

# TX BoS CoC General Meeting

## Minutes

November 8, 2017, 2:00 p.m.

Meeting held via webinar and in-person.

### Attendance:

#### THN Staff and VISTA Members

Caitlin Bayer- Balance of State Programs Coordinator

Kraig Blaize-Fiero- CoC Program Assistance

Sophia Checa- CoC Assistant Director

Jesús DeLeon-Serratos- HMIS Program Manager

Tiffany Hart- Systems Change Coordinator

Mary Rychlik- CoC Manager

Kristin Zakoor- Data Coordinator

#### CoC General Membership Attendees:

See attached attendance list.

### Minutes:

Meeting began at 2:05 PM

#### **I. Welcome, Introductions, and Map**

- a. Sophia welcomed everyone to the meeting and had staff in the room introduce themselves. We had 55 attendees at the meeting's start.

#### **II. Thank you for attending the 10/4 General Meeting & the Conference**

- a. We appreciate you all attending and engaging with us in-person and online. We will cover the Work Plan again in this meeting for those attendees who were online at the meeting and missed it due to technical difficulties.

#### **III. Point-In-Time (PIT) Count**

- a. Kristin provided an overview of the PIT Count, and provided a flier for communities to use throughout the Texas Balance of State. The PIT Count is an annual count where volunteers administer a survey to people experiencing homelessness to learn more about their demographics and service needs. The data helps communities track progress toward ending homelessness and to plan for community needs.



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- b. If you are in a community that participates in the PIT count, make sure other folks in the community know about it! Help recruit volunteers and support your PIT Lead!
- c. This year, the TX BoS CoC will utilize the CountingUs app from Simtech Solutions for the PIT survey in lieu of paper surveys. THN will be providing training and guidance on using the app. The app will also have a "Command Center," to help more easily track and map survey results in real time.
- d. If you are interested in participating in the PIT Count but don't know if there is an initiative in your community, contact Kristin Zakoor ([Kristin@thn.org](mailto:Kristin@thn.org)) to figure out who to get in touch with.
- e. Some PIT materials are available now on the THN website, [thn.org](http://thn.org)! Check them out!
- f. Simtech App training will be held on Nov. 15 at 11:30 AM.

## IV. CoC Current Priority Projects

- a. TX BoS CoC Work Plan
  - i. One of Sophia's main responsibilities will be to develop the CoC Work Plan over the next 2 months. She will focus on getting input from CoC members and working closely with the CoC Board to develop the Work Plan. She will also utilize the CoC Program NOFA, HUD'S Priority Policies, and the Federal Strategic Plan, Opening Doors, as well as example Work Plans from other communities. Please reach out to Sophia with your ideas and concerns regarding the Work Plan at [sophia@thn.org](mailto:sophia@thn.org).
  - ii. We hope to be able to show you the Work Plan and the progress on the Work Plan at next year's CoC General Meeting at the 2018 Texas Conference on Ending Homelessness.
- b. HUD CoC Program competition
  - i. The CoC Program opened Friday, July 14, 2017. Hurricane Harvey hit on Friday, August 25, 2017. Because of Harvey, the TX BoS CoC requested an extension, which it received on 9/11/17. The CoC's new deadline is 11/16/17. All renewal projects and new projects went through threshold review around the time Harvey made landfall. Once the threshold review was complete, these projects went to the Independent Review Team (IRT) for scoring. The projects and their assigned scores from the IRT went to the Board today for ranking. Sophia explained why ranking is necessary and the Tiering process per HUD guidance. All applicants will receive the priority listing today, as well as information on filing a grievance if necessary.



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## c. HMIS

- i. HMIS Data Standards became effective on 10/1/17. This year's data standards change went comparatively smoothly due to higher engagement levels from HMIS users. Jesus shared the important changes in the data standards and introduced attendees to ResourceTrack, a new training resource within HMIS.
- ii. There will be no HMIS User Webinar this month due to the HMIS team's work on the Annual Homeless Assessment Report (AHAR). The next HMIS webinar will be the first Thursday in December, and will be the last one of the year. The Webinar will emphasize HMIS user's feedback and plans for the future.
- iii. The final AHAR is due on 12/1. Projects have been working hard on the AHAR, and the additional efforts are showing! The AHAR is looking better than ever. The HMIS team is still working on corrections, however, so please respond promptly to HMIS team e-mails. If you have any questions regarding the AHAR, reach out to Jesus DeLeon-Serratos at [jesus@thn.org](mailto:jesus@thn.org).

## d. Coordinated Entry (CE)

- i. Tiffany provided an update on the CE implementation process. Final drafts for CE Policies and Procedures were due on Sept. 1, 2017. No one submitted a complete draft on the first try, so Tiffany assisted with corrections. She is currently on round 3 of revisions with most communities. There are 76 days left until CE implementation is due. There is still a lot that needs to happen, so final edits will now be due by 11/30 so we can begin moving forward with implementation.
- ii. Trainings regarding CE will be released soon, along with an assessor's manual, so stay tuned!

