DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6210–N–04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2020

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly Federal Register notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous Federal Register notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2020 and ending on December 31, 2020.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410–0500, telephone 202–708–3055 (this is a not toll-free number). Persons with hearing or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2020.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the Federal Register. These notices (each covering the period since the most recent previous notification) shall:

   a. Identify the project, activity, or undertaking involved;

   b. Describe the nature of the provision waived and the designation of the provision;

   c. Indicate the name and title of the person who granted the waiver request;

   d. Describe briefly the grounds for approval of the request; and

   e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD’s Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office’s Order of Succession.

This notice covers waivers of regulations granted by HUD from October 1, 2020 through December 31, 2020. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Additionally, this notice includes waivers made pursuant to the Coronavirus Aid, Relief and Economic Security Act (CARES Act), not previously published in the Federal Register. These waivers are listed separately from other individual waivers within each program office grouping, as CARES Act waivers broadly covered all affected parties rather than individual, case-by-case situations. The lists include additional Memoranda and Notices issued regarding broad CARES Act waivers provided by HUD since the enactment of the Act on March 27, 2020. In addition, the lists provide a short, two- or three-line description of each memo or notice, identifying the specific CARES Act authority and purpose of the waivers addressed therein.

Should HUD receive additional information about waivers granted during the period covered by this report (the fourth quarter of calendar year 2020) before the next report is published (the first quarter of calendar year 2021), HUD will include any additional waivers granted for the fourth quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Damon Y. Smith,
Principal Deputy General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development October 1, 2020 Through December 31, 2020

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.
The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- **Regulation:** 24 CFR 92.203(a)(1) and (2), 24 CFR 92.64(a).

  **Project/Activity:** Source documentation for HOME Investment Partnerships Program (HOME) income determinations.

  **Nature of Requirement:** The regulations require initial income determinations for HOME beneficiaries and annual income determination for a TBRA tenant by examining source documentation covering the most recent two months.

  **Granted By:** John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development.

  **Date Granted:** December 4, 2020.

  **Reason Waived:** The waiver permits participating jurisdictions, upon notifying the Department, to accept self-certification of income in lieu of source documentation to determine the eligibility for HOME assistance of persons where source documentation does not accurately reflect current income and/or when social distancing measures make submission of source documentation unduly difficult. Many families affected by actions taken to reduce the spread of COVID–19, such as business closures resulting in loss of employment or layoffs, will not have documentation that accurately reflects current income and may not be able to qualify for HOME assistance if the requirement remains effective. Additionally, the waiver is necessary to help participating jurisdictions comply with national, state, or local health authorities’ recommendations on social distancing to reduce the risk of spreading COVID–19.

  **Applicability:** The waiver applies to individuals and families who are applying for admission to a HOME rental unit or a HOME tenant-based rental assistance program, and individuals and families that are existing tenants of HOME rental projects or current recipients of tenant-based rental assistance, who would be placed at risk or experience hardship by submission of source documentation, as determined by the participating jurisdiction, in consideration of national, state or local health authorities’ COVID–19 guidelines. A participating jurisdiction that chooses to use this waiver must ensure that the income self-certification takes into consideration all income, including any unemployment and emergency benefits that the Department determines to be income under 24 CFR 5.609(c)(9). The participating jurisdiction must conduct rent and income reviews in accordance with 24 CFR 92.203(a)(1) and (2) within 120 days after the end of the extended waiver period. The participating jurisdiction must include tenant income self-certifications in each project file.

  The waiver is effective from December 4, 2020, through September 30, 2021. The waiver is available to all HOME participating jurisdictions.

  **Contact:** Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

  **Regulation:** 24 CFR 92.205(e)(2) and 24 CFR 92.64(a).

  **Project/Activity:** Four-year project completion deadline.

  **Nature of Requirement:** The regulations require that projects assisted with HOME funds be completed within four years of the date that HOME funds were committed. If the project is not complete, in accordance with the definition of “project completion” at 24 CFR 92.2, by the deadline, the project is involuntarily terminated in HUD’s Integrated Data Information System (IDIS), and the participating jurisdiction must repay all funds invested in the project. The regulations permit a participating jurisdiction to request an extension of the deadline for up to one-year. 24 CFR 92.64(a) applies these requirements to Insular Areas.

  **Granted By:** John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development.

  **Date Granted:** December 4, 2020.

  **Reason Waived:** This waiver is necessary to provide additional time to permit completion of HOME-assisted projects that may be delayed due to the effect of COVID–19 on project timelines.

