



March 30, 2020

Mr. John Gibbs
Acting Assistant Secretary
Community Planning and Development
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

Dear Mr. Gibbs:

The COVID-19 pandemic is severely disrupting affordable housing development and construction activities and the ongoing operations of existing affordable housing properties. For this reason, the National Council of State Housing Agencies (NCSHA)¹, on behalf of its Housing Finance Agency (HFA) members, urges the U.S. Department of Housing and Urban Development (HUD) to take immediate action to help Community Planning and Development (CPD) program grantees address the extreme housing needs in their communities resulting from the pandemic.

As more and more people either lose their jobs or face income reductions, many will turn to HUD grantees for housing help. In order to respond to these needs, grantees will need more flexibility to act fast to redirect resources and change processes to allow for more virtual interaction with stakeholders. Grantees will need relief from certain program rules that limit their ability to address housing needs in the era of COVID-19. And, grantees and their partners will need respite from certain obligations they will be unable to meet because of social distancing and the resulting impacts on the economy and interruption to program operations.

This letter provides NCSHA's recommendations related to regulatory and statutory provisions we believe HUD should waive to help CPD grantees. Congress provided HUD broad authority to waive statutory provisions for certain CPD programs as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. While as of this writing, that waiver authority does not extend to the HOME Investment Partnerships (HOME) program and the Housing Trust Fund (HTF) program, HUD should be able to waive regulatory requirements for all states and statutory

¹ NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

requirements related to those programs for at least those states for which there is a Major Disaster declaration. Each day, more states are subject to Major Disaster declarations and would be eligible for statutory relief.

The following relief measures are essential for allowing the affordable housing community to adapt as best is possible during this time:

- Allow grantees of CPD programs to use any CPD program funds, including both supplemental funding provided by Congress to address the COVID-19 pandemic and FY 2020 appropriated funds for CPD programs, for any eligible activity allowed under each program, respectively, regardless of the activities the grantee planned to undertake with those resources in their most recent Consolidated Plan or Action Plan. This will allow grantees to quickly redirect resources as needed regardless of whether the grantee's existing Consolidated Plan envisions using program resources for a particular purpose. Grantees should be able to amend their Consolidated Plans after the fact to address the new use of funding. For example, if a HOME Participating Jurisdiction (PJ) did not include HOME funding for Tenant-Based Rental Assistance (TBRA) in its Consolidated Plan, it should be able to shift HOME funding for this use immediately, without having to go through a lengthy "major amendment" process to modify its Consolidated Plan.
- Allow grantees to meet the public meeting and public input requirements for the Consolidated Plan and related planning documents through virtual and online processes for as long as the national emergency or state-applicable Major Disaster declarations related to COVID-19 are ongoing. Grantees that are replacing already-scheduled in-person public meetings with virtual meetings should be able to do so without undertaking a time-consuming public notice process for this change in format.
- Allow for flexibility in HUD's procurement policy at 2 CFR 200.217-226 relative to projects financed by CPD programs by allowing virtual public bid openings for as long as the national emergency or state-applicable Major Disaster declarations related to COVID-19 are ongoing. If a grantee has already issued a solicitation for bids and that solicitation stated sealed bids would be opened at a specific place, allow the grantee to modify the solicitation to allow for a virtual public bid opening.
- Waive the HOME match requirement at 24 CFR 92.222(b). The match requirement should not be reinstated until at least six months following the lifting of the national emergency related to COVID-19 or applicable state-specific Major Disaster declarations, whichever is later.
- Extend for an additional 12 months the four-year project completion deadline for HOME at 24 CFR 92.205(e)(2).

