

# HOME Investment Partnerships Program, Coronavirus Waivers

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**Administering Agency:** HUD's Office of Community Planning and Development (CPD)

**Population Targeted:** Households with income less than 80% of area median income (AMI); when used to assist renters, 90% of a jurisdiction's HOME-assisted rental units must be occupied by households with income less than 60% AMI.

The regular HOME program is a federal block grant to about 640 participating jurisdictions (PJs), which are states and certain localities that use the funds to provide affordable housing to low- and moderate-income households. States and localities use the funds for a variety of homeownership and rental activities. In general, all HOME money must benefit people with low or moderate incomes, tenant rents must generally be capped at a fixed percentage of the AMI, and units must be occupied by income-eligible households for a set period. For more about the regular HOME program see Chapter 5, *HOME Investment Partnerships Program*.

## HOME PROGRAM WAIVERS

The "CARES Act" did not provide any supplemental funds for the HOME program. Nevertheless, the Office of Affordable Housing Programs (OAHP) in HUD's Office of Community Planning and Development (CPD) issued waivers of regulations in order to address pressing affordable housing needs during the coronavirus pandemic.

The first set of waivers were issued on April 10, one set exclusively about the HOME program's Tenant-Based Rental Assistance (TBRA) eligible use, and the other set offering overall waivers pertaining to other HOME program regulation provisions. Another set of waivers were issued on December 4, extending all the regulatory waivers outlined in the April TBRA Memorandum

from December 31, 2020 to September 30, 2021. They also revised or clarified some of the earlier waivers.

### Tenant-Based Rental Assistance (TBRA) Waivers

CPD issued a Memorandum, "[Suspensions and Waivers to Facilitate Use of HOME-Assisted Tenant-Based Rental Assistance](#)," dated April 10 that provided a number of waivers to the HOME Tenant-Based Rental Assistance (TBRA) program regulations in order to facilitate use of TBRA to meet urgent housing assistance needs for households experiencing financial hardship due to the coronavirus pandemic. PJs may use HOME funds to provide TBRA to households so that they can afford to pay an affordable rent; it is a bit like a voucher however a PJ must renew TBRA every two years.

Two waivers were only available to participating jurisdictions (PJs) in presidentially declared major disaster areas as a result of coronavirus. Another eight waivers were available to all PJs. Another Memorandum, "[Revisions and Extensions of April 10, 2020 Tenant-Based Rental Assistance Memorandum](#)," dated December 4 extended all the regulatory waivers outlined in the April TBRA Memorandum from December 31, 2020 to September 30, 2021. The December 4 Memorandum also revised or clarified five of the earlier waivers.

While HOME program funds are primarily a resource for the construction of affordable housing, HUD recognized that the coronavirus pandemic was causing widespread economic damage and created an unprecedented need for housing assistance among households directly affected. The waivers provided in the Memorandum were intended to make it easier for PJs to use HOME funds for TBRA for households experiencing financial hardship as a result of the pandemic by: providing immediate rental assistance to households seeking housing, assisting households that have housing but face

reduced or lost wages, and assisting existing TBRA households who need additional assistance due to reduced or lost wages.

#### **WAIVERS AVAILABLE TO ALL PJS**

**Public Notice and Comment.** A PJ may reduce the public notice and comment period to five days when it amends its approved Annual Action Plan to reprogram HOME funds to be used for TBRA to address housing needs related to the pandemic.

**Paying Utility Costs.** A PJ may pay the full cost of monthly utilities in addition to rental assistance and security deposit payments for new and existing TBRA households affected by the pandemic. PJs may provide up to 100% subsidy for rent, security deposit payments, and utility bills paid by tenants affected by a reduction or loss of income due to the pandemic. The waiver also eliminated the need for a PJ to establish utility allowances for different types and sizes of units. A PJ may make utility payments directly to a tenant or utility company based on utility bills submitted for the assisted unit either by mail or electronically.

The December 4 Memorandum allowed PJs to pay past-due rent and fees, including any late fees, as well as pay past-due utility costs, late fees associated with overdue utilities, and costs to restore utility service. Costs incurred on or after January 27, 2020 through September 30, 2021 may be covered.

