

Addendum 1: COVID-19 Waivers

Addendum to Santa Clara Countywide Quality Assurance Standards for Homeless Housing & Service Programs

The Santa Clara County CoC Quality Assurance Standards ("QAS") serve as the CoC's written standards for providing assistance, in accordance with the CoC Program Interim Rule at 24 C.F.R. Part 578.7 (a)(9). This addendum temporarily expands those written standards to cover waivers that HUD has made available to CoC Program and ESG Program grant recipients during the COVID-19 pandemic, as outlined in two memorandums from HUD Assistant Secretary Gibbs: a March 31, 2020 memorandum entitled "Availability of Waivers of Community Planning and Development (CPD) Grant Program and Consolidated Plan Requirements to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19," and a May 22, 2020 memorandum entitled "Availability of Additional Waivers for Community Planning and Development (CPD Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19," and to ensure continued compliance with CoC and ESG Program requirements during implementation of the waivers.

I. Notification to HUD

Before implementing any of the available waivers for a CoC or ESG Program grant, the grant recipient must notify the local HUD Field Office. Notification must be sent to Kimberly Nash, Community Planning and Development Director for the San Francisco Regional Office at the following email address: CPD_COVID-19WaiverSFO@HUD.gov. The email notification must be sent two calendar days before the grantee intends to begin using the waiver.

Grant recipients should use the notification template provided by HUD. The notification must include:

- Requestor's name, title, and contact information;
- Declared disaster area(s) where the waiver will be used
- Date on which the grantee anticipates first use of the waiver flexibility; and
- A list of the waiver flexibilities the grantee will use

Grant recipients should retain a copy of this notification to HUD, including the notification form and the enclosing email showing the date of the notification.

II. Establishing Policies and Procedures

Each CoC or ESG Program grant recipient and/or subrecipient must establish a written policy and procedures for implementing available waivers. Policies and procedures should, at a minimum, include:

- The date that the grant recipient informed the CPD Director for the San Francisco Regional Office of its intent to implement the waivers;
- The waivers that the recipient anticipates using;
- The recipient and/or subrecipient's process for determining when usage of each waiver is necessary; and
- Documentation and recordkeeping standards for usage of each waiver.

Recipients and/or subrecipients are encouraged to use the following sections of this addendum as a model for their own policies.

III. Available Waivers for CoC Grants

To maintain administrative records for the waived provisions, CoC grant recipients and/or subrecipients must obtain the documentation described, or comparable documentation demonstrating compliance with CoC Program regulations and the applicability of the waiver. Documentation must be maintained in client files and must include a specific written justification for each use of waiver flexibility. The CoC has provided [documentation forms for this purpose, which are available on the CoC website](#).

A. Fair Market Rent for Individual Units and Leasing Costs – Leasing Projects Only

Effect of Waiver

Generally, rent payments for individual units with Leasing dollars may not exceed Fair Market Rent (FMR) (24 CFR 578.49(b)(2)). The QAS references this requirement at sections C.II.2.c, C.V.A, and E.II.2.b, related to Permanent Supportive Housing (“PSH”) and Temporary Housing (“TH”).

HUD’s March 31 memo waives the FMR restriction for any lease executed by a recipient or subrecipient to provide TH or PSH during the six month period beginning March 31, 2020. For leases executed in this six month period (March 31 – Sept. 30, 2020), the waiver lasts for the length of the lease. However, the recipient or subrecipient must still ensure that rent paid for individual units that are leased with CoC Program leasing dollars meet the rent reasonableness standard in 24 C.F.R. § 578.49(b)(2).

Time Frame of Waiver Availability

March 31 – Sept. 30, 2020

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A copy of the lease clearly displaying the date of execution;
2. A completed rent reasonableness analysis; and
3. A note to file with the date of HUD’s waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client’s lease. The CoC has provided a form for this purpose: [“Usage of Waiver: FMR for Individual Units and Leasing Costs.”](#)

B. Disability Documentation for Permanent Supportive Housing (PSH)

Effect of Waiver

Generally, PSH programs must document a qualifying disability of one of the household's members, and, when documentation of disability is the intake worker's observation, the recipient must obtain additional confirming documentation from a medical professional within 45 days (24 CFR 578.103(a) and 24 CFR 578.103(a)(4)(i)(B)). The QAS references this requirement at section C.III.C.3.

HUD's March 31 memo waives the PSH program requirement that intake staff-recorded observation of disability be confirmed and accompanied by third-party documentation within 45 days for the six month period beginning March 31, 2020. Recipients and subrecipients are not required to later obtain additional evidence of the disability for program participants admitted to the program during this time.