## e. Hurricane Harvey Recovery

- i. The General Land Office is willing to listen to THN in regards to how funds will be spent for Housing and Homeless Services in response to Hurricane Harvey, but THN has little information as to what that process will look like at this time.
- ii. THN staff has been reaching out to agencies to complete a survey and gather data that we will use to advocate for communities.
- iii. There are some important deadlines coming up for FEMA applications, so please check the THN website's Hurricane Harvey page for more information.

## f. CoC Board elections: voting open until Thursday, 11/16/17.



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- i. 9 seats are available. At this time, we have 15 nominees. 5 of the nominees have lived experience of homelessness. Mary reviewed each nominees' information. Please contact Mary ([mary@thn.org](mailto:mary@thn.org)) if you have questions about the election process.
- ii. View nominees' information and a paper ballot at <http://thn.org/wp-content/uploads/2017/05/2017-Nominee-Info-and-Paper-Ballot.pdf>
- iii. Cast your vote via an online survey at <https://thn.wufoo.com/forms/tx-bos-coc-board-election-ballot-2017/>.

## V. Announcements

- a. CoC General Meeting schedule for 2017-18 now available at <http://thn.org/texas-balance-state-continuum-care/get-involved/>
- b. State ESG update
  - i. TDHCA's Board considered awards at their October meeting. However, they are considering more awards during tomorrow's Board meeting, due to some outstanding issues with project applicants. Final ESG awards will be decided at that time. If you would like more information, please contact Mary at [mary@thn.org](mailto:mary@thn.org).
- c. OrgCode Leadership and Ownership in Ending Homelessness webinar is scheduled for 11/9/17. Register at <https://register.gotowebinar.com/register/7969103434093937921>
- d. Rapid Re-Housing Institute by VA and HUD-
  - i. Jim Ward attended the Systems Track, and two TX BoS CoC members attended the Practice Track. We will be sharing more information that members learned in the coming months!
- e. New webinar software for December meeting!
  - i. We will be moving from GoToWebinar to Adobe Connect. You will receive an email that will let you test your system to make sure you have all the plug-ins necessary for the new system to work. Kraig is available to help with technical issues at [kraig@thn.org](mailto:kraig@thn.org).

## VI. Resources

- a. New HUD Information
  - i. Notice CPD-17-10: Sub-awarding Emergency Solutions Grants Program Funds to Public Housing Agencies and Local Redevelopment Authorities: <https://www.hudexchange.info/resource/5629/notice->



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[cpd-17-10-subawarding-emergency-solutions-grants-program-funds-to-public-housing-agencies-and-local-redevelopment-authorities/](https://www.hudexchange.info/resource/5630/notice-cpd-17-10-subawarding-emergency-solutions-grants-program-funds-to-public-housing-agencies-and-local-redevelopment-authorities/)

- ii. Notice CPD-17-11: Determining a Program Participant's Rent Contribution, Occupancy Charge or Utility Reimbursement in the Continuum of Care (CoC) Program when the Program Participant is Responsible for the Utilities: <https://www.hudexchange.info/resource/5630/notice-cpd-17-11-determining-program-participant-rent-contribution-in-the-coc-program/>
- iii. CPD Memo regarding waivers to CDBG, HOME, HOPWA, and ESG to facilitate recovery from Hurricanes Harvey, Irma, and Maria. <https://www.hudexchange.info/resources/documents/CPD-Memo-Harvey-Irma-Maria-Consolidated-Disaster-Waivers.pdf>

## VII. Q&A

## VIII. **Next Meeting** – Wednesday, Dec. 13, 2017, 2:00 p.m., via webinar (Adobe Connect)

Link to webinar recording: <https://youtu.be/A2A-YBRlrVA>



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## Texas Balance of State November Gene

### Actual Start Date/Time

11/8/17 1:45 PM CST

### Duration

1 hour 16 minutes

### # Registered

99

Last Name	First Name	City
Addison	Taiwan	Houston
Arizpe	Jaime	Laredo
Arthur	Adrienne	Longview
Baker	Melinda	Corpus Christi
Bass	Laurie	Houston
Bates	Holly	MT. Pleasant
Bishop	Tierra	Lewisville
Bisson	Katherine	Abilene
Bolland	Magda	San Benito
Bradford	Belinda	Brownsville
Bromley	Rebecca	Orange
Carl	April	Paris
carroll	zee	Texarkana
Clark	Damian	Elgin
Coca	Danny	alamo
Cooper	John	Abilene
Dears	Nathaniel	Denton
DeJesus	Ruby	Denton
delacerda	crystal	lubbock
DeLeón-Serratos	Jesús	State College
Diaz	Mauricette	Laredo
emond	christina	Killeen
Escamilla	Melissa	Mcallen
Figueroa	Noritza	Longview
Garcia	Patricia	Laredo
Garden	Condell	Denton
Garza	Irma	Alamo
Gradel	Roberta	Lampasas
Grofdin	Lisa	Victoria
Gutierrez	Melissa	Harlingen
Hardie	dominic	Houston
Huff	Michelle	rowlett
Huffman	Debra	Orange
Humphrey	Myrl	Dallas

Jordan	DeJernel	Beaumont
Knowles	Chesley	longview
lang	sabrina	Longview
Laurent	Jennifer	Texarkana
Lawson	Reverend Edward	Galveston
Leonard	Wendy	Longview
Longoria	Norma	Harlingen
Lopez	Daisy	Brownsville
Lowrey-Green	Deanna	Giddings
Manor	Dawn	Paris
Marcum	Alaina	Texarkana
Marshall	Cheteva	Longview
McCarty	Jordan	Denton
Mercier	Lexi	Abilene
Moore	PK	Beaumont
Myers	Cheryl	Austin
Nordon	Hope	Denton
Pistalu	Maryellen	Laredo
Plemons	Christy	Temple
Porter	Tammie	Longview
Portis	Jane	Texarkana
Racz	Carol	Rosenberg
Reagan	Bill	Harlingen
Rivera	Victor	Brownsville
rodriguez	judith	brownsville
Rolingson	Beth	Elgin
Ross	Tiffany	Victoria
Scott	Tanteta	Paris
Seigman	Sherry	Abilene
Sewell	Lisa	Texarkana
Shaw	Dani	Denton
Smith	Vicki	Victoria
Spanyers	Anne	Elgin
Stafford	Ginny	Victoria
ThorntonLewis	Melanie	GALVESTON
Tindell	Amanda	Temple
Tracy	Monica	Lubbock
Walker	Janet	Beaumont
WASHINGTON	DEBRA	GALVESTON
Wheeler	Chad	Lubbock
Wilson	Andrea	Tyler
Wormly	Michaelle	HOUSTON

Yates  
Zavala

Michelle  
Laura

San Benito  
Harlingen



## ral CoC Meeting

### Organization

Bread of Life

WestCare Next Step

Longview Housing Authority

Corpus Christi Hope House, Inc.

I Am Waters Foundation

SAFE-T Crisis Center

Christian Community Action

Abilene Hope Haven

La Posada Providencia

Good Neighbor Settlement House, Inc.

Neighborhood Development Corp.

Lamar County Homelessness Coalition

City of Texarkana, Tx

Advocacy Outreach

Hidalgo County

Abilene Hope Haven, Inc.

Denton County MHMR

The Salvation Army Denton

salvation army

THN

South Texas Development Council

Families In Crisis, Inc.

Family Endeavors

Special Health Resources for Texas, Inc.

Westcare Foundation

Interfaith Ministries of Denton, Inc.

Hidalgo County Urban County Program

Central Counties Center

Mcfs

Loaves & Fishes of the Rio Grande Valley, Inc.

United Healthcare

Journey towards Wholeness

Neighborhood development Corp

NTBHA

Triangle Area network  
Community Healthcore  
Community Healthcore  
Randy Sams' Outreach  
Gulf Coast Homeless Coalition  
DORS Community Services  
Family Crisis Center  
Friendship of Women  
Combined Community Action  
New Hope Center  
The Texarkana Friendship Center  
Longview Housing Authority  
Denton County MHMR  
United Way of Abilene  
Some Other Place/Henry's Place  
Education Service Center Region 13  
Giving HOPE, Inc.  
WestCare TExas, Inc.  
The Salvation Army  
Longview Housing Authority  
Randy Sams' Outreach Shelter  
Texana Center  
Loaves & Fishes  
Brownsville Literacy Center  
good neighbor settlement house  
Advocacy Outreach  
Community Action Committee of Victoria, Texas  
New Hope Center of Paris  
Salvation ARmy  
Texarkana Homeless Coalition  
City of Denton  
Community Action Committee of Victoria, Texas  
Advocacy Outreach  
Mid-Coast Family Services, Inc.  
Salvation Army  
Central Counties Services  
Community Development  
Family Services of Southeast Texas, Inc.  
THE CHILDREN'S CENTER, INC.  
Open Door/SPHC  
PATH  
Women Opting for More Affordable Housing Now, Inc. (WOMAN, Inc.)

Mr.

Loaves & Fishes RGV, Inc.