**Date of Contract.** OAHP waived the requirement that a rental assistance contract begin on the first day of the term of a lease. This waiver enabled a PJ to assist tenants who are currently housed who experienced sudden financial hardship as a result of the pandemic. Because affected households already have executed leases, it is impossible for the TBRA contract to begin on the first day of the term of a lease.

**Households in Non-HOME Properties.** A PJ may assist individuals currently housed in an unassisted home that has a lease already in place who are unable to pay rent and/or utilities due to job loss or reduced wages. This waiver is needed for any existing lease even though it includes one or more of the HOME tenant protection

prohibited lease terms.

#### **Housing Quality Standards (HQS) Inspections.**

OAHP waived initial and annual Housing Quality Standards (HQS) inspections. This eliminated the risk of housing inspectors contracting or spreading the coronavirus. However, the lead-safe housing requirements cannot be waived. Therefore units built before 1978 must undergo visual evaluation and paint repair if necessary. A PJ using this waiver must establish procedures to minimize the risk of tenants being in a home that does not meet HQS. PJs must also establish procedures for conducting physical inspections within 120 days following the end of the waiver period. In addition, OAHP waived annual HQS re-inspections that were scheduled to occur between April 10 and December 31, 2020. Within 120 days of the end of the waiver period (now September 30, 2021), a PJ must physically inspect units that would have been subject to HQS inspections during the waiver period.

The December 4 Memorandum adds that regarding both initial and annual HQS inspections, if a PJ continues to provide TBRA to a household beyond September 30, 2021, the PJ must conduct an HQS inspection before executing a new rental assistance contract.

**Household Income Self-Certification.** A PJ may obtain a written statement of the amount of a household's anticipated annual income and household size for households experiencing financial hardship. A PJ must ensure that a household's self-certification indicates how a tenant's financial situation changed, (i.e., job loss or reduced wages). Emergency tax relief (commonly referred to as stimulus payment) was not counted. OAHP issued a "[Sample Self-Certification of Annual Income Form.](#)"

The December 4 Memorandum modified the April 10 waiver to clarify that two pandemic-related income sources are not to be included in a household's income self-certification: Federal Pandemic Unemployment Compensation FPUC, (a "CARES Act" program that provided people receiving regular unemployment assistance an additional \$600 in federal benefits each week

for 18 weeks up to July 31), and Lost Wages Supplemental Payment Assistance (the extra unemployment assistance of \$300 per week plus \$100 per week if a person's state provided a 25% match).

## **PJS IN PRESIDENTIALLY DECLARED MAJOR DISASTER AREAS**

### **HOME Certification Regarding Analysis of**

**Local Market Conditions.** HUD waived the requirement that a PJ certify that the use of HOME funds for TBRA is an essential element of the Consolidated Plan (ConPlan) and that it has conducted an analysis of local needs. Also, a PJ does not have to amend its ConPlan to include or revise an analysis of local market conditions before implementing a TBRA program. A PJ may simply amend its Annual Action Plan to reflect the use of HOME funds for TBRA.

### **Tenant Selection and Targeted Assistance.**

HUD waived the requirement that a PJ establish or revise existing written tenant selection criteria for its TBRA program, enabling a PJ to assist households requiring immediate housing assistance as a result of the pandemic. A PJ must document its criteria for selecting households to be assisted by the TBRA program.

### **Overall HOME Program Waivers**

CPD issued another Memorandum [“Availability of Waivers and Suspensions of the HOME Program Requirements in Response to the COVID-19 Pandemic”](#) dated April 10. This Memorandum provided a number of waivers to HOME regulations in order to address immediate housing needs and to prevent the spread of the coronavirus. Four waivers were only available to participating jurisdictions (PJs) in presidentially declared major disaster areas as a result of coronavirus. Another eight waivers were available to all PJs.

Another Memorandum, [“Revisions and Extensions of April 10, 2020 Memorandum – Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID-19 Pandemic,”](#) dated December 4 extended all the regulatory waivers outlined in the April 10 Memorandum from December

31, 2020 to September 30, 2021 and revised several of the waivers provided in the April 10 Memorandum. It also provided a new waiver of the maximum per unit subsidy limit as well as a new waiver of the income documentation requirement for owners of a HOME project in the sixth year of the affordability period.