To document disability under this waiver, CoC-funded programs must either:

1. Document the intake staff's observation of the client's disability. Staff must use their professional judgement, based on their observation of the client or on other reliable evidence, to determine whether the client has a disability that meets one of HUD's definitions. The CoC has provided a form for this purpose: "[Intake Staff Observation of Disability Under COVID-19 Waiver](#)." *This option is available, as needed, from March 31, 2020 through September 30, 2020.*

OR

2. Obtain self-certification of disability from the prospective client. Self-certification can be in the form of a photograph or scanned copy of a signed certification, or it can be in the form of an email from the client. The CoC has provided a sample form for this purpose: "[Self-Certification of Disability Under COVID-19 Waiver](#)." *This option is available, as needed, for as long as public health guidance makes other documentation impossible to obtain.*

Time Frame of Waiver Availability

March 31, 2020 – Sept. 30, 2020

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of staff observation of the client's disability. . The CoC has provided a form for this purpose: "[Staff Observation of Disability Under COVID-19 Waiver](#)." or
2. Dated copy of client self-certification. The CoC has provided a form for this purpose: "[Self-Certification of Disability Under COVID-19 Waiver](#)." A printout of an email from the client is also sufficient documentation, but the email must contain the same information that would be certified in the CoC's form.

C. Limit on Eligible Housing Search and Counseling Services

Effect of Waiver

Generally, CoC Program Supportive Services funds may not be used for costs of utility or rent arrears. Housing Search and Counseling services funds are limited to those costs listed in the Interim Rule (24 CFR 578.53(e)(8)(ii)(B)).

HUD's March 31 memo waives the limitation on eligible housing search and counseling activities so that CoC Program Supportive Services funds may be used for up to six months of a program participant's utility arrears and up to six months of a program participant's rent arrears when those arrears make it difficult to obtain housing. This waiver is in effect for one year, beginning March 31, 2020.

Time Frame of Waiver Availability

March 31, 2020 – March 31, 2021

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation demonstrating the client's inability to obtain housing as a direct result of rent and utility arrears.
 - a. *Example:* Written notice from a landlord or property manager that they have rejected or will reject a client's application due to rental or utility arrears.
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: Limit on Housing Search & Counseling Services.](#)"

D. Permanent Housing-Rapid Re-housing (PH-RRH) Monthly Case Management (Added May 22)

Effect of Waiver

Generally, recipients must require PH-RRH program participants to meet with a case manager at least monthly (24 CFR 578.37(a)(1)(ii)(F)). The QAS references this requirement at sections D.VII.A.1.h and D.VII.B.

HUD's memos waive the monthly case management meeting requirement for two months, beginning March 31, 2020, and then for an additional three months, beginning on May 22, 2020; however, as a result of COVID-19 and the public health response, many clients may be particularly in need of support during this time. Rapid Rehousing providers should make every effort to maintain regular contact and case management with clients over the phone, video, or through other means that maintain the safety of both clients and staff.

Time Frame of Waiver Availability

March 31, 2020 – August 22, 2020

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: RRH Monthly Case Management.](#)"

E. Housing Quality Standards (HQS) – Initial Physical Inspection of Unit

Effect of Waiver

Generally, recipients are required to physically inspect any unit supported with leasing or rental assistance funds to assure that the unit meets housing quality standards (HQS) before any assistance will be provided on behalf of a program participant (24 CFR 578.75(b)(1)). The QAS references this requirement at sections C.V.A. (PSH) and D.V.A (RRH).

HUD's March 31 memo waives the requirement that the recipient or subrecipient physically inspect each unit to assure that the unit meets HQS before providing assistance on behalf of a program participant for six months, beginning March 31, 2020. Programs using this waiver must: (1) visually inspect the unit using technology, such as video or photographs, to ensure the unit meets HQS before any assistance is provided; and (2) have written policies to physically re-inspect the unit within three months after the health officials determine special measures to prevent the spread of COVID-19 are no longer necessary.

Time Frame of Waiver Availability

March 31 – Sept. 30, 2020

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A completed HQS inspection form noting the method of observation;
2. A recording or copies of the video or photographic inspection, which must include date stamps within the waiver time frame;
3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: HQS – Initial Physical Inspection.](#)"

F. HQS – Re-Inspection of Units

Effect of Waiver

Generally, recipients or subrecipients must inspect all units for which leasing or rental assistance funds are used, at least annually to ensure they continue to meet HQS (24 CFR 578.75(b)(2)). The QAS references this requirement at sections C.V.A. (PSH) and D.V.A (RRH).

