

COVID-19 Waiver Policy

On April 1, 2020, the U.S. Department of Housing and Urban Development (HUD) released a memorandum announcing the availability of waivers of certain regulatory requirements associated with CPD programs, including the Emergency Solutions Grant (ESG), and the Continuum of Care (CoC). These waivers are intended to prevent the spread of COVID-19, to mitigate its economic impact, and to provide supplemental supports to individuals and families eligible for assistance that are economically impacted by COVID-19. As a result, the following regulations have the option of being waived:

- CONTINUUM OF CARE PROGRAM
 1. Fair Market Rent for Individual Units and Leasing Costs
 2. Disability Documentation for Permanent Supportive Housing
 3. Limit on Eligible Housing Search and Counseling Services
 4. Rapid Re-housing Monthly Case Management
 5. Housing Quality Standards (HQS) – Initial Physical Inspection of Unit
 6. HQS – Re-Inspection of Units
 7. One-Year Lease Requirement

- EMERGENCY SOLUTIONS GRANTS PROGRAM
 11. Re-Evaluations for Homelessness Prevention Assistance
 12. Housing Stability Case Management
 13. Restriction of Rental Assistance to Units with Rent at or Below FMR

In order to use a waiver, the agency responsible for the CoC or ESG project must submit a waiver request, wait 2 days to utilize the waiver, and maintain documentation of waiver used. Agencies using waivers are strongly encouraged to establish a set of emergency policies and procedures that outline the waivers utilized, the justification for using the waiver and the records that will need to be maintained as a result of using the waiver.

REQUESTING A WAIVER

Waivers can be requested by any recipient of CoC or ESG funding. Agencies that are HUD recipients, or who receive their CoC or ESG program funding directly from HUD, are to follow the procedures listed for *HUD Directs/Recipients*. Agencies who receive CoC or ESG funding through the Office of Homeless Services are to use the procedures listed for *Indirect/Subrecipient*.

- HUD Directs/Recipient
 1. Compose a Waiver Notification that includes the following (or *Attachment A. CoC COVID-19 Waiver Notification*)
 - Grantee Name
 - Requestor's Name, Title and Contact Information

- Declared disaster area(s) where the waiver will be used
 - If applying for a CoC project, please include “PA-500” in the location
 - 2. Submit the written request to COVID-19WaiverPHI@hud.gov
 - Include your CPD Representative and OHS’s Director of Policy, Planning and Performance, MaryBeth Gonzales (marybeth.gonzales@phila.gov) and the Director of Long-term Housing, Daiquiri Robinson (daiquiri.robinson@phila.gov)
 - 3. The request must be sent two days before you anticipate using the waiver
- Indirect/Subrecipient
 1. Complete *Attachment A. CoC COVID-19 Waiver Notification*
 2. Submit the written request to OHS’s Director of Policy, Planning and Performance, MaryBeth Gonzales (marybeth.gonzales@phila.gov) and the Director of Long-term Housing, Daiquiri Robinson (daiquiri.robinson@phila.gov)
 3. The request must be sent two days before you anticipate using the waiver

DOCUMENTATION

Agencies using a waiver must maintain documentation related to the waiver. This includes a copy of waiver notification sent to HUD, written documentation of the specific conditions that justify the use of the waiver, and client records that relate to the execution of the waiver. HUD has issued documentation suggestions for each CoC waiver, which are included in the waiver descriptions in this document.

It is recommended that agencies establish a set of COVID-19 emergency operating policies and procedures to use for maintaining all of the documentation related to the waivers. The policies and procedures should outline the waivers being used and describe the records that will be maintained to support those waivers. These policies do not need to be submitted with the waiver request.

WAIVERS FOR THE CONTINUUM OF CARE PROGRAM

1. Fair Market Rent for Individual Units and Leasing Costs

HUD Regulation: 24 CFR 578.49(b)(2) Leasing individual units. When grants are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units, taking into account the location, size, type, quality, amenities, facilities, and management services. In addition, the rents may not exceed rents currently being charged for comparable units, and the rent paid may not exceed HUD-determined fair market rents.

Waiver: Units assisted under leasing may rent for more than the applicable. The lease must still meet the rent reasonableness standard, which states the rent paid must be reasonable in relation to rents being charged in the area for comparable space; and it cannot exceed rents currently being charged by the same owner for comparable unassisted space.