- Extend for an additional 12 months the nine-month deadline at 24 CFR 92.254(a)(3) by which for-sale HOME-financed homebuyer units must be sold.
- Waive the HOME “one-and-done” rule at 24 CFR 92.214(a)(6) to allow PJs to provide additional assistance to an existing HOME project during the project’s affordability period if needed as a response to COVID-19. Many advocates are requesting that Congress allow HOME to be used to provide project-based rental assistance and operating assistance. If Congress passes legislation allowing this, it will be especially important for HUD to waive this requirement. Any additional HOME funding provided under this waiver should not necessitate an extension of the project’s affordability period.
- Increase the cap on Community Housing Development Organization (CHDO) operating expenses at 24 CFR 92.208 (currently at five percent) to 10 percent of a PJ’s total HOME award. Also, waive the requirement at 24 CFR 92.300(e) to allow PJs to provide CHDOs operating assistance that is not in conjunction with a specific housing project. These changes will allow PJs to help CHDOs that may be struggling in the current economic environment.
- Waive the requirement for CHDOs to have paid staff at 24 CFR 92.2, as many companies and organizations have had to lay off staff due to the economic impacts of the COVID-19 pandemic. The CHDO paid staff requirement should not be reinstated until at least six months following the lifting of the national emergency related to COVID-19 or applicable state-specific Major Disaster declarations, whichever is later.
- Waive the source documentation for income determinations for HOME at 24 CFR 92.203(a)(1) and (2) to allow for either employment verification or self-certification of income if employment verification is not possible for persons who have suffered a job loss or reduction in pay due to COVID-19. This waiver should be effective through the end of grantees’ 2020 program years.
- Suspend requirements at 24 CFR 92.209(e), (f), (g), (h)(1), and (i) related to HOME TBRA to allow for greater flexibility in the use of TBRA. These sections of HUD’s regulations set several limits on the use of HOME for TBRA, which, while prudent in normal circumstances, would hinder PJs’ abilities to help households that may have entered into leases prior to a change in employment necessitating rental assistance due to COVID-19. Suspending these requirements will allow PJs to help these households while allowing them to continue to live in their current units under their current lease terms. Specifically, these sections of the rule:
 - Require contracts to be made with a landlord beginning on the first day of the lease;

- Mandate that the lease be disapproved if the rent is not reasonable comparable assisted units,
- Require leases to be one-year leases,
- Limit the subsidy that a PJ may pay towards TBRA to the difference between the PJ's rent standard and 30 percent of the family's monthly adjusted income, and
- Require units occupied by TBRA recipients to meet housing quality standards.

These requirements should not be reinstated until at least six months following the lifting of the national emergency related to COVID-19 or applicable state-specific Major Disaster declarations, whichever is later.

- Establish a 12-month moratorium on all onsite monitoring of rental units at 24 CFR 92.504(d) for HOME and 24 CFR 93.404(d) for HTF. Provide waivers of document review requirements to grantees if the grantees self-certify that, due to social distancing, they are unable to access the applicable documents.
- Extend the 24-month commitment deadline for HTF funds at 24 CFR 93.400(d)(1) by no less than an additional 12 months.
- Extend the five-year expenditure deadline for HTF funds at 24 CFR 93.400(d)(2) by no less than an additional 12 months.
- Extend the time limit on provision of medium-term rental assistance, utility payments, and service costs under the ESG program (currently 24 months) at 24 CFR 576.105(a)(5), (b)(2), and (c) and 24 CFR 576.106(a) for no less than an additional 12 months. Because the impact on the economy of COVID-19 may be long-lasting, households may need this assistance for longer than is allowed under existing rules.
- Waive the requirement at 24 CFR 576.106(d)(1) that limits ESG rental assistance to, at maximum, the Fair Market Rent. Instead allow ESG rental assistance to cover rents up to the payment standard adopted by the appropriate local Public Housing Authority for all households served on or after March 1, 2020, with ESG funds through FY 2020.
- Allow for self-certification to evidence that permanent housing units meet the requirements for shelter and housing standards described in 24 CFR 576.403(b) and (c) for ESG expenditures on or after March 1, 2020, for FY 2018 through 2020 allocations so that inspectors do not need to visit these units in person.
- Ensure that delays in commitments and expenditures allowed under HUD waivers do not result in projects being automatically shut down in the Integrated Disbursement and Information System (IDIS).

Depending on how long the crisis lasts, HUD may need to further extend these actions beyond the time periods we have requested in this letter.

We appreciate HUD's attention to these critical issues at this busy time and stand ready to assist in any way that we can.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives