



Date: January 12, 2022

To: CoC Recipients /ESG Sub-Recipients

RE: HUD Megawaiver#7

HUD has released the Availability of Additional Waivers for CoC, ESG, HOPWA and YHDP programs, many of which are extensions of [earlier waivers](#) that expired on December 31, 2021. The intention of the waivers is to prevent the spread of COVID-19 and better assist individuals and families, including those experiencing homelessness infected with the virus or economically impacted by the virus.

### **To utilize the waivers:**

Please review the guidance below to request a waiver. Notification needs to be made no *less than two days before the recipient anticipates using the waiver flexibility*.

### **Steps to Submit a waiver notification:**

1. Update program records to include written documentation of the specific conditions that justify the recipient's use of the waiver ([examples on our website](#)).
2. **For NY-503 CoC & ESG Projects:** CARES has submitted a waiver notification on your behalf. Please email [Kirstin Jones](#) your intention to utilize any of the below waivers
3. **For NY-606 CoC Projects:** CARES has submitted a waiver notification on your behalf. Please email [Kirstin Jones](#) your intention to utilize any of the below waivers.
4. **All other CoC Projects:** Please notify your [HUD Field Office](#)\*\* per the last page of HUD's [memo](#).
5. **All other ESG Projects:** Please ensure the ESG recipient (i.e. State, County, or City) has made the request to the HUD Field Office to utilize the waivers.

**Please Note:** CPD anticipates that this is the last time it will offer extensions of these waivers to all recipients on an opt-in basis. Recipients who will need continued regulatory flexibility must submit a regulatory waiver request identifying the regulation from which relief is sought and present a good cause justification. These requests must be submitted to the recipient's local HUD field office.

### **Extension of Waivers**

The following waivers were **NOT** extended:

- CoC: Third Party Documentation of Income
- CoC: Permanent Housing-Rapid Re-housing Monthly Case Management
- CoC: Limit on Eligible Housing Search and Counseling Services
- CoC: Coordinated Entry-Annual Ongoing Planning and Stakeholder Consultation

Below is a brief summary of each waiver, and how it differs from prior waiver(s) (if applicable):



## CoC Waivers

### ***#1: CoC: Housing Quality Standards - Initial Inspection of Unit***

Applicability: The requirement that the recipient or subrecipient physically inspect each unit for HQS before providing assistance on behalf of a program participant is waived until March 31, 2022 for recipients and subrecipients that are able to meet the following criteria: a. The recipient is able to visually inspect the unit using technology to ensure the unit meets HQS before any assistance is provided; and b. The recipient or subrecipient has written policies that require physical inspection of the units not previously physically inspected by June 30, 2022

Expiration: March 31, 2022

### ***#2: CoC: Suitable Dwelling Size and Housing Quality Standards***

Applicability: The requirement that each unit assisted with CoC Program have at least one bedroom or living/sleeping room for each two persons is waived for recipients providing Rapid Re-housing assistance for leases and occupancy agreements executed by recipients and subrecipients between the date of this memorandum (12/31/21) and March 31, 2022. As a reminder, recipients are still required to follow State and local occupancy laws.

Expiration: March 31, 2022 or end of the initial term of lease/occupancy agreement

### ***#3: CoC: Fair Market Rent for Individual Units and Leasing Costs***

Applicability: The FMR restriction continues to be waived for any lease executed by a recipient or subrecipient to provide transitional or permanent supportive housing until March 31, 2022. The affected recipient or subrecipient must still ensure the unit meets rent reasonableness.

Expiration: waived for leases executed by March 31, 2022

### ***#4: CoC: One-Year Lease Requirement***

Applicability: The one-year lease requirement is waived for leases executed between the date of this memorandum and March 31, 2022, so long as the initial term of all leases is at least one month.

Expiration: waived for leases executed by March 31, 2022

### ***#5: CoC: HQS – Re-Inspection of Units***

Applicability: The requirement to physically inspect all units for which leasing or rental assistance funds are used for HQS at least annually is waived until March 31, 2022. Recipients and subrecipients may instead visually re-inspect the unit using technology to ensure the unit meets HQS.