**County**

Harris

Webb

Gregg

Nueces

Texas

Titus

Denton

Taylor

Cameron

cameron

Orange

Lamar

bowie

Bastrop

Hidalgo

Taylor

Denton

Denton

lubbock

Centre

Webb

Bell

Hidalgo

gregg

Webb

Denton

Texas

Lampasas

Victoria

Cameron

Harris

Dallas

Orange

ELLIS

Jefferson  
gregg  
Texas  
Bowie  
Texas  
Gregg  
Cameron  
Cameron  
Austin, Colorado, Fayette, Lee  
Lamar  
Texas  
TX  
Denton  
USA  
Jefferson  
Travis  
Denton  
Webb County  
Bell  
Texas  
Bowie  
Fort Bend  
Cameron  
Cameron  
cameron  
Bastrop  
TX  
Lamar  
USA  
Bowie  
Denton  
Victoria  
Bastrop  
victoria  
TX  
Texas

Jefferson  
GALVESTON  
Lubbock  
Smith  
TX

Texas  
Cameron

# Annual Point-In-Time Count

## Volunteers Needed!

### What is a Point-In-Time Count?

A point-in-time count is an unduplicated count on a single night of the people in a community who are experiencing homelessness that includes both sheltered and unsheltered populations. The count also provides an excellent opportunity to increase awareness of homelessness.

### How can I help?

Do you have a smart phone or a tablet? You can volunteer a few hours to talk to individuals experiencing homelessness and conduct a quick digital survey that will help Texas Homelessness Network and your local homeless service providers better understand the scope of homelessness in your community.

### When is the count?

The count will be conducted anytime between 12:00am-11:59pm on **January 25<sup>th</sup> 2018**.

**FOR MORE  
INFORMATION  
PLEASE CONTACT:**

**KRISTIN ZAKOOR**

**KZAKOOR@THN.ORG**

**512-354-2033**

**THN**

Please volunteer to help us  
gain a better understanding  
of homelessness in your  
community.



# Texas Balance of State Continuum of Care

## CoC General Meeting Schedule 2017-18

#	Date	Time	Staff Notes
1	Oct. 4, 2017	10:00 AM – 12:00 PM	Joint CoC General Meeting and CoC Board Meeting; prior to the Texas Conference on Ending Homelessness 10/4-6 in Dallas
2	Nov. 8, 2017	2:00-4:00 PM	
3	Dec. 13, 2017	2:00-4:00 PM	
4	Jan. 10, 2018	2:00-4:00 PM	
5	Feb. 14, 2018	2:00-4:00 PM	
6	March 14, 2018	2:00-4:00 PM	
7	April 11, 2018	2:00-4:00 PM	
8	May 9, 2018	2:00-4:00 PM	
9	June 13, 2018	2:00-4:00 PM	
10	July 11, 2018	2:00-4:00 PM	
11	Aug. 8, 2018	2:00-4:00 PM	
12	Sept. 26, 2018	TBD	Joint CoC General Meeting and CoC Board Meeting; prior to the TX Conference on Ending Homelessness 9/26-28 in Austin

All CoC General Meetings are open to anyone interested in participating.

Invitations to CoC General Meetings are sent via the TX BoS CoC's e-mail list. To subscribe to the email list, go to <https://goo.gl/WmAanB>.

The meeting schedule is posted on <http://thn.org/texas-balance-state-continuum-care/get-involved/>.



[www.thn.org](http://www.thn.org)



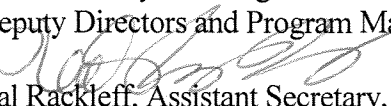


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

OCT 13 2017

ASSISTANT SECRETARY FOR  
COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All Community Planning and Development Field Office Directors,  
Deputy Directors and Program Managers

FROM:   
Neal Rackleff, Assistant Secretary, D

SUBJECT: Availability of Waivers of Community Planning and Development  
Grant Program and Consolidated Plan Requirements to Facilitate  
Recovery from Hurricanes Harvey, Irma, and Maria

PURPOSE:

This memorandum explains the availability of waivers of certain statutory and regulatory requirements associated with several Community Planning and Development (CPD) grant programs to facilitate recovery from Hurricanes Harvey, Irma, and Maria that are the subject of major disaster declarations made under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). Specifically, it is designed to facilitate assistance to eligible communities and families affected by the following three major hurricanes that hit the United States: Hurricane Harvey, Hurricane Irma and Hurricane Maria. Details with regard to each of these major disasters are included in Attachment #1. This memorandum covers the following CPD programs:

- Community Development Block Grant (CDBG),
- HOME Investment Partnerships (HOME),
- Housing Opportunities for Persons With AIDS (HOPWA), and
- Emergency Solutions Grant (ESG).

This memorandum also announces a simplified notification process for grantees of these programs to use the waiver flexibility of CPD statutory and regulatory requirements identified below to expedite the delivery of assistance. CPD Field Office Directors, Deputy Directors, and Program Managers are instructed to inform CPD grantees operating within their jurisdictions of the content of this memorandum.