HUD's March 31 memo waives the requirement that the recipient or subrecipient annually inspect all units for which leasing or rental assistance funds are used to ensure they continue to meet HQS, for one year beginning March 31, 2020. However, programs are encouraged to maintain regular contact with residents, including regarding any housing quality issues that may arise.

Time Frame of Waiver Availability

March 31, 2020 – March 31, 2021

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: HQS – Re-Inspection.](#)"

G. One-Year Lease Requirement

Effect of Waiver

Generally, program participants residing in permanent housing must be the tenant on a lease for a term of at least one year that is renewable and terminable for cause (24 CFR 578.3, definition of permanent housing, 24 CFR 578.51(l)(1)). The QAS references this requirement at sections C.II.2.d. (PSH) and D.II.2.e (RRH).

HUD's March 31 memo waives the requirement that PSH and RRH program participants be on a lease for at least one year for leases signed within the six-month period beginning March 31, 2020. The initial lease term for all leases must be for at least one month.

Time Frame of Waiver Availability

March 31 – Sept. 30, 2020

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A copy of the lease clearly displaying the date of execution and including the initial term and automatic renewal;
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: One-Year Lease Requirement.](#)"

H. Permanent Housing-Rapid Re-housing (PH-RRH) Limit to 24 Months of Rental Assistance (Added May 22)

Effect of Waiver

Generally, CoC program funds can be used to provide short-term (up to three months) or medium-term (up to 24 months) rental assistance for participants in a RRH project (24 CFR 578.37(a)(1)). The QAS references this requirement at section D.II.2.a.

HUD's May 22 memo waives the 24-month limit on rental assistance for RRH participants who reach 24 months of rental assistance on or after May 22, 2020, until public health officials determine special measures are no longer necessary to prevent the spread of COVID-19. For those participants, rental assistance may continue, as necessary for the participant to remain housed, for up to three months after a state or local public health official determines that special measures are no longer necessary to prevent the spread of COVID-19.

Time Frame of Waiver Availability

May 22, 2020 – public health restrictions are lifted

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of 24 months of rental assistance payments, with the payment for the 24th month on or after May 22, 2020;
2. Documentation, covering each month of rental assistance, of how the client's portion of rent was calculated, which complies with the CoC's Quality Assurance Standards and the program's own policies and procedures;
3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: RRH Limit to 24 Months of Rental Assistance.](#)"

I. Limit to be Eligible for DedicatedPLUS Project When Coming from Transitional Housing Being Eliminated (Added May 22)

Effect of Waiver

Generally, to be eligible for a DedicatedPLUS project, an individual or family must meet the criteria of DedicatedPLUS in the Notice of Funding Availability under which the grant was awarded. One of the possible criteria is residing in transitional housing (TH) that will be eliminated and meeting the definition of chronically homeless in effect at the time in which the individual or family entered the TH project.

HUD's May 22 memo waives the definition of DedicatedPLUS project for projects funded in the FY 2018 and FY 2019 CoC Program Competitions to allow these projects to serve clients coming from TH, whether it is being eliminated or not, as long as the client met the definition of chronically homeless upon entry to the TH.

Time Frame of Waiver Availability

Grants funded in the FY 2018 and FY 2019 CoC Program Competitions

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation that the client was living in TH people experiencing homelessness within the 14 days prior to the client's enrollment into the DedicatedPLUS program;
2. Documentation of the client's chronically homeless status at entry into the TH program, including homeless status at entry, duration of homelessness, and disability; and
3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client. The CoC has provided a form for this purpose: "[Usage of Waiver: Limit on DedicatedPLUS Eligibility From TH.](#)"

J. Assistance Available at Time of Renewal (Added May 22)

Effect of Waiver

Generally, when a CoC program recipient applies to renew a grant, the budget for each line item in the renewal application must be equal to or less than the amount of funding for that line item in the most recent grant budget. This means that, if a recipient amends its budget prior to a CoC Program Competition, the recipient's renewal application must be based on the amended budget.

HUD's May 22 memo waives the requirement that recipients renew grants based on the line items in the most recent grant budget. For all projects that amend their grant agreement between March 31, 2020 and October 1, 2020 to move funds between budget line items, recipients may apply in the next FY CoC Program Competition based on the budget line items in the grants before they were amended. In effect, this waiver allows recipients to temporarily amend a grant budget to respond to COVID-19 needs but renew that grant with pre-COVID-19 line items.