  **Applicability:** This waiver applies to projects with 4-year project completion deadlines that occurred or will occur on or after April 10, 2020, including projects with deadlines that were extended for one-year pursuant to an approved request under 24 CFR 92.205(e)(2) if such extension was in effect on or after April 10, 2020. The completion deadlines for covered projects are extended to September 30, 2021. The waiver is available to all HOME participating jurisdictions.

  **Contact:** Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

  **Regulation:** 24 CFR 92.209(a) and (h) and 24 CFR 92.64(a).

  **Project/Activity:** Eligible tenant-based rental assistance costs and maximum TBRA subsidy.

  **Nature of Requirement:** The regulations state that eligible TBRA costs include rental assistance and security deposit payments made to income-eligible households. Participating jurisdictions can also use HOME funds to provide utility deposit assistance if such assistance is provided in conjunction with TBRA or a security deposit payment. The amount of monthly utility costs included in TBRA is limited by the utility allowance established by the participating jurisdiction for its TBRA program. The maximum amount of monthly assistance may not exceed the difference
between the participating jurisdiction’s rent standard and 30 percent of the tenant’s monthly adjusted income. The participating jurisdiction must establish a minimum tenant contribution to rent, and a rent standard that is based on local market conditions or the subsidy standard for the Section 8 Housing Choice Voucher Program. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas.

This waiver allows participating jurisdictions to pay the full cost of monthly utilities in addition to rental assistance and security deposit payments for new and existing TBRA families affected by the COVID–19 pandemic. Participating jurisdictions may provide up to 100 percent subsidy for rent, security deposit payments, and utilities for tenants affected by a reduction or loss of income from the COVID–19 pandemic. In addition, this waiver allows participating jurisdictions to pay past-due rent and fees, including any late fees, as defined in the tenant’s lease. This waiver also permits the payment of utility costs, late fees associated with overdue utilities, as well as necessary costs to restore utility service. All costs must still comply with 2 CFR part 200, subpart E, including the requirement that HOME assistance not be used to pay costs when other sources, including federal, state, or local assistance have already been provided to pay the same costs. The waiver also eliminates the need for the participating jurisdiction to establish utility allowances for different types and sizes of units for its TBRA program, which eliminates a significant administrative burden.

Granted By: John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 4, 2020.

Reason Waived: The COVID–19 pandemic has caused widespread loss or reduction of income, significantly affecting the financial stability of households, including existing TBRA families, and rendering many unable to pay rent and/or utilities. Households must be able to maintain the basic utilities required to living remains safe and sanitary. Permitting participating jurisdictions to use HOME funds to pay for utilities will enable affected households to maintain decent, safe, and sanitary housing, which necessarily requires electricity, water, and/or gas service during the pandemic.

As individuals experience financial hardship, the amount of assistance required to ensure they remain housed will often exceed the participating jurisdiction’s payment standard. In addition, individuals may be unable to pay the participating jurisdiction’s minimum required tenant contribution toward rent. Requiring participating jurisdictions to establish or revise payment standards and the minimum tenant contribution to rent policies in the current emergency would be burdensome and, in some cases, may prevent the provision of TBRA in response to the pandemic.

Applicability: This waiver is applicable to TBRA provided to individuals or families experiencing financial hardship, including existing TBRA families that have experienced a loss or reduction in income due to the COVID–19 pandemic. This requirement is waived through September 30, 2021, for rental assistance provided in response to the COVID–19 pandemic. Participating jurisdictions using this waiver authority must execute a rental assistance contract with the owner or tenant for a term mutually agreed upon by all parties, but no payments may be made after lease termination until the family executes a new lease. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas.

Granted By: John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 4, 2020.

Reason Waived: This waiver eliminates the requirement that the rental assistance contract begin on the first day of the term of the lease. This waiver is necessary to enable participating jurisdictions to assist tenants that are currently housed, including existing TBRA households, but have experienced sudden financial hardship as a result of the COVID–19 pandemic. Because affected households already have an executed lease, it is impossible for the TBRA contract to begin on the first day of the term of the lease.

Applicability: This requirement is waived through September 30, 2021, for tenant-based rental assistance (TBRA) provided in response to the COVID–19 pandemic. The participating jurisdiction’s requirement to execute a rental assistance contract with the owner or tenant is not waived. Participating jurisdictions using this waiver authority must require that a participating jurisdiction must provide immediate rental assistance without requiring an assessment of rents charged for comparableunassisted rental units. The HOME regulations at 24 CFR 92.64(a) applies this requirement to Insular Areas.

Granted By: John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 4, 2020.

Reason Waived: The waiver permits participating jurisdictions to provide immediate rental assistance without requiring an assessment of rents charged for comparable unassisted rental units. Given the unprecedented need for rental assistance for individuals facing financial hardship during the pandemic, requiring participating jurisdictions to conduct a rent comparison prior to providing rental assistance presents an undue administrative burden.

