and Opportunity to Comment

## Requirement

As noted above, the regulations at 24 CFR 91.105 (for local governments) and 91.115 (for States) set forth the citizen participation plan requirements for recipients. For substantial amendments to the consolidated plan, the regulations require the recipient to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given.

## Applicability

HUD waives 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) and 24 CFR 91.401 to allow these grantees to determine what constitutes reasonable notice and opportunity to comment given their circumstances

# Expedited Waiver Process

- Recipient is NOTIFYING HUD of their intent to use the waiver, NOT requesting the use of the waiver.
- Recipients must “update its program records to include written documentation of the specific conditions that justify (its) use of the waiver”

# ESG Program Waivers

The following waivers are available for the ESG Program:

- 10** **HMIS Lead Activities**  
24 CFR 576.107(a)(2)
- 11** **Re-Evaluations for Homelessness Prevention Assistance**  
24 CFR 576.401(b)
- 12** **Housing Stability Case Management**  
24 CFR 576.401(e)
- 13** **Restriction of Rental Assistance to Units with Rent at or Below FMR**  
24 CFR 576.106(d)(1)

# HMIS Lead Activities

Requirement	Applicability
ESG funds may be used to pay the costs of managing and operating the HMIS, provided that the ESG recipient is the HMIS Lead.	<b>For the 6-month period beginning on the date of the waiver memorandum (3/31/2020),</b> the condition that the recipient must be the HMIS Lead to pay costs under 24 CFR 576.102(a)(2) is waived to the extent necessary to allow any recipient to use ESG funds to pay costs of upgrading or enhancing its local HMIS to incorporate data on ESG Program participants and ESG activities related to COVID-19

# HMIS Lead Activities

## Suggested Recipient Documentation

- 1) Documentation of the need to upgrade or enhance the HMIS as a result of COVID-19 and that it met the “necessity” threshold established in the policies and procedures;
- 2) Copy of waiver notification sent to HUD

# HMIS Waiver FAQs

**Q:** The waiver states that it only applies, “to the extent necessary”, how should we document the necessity of these expenses?

- **A:** Grantees should document consultations with the CoC regarding HMIS customization as a result of COVID-19. Examples of appropriate documentation include but are not limited to a bill from the vendor and an outline of additional elements.

# Re-Evaluations for Homelessness Prevention Assistance

Requirement	Applicability	Other Provisions
Homelessness prevention assistance is subject to re-evaluation of each program participant's eligibility need for assistance not less than once every 3 months.	<b>For up to the 2-year period beginning on the date of the waiver memorandum (3/31/2020),</b> the required frequency of re-evaluations for homelessness prevention assistance under section 576.401(b) is waived	The recipient or subrecipient must conduct the required re-evaluations <b>not less than once every 6 months</b>

# Re-Evaluations for Homelessness Prevention Assistance

<b>Suggested Recipient Documentation</b>	<b>Suggested Client Level Documentation</b>
<ol style="list-style-type: none"><li>1) Documentation demonstrating need to keep participant housed during COVID-19 pandemic;</li><li>2) Copy of waiver notification sent to HUD;</li><li>3) Emergency recordkeeping policies and procedures</li></ol>	<ol style="list-style-type: none"><li>1) A note in the files of affected clients;</li><li>2) Documentation demonstrating compliance with the 6-month requirement.</li></ol>



# Housing Stability Case Management

Requirement	Applicability
<p>Program participants receiving homelessness prevention or rapid re-housing assistance must meet with a case manager not less than once per month, unless certain statutory prohibitions apply.</p>	<p><b>For the 2-month period beginning on the date of the waiver memorandum (3/31/2020), this waiver is in effect</b></p>

# Housing Stability Case Management

<b>Suggested Recipient Documentation</b>	<b>Suggested Client Level Documentation</b>
<ol style="list-style-type: none"><li>1) Documentation of limited staff capacity, shelter-in-place order, or similar COVID-19 related impediment;</li><li>2) Copy of waiver notification sent to HUD;</li><li>3) Emergency recordkeeping policies and procedures</li></ol>	<ol style="list-style-type: none"><li>1) A note in the files of affected clients.</li></ol>

# Restriction of Rental Assistance to Units At or Below FMR

Requirement	Applicability	Other Provisions
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.	<b>For the 6-month period beginning on the date of the waiver memorandum (3/31/2020),</b> the FMR restriction is waived for any individual or family receiving Rapid Re-housing or Homelessness Prevention assistance who executes a lease for a unit	The ESG recipient or subrecipient must still ensure that the units in which ESG assistance is provided to these individuals and families meet the rent reasonableness standard

# Restriction of Rental Assistance to Units At or Below FMR

<b>Suggested Recipient Documentation</b>	<b>Suggested Client Level Documentation</b>
<ol style="list-style-type: none"><li>1) Documentation that FMR limits are impeding grantee's ability to find units for clients as a result of COVID-19;</li><li>2) Copy of waiver notification sent to HUD;</li><li>3) Emergency recordkeeping policies and procedures</li></ol>	<ol style="list-style-type: none"><li>1) A copy of the lease clearly displaying the date of execution;</li><li>2) A note to file noting the date of this memo and its application to the client's lease; and</li><li>3) A completed rent reasonableness analysis.</li></ol>

# Q & A