Time Frame of Waiver Availability

Grant amendments executed between March 31, 2020 and October 1, 2020

Documentation

Programs must maintain the following administrative records each time the waiver flexibility is applied:

1. Documentation of grant amendment, including:
 - a. The original (pre-amendment) grant agreement and budget;
 - b. The project's written request to HUD amend the grant by moving funds between budget line items, which explicitly states that the changes are in response to the COVID-19 pandemic;
 - c. All communications with HUD regarding the project's request and the grant amendment;
 - d. The amended grant agreement and budget.

IV. Available Waivers for ESG Grants

To maintain administrative records for the waived provisions, ESG grant recipients and/or subrecipients must obtain the documentation described, or comparable documentation demonstrating compliance with ESG Program regulations and the applicability of the waiver. Documentation must be maintained in client files and must include a specific written justification for each use of waiver flexibility. The CoC has provided [documentation forms for this purpose, which are available on the CoC website](#).

A. HMIS Lead Activities

Effect of Waiver

Generally, ESG funds may be used to pay the costs of managing and operating the HMIS only if the ESG recipient is the HMIS Lead (24 CFR 576.107 (a)(2)).

HUD's March 31 memo waives the condition that the recipient must be the HMIS Lead. Any recipient may use ESG funds to the extent necessary to upgrade or enhance its local HMIS to incorporate data on ESG participants and activities related to COVID-19. This waiver is in effect for six months beginning March 31, 2020.

Before using this waiver flexibility, grantees must consult with the CoC regarding HMIS customization required as a result of COVID-19.

Time Frame of Waiver Availability

March 31 – Sept. 30, 2020

Documentation

The recipient must maintain the following administrative records each time the waiver flexibility is applied:

1. Documentation that recipient consulted with the CoC regarding HMIS customization;
 - a. *Example:* An outline of additional elements provided by or developed in collaboration with the CoC and a bill from the vendor.
2. A description of the specific customization that is required as a result of the COVID-19; and
3. Documentation of the amount of the expense.
 - a. *Example:* A bill from the vendor

B. Re-evaluations for Homeless Prevention Assistance

Effect of Waiver

Generally, homelessness prevention assistance is subject to re-evaluation of each program participant's eligibility need for assistance, including the types and amounts of assistance needed, not less than once every three months (24 CFR 576.401(b)).

HUD's March 31 memo waives the required frequency of re-evaluations for homelessness prevention, so long as the recipient or subrecipient conducts the required re-evaluations not less than once every six months. This waiver is in effect for two years beginning March 31, 2020.

Time Frame of Waiver Availability

March 31, 2020 – March 31, 2022

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. Documentation of re-assessment completed every six months; and
2. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: Re-evaluations for Homelessness Prevention Assistance.](#)"

C. Housing Stability Case Management

Effect of Waiver

Generally, program participants receiving homelessness prevention or RRH assistance must meet with a case manager not less than once per month to assist them in ensuring long-term housing stability, unless certain statutory prohibitions apply (24 CFR 576.401(e)). The QAS references this requirement at section D.VII.B.

HUD's memos waive the monthly case management requirement to allow recipients to provide case management on an as-needed basis for two months, beginning March 31, 2020, and then for an additional three months, beginning on May 22, 2020; however, as a result of COVID-19 and the public health response, many clients may be particularly in need of support during this time. Providers should make every effort to maintain regular contact and case management with clients over the phone, video, or through other means that maintain the safety of both clients and staff.

Time Frame of Waiver Availability

March 31, 2020 – August 22, 2020

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: "[Usage of Waiver: Housing Stability Case Management.](#)"

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

Effect of Waiver

Generally, rental assistance is restricted to units with rent at or below FMR (24 CFR 576.106(d)(1)).

HUD's March 31 memo waives the FMR restriction for any individual or family receiving Rapid Re-Housing or Homelessness Prevention assistance who executes a lease for a unit during the six-month period beginning March 31, 2020. However, the ESG recipient or subrecipient must still ensure that the units in which ESG assistance is provided meet the rent reasonableness standard.

Time Frame of Waiver Availability

March 31 – Sept. 30, 2020

Documentation

Programs must maintain the following administrative records in the client file each time the waiver flexibility is applied:

1. A copy of the lease clearly displaying the date of execution;
2. A completed rent reasonableness analysis; and
3. A note to file with the date of HUD's waiver memo, the waiver being applied and the date of use, and a detailed justification for its application to this client's lease. The CoC has provided a form for this purpose: ["Usage of Waiver: Restriction of Rental Assistance to Units with Rent at or Below FMR."](#)