HUD suggested Documentation:

- Agency Level Documentation: Documentation that FMR limits are impeding the agency's ability to find units for clients as a result of COVID-19; Copy of the waiver notification sent; Emergency recording keeping policies and procedures
- Client Level: Copy of the lease clearly displaying the date of execution; A file noting the date of the COVID-19 Memorandum and its application to the client's lease; A completed rent reasonableness analysis

Duration of Waiver: 6 months starting March 31, 2020

2. Disability Documentation for Permanent Supportive Housing:

HUD Regulations: 24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B) An agency providing PSH must serve individuals and families where one member of the household has a qualifying disability. The agency must document a qualifying disability, and when the documentation in the intake worker's observation, the agency must obtain additional confirming evidence within 45 days.

Waiver: Disability determination can be based solely on staff-recorded observation of disability. Other documentation does not have to be provided within 45 days. A written certification by the individual seeking assistance that they have a qualifying disability is acceptable documentation.

HUD suggested Documentation:

- Agency Level Documentation: Documentation of COVID-19 related constraints preventing collection of disability documentation such as shelter-in-place orders or office closures; Copy of the waiver notification sent; Emergency recording keeping policies and procedures
- Client Level: Copies of certifications; A note in the files of affected clients outlining application of the waiver and compliance with the timeframe.

Duration of Waiver: 6 months starting March 31, 2020

3. Limit on Eligible Housing Search and Counseling Services

HUD Regulation: 24 CFR 578.53 (e)(8)(ii)(B) and 578.53(d). With respect to program participant's debts, this regulation only allows the cost of credit counseling, accessing a free



personal credit report, and resolving personal credit issues. This regulation also puts limits on the use of CoC funds for providing services to only those costs listed in the interim rule.

Waiver: CoC Program funds may be used for up to 6 months of a program participant's utility arrears and up to 6 months of program participant's rent arrears, when those arrears make it difficult to obtain housing.

HUD suggested Documentation:

- Agency Level Documentation: Emergency recording keeping policies and procedures outlining how agency will define "difficult obtaining housing"; Copy of the waiver notification sent
- Client Level: Documentation demonstrating the client's inability to obtain housing as a direct result of rent and utility arrears.

Duration of Waiver: 12 months starting March 31, 2020

4. Rapid Re-Housing Monthly Case Management

HUD Regulation: 24 CFR 578.37(a)(1)(ii)(F) Agencies must require program participants of rapid re-housing projects to meet with a case manager at least monthly.

Waiver: Program participants are not required to meet at least monthly with their case manager.

HUD suggested Documentation:

- Agency Level Documentation: Documentation of limited staff capacity, shelter-in-place order, or similar COVID-19 related impediment; Copy of the waiver notification sent; Emergency recording keeping policies and procedures
- Client Level: A note in the files of affected clients outlining the application of the waiver.

Duration of Waiver: 2 months starting March 31, 2020

5. Housing Quality Standards (HQS) – Initial Physical Inspection of Unit for Leasing and Rental Assistance

HUD Regulation: 24 CFR 578.75(b)(1) Agencies are required to physically inspect any units supported with leasing or rental assistance funds to assure that the units meet housing quality standards before any assistance will be provided on behalf of a participant.

Waiver: In lieu of physically inspecting units, grantees may visually inspect units using technology such as video streaming prior to providing housing assistance. These inspections must include either verbally stating the date of the inspection or include a timestamp of the



date. Units must be physically re-inspected within 3 months of health officials determining that special measures to prevent the spread of Covid-19 are no longer needed.

HUD suggested Documentation:

- Agency Level Documentation: Emergency recordkeeping policies and procedures that outline the reinspection process; Copy of the waiver notification sent
- Client Level: A completed HQS inspection form noting the method of observation, date, and a reference to the waiver; By the 3-month deadline, a completed on-site inspection

Duration of Waiver: Waiver ends when health officials determine that Covid-19 measures are no longer needed. Agencies are then provided 3 months to complete initial physical inspections.

6. Housing Quality Standards - Re-Inspection of Units for Leasing and Rental Assistance

HUD Regulation: 24 CFR 578.75(b)(2) Agencies must inspect all units for which leasing or rental assistance funds are used at least annually to ensure they continue to meet housing quality standards (HQS).