Applicability: The waiver is applicable to TBRA provided to individuals and tenant households experiencing financial hardship because of a reduction or loss of income. The requirement is waived through September 30, 2021. Participating jurisdictions using this waiver authority must execute a rental assistance contract with the owner or tenant. The waiver is available to all participating jurisdictions.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development.
Nature of Requirement: The regulations require that all housing occupied by households receiving HOME TBRA must meet the housing quality standards (HQS) at 24 CFR 982.401. The participating jurisdiction is required to inspect the unit for compliance to occur annually and thereafter. The HOME regulations at 24 CFR 92.64(a) apply these requirements to Insular Areas.

Reason Waived: The COVID–19 pandemic has created an unprecedented need for rental assistance for tenant households facing financial hardship. Participating jurisdictions must act quickly to address these needs and requiring HQS inspections of all units where HOME TBRA assistance is provided would create an administrative burden and reduce participating jurisdictions’ ability to respond timely to the housing needs created by the pandemic. In addition, requiring initial HQS inspections would increase housing inspectors’ risk of contracting or spreading the COVID–19 virus.

Applicability: This waiver is applicable to TBRA provided to tenant households experiencing financial hardship. This requirement is waived through September 30, 2021, for rental assistance provided in response to the COVID–19 pandemic. 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 regulations at 24 CFR 92.253(b), cannot be waived. Consequently, units built before 1978 must undergo visual evaluation and paint repair in accordance with 24 CFR part 35, subpart M. Participating jurisdictions using this waiver authority must establish procedures to minimize the risk that tenants are in housing that does not meet HQS. If TBRA to the household will continue beyond September 30, 2021, the participating jurisdiction must conduct an HQS Inspection, in accordance with the HOME requirements at 24 CFR 92.209(i), prior to executing a new TBRA contract.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

Regulation: 24 CFR 92.209(i) and 24 CFR 92.64(a).

Project/Activity: HOME TBRA housing quality standards.
effects of the COVID–19 pandemic during the waiver period. The participating jurisdiction may only provide this assistance to projects experiencing operating deficits that will not be covered by insurance or other sources (e.g., other private, local, state, or federal funds). The proportionate share of HOME-assistance that may be provided is equal to the total of the project’s operating expenses, previously scheduled payments to a replacement reserve, and actual debt service (excluding debt service of loans in forbearance) multiplied by the proportionate share of HOME-assisted units to the total number of units in the project for the period beginning on April 1, 2020 to September 30, 2021.

Project operating expenses may be demonstrated by one of the following: Owner’s most recent year-to-date financials for the project; Certified project-level accounting records covering the most recent 3 months; or Copies of project-level bank statements covering the most recent 3 months. The proportionate share of operating expenses may also be adjusted due to COVID–19-related expenditures and foregone expenses due to social distancing measures and other COVID–19-related impacts. An owner may demonstrate these expenses with recent receipts, copies of work orders, revised budgets that have been certified by the project owner as true, accurate representations of current expenditures. In order to take advantage of this waiver, participating jurisdictions must amend the HOME written agreement with the project owner to include the amount of HOME funds that will be provided to an operating reserve (i.e., the proportion of total costs attributable to HOME units as described in the paragraph above), the costs eligible to be paid with HOME funds in the operating reserve (i.e., operating expenses, scheduled payments to a replacement reserve, and qualifying debt service), and the documentation the project owner must provide: (1) Any distributions of residual receipts during the period this waiver is in effect and for a period of 6 months thereafter; (2) 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 participating jurisdiction; and (3) any adverse credit reporting against tenants of HOME-assisted units for non-payment of rent or fees without prior approval of the participating jurisdiction. Within 6 months following the waiver period, the participating jurisdiction must review the project’s records of actual revenue and operating expenses, total amount of HOME funds expended from the operating reserve, and the eligibility of expenses by examining invoices and receipts. The written agreement must require the project owner to repay any expenditures for costs determined to be ineligible (which includes costs paid for by other sources) and any balance of HOME funds remaining in the reserve after the extended waiver period. Any HOME funds repaid to the participating jurisdiction must be deposited in the local HOME account and reported as program income in IDIS. The waiver is effective through September 30, 2021.

The waiver is available to all HOME participating jurisdictions.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.
• Regulation: 24 CFR 92.254(a)(3) and 24 CFR 92.64(a).

