



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF THE ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All CPD Field Office Directors and Program Managers

FROM: John Gibbs, Principal Deputy Assistant Secretary for Community Planning and Development (D)

SUBJECT: Revision, Extension and Update of April 2020 Memorandum-Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID -19 Pandemic

This memorandum updates and revises the memorandum, *Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID -19 Pandemic*, issued on April 10, 2020 (the “April 2020 Memo”). The April 2020 Memo announced the availability of certain statutory suspensions and regulatory waivers to enable HOME participating jurisdictions (PJs) affected by the Coronavirus Disease 2019 (COVID-19) pandemic to use HOME funds to address immediate housing needs and to help prevent spread of the virus. This memorandum revises and extends certain statutory suspensions and regulatory waivers outlined in the April 2020 Memo through September 30, 2021 (the “extended waiver period”) and adds a new statutory suspension and new regulatory waivers.

Specifically, the waiver of 24 CFR 92.203(a)(1) and (2), and 24 CFR 92.64(a) (Insular Areas) concerning income documentation is revised to exclude Federal Pandemic Unemployment Compensation (FPUC) provided under the Coronavirus Aid, Relief, and Economic Security Act (P.L.116-136) (CARES Act) and the Lost Wages Supplemental Payment Assistance provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) from income when determining income eligibility or amount of subsidy for rental assistance. This memorandum also revises the waiver of 24 CFR 92.504(d)(1)(iii), 24 CFR 92.209(i) and 24 CFR 92.64(a) (Insular Areas) – requirements for initial Housing Quality Standard (HQS) inspections and annual re-inspections, and expands the waiver that permits PJs to use HOME funds for operating reserve assistance for troubled HOME projects (24 CFR 92.210(a) and (b) and 24 CFR 92.64(a) (Insular Areas)) to extend its availability to additional HOME-assisted rental projects. This waiver is further revised to require that HOME project owners receiving HOME operating reserve assistance do not also collect rent from tenants in HOME-assisted units to cover the same costs paid with the HOME funds.

This memorandum also provides a new statutory suspension and regulatory waiver of the maximum per unit subsidy limit established at Section 212(e) of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA) and of 24 CFR 92.250(a) and 24 CFR 92.64(a) (Insular areas) and a new regulatory waiver of the income documentation requirement for owners of a HOME project in a sixth year of the period of affordability.

Waiver and Suspension Authority

Since publication of its April 2020 Memo, the Department has received comments regarding the need for relief from the HOME maximum per-unit subsidy limit due to increased project development costs related to the impacts of COVID-19, as well as for existing projects that will use HOME funds for operating reserves to address operating shortfalls caused by COVID-19-related increases in operating costs or reduced operating revenue. As described in the April 2020 Memo, Section 290 of the NAHA authorizes HUD to suspend HOME statutory requirements to assist PJs in addressing the damage in an area for which the President has issued a major disaster declaration under Title IV of the Stafford Act and to assist them in disaster recovery. Upon determination of good cause, in accordance with 24 CFR 5.110, HUD may waive regulatory provisions subject to statutory limitations. These provisions provide HUD the authority to make waiver determinations for the HOME program.

Pursuant to the authority provided in Section 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justification that follows, to suspend the statutory provisions and waive the related regulatory provisions described below for any PJ in a State covered by a major disaster declaration under Title IV of the Stafford Act as a result of the COVID-19 pandemic. The suspensions and waivers are intended to provide maximum administrative flexibility to PJs and better assist low-and very low-income households as they deal with the effects of the COVID-19 pandemic.

Availability of Suspensions and Waivers

CPD Field Offices shall inform PJs of the revisions and additions to the April 2020 Memo described below. A PJ that intends to implement the following additional statutory suspension and waiver must send written notification via e-mail to the CPD Division in its local HUD Field Office through the appropriate Field Office mailbox listed in Attachment 1 and to the Office of Affordable Housing Programs (OAHP) at HOMECOVID19@hud.gov.

Availability of Suspension and Waiver of Maximum Per Unit Subsidy Limit

Suspension and Waiver of Maximum Per Unit Subsidy Limit

Requirement: Maximum Per Unit Subsidy Limit

Citations: Section 212(e) of NAHA, 24 CFR 92.250(a) and 24 CFR 92.64(a) (Insular Areas)

Explanation: The total amount of HOME funds that the PJ may invest on a per unit basis may not exceed the per unit dollar limitations established under section 221(d)(3) of the National Housing Act (12 USC 1715l(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located.