Waiver: Requirement to annually reinspect for HQS is waived.

HUD suggested Documentation:

- Agency Level Documentation: Copy of the waiver notification sent; Emergency recording keeping policies and procedures
- Client Level: A note in the files of affected clients.

Duration of Waiver: 12 months starting March 31, 2020

7. One Year Lease Requirement

HUD Regulation: 24 CFR 578.51(1)(1) Participants residing in PSH must be the tenant on a lease for a term of at least one year that is renewable and terminable for cause.

Waiver: Initial term of all leases must now be more than one month.

HUD suggested Documentation:

- Agency Level Documentation: Documentation outlining constraints related to 1-year lease requirement; Copy of the waiver notification sent; Emergency recording keeping policies and procedures
- Client Level: A notation in the files of affected clients along with a copy of the lease indicating the term.

Duration of Waiver: 6 months starting March 31, 2020

WAIVERS FOR THE EMERGENCY SOLUTIONS GRANT

11. Re-Evaluations for Homelessness Prevention Assistance

HUD Regulation: 24 CFR 576.401(b) Homelessness prevention assistance is subject to re-evaluation of each program participant's eligibility need for assistance not less than once every 3 months.

Waiver: Requirement that need for prevention assistance must be re-evaluated every three months. Frequency of re-evaluation is waived provided that the re-evaluations are conducted every 6 months.

HUD suggested Documentation:

- Agency Level Documentation: Documentation demonstrating need to keep participant housed during COVID-19 pandemic; Copy of the waiver notification sent; Emergency recording keeping policies and procedures
- Client Level: A note in the files of the affect clients; Documentation demonstrating compliance with the 6-month requirement

Duration of Waiver: 2 years starting March 31, 2020

12. Housing Stability Case Management

HUD Regulation: 24 CFR 576.401(e) 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.

Waiver: Requirement to meet with case manager not less than once/month. Case management to be provided on an as-needed basis.

HUD suggested Documentation:

- Agency Level Documentation: Documentation of limited staff capacity, shelter-in-place order, or similar COVID-19 related impediment; Copy of the waiver notification sent; Emergency recording keeping policies and procedures
- Client Level: A note in the files of affected clients

Duration of Waiver: 2 months starting March 31, 2020

13. Restriction of Rental Assistance to Units with Rent at or Below FMR



HUD Regulation: 24 CFR 576.106(d)(1) Restriction of rental assistance to units with rent at or below FMR.

Waiver: Limit on rental assistance to be no greater than FMR is waived. Rent reasonableness must continue to be documented.

HUD suggested Documentation

- Agency Level Documentation: Documentation that FMR limits are impeding grantee's ability to find units for clients as a result of COVID-19; Copy of the waiver notification sent; Emergency recording keeping policies and procedures
- Client Level: A copy of the lease clearing displaying the date of execution; A file noting the date of the COVID-19 Memorandum and its application to the client's lease; A completed rent reasonableness analysis

Duration of Waiver: 6 months starting March 31, 2020

Attachment A

CoC COVID-19 Waiver Notification

Date Waiver Notification Submitted:

CoC Funds Recipient Agency:

CoC Project Name:

CoC Grant Name:

Requestor's Name:

Requestor's Title:

Requestor's Phone Number:

Requestor's email:

Declared Disaster Area(s) where waiver will be used

(INSERT THE LOCALITY(IES) OF YOUR UNITS)

Date on which the grantee anticipates first use of the waiver flexibility:

Note: Must be at least 2 days from date waiver notification is submitted

Item No.	Program	Item to be Waived	Check if yes
1	CoC	Fair Market Rent for Individual Units and Leasing Costs	
2	CoC	Disability Documentation for Permanent Supportive Housing (PSH)	
3	CoC	Limit on Eligible Housing Search and Counseling Services	
4	CoC	Permanent Housing-Rapid Re-housing Monthly Case Management	
5	CoC	Housing Quality Standards (HQS): Initial Physical Inspection of Unit	
6	CoC	Re-Inspection of Units	
7	CoC	One-Year Lease Requirement	
10	ESG	HMIS Lead Activities	
11	ESG	Re-evaluations for Homelessness Prevention Assistance	
12	ESG	Housing Stability Case Management	
13	ESG	Restriction of Rental Assistance to Units with Rent at or Below FMR	