Project/Activity: Nine-month deadline for sale of HOME-assisted homebuyer units.
Nature of Requirement: The regulations require that a homebuyer housing unit developed with HOME funds have a ratified contract for sale to an eligible homebuyer within nine months of the date of completion of construction or rehabilitation. If there is no ratified sales contract with an eligible homebuyer within 9 months of completion of construction or rehabilitation, the housing must be rented to an eligible tenant in accordance with § 92.252. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Granted By: John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development.
Date Granted: December 4, 2020.
Reason Waived: Many participating jurisdictions will not be able to meet this deadline due to the effect the COVID–19 pandemic will have on the ability of eligible households to qualify for mortgages as a result of income losses or the inability to schedule inspections, title searches, or closings during periods of business closures. The waiver is necessary to prevent the loss of homeownership opportunities for HOME-eligible families and temporarily suspend the required corrective action of repayment of HOME funds or conversion of the homebuyer units to rental housing.
Applicability: The waiver applies to projects for which the nine-month homebuyer sale deadline occurs on or after the date of this memorandum and extends the deadline for those projects to September 30, 2021. The waiver is available to all HOME participating jurisdictions. This waiver does not apply to the remaining requirements of the regulation, including that a homebuyer must receive housing counseling, and that a participating jurisdiction must determine eligibility of a family by including the income of all persons living in the housing.
Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.
• Regulation: 24 CFR 92.504(d)(1)(ii) and 24 CFR 92.64(a).

Project/Activity: On-site inspections of HOME-assisted rental housing.
Nature of Requirement: The regulations require that during the period of affordability participating jurisdictions perform on-site inspections of HOME-assisted rental housing at least once every three years to determine
compliance with the property standards and to verify the information submitted by the owners in accordance with the income and rent requirements. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Granted By: John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 4, 2020.

Reason Waived: Waiving the requirement to perform ongoing on-site inspections will help protect participating jurisdiction staff and limit the spread of COVID–19. To protect participating jurisdiction staff and reduce the spread of COVID–19, this waiver extends the timeframe for participating jurisdictions to perform on-going periodic inspections and on-site reviews to determine a HOME rental project’s compliance with property standards and rent and income requirements.

Applicability: The waiver is applicable to ongoing periodic inspections and does not waive the requirement to perform initial inspections of properties upon completion of construction or rehabilitation. Within 120 days of the end of this waiver period, participating jurisdictions must physically inspect units that would have been subject to on-going inspections during the waiver period. The waiver is also applicable to on-site reviews to determine a HOME rental project’s compliance with rent and income requirements if the project owner is unable to make documentation available electronically. The waiver is in effect through September 30, 2021. The waiver is available to all HOME participating jurisdictions.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

- **Regulation:** 24 CFR 92.504(d)(1)(ii); 24 CFR 92.209(i) and 24 CFR 92.64(a).

- **Project/Activity:** Annual inspection of units occupied by recipients of HOME tenant-based rental assistance (TBRA).

- **Reason Waived:** Waiving the requirement that annual HQS inspections be performed according to schedule will protect the health of both inspectors and TBRA tenants by observing physical distancing recommendations to limit the spread of COVID–19.

- **Applicability:** The waiver is applicable to annual HQS inspections required to occur from April 10, 2020 through September 30, 2021. Participating jurisdictions using this waiver are not required to perform inspections for compliance with HQS in accordance with 24 CFR 982.401. Participating jurisdictions shall make reasonable efforts to address any tenant-reported health and safety issues during the waiver period. At the conclusion of the extended waiver period, all housing occupied by households receiving HOME TBRA must meet the housing quality standards (HQS) at 24 CFR 982.401.

- **Reason Waived:** Waiving the requirement that initial and annual housing quality standards inspections required to occur from April 10, 2020, through September 30, 2021. The waiver is available to all HOME participating jurisdictions.

- **Project/Activity:** Timeframe for a HOME participating jurisdiction’s response to findings of noncompliance.

- **Reason Waived:** The regulations require that if HUD determines that a participating jurisdiction has not met a provision of the HOME regulations, the participating jurisdiction must be notified and given an opportunity to respond within a time period prescribed by HUD, not to exceed 30 days. 24 CFR 92.64(a) applies this requirement to Insular Areas.

- **Reason Waived:** The waiver is necessary to allow participating jurisdictions with an extended time period to respond to findings of noncompliance in recognition of the unprecedented circumstances created by the COVID–19 pandemic. Requiring participating jurisdictions to respond to all findings of noncompliance within 30 days may interfere with a participating jurisdiction’s ability to address the unprecedented housing needs caused by the COVID–19 pandemic.

- **Applicability:** The waiver applies to all findings of HOME regulatory noncompliance issued from April 10, 2020, through September 30, 2021. In the notice of findings, HUD will specify a time period for the participating jurisdiction’s response. HUD may also extend time periods imposed before April 10, 2020. The waiver is available to all HOME participating jurisdictions.

- **Contact:** Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708–2684.