Justification: The suspension and waiver are necessary to enable PJs to invest additional HOME funds if they have opted to exercise the flexibilities permitted under the waiver of 24 CFR 92.210(a) and (b) to provide funding for operating reserves to preserve

the financial viability of HOME-assisted rental projects currently under a period of affordability. For projects currently underway or in the planning stages, this waiver is necessary to ensure that sufficient HOME funds may be invested to cover increased project development costs resulting from efforts to prevent spread of COVID-19 or the economic effects of the COVID-19 pandemic (e.g., increased costs of materials or appliances.) In either of these situations, the maximum per unit subsidy limits for HOME-assisted projects may impede the stabilization or development of HOME-assisted housing. Suspending the maximum per unit subsidy limit will provide PJs with the flexibility to help preserve affordable HOME units and create new units to assist affected low-income families.

Applicability: The suspension and waiver apply to completed HOME rental projects currently under a period of affordability that are receiving additional HOME funds for operating reserve payments through December 31, 2020 under the terms of the April 10, 2020 waiver of 24 CFR 92.210(a) and (b). The suspension and waiver also apply to HOME projects that are currently underway or projects to which HOME funds will be committed on or before the end of the extended waiver period.

Unemployment Insurance Under the CARES Act

The April 2020 Memo announcing the availability of statutory suspensions and regulatory waivers under the HOME program includes a waiver of 24 CFR 92.203(a)(1) and (2), 24 CFR 92.64(a) (Insular Areas) allowing self-certification of income in lieu of source documentation to determine the income eligibility of individuals and families requiring immediate HOME assistance due to the COVID-19 pandemic. The April 2020 Memo required PJs choosing to use the waiver to ensure that an applicant's self-certified income include any unemployment and emergency benefits the applicant will receive. Since issuance of the memorandum, the Department has re-examined the inclusion of certain unemployment benefits provided by the CARES Act and under the Stafford Act in annual income to align treatment of these benefits across all HUD programs. To achieve this alignment, the Department is revising the Income Documentation waiver for the following:

Federal Pandemic Unemployment Compensation (FPUC): Created by Section 2104 of the CARES Act, the FPUC program allowed eligible individuals collecting certain unemployment insurance benefits, including regular unemployment compensation, to receive an additional amount in federal benefits per week as an enhanced unemployment benefit for 18 weeks of unemployment ending on or before July 31, 2020. The Department determined that the additional federal weekly benefit of \$600/week was a temporary, nonrecurring enhanced amount and not regular unemployment insurance from the state. The Department made this determination because the duration of FPUC was for a limited time and is unlikely to recur. This is consistent with other income currently excluded under 24 CFR 5.609(c)(9), which excludes "temporary, nonrecurring or sporadic income" received by a family from the definition of "annual income" under 24 CFR Part 5.

The other unemployment benefits provided under the CARES Act of Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) must still be included as income as the Department determined the PUA to be regular unemployment insurance under 24 CFR 5.609(b)(5) and PEUC to be an extension of regular unemployment insurance

benefits.

Lost Wages Supplemental Payment Assistance: On August 8, 2020, President Trump issued, “Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019,” authorizing the Federal Emergency Management Agency (FEMA) to expend up to \$44 billion from the Disaster Relief Fund for lost wage payments to ease the economic burden for those struggling with lost wages due to the COVID-19 pandemic (“Lost Wages Supplemental Payment Assistance”). The Lost Wages Supplemental Payment Assistance provided by FEMA increases the amount that states can provide to unemployed Americans up to an extra \$300 per week with a 25 percent state match for a total of \$400 per week. FEMA is providing the supplemental payments for lost wages as grants to states in accordance with section 408(e)(2) of the Stafford Act (42 U.S.C. 5174(e)(2)) and 44 CFR §206.119(c)(6)(ii) for major disasters declared by the President pursuant to section 401 of the Stafford Act (42 USC 5170) for COVID-19. Pursuant to 24 CFR 5.609(c)(17), HUD excludes “[a]mounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.” HUD’s 2014 Federal Register Notice (79 FR 28938) provides a list of amounts specifically excluded by any Federal statute from consideration as income for purposes of determining eligibility or benefits in a HUD program. This list specifically identified “Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)),” as excluded from consideration as income under the Stafford Act. (79 FR 28940). As the Lost Wages Supplemental Payment Assistance from FEMA and the required state match are both “major disaster and emergency assistance received by individuals and families” under the Stafford Act, HUD has determined the assistance to be excludable from income.

Revision to Income Documentation Waiver

Because the Department determined that the FPUC benefit is temporary in nature and excluded from income under 24 CFR 5.609(c)(9) and that the Lost Wages Supplemental Payment Assistance is excluded from income under the Stafford Act, in accordance with 24 CFR 5.609(c)(17) and 79 FR 28940, the waiver of 24 CFR 92.203(a)(1) and (2) and 24 CFR 92.64(a) is revised to clarify that the FPUC benefit and Lost Wages Supplemental Payment Assistance is not included in income for purposes of determining income eligibility for HOME assistance. Consequently, a PJ may choose to redetermine income, according to its policy in cases where the income self-certification included the FPUC benefit and/or Lost Wages Supplemental Payment Assistance and resulted in the ineligibility of an applicant. The FPUC benefit expired on July 31, 2020 and as of October 16, 2020, FEMA has approved 53 states and territories for Lost Wages Supplemental Payment Assistance grants. Therefore, the waiver included in the April 2020 Memo is superseded by the following waiver. Revisions to the April 2020 memo are shown in italics.

Income Documentation

Requirement: Source Documentation for Income Determinations

Citations: 24 CFR 92.203(a)(1) and (2), 24 CFR 92.64(a) (Insular Areas)

Explanation: These sections of the HOME regulation require initial income determinations for HOME beneficiaries by examining source documents covering the most recent two months. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Justification: This waiver permits the PJ to use self-certification of income, as provided at 24 CFR 92.203(a)(1)(ii), in lieu of source documentation to determine eligibility for HOME assistance of persons requiring *assistance where source documentation does not accurately reflect current income and/or where 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 lay-offs, will not have documentation that accurately reflects current income and will not be able to qualify for HOME assistance if the requirement remains effective. *Additionally, the waiver is necessary to help PJs 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 PJ, in consideration of national, state or local health authorities' COVID-19 guidelines.*

If a PJ chooses to use this waiver, the PJ must ensure that the income self-certification takes into consideration all income, including any unemployment and emergency benefits. *However, the Department determined that the FPUC benefit was temporary in nature and excluded from income under 24 CFR 5.609(c)(9) and the Lost Wages Supplemental Payment Assistance is excluded from income under the Stafford Act, in accordance with 24 CFR 5.609(c)(17). The FPUC benefit and Lost Wages Supplemental Payment Assistance therefore must not be taken into consideration when determining eligibility or level of TBRA subsidy under the HOME program. In addition, a PJ may choose to redetermine income, according to its policy, in cases where the income self-certification included the FPUC benefit and/or Lost Wages Supplemental Payment Assistance and resulted in the ineligibility of an applicant. The PJ 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 PJ must include tenant income self-certifications in each project file.*

This waiver is effective from the date of this memorandum and remains in effect through the extended waiver period.

Availability of Additional Income Documentation Waiver

The revised income documentation waiver described above applies to existing residents of HOME rental projects and existing tenant-based rental assistance recipients. Because of the expanded applicability to residents of HOME rental projects, the Department is also providing an additional waiver of the requirement for re-examination of incomes of tenants in a HOME multifamily rental project in the sixth year of the period of affordability using source documentation. This waiver applies to HOME rental projects with a period of affordability of 10 years or more.

Pursuant to the authority provided in Section 290 of NAHA and 24 CFR 5.110, I hereby find good cause, as stated in the justification that follows, to waive the regulatory provision described below for any PJ in a state covered by a major disaster declaration under Title IV of the Stafford Act as a result of the COVID-19 pandemic. The waiver is intended to provide maximum administrative flexibility to PJs and better assist low-and very low-income households as they deal with the effects of the COVID-19 pandemic. A PJ that intends to implement the following waiver must send written notification via e-mail to the CPD Division in its local HUD Field Office through the appropriate Field Office mailbox listed in Attachment 1 and to the Office of Affordable Housing Programs (OAHP) at HOMECOVID19@hud.gov.

Income Documentation for Tenants of a HOME Project in a Sixth Year of the Period of Affordability

Requirement: Source Documentation for Income Re-examinations

Citations: 24 CFR 92.252(h), 24 CFR 92.64(a) (Insular Areas)

Explanation: These sections of the regulation require re-examination of income of each tenant using source documentation in accordance with § 92.203(a)(1)(i) in every sixth year of the affordability period where an owner of a multifamily project with an affordability period of 10 years or more re-examines tenant's annual income through a statement and certification in accordance with § 92.203(a)(1)(ii). 24 CFR 92.64(a) applies these requirements to Insular Areas.