NOTIFICATION PROCESS:

States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands and CPD grantees located in the counties and county equivalents (islands of the U.S. Virgin Islands and municipalities of Puerto Rico) designated in the major disaster declarations listed in Attachment #1 (the declared-disaster areas) may use the waivers described in this memorandum to assist affected CPD program beneficiaries and CPD program-eligible families and to address damage caused by the disasters. CDBG and HOPWA grantees may also use some of the waivers outside of the declared-disaster area, as explained in those program-specific sections below. The waiver flexibility made available under this memorandum must be used to assist only eligible families who have registered with the Federal

Emergency Management Agency (FEMA). To use the waiver flexibility in this memorandum, the grantee must provide notification in writing, either through mail or e-mail, to the CPD Director of the HUD Field Office serving its jurisdiction no less than three days before the grantee anticipates using the waiver flexibility. Further directions on notifying HUD can be found in Attachment #2.

#### WAIVER AUTHORITY:

Hurricanes Harvey, Irma, and Maria caused substantial damage to communities from southeast Texas to the Caribbean. As a consequence, many individuals and families residing in the declared-disaster area have been displaced from their homes, including the current beneficiaries of various CPD programs, and families eligible to receive CPD program assistance. CPD-funded grantees and subrecipients are in the process of locating these beneficiaries and CPD program-eligible families and placing them in available housing, facilities, and hotels and motels on an emergency basis. A number of grantees and subrecipients have inquired about the availability of waivers of various CPD program requirements to facilitate assistance to individuals and families.

Section 122 of the Housing and Community Development Act of 1974 (HCDA), as amended, and Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended, authorize HUD to suspend, respectively, certain CDBG and HOME statutory requirements to assist grantees of these programs in addressing the damage in an area for which the President has issued a federal 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. Additional regulatory waiver authority is in 24 CFR 91.600 and 24 CFR 570.5. These provisions provide HUD the authority to make waiver determinations for the CDBG, HOME, HOPWA, and ESG programs. To adequately address disaster relief and recovery among the affected jurisdictions, I hereby find good cause to provide the statutory suspensions and regulatory waivers of CPD grant program requirements as set forth below. Provisions that are not specifically waived remain fully effective.

#### WAIVER AVAILABILITY:

##### 1. Citizen Participation Public Comment Period for Consolidated Plan Amendment

Requirement: 30-day Public Comment Period

Citations: 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) and 24 CFR 91.401

Explanation: A CPD grantee may amend an approved consolidated plan in accordance with 24 CFR 91.505. Substantial amendments to the consolidated plan, such as the addition of new activities or a change in the use of CDBG funds from one eligible activity to another, are subject to the citizen participation process in the grantee's citizen participation plan. The citizen participation plan must provide citizens with 30 days to comment on substantial amendments.

**Justification:** Given the need to expedite actions to respond to the disasters, HUD waives the 30-day public comment requirement of 24 CFR 91.105(c)(2) and (k), 91.115(c)(2) and (i) and 91.401 and reduces the public comment period to seven days. In reducing the comment period to seven days, HUD is balancing the need to quickly assist families dealing with the aftereffects of these hurricanes while continuing to provide reasonable notice and opportunity for citizens to comment on the proposed uses of CDBG, HOME, HOPWA, and ESG funds.

**Applicability:** This authority is in effect through the end of the grantee's 2017 program year. Any grantee wishing to undertake further amendments to prior year plans following the 2017 program year can do so during the development of its FY 2018 Annual Action Plan.

## 2. Citizen Participation Reasonable Notice and Opportunity to Comment

**Requirement:** Reasonable Notice and Opportunity to Comment

**Citations:** 24 CFR 91.105(c)(2) and (k) and 24 CFR 91.115(c)(2) and (i)

**Explanation:** As noted above, the regulations at 24 CFR 91.105 (for local governments) and 91.115 (for States) set forth the citizen participation plan requirements for grantees. For substantial amendments to the consolidated plan, the regulations require the grantee to follow its citizen participation plan to provide citizens with reasonable notice and opportunity to comment. The citizen participation plan must state how reasonable notice and opportunity to comment will be given.

**Justification:** HUD recognizes the destruction wrought specifically by Hurricanes Irma and Maria makes it difficult for impacted jurisdictions within the Commonwealth of Puerto Rico and the U.S. Virgin Islands to provide notice to citizens in accordance with their citizen participation plans. Therefore, HUD waives 24 CFR 91.105(c)(2) and (k) and 24 CFR 91.115(c)(2) and (i) to allow these grantees to determine what constitutes reasonable notice and opportunity to comment given their circumstances.

**Applicability:** This authority is in effect through the end of the 2017 program year for the U.S. Virgin Islands and grantees in Puerto Rico.

## 3. CDBG – New Housing Construction

**Requirement:** Prohibition on Use of Funds for New Housing Construction

**Citations:** Section 105(a) of the HCDA, 24 CFR 570.207(b)(3) (Entitlements) and 24 CFR 570.420(b)(3) (Virgin Islands)

**Explanation:** New housing construction is not generally an eligible activity under Section 105 of HCDA. It may be undertaken indirectly through CDBG assistance provided to Community Based Development Organizations or other nonprofit entities

specified in Section 105(a)(15) of the HCDA.