- **Regulation:** 24 CFR 92.525(d)(1) Utility Allowance Requirements.

- **Project/Activity:** The County of Santa Clara, the City of Mountain View, and the County of San Luis Obispo, California, requested a waiver of 24 CFR 92.525(d)(1) to allow use of the utility allowance established by a local public housing agency (PHA) for three HOME-assisted projects: Orchard Ranch Apartments in Santa Clara County, Shorebreeze II Family Apartments in Mountain View, and Courtyard at the Meadows in San Luis Obispo County.

- **Nature of Requirement:** The regulation at 24 CFR 92.525(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed or after August 23, 2013.

- **Granted By:** John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: November 17, 2020.
Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 402-4606.

- Regulation: 24 CFR 578.5, definition of permanent. Requirement for 6-months on March 31, 2020 and used again until December 31, 2020 on September 30, 2020 to help recipients more quickly identify permanent housing for individuals and families experiencing homelessness, which is helpful in preventing the spread of COVID–19. Extending this waiver is necessary because recipients continue to need to help program participants identify housing quickly to help prevent the spread of COVID–19.

- Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708–4300.

- Project/Activity: The requirement in 24 CFR 578.37(a)(1)(iii)(F) that projects require program participants to participate in a case management requirement as specified below will allow recipients to provide case management to a program participant with a case manager at least monthly.

- Date Granted: December 29, 2020.

- Reason Waived: HUD originally waived this requirement for 6-months on March 31, 2020 and again until December 31, 2020 on September 30, 2020 to help recipients more quickly identify permanent housing for individuals and families experiencing homelessness, which is helpful in preventing the spread of COVID–19. Extending this waiver is necessary because recipients continue to need to help program participants identify housing quickly to help prevent the spread of COVID–19.

- Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708–4300.

- Project/Activity: 24 CFR 578.37(a)(1)(iii)(F) that projects require program participants to participate in a case management requirement as specified below will allow recipients to provide case management to a program participant with a case manager at least monthly.

- Date Granted: December 29, 2020.

- Reason Waived: HUD originally waived this requirement for 2-months on March 31, 2020. On May 22, 2020 HUD again waived this requirement for an additional 3 months and on September 30, 2020 HUD once again waived this requirement for an additional 3 months after the health officials determined special measures to prevent the spread of COVID–19 are no longer necessary.

- Nature of Requirement: 24 CFR 278.75(b)(1) requires that recipients or subrecipients physically inspect each unit to assure that it meets HQS before any assistance is provided for that unit on behalf of a program participant. HUD waived the requirement in 24 CFR 278.75(b)(1) to physically inspect the unit within 3 months after the health officials determine special measures to prevent the spread of COVID–19 are no longer necessary.

- Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708–4300.

- Nature of Requirement: 24 CFR 278.75(b)(1) requires that recipients or subrecipients physically inspect each unit to assure that it meets HQS before any assistance is provided for that unit on behalf of a program participant. HUD waived the requirement in 24 CFR 278.75(b)(1) to physically inspect the unit within 3 months after the health officials determine special measures to prevent the spread of COVID–19 are no longer necessary.

- Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708–4300.
• **Regulation:** 24 CFR 578.75(c) and 24 CFR 578.75(b)
  
  **Project/Activity:** The requirement that each unit assisted with CoC Program funds or YHDF funds have at least one bedroom or living/sleeping room for each two persons is waived for recipients providing Permanent Housing-Rapid Rehousing assistance for leases and occupancy agreements executed by recipients and subrecipients between the date of this memorandum and March 31, 2021, or extending only until the later of (1) the end of the initial term of the lease or occupancy agreement; or (2) March 31, 2021. Recipients are still required to follow State and local occupancy laws.

  **Nature of Requirement:** 24 CFR 578.75(c), suitable dwelling size, and 24 CFR 578.75(b). Housing Quality Standards, requires units funded with CoC Program funds to have at least one bedroom or living/ sleeping room for each two persons.

  **Granted By:** John Gibbs, Acting Assistant Secretary for Community Planning and Development.

  **Date Granted:** December 29, 2020.

  **Reason Waived:** On September 30, 2020, HUD waived the requirements at 24 CFR 578.75(b)(2)(ii) as required by 24 CFR 578.75(b), Housing Quality Standards, to allow households experiencing homelessness to obtain permanent housing that is affordable and that they assess is adequate. Recipients continue to report that households experiencing homelessness remain unable to afford the limited supply of affordable housing in many jurisdictions across the country and this has been made even more challenging due to the economic impact of COVID–19. HUD is waiving the requirements at 24 CFR 578.75(b)(2)(ii) as further specified below to reduce the spread of COVID–19 by allowing households to move into housing instead of staying in congregate shelter. Consistent with the Executive Order on Fighting the Spread of COVID–19 by Providing Assistance to Renters and Homeowners, grantees should balance their waiver with the recommendations of public health officials to limit community spread and reduce risks to high-risk populations. For example, a large unit with rooms than can be partitioned for privacy and distancing, or the waiver can be applied for units that will house only one family household.

  **Contact:** Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708–4300.

  **Regulation:** 24 CFR 578.103(a)(7)(iv).

  **Project/Activity:** The waiver of the requirement at 24 CFR 578.103(a)(7)(iv) that the recipient or subrecipient to keep records of the program participant’s income and the back-up documentation they relied on to determine income. The regulation establishes an order of preference for the type of documentation that recipients can rely upon. Only if source documents and third-party verification are unobtainable is a written certification from the program participant acceptable documentation of income. HUD is waiving “To the extent that source documents and third-party verification are unobtainable” in 578.103(a)(7)(iv).

  **Granted By:** John Gibbs, Acting Assistant Secretary for Community Planning and Development.

  **Date Granted:** December 29, 2020.

  **Reason Waived:** On September 30, 2020, HUD waived the requirement to attempt to document that third-party verification of income was unobtainable in order for recipients and subrecipients to a program participant’s own self-certification of income until December 31, 2020 because that documentation may be difficult to obtain as a result of COVID–19 pandemic and housing program participants quickly was important to prevent the spread of COVID–19. It continues to be important to move people into their own housing quickly to enable social distancing and prevent the spread of COVID–19; therefore, waiving the requirement that source documents and third-party documentation be unobtainable in order for recipients or subrecipients to rely on a program participant’s own certification of their income.

  **Contact:** Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

  **II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)**

  For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

  • **Regulation:** 24 CFR 200.73(c).
  
  **Project/Activity:** New Hope Properties, Hopkinsville, Kentucky, Project No. 083–35769.

  **Nature of Requirement:** 24 CFR 200.73(c) requiring that “not less than five rental dwelling units [of an FHA insured multifamily housing project] shall be on one site”; Section 3.1.CC of the 2016 MAP Guide permits a project with two or more non-contiguous parcels of land when the parcels comprise one marketable, manageable real estate entity. Orix Real Estate Capital, LLC (OREC) applied for mortgage insurance under the Section 223(f) program for Friends/VVA Apartments, Columbus, Ohio, Project No. 051–11259.

  **Nature of Requirement:** 24 CFR 200.73(c) requiring that “not less than five rental dwelling units [of an FHA insured multifamily housing project] shall be on one site.” Section 3.1.CC of the 2016 MAP Guide permits a project with two or more non-contiguous parcels of land when the parcels comprise one marketable, manageable real estate entity. Orix Real Estate Capital, LLC (OREC) applied for mortgage insurance under the Section 223(f) program for Friends/VVA Apartments, Columbus, Ohio, Project No. 051–11259.

  **Contact:** Patricia M. Burke, Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6132, Washington, DC 20410, telephone (202) 402–5693.

  • **Regulation:** 24 CFR 200.73(c).
  
  **Project/Activity:** Friends/VVA Apartments, Columbus, Ohio, Project No. 051–11259.

  **Nature of Requirement:** 24 CFR 200.73(c) requiring that “not less than five rental dwelling units [of an FHA insured multifamily housing project] shall be on one site.” Section 3.1.CC of the 2016 MAP Guide permits a project with two or more non-contiguous parcels of land when the parcels comprise one marketable, manageable real estate entity. Orix Real Estate Capital, LLC (OREC) applied for mortgage insurance under the Section 223(f) program for Friends/VVA Apartments, Columbus, Ohio, Project No. 051–11259.

  **Contact:** Patricia M. Burke, Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6132, Washington, DC 20410, telephone (202) 402–5693.

  • **Regulation:** 24 CFR 200.602.
  
  **Project/Activity:** Delinquency Notices to Mortgagors.

  **Nature of Requirement:** This is a temporary waiver of the requirements in 24 CFR 200.602 for borrowers provided a COVID–19...
Forbearance. This temporarily waives the requirement that a mortgagee shall give notice to any mortgagor in default no later than the end of the second month of any delinquency in payments under the mortgage during the period of the COVID–19 Pandemic.

Granted By: Dana T. Wade, Assistant Secretary for Housing—Federal Housing Commissioner.  
Date Granted: December 21, 2020.

Reason Waived: This waiver has been issued to address potential confusion and uncertainty surrounding mortgage servicing policy changes enacted due to the Coronavirus Disease 2019 (COVID–19) pandemic.

Applicability: This waiver is applicable to mortgages where the Borrower is on an FHA COVID–19 Forbearance.