Justification: This waiver permits the use of self-certification of income, as provided at §92.203(a)(1)(ii), in lieu of source documentation to re-examine the income of tenants residing in a HOME multifamily project with a period of affordability of 10 years or more, if the reexamination of tenant income required in every sixth year of the project's period of affordability occurs on or before September 30, 2021. This waiver is necessary because source documentation may not accurately reflect the current income of existing tenants and/or social distancing measures may 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 lay-offs, will not have documentation that accurately reflects current income and will not be able to qualify for HOME assistance if the requirement remains in effect. Additionally, the waiver is necessary to help PJs comply with national, state, or local health authorities' recommendations on social distancing to reduce the risk of spreading COVID-19.

Applicability: This waiver applies to an owner of a HOME multifamily rental project with a period of affordability of 10 years or more to use self-certification of income, as provided at §92.203(a)(1)(ii), if a reexamination of tenant income required in every sixth year of the project's period of affordability occurs on or before September 30, 2021. This is to accommodate a tenant with source documentation that does not accurately reflect current income and/or where individuals and families would be placed at risk or experience hardship by submission of source documentation to the owner, as determined by the PJ, in consideration of national, state or local health authorities' COVID-19 guidelines.

Revision to Waiver for Inspections of TBRA Units

The waiver of the requirement that PJs must annually re-inspect units occupied by TBRA tenants is expanded to include initial Housing Quality Standards (HQS) inspections. The existing waiver is superseded by the following waiver with revisions highlighted in italics:

Initial and Annual Inspection of Units Occupied by Recipients of HOME Tenant-Based Rental Assistance (TBRA)

Requirement: *Housing Quality Standards – Initial and Annual Inspections of TBRA Units*

Citation: 24 CFR 92.504(d)(1)(iii); 24 CFR 92.209(i) requirement for *initial inspections and annual re-inspections* and 24 CFR 92.64(a) (Insular Areas)

Explanation: These provisions require PJs to *initially inspect each unit to be occupied by a recipient of HOME TBRA* and annually *re-inspect* each unit occupied by a recipient of HOME TBRA. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Justification: Waiving the requirement that *HQS inspections be performed before a HOME TBRA recipient leases and occupies a rental unit and annually re-inspect* 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 *initial and annual HQS inspections* required to occur from *the April 10, 2020 Memo through end of the extended waiver period*. *PJs using this waiver authority for families assisted under TBRA are not required to inspect for compliance with HQS in accordance with 24 CFR 982.401*. PJs 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. However, this waiver does not apply to the requirements at 24 CFR 35.1215. Consequently, units built before 1978 must undergo visual evaluation and paint repair in accordance with 24 CFR Part 35, subpart M. PJs using this waiver authority must establish procedures to minimize the risk that tenants are in housing that does not meet HQS.

Expansion of Waiver of Four-Year Project Completion Requirement

The waiver of 24 CFR 92.205(e)(2) and 24 CFR 92.64(a) (Insular Areas), which extends the four-year project completion deadline, is expanded to include projects that received a one-year extension pursuant to 24 CFR 92.205(e)(2) and projects where the one-year extension period was in effect on or after April 10, 2020

Four-Year Project Completion Requirement

Requirement: Four-Year Project Completion Deadline

Citation: 24 CFR 92.205(e)(2) and 24 CFR 92.64(a) (Insular Areas)

Explanation: The provision requires that projects assisted with HOME funds be completed within 4 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 PJ must repay all funds invested in the project. The regulations permit a PJ to request an extension of the deadline for up to one-year. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Justification: This waiver is necessary to provide additional time to permit completion of HOME-assisted projects that may be delayed because of the impact of COVID-19 on project timelines. These delays may occur because of worker illnesses or efforts to reduce the spread of COVID-19, such as smaller construction crews or delays in local permitting or inspections due to government office closures.

Applicability: This waiver applies *to projects with 4-year project completion deadlines that occurred or will occur on 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 *the end of the extended waiver period.*

Expansion and Clarification of Waiver for Troubled HOME Projects

The justification for the waiver of 24 CFR 92.210(a) and (b) and 24 CFR 92.64(a) (Insular Areas), which allows the use of HOME funds for operating reserves for troubled HOME projects, is expanded to include projects experiencing operating deficits because of increased costs resulting

from efforts taken to reduce the spread of COVID-19. The applicability section is also revised to clarify that the owner must agree to reduce the amount of any back rent owed by HOME-assisted tenants by the amount of HOME operating reserve deposits to maintain the eligibility of the HOME costs paid for by the HOME operating assistance under this waiver. The waiver is superseded by the following waiver with revisions highlighted in italics:

Use of HOME Funds for Operating Reserves for Troubled HOME Projects

Requirement: Troubled HOME Projects

Citations: 24 CFR 92.210(a) and (b) and 24 CFR 92.64(a) (Insular Areas)

Explanation: 24 CFR 92.210 establishes provisions to permit HOME rental projects that are not financially viable (i.e., projects for which operating costs significantly exceed operating revenue) to be preserved through the use of HOME funds to recapitalize project reserves. 24 CFR 92.210(a) requires HUD to review market needs, available resources, and the likelihood of long-term viability of the project before approving this use of HOME funds. 24 CFR 92.210(b) requires a written memorandum of agreement between HUD and the PJ as a precondition of this funding and certain limitations on the amount of funding. 24 CFR 92.64(a) applies these requirements to Insular Areas.

Justification: The waiver is necessary to enable PJs to take rapid action to preserve the financial viability of HOME-assisted affordable rental projects currently under a HOME period of affordability. Because existing tenants in HOME units may be unable to meet their rent obligations due to the economic impact of the COVID-19 pandemic, HOME rental projects may experience operating deficits due to the sudden decrease in rental revenue. *The waiver is also necessary to enable PJs to recapitalize operating reserves to account for increased operating costs related to the COVID-19 pandemic, such as lost revenue due to the closure of amenities and/or more intensive cleaning and disinfection of common areas.*

Applicability: The waiver applies to HOME-assisted rental projects currently within the period of affordability established in the HOME written agreement. PJs will not be required to obtain HUD approval or execute a memorandum of agreement with HUD before providing this assistance. PJs may only exercise this waiver authority when the project owner agrees to forego: 1) any distributions of residual receipts resulting from the project throughout the waiver period 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 PJ; and 3) any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ. *To clarify, per the waiver and 2 CFR part 200 requirements, costs paid for by other sources are ineligible and cannot be paid for by HOME funds. Private sources include rent received from HOME-assisted tenants. To prevent the misuse of HOME funds to pay*

for costs paid with other sources and to maintain the eligibility of costs paid for by HOME assistance, the owner must reduce the amount of any back rent owed by tenants by the amount of HOME operating reserve assistance deposits. The amount expended to pay operating reserve assistance must not exceed the share of operating costs attributable to the HOME-assisted units. If the owner pursues and receives back rent from a HOME-assisted tenant, the owner must repay the amount of operating reserve assistance equal to the amount of back rent received.

The PJ may provide additional HOME funds to recapitalize operating deficit reserves for HOME-assisted rental projects if the PJ determines that the project is experiencing operating deficits related to the economic effects of the COVID-19 pandemic during the waiver period. The PJ 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 maximum amount 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 the end of the extended waiver period. 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.

Project 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, PJs 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 PJ is required to maintain to demonstrate the allowable amounts and eligibility of costs paid with the HOME funds in the operating reserve.

The written agreement must specify that the owner must forego: 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 PJ; and 3) any adverse credit reporting against tenants of HOME-assisted units for nonpayment of rent or fees without prior approval of the PJ.

Within 6 months following the waiver period, the PJ 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 PJ must be deposited in the local HOME account and reported as program income in IDIS.

The waiver is effective through *the end of the extended waiver period*.

Extension of Waiver Deadline

In addition to the waivers discussed above, the following waivers outlined in the April 10th memo are extended from December 31, 2020 to *September 30, 2021*. All other provisions of the April 10th memo related to the following waivers remain in effect.

On-Site Inspections of HOME-assisted Rental Housing - 24 CFR 92.504(d)(1)(ii) and 92.64(a) (Insular Areas)

Nine-Month Deadline for Sale of Homebuyer Units – 24 CFR 92.254(a)(3) and 24 CFR 92.64(a) (Insular Areas)

Timeframe for a Participating Jurisdiction's Response to Findings of Noncompliance – 24 CFR 92.551(b)(1) and 24 CFR 92.64(a) (Insular Areas)

Questions regarding this memorandum should be directed to Virginia Sardone, Director, Office of Affordable Housing Programs (OAHP), or your OAHP desk officer. Participating jurisdictions and other HOME Program participants should contact the CPD Division of their local HUD Field Office.

Attachment 1

EMAIL BOX

CPD_COVID-19WaiverABQ@HUD.gov
CPD_COVID-19WaiverANC@HUD.gov
CPD_COVID-19WaiverATL@HUD.gov
CPD_COVID-19WaiverBAL@HUD.gov
CPD_COVID-19WaiverBHM@HUD.gov
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CPD_COVID-19WaiverRIC@HUD.gov
CPD_COVID-19WaiverSAT@HUD.gov

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CPD_COVID-19WaiverSFO@HUD.gov

CPD_COVID-19WaiverSJU@HUD.gov

CPD_COVID-19WaiverSEA@HUD.gov

CPD_COVID-19WaiverSTL@HUD.gov

CPD_COVID-19WaiverDC@HUD.gov

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