**Justification:** HUD recognizes that Hurricanes Harvey, Irma, and Maria caused damage and destruction to a large number of housing units within the declared-disaster areas. Allowing new housing construction will enable CDBG grantees to replace affordable housing units that were lost as a result of the hurricanes and flooding.

To expedite the rebuilding process, HUD suspends Section 105(a) of HCDA and waives 24 CFR 570.207(b)(3) to permit grantees to directly use CDBG funds for new housing construction activities to address damage from the hurricanes. In addition to the flexibility provided by the suspension of the statute, grantees are encouraged to take advantage of the reconstruction provisions at Section 105(a)(4) of HCDA.

**Applicability:** This suspension and waiver will remain in effect through the end of the 2018 program year for all CDBG grantees in the declared-disaster areas.

#### 4. CDBG – Suspension of Public Services Cap

**Requirement:** Cap on Public Services Expenditures

**Citations:** Section 105(a)(8) of the HCDA, 24 CFR 570.201(e)(1) or (2) (Entitlements) and 24 CFR 570.420(b)(3) (Virgin Islands)

**Explanation:** Section 105(a)(8) and 24 CFR 570.201(e) limit the amount of CDBG funds that may be used to provide public services to 15 percent of the grantee's most recent CDBG grant plus 15 percent of program income received.

**Justification:** HUD suspends the provision of Section 105(a)(8) of HCDA and waives 24 CFR 570.201(e) and 24 CFR 570.420(b)(3) to permit CDBG grantees to exceed the 15 percent cap on public service expenditures.

The waiver will allow CDBG grantees to pay for additional support services for individuals and families affected by the hurricanes. Anticipated services would include, but not be limited to, the provision of food, emergency shelter, case management and related services to help residents in declared-disaster areas until long-term recovery resources become available. These costs are eligible under the public services provision of Section 105(a)(8) of HCDA and 24 CFR 570.201(e) of the regulations.

**Applicability:** This suspension and waiver shall be available to CDBG grantees assisting persons and families who have registered with FEMA in connection with Hurricanes Harvey, Irma, or Maria. Grantees will be required to annotate their performance reports in such a way that activities for which waivers have been granted are distinguishable from regular program activities. Also, the grantee will be required to describe each activity in its annual action plan so the activity is clearly

distinguishable as a designated disaster recovery activity.

This authority is in effect through the end of the grantee's 2018 program year. If at that time any grantee believes additional time is needed to carry out public service activities over the 15 percent public service cap or its exception percentage pursuant to 24 CFR 570.201(e)(2), then the Department is willing to consider an additional request for suspension of a grantee's public services cap.

#### 5. CDBG – Emergency Grant Payments for up to Six Months

Requirement: Emergency Grant Payments

Citations: 24 CFR 570.207(b)(4) (Entitlements) and 24 CFR 570.420(b)(3) (Virgin Islands)

Explanation: The CDBG regulations at 24 CFR 570.207(b)(4) prohibit income payments, but permit emergency grant payments for three months. "Income payments" means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities. Emergency grant payments made over a period of up to three consecutive months to the providers of such items and services on behalf of an individual or family are eligible public services.

Justification: HUD waives the provisions of 24 CFR 570.207(b)(4) and 24 CFR 570.420(b)(3) to permit emergency grant payments for items such as food, clothing, housing (rent or mortgage), or utilities for up to six consecutive months. While this waiver allows emergency grant payments to be made for up to six consecutive months, the payments must still be made to service providers as opposed to the affected individuals or families.

Many individuals and families have been forced to abandon their homes due to the severe flooding, storm surge, damaging winds and rain associated with Hurricanes Harvey, Irma, and Maria. The waiver will allow CDBG grantees, including grantees providing assistance to evacuees outside the declared-disaster areas, to pay for the basic daily needs of individuals and families affected by the hurricane on an interim basis.

Applicability: This waiver is available to CDBG grantees, located within and outside of the declared-disaster areas, to assist persons and families who have registered with FEMA in connection with Hurricanes Harvey, Irma, or Maria. This authority is in effect through the end of the grantee's 2018 program year.

6. HOME – Relief from Certification Requirements on Use of HOME Funds for Tenant-Based Rental Assistance (TBRA)

Requirement: Certification Related to Use of HOME Funds for (TBRA)

Citations: Section 212(a)(3)(A)(i) of NAHA, 24 CFR 91.225(d)(1) (Local Governments), 24 CFR 91.325(d)(1) (States), 24 CFR 91.425(a)(2)(i) (Consortia), 24 CFR 92.61(c) (Virgin Islands) and 24 CFR 92.209(b) (Certifications)

Explanation: A participating jurisdiction that intends to use HOME funds to provide TBRA is required to certify that the provision of such assistance is an essential part of its consolidated plan.

Justification: This suspension and waiver is required to relieve participating jurisdictions of the administrative burden of determining and certifying needs that are obvious.