Contact: Elissa Saunders, Acting Director, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6161, Washington, DC 20410, telephone (202) 402–2378.


Project/Activity: The requirement that an Eligible Non-Borrowing Spouse for a Home Equity Conversion Mortgage (HECM) must, within 90 days from the death of the last surviving borrower, establish legal ownership or other ongoing legal right to remain for life in the property securing the HECM.

Nature of Requirement: This is a partial waiver of the requirement in 24 CFR 206.55(d)(1) that an Eligible Non-Borrowing Spouse must remain in the property securing the HECM.

Reason Waived: The waiver was granted to allow Housing Opportunities Commission of Montgomery County (HOC) clients additional financing options to their customers and to align HOC business practices with industry standards, thus furthering the creation of a preservation of affordable housing throughout Maryland. The regulatory waiver is subject to the following conditions:

1. The waiver is limited to seven (7) transactions and expires on December 31, 2025.
2. Housing Opportunities Commission of Montgomery County must elect to take 50 percent or more of the risk of loss on all transactions.
3. Mortgages made under this waiver may have amortization periods of up to 40 years, but with a minimum term of 17 years.
4. All other requirements of 24 CFR 266.410—Mortgage Provision remain applicable. The waiver is applicable only to loans made under Housing Opportunities Commission of Montgomery County’s Risk Sharing Agreement.
5. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supported by the lower of the Section 8 or comparable unassisted rents.
6. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225.
7. Housing Opportunities Commission of Montgomery County must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions.
8. The loans exceeding $50 million require a separate waiver request.
9. Occupancy is no less than 93 percent for previous 12 months of the HFA loan to be refinanced.
10. No defaults in the last 12 months of the HFA loan to be refinanced.
11. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition.
12. A Property Capital Needs Assessment (PCNA) must be performed, and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and
13. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:
   a. Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and
   b. In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012–14—Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time Housing Opportunities Commission of Montgomery County determines that a project’s excess funds (surplus cash) after project operations, reserve requirements, and permitted distributions are met, Housing Opportunities Commission of Montgomery County must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operations/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds in the interest-bearing account are returned to the HAP Account at the time of the contract’s termination must be returned.

Regulation: 24 CFR 266.410(e).

Nature of Requirement: The 24 CFR 266.410(e), which requires mortgages insured under the 542(c) Housing Finance Agency Risk Sharing Program to be fully amortized over the term of the mortgage. The waiver would permit IHDA to use balloon loans that would have a minimum term of 17 years and a maximum amortization period of 40 years for the projects identified in the “Multifamily Pipeline Projects”.

Granted By: Dana T. Wade, Assistant Secretary for Housing—Federal Housing Commissioner.  
Date Granted: November 19, 2020.

Reason Waived: The waiver was granted to allow Illinois Housing Development Authority’s (IHDA) clients additional financing options to their customers and to align IHDA business practices with industry standards, thus furthering the creation of a preservation of affordable housing throughout Illinois. The regulatory waiver is subject to the following conditions:

1. The waiver is limited to thirty (30) transactions and expires on October 31, 2025.
2. Illinois Housing Development Authority must elect to take 50 percent or more of the risk of loss on all transactions.
3. Mortgages made under this waiver may have amortization periods of up to 40 years, but with a minimum term of 17 years.
4. All other requirements of 24 CFR 266.410—Mortgage Provision remain applicable. The waiver is applicable only to loans made under Illinois Housing Development Authority’s Risk Sharing Agreement.

5. In accordance with 24 CFR 266.200(d), the mortgage may not exceed an amount supportable by the lower of the Section 8 or comparable unassisted rents.

6. Projects must comply with Davis-Bacon labor standards in accordance with 24 CFR 266.225.

7. Illinois Housing Development Authority must comply with regulations stated in 24 CFR 266.210 for insured advances or insurance upon completion transactions.

8. The loans exceeding $50 million require a separate waiver request.

9. Occupancy is no less than 93 percent for previous 12 months of the HFA loan to be refinanced.

10. No defaults in the last 12 months of the HA loan to be refinanced.

11. A 20-year affordable housing deed restriction placed on title that conforms to the Section 542(c) statutory definition.

12. A Property Capital Needs Assessment (PCNA) must be performed, and funds escrowed for all necessary repairs, and reserves funded for future capital needs; and

13. For projects subsidized by Section 8 Housing Assistance Payment (HAP) contracts:
   • a. Owner agrees to renew HAP contract(s) for 20-year term, (subject to appropriations and statutory authorization, etc.), and b: In accordance with regulations in 24 CFR 883.306(e), and Housing Notice 2012–14—Use of “New Regulation” Section 8 Housing Assistance Payments (HAP) Contracts Residual Receipts of Offset Project-Based Section 8 Housing Assistance Payments, if at any time Illinois Housing Development Authority determines that a project’s excess funds (surplus cash) after project operation/purposes are supportable and permitted distributions are met, Illinois Housing Development Authority must place the excess funds into a separate interest-bearing account. Upon renewal of a HAP Contract the excess funds can be used to reduce future HAP payments or other project operation/purposes. When the HAP Contract expires, is terminated, or any extensions are terminated, any unused funds remaining in the Residual Receipt Account at the time of the contract’s termination must be returned.

   • Regulation: 24 CFR 3292.14(b).
   • Project/Activity: Manufactured Housing Production, Nationwide.

   Nature of Requirement: The Office of Manufactured Housing Programs (OMHP) received several individual requests through the Alternative Construction (AC) process outlined in the Code of Federal Regulations (CFR) at 24 CFR 3282.14. This regulation requires each manufacturer to submit a request for Alternative Construction consideration. OMHP provided an Alternative Construction approval that may be used by any manufacturer experiencing supply chain issues for 25 amperes circuit breakers with code compliant water heater appliances.

   Granted By: Dana T. Wade, Assistant Secretary for Housing—Federal Housing.

   Date Granted: December 18, 2020.
   Reason Waived: In order to resolve this matter for the whole industry in an expedient manner while protecting the health and safety of consumers and maintaining durability of the homes, a regulatory waiver of 24 CFR 3282.14(b). Requests for Alternative Construction, provides resolution for all affected manufacturers. This temporary regulatory waiver of 24 CFR 3282.14(b) allows OMHP to issue the industry-wide AC Letter that allows 25 amperes circuit breakers with code compliant water heater appliances to be used for the construction of HUD Code-compliant manufactured homes through June 30, 2021.

   Contact: Jason McJury, Deputy Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9170, Washington, DC 20410, telephone (202) 422–2480.

   III. Regulatory Waivers Granted by the Office of Public and Indian Housing

   For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

   • Project/Activity: Housing Authority of the City of San Buenaventura (HACSB) requested a project-specific utility allowance for a Project Based Voucher (PBV) project.

   Nature of Requirement: For the Housing Choice Voucher (HCV) program, 24 CFR 982.517 requires that a PHA maintain a utility allowance schedule for all tenant-paid utilities, and the utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-consuming households that occupy units of similar size and type in the same locality. For the PBV program, 24 CFR 983.301(f)(2)(ii) requires that PHAs may not establish or apply different utility allowance amounts for the PBV program, and that the same PHA utility allowance applies to both the tenant-based and PBV programs.

   Granted By: R. Hunter Kurtz, Assistant Secretary for Public and Indian Housing.

   Date Granted: November 18, 2020.
   Reason Waived: The PHA requested a waiver to establish a site-specific utility allowance for a PBV project and provided justification for the request. The PHA submitted an analysis of utility rates for the community and consumption data of project residents. Due to the energy efficient upgrades at the project, the community consumption estimates are significantly higher than the consumption expected at the site. The PHA demonstrated good cause that the utility allowance provided under the HCV program would discourage conservation and ultimately lead to inefficient use of HAP funds at the project; thus, pursuant to the waiver authority provided at 24 CFR 5.110, HUD determined that there was good cause to waive 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.5 17.

   Contact: Danielle Bastarache, Deputy Assistant Secretary for Public Housing and Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Room 4204, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4204, Washington, DC 20410, telephone (202) 402–5264.
HUD’s Summary of CARES Act Notices

Providing Waivers: 10/1/20 to 12/31/20

Authority: Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and regulatory waiver authority is also provided by 24 CFR 5.110 and 91.600.


Description: The Southern Nevada Regional Housing Authority (SNRHA) requested a waiver for five cases in which the HAP Contract was executed more than 120 days after the lease start date (the regulatory requirement is 60 days and the alternative requirement in the CARES Act Waiver Notice is 120 days). The delay was due to staffing issues and unforeseen circumstances related to COVID–19.

Authority: 24 CFR 982.305(c)(4) states that any Housing Assistance Payment (HAP) Contract executed more than 60 days after the lease term begins will be void and the public housing agency (PHA) may not pay any HAP to the owner. PIH Notice 2020–13: COVID–19 Statutory and Regulatory Waivers and Alternative Requirements for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program, Revision 1, provided an alternative requirement for 24 CFR 982.305(c), provides an alternative requirement that HAP Contracts must be executed within 120 days, instead of 60 days, to provide additional time due to the impact of the coronavirus on PHA operations.

Authorized By: R. Hunter Kurtz, Assistant Secretary, Public and Indian Housing.


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