Expiration: March 31, 2022

*#6: CoC: Homeless Definition – Temporary Stays in Institutions of 90 Days or Less*

Applicability: An individual may qualify as homeless if they are exiting an institution where they resided for 120 days or less and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. This waiver is in effect until March 31, 2022.

Expiration: March 31, 2022

*#7: CoC: Permanent Housing Rapid Re-Housing Limit to 24 Months of Rental Assistance*

Applicability: The 24-month rental assistance restriction is waived for program participants in Rapid Re-housing projects who will have reached 24 months of rental assistance until March 31, 2022. Program participants who have reached 24 months of rental assistance during this time and who will not be able to afford their rent without additional rental assistance will be eligible to receive rental assistance until March 31, 2022.

Expiration: March 31, 2022

*#8. CoC: Disability Documentation for Permanent Supportive Housing (PSH)*

Applicability: The documentation requirement that staff-recorded observation of disability be confirmed and accompanied by other evidence no later than 45 days from the application for assistance is waived until March 31, 2022. A written certification by the individual seeking assistance that they have a qualifying disability will be acceptable documentation.

Expiration March 31, 2022

## **ESG Waivers**

*#9. ESG: Homeless Definition – Temporary Stays in Institutions of 90 Days or Less*

Applicability: An individual may qualify as homeless if they are exiting an institution where they resided for 120 days or less and resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. This waiver is in effect until March 31, 2022.

Expiration: March 31, 2022

*#10. ESG: Assisting Program Participants with Subleases*

Applicability: 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, that restriction is waived under the following conditions for ESG-CV funds and FY2021 and earlier ESG funds:

1. The recipient documents that it meets the conditions for applying this waiver to FY21 grants funds,

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- consistent with HUD's justification for the waiver;
2. a program participant chooses to rent a unit through a legally valid sublease with the primary leaseholder for the unit; and
  3. the recipient has developed 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.

Expiration: waived for leases executed by March 31, 2022. However, unless HUD notifies the recipient otherwise, the recipient may continue to use its FY2021 ESG grant funds to assist program participants housed under this waiver through the end of their otherwise allowable term of assistance.

*#11. ESG: Helping Current Program Participants Maintain Housing – Housing Relocation and Stabilization Services*

Applicability: The 24-month limit on housing relocation and stabilization services is waived for ESG-CV funds and FY2021 and earlier ESG funds for program participants receiving rapid re-housing and homelessness prevention assistance who will have reached these 24-month limits between the date of this memorandum (12/31/21) and March 31, 2022, as long as the assistance provided under this waiver does not extend beyond March 31, 2022 and is limited to program participants who will not be able to obtain or maintain housing without the benefit of this waiver.

Expiration: March 31, 2022

*#12. ESG: Helping Current Program Participants Maintain Housing – Rental Assistance*

Applicability: The 24-month in a 3-year period restriction on rental assistance is waived for ESG-CV funds and FY2021 and earlier ESG funds for program participants receiving rapid re-housing and homelessness prevention assistance who will have reached their 24-month limit between the date of this memorandum and March 31, 2022, as long as the assistance provided under this waiver does not extend beyond March 31, 2022 and is limited to program participants who will not be able to obtain or maintain housing without the benefit of this waiver.

Expiration: March 31, 2022

*#13. ESG: Restriction of Rental Assistance to Units with Rent at or Below FMR*

Applicability: For ESG-CV funds and FY2021 and earlier ESG funds, the FMR restriction is waived for any household receiving Rapid Rehousing or Homelessness Prevention assistance who executes a lease for a unit during the period beginning on the date of this memorandum (12/31/2021) and ending March 31, 2021. The affected recipient or subrecipient must still ensure the unit meets rent reasonableness.

Expiration: waived for leases executed by March 31, 2022. However, unless HUD notifies the recipient otherwise, the recipient may continue to use its FY2021 ESG grant funds to assist program participants housed under this waiver through the end of their otherwise allowable term of assistance.



If you have any questions, please let us know. We are happy to collaborate with the HUD Field Office to field pertinent questions and report back in a timely fashion. Thank you for all of your work to ensure the safety and security of the most vulnerable during this trying time and always.

CoC	**HUD Field Office Staff
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