Applicability: The suspension of the TBRA certification requirements applies to the participating jurisdiction's FY 2017 and FY 2018 consolidated plan/annual action plans.

7. HOME – Suspension of the 10% Administration and Planning Cap

Requirement: Limitation on the Use of HOME Funds for Administrative Costs

Citations: Section 212(c) of NAHA and 24 CFR 92.207

Explanation: These provisions limit the amount of HOME funds that a participating jurisdiction may use for administrative and planning costs associated with its HOME award. A participating jurisdiction may expend up to 10 percent of its annual HOME allocation, plus any program income received, for administrative and planning costs. These provisions are suspended to enable the participating jurisdiction to expend up to 20 percent of its FY 2016 and FY 2017 allocations and program income received for administrative and planning costs.

Justification: This suspension is required to provide the participating jurisdiction adequate funds to pay for the increased cost of administering HOME-related disaster relief activities, and to relieve the participating jurisdiction of the burden of identifying other general funds to pay these costs.

Applicability: This suspension and waiver apply to the FY 2016 and FY 2017 HOME allocations of State participating jurisdictions and local participating jurisdictions located in declared-disaster areas designated by FEMA for individual assistance and public assistance in all categories A through G.

## 8. HOME – Self-Certification of Income

Requirement: Source Documentation for Income Determinations for HOME

Citations: 24 CFR 92.203(a)(1) and (2) and 24 CFR 92.64(a) (Virgin Islands)

Explanation: These sections of the HOME regulation require initial income determinations for HOME beneficiaries by examining source documents covering the most recent two months. Many families whose homes were destroyed or damaged by the hurricanes will not have any documentation of income and will not be able to qualify for HOME assistance, if the requirement remains effective.

Justification: This waiver permits the participating jurisdiction to use self-certification of income, as provided in §92.203(a)(1)(ii), in lieu of source documentation to determine eligibility of persons displaced by the hurricanes for HOME assistance.

Applicability: This waiver applies only to families displaced by the disaster (as documented by FEMA registration) whose income documentation was destroyed or made inaccessible by the hurricanes and remains in effect for six months from the date of this memorandum. The participating jurisdiction or, as appropriate, HOME project owner, is required to maintain: 1) a record of FEMA registration to demonstrate that a family was displaced by the hurricanes; and 2) a statement signed by appropriate family members certifying to the family's size and annual income and that the family's income documentation was destroyed or is inaccessible.

## 9. HOME – Suspension of Various TBRA Program Requirements

Requirement: Tenant-Based Rental Assistance: Subsidy and program requirements

Citations: Section 212(a)(3)(ii) of NAHA; 24 CFR 92.209(c), (e), (h)(1) and (i) and 24 CFR 92.64(a) (Virgin Islands)

Explanation: Section 212(a)(3)(ii) of NAHA requires a participating jurisdiction to establish written tenant selection criteria for TBRA and 24 CFR 92.209(c) of the regulation requires those criteria to be consistent with the local housing needs and priorities established in the participating jurisdiction's consolidated plan.

Section 92.209(e) requires that the term of a HOME TBRA contract made with a landlord begin on the first day of the lease.

Section 92.209(h)(1) limits the subsidy that a participating jurisdiction may pay toward a TBRA recipient's rent to the difference between the participating jurisdiction's rent standard for the unit size and 30 percent of the family's monthly adjusted income.

Section 92.209(i) requires that units occupied by TBRA recipients meet the housing

quality standards established in 24 CFR 982.401(j).

**Justification:** Suspending these provisions will provide the participating jurisdiction with greater flexibility to use tenant-based rental assistance as an emergency housing resource.

**Applicability:** The suspension of the requirements related to the content of the consolidated plan applies to the FY 2017 and FY 2018 consolidated plan/annual action plans of the participating jurisdiction.

The provision of 24 CFR 92.209(e) relative to the start date of a TBRA contract is waived for TBRA contracts a participating jurisdiction executes for persons or families displaced by the hurricanes for a period of 12 months after the date of this memorandum. The other provisions of 24 CFR 92.209(e) are not waived.

The provision of 24 CFR 92.209(h)(1) with respect to the maximum TBRA subsidy amount a participating jurisdiction may provide is waived for TBRA recipients who were displaced by the hurricanes for a period of 24 months after the date of this memorandum. The other provisions of 24 CFR 92.209(h) are not waived.

The waiver of the housing quality standards requirements at 24 CFR 92.209(i) applies to units leased by TBRA recipients who were displaced by the hurricanes and are being assisted through a HOME TBRA program funded by the participating jurisdiction for a period of 24 months after the date of this memorandum. Units must meet any applicable State and local health and safety codes and requirements. 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 regulation at 24 CFR 92.355, are not waived.