### **WAIVERS AVAILABLE TO ALL PJS**

**Public Notice and Comment.** A PJ may reduce the public notice and comment period to five days when amending Consolidated Plans (ConPans), Annual Action Plans, and Citizen Participation Plans. This waiver is in effect for any necessary Substantial Amendments to FY20 and earlier ConPlans and Action Plans.

**Household Income Self-Certification.** A PJ may use a household's self-certification that they are income-eligible. This waiver applies to households who lost employment or income either permanently or temporarily due to the pandemic and who are applying for admission to a HOME rental unit or a HOME Tenant-Based Rental Assistance program (TBRA). This waiver also applies to homeless households who are applying for admission to a HOME rental unit or a HOME TBRA program. Emergency tax relief (commonly referred to as stimulus payment) is not counted. OAAP issued a [“Sample Self-Certification of Annual Income Form.”](#)

The December 4 Memorandum modified the April 10 waiver to clarify that two pandemic-related income sources are not to be included in a household's income self-certification: Federal Pandemic Unemployment Compensation FPUC, (a “CARES Act” program that provided people receiving regular unemployment assistance an additional \$600 in federal benefits each week for 18 weeks up to July 31), and Lost Wages Supplemental Payment Assistance (the extra unemployment assistance of \$300 per week plus \$100 per week if a person's state provided a 25% match).

### **Housing Quality Standards (HQS) Inspections.**

OAHP eliminated the requirement to conduct periodic on-site inspections to determine property standards and to verify information submitted by owners regarding tenant income

requirements and rent requirements. PJs must still perform initial inspections of rental properties upon completion of construction or rehabilitation. Within 120 days of the end of the waiver period (now September 30, 2021), PJs must physically inspect units that would have been subject to on-going inspections during the waiver period.

**Project Completion Deadline.** OAHP waived the requirement that HOME projects be completed within four years from the date that HOME funds were committed. The waiver applies to projects for which the four-year project completion deadline will occur on or after April 10. The completion deadlines are extended now to September 30, 2021.

**Recapitalizing Operating Deficit Reserves.**

A PJ may provide additional HOME funds to recapitalize operating deficit reserves for HOME-assisted rental projects if the PJ determines that the project is experiencing operating deficits related to the economic effects of the pandemic during the waiver period. PJs must amend the HOME written agreement with the project owner to, among other requirements, specify that the owner must forego: any right under the existing lease agreement or state or local law to pursue legal action against tenants of HOME-assisted units for non-payment of rent and the collection of any fees associated with late payments without prior approval of the PJ; and any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ.

**PJS IN PRESIDENTIALLY DECLARED MAJOR DISASTER AREAS**

The four waivers only available to PJs in presidentially declared major disaster areas as a result of coronavirus include:

**Administrative Costs.** A PJ may spend up to 25% of its FY19 and FY20 HOME allocations (plus program income) for administrative costs (up from 10%). The intent is to provide PJs with adequate funds to pay for the increased cost of administering HOME-related activities to address the effects of the coronavirus, including attempts to prevent the spread of the virus.

**CHDO Set-Aside.** The 15% set-aside for Community Housing Development Organizations (CHDOs) is waived. The intent is to make additional HOME funds immediately available for activities such as tenant-based rental assistance for which CHDO set-aside funds cannot be used.

**CHDO Operating Assistance.** A PJ may use up to 10% of its FY19 and FY20 HOME allocations for CHDO operating assistance (up from 5%). A PJ may also allow a CHDO receiving increased operating assistance to fill operating budget shortfalls even if the amount exceeds [the regular regulatory limit of] the higher of \$50,000 or 50% of its annual operating budget. CHDOs receiving increased operating assistance must use it to maintain organizational capacity during the pandemic. CHDOs may receive increased operating assistance through September 30, 2021.

**25% Match.** The 25% match requirement is waived for funds expended between October 1, 2019 and September 30, 2021.

**FOR MORE INFORMATION**

National Low Income Housing Coalition, 202-662-1530, [www.nlihc.org](http://www.nlihc.org).

CPD's HOME COVID-19 Grantee Guidance webpage, <https://bit.ly/2LzCiw7>.