#### 10. HOME – Suspension of Matching Contribution Requirements

**Requirement:** Match Contributions

**Citation:** 24 CFR 92.222(b)

**Explanation:** This provision requires all HOME participating jurisdictions to make contributions through the fiscal year to housing that qualifies as affordable housing under the HOME program. The contributions must total no less than 25 percent of the HOME funds drawn from the participating jurisdiction's HOME Investment Trust Fund Treasury account. Reducing the match requirement for the participating jurisdiction by 100 percent for FY 2017 and FY 2018 will eliminate the need for the participating jurisdiction to identify match for HOME projects related to the damage caused by Hurricane Harvey, Irma, or Maria. The requirement that the participating jurisdiction must submit a copy of the Presidential major disaster-declaration is waived.



**Justification:** Given the urgent housing needs created by Hurricane Harvey, Irma, and Maria, and the substantial financial impact the participating jurisdiction will face in addressing those needs, the approval of a match reduction will relieve the participating jurisdiction from the need to identify and provide matching contributions to HOME projects.

**Applicability:** This match reduction applies to funds expended by a participating jurisdiction located in the declared-disaster area from October 1, 2016 through September 30, 2018. For State participating jurisdictions, this match reduction applies to HOME funds expended in the declared-disaster areas.

#### 11. HOME – Suspension and Waiver of CHDO Set-aside

**Requirement:** Set-aside for Community Housing Development Organizations (CHDOs)

**Citations:** Section 231 of NAHA and 24 CFR 92.300(a)(1)

**Explanation:** These provisions establish a set-aside for CHDOs. The participating jurisdiction must use 15 percent of each annual allocation for housing owned, developed, or sponsored by CHDOs.

**Justification:** This suspension and waiver are required to relieve the participating jurisdiction of requirements that may impede the obligation and use of funds to expeditiously provide housing to displaced persons and repair damaged properties resulting from Hurricane Harvey, Irma, or Maria.

**Applicability:** This requirement is reduced to zero percent for the FY 2016, FY 2017, and FY 2018 allocations of State participating jurisdictions and of local participating jurisdictions located in declared-disaster areas designated by FEMA for individual assistance and public assistance in all categories A through G.

#### 12. HOME – Waiver of Property Standards for HOME-assisted Units

**Requirement:** HOME Property Standards for Units Rehabilitated with HOME Assistance

**Citations:** 24 CFR 92.251 and 24 CFR 92.64(a) (Virgin Islands)

**Explanation:** This section of the HOME regulation requires that housing assisted with HOME funds meets property standards based on the activity undertaken, i.e., for homebuyer assistance, and state and local standards and codes or model codes for rehabilitation and new construction. Property standard requirements are waived for repair of properties damaged by the hurricanes. Units must meet State and local health and safety codes. The lead housing safety regulations established in 24 CFR Part 35 are not waived.

**Justification:** This waiver is required to enable the participating jurisdiction to meet the critical housing needs of families whose housing was damaged and families who were displaced by the hurricanes.

**Applicability:** This waiver applies only to housing units located in the declared-disaster area which were damaged by the disaster and to which HOME funds are committed within two years of the date of this memorandum.

### 13. HOME – 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) (Virgin Islands)

**Explanation:** The total amount of HOME funds that the participating jurisdiction 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 U.S.C 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located.

**Justification:** Due to the damage caused by the hurricanes, many housing units may require substantial funding to either complete the renovation or reconstruction. In addition, the costs for new construction of affordable housing will escalate due to the demand for labor and materials. These high or escalating costs may exceed the established maximum per unit subsidy limits for HOME-assisted projects. Suspending the maximum per unit subsidy limit will provide the participating jurisdiction with the needed flexibility to assist affected low-income families.

**Applicability:** This suspension and waiver applies to projects in the declared-disaster area that receive a commitment of HOME funds within two years of the date of this memorandum. For State participating jurisdictions, this suspension and waiver applies only to projects located in the declared-disaster areas.

### 14. HOME – Suspension of Owner-Occupied Housing Maximum Value/Sales Price Limitation

**Requirement:** Homeownership Housing Maximum Value/Sales Price Limitation

**Citations:** Section 215(b)(1) (NAHA), 24 CFR 92.254(a)(2) and 24 CFR 92.64(a) (U.S. Virgin Islands)

**Explanation:** This provision requires that the sales price or maximum after-rehabilitation value of HOME-assisted housing not exceed 95 percent of area median sales price.

**Justification:** This suspension and waiver is necessary to provide the participating jurisdiction with flexibility to assist affected low-income homeowners to repair hurricane damage to their homes and low-income homebuyers to purchase available, standard housing in local market areas.

Applicability: This suspension and waiver applies to: 1) units damaged by the hurricanes that are being rehabilitated or reconstructed with HOME funds; or 2) units being purchased by persons directly affected by the disaster (as evidenced by FEMA registration), to which HOME funds are committed within two years of the date of this memorandum. For State participating jurisdictions, this suspension and waiver applies only to projects located in the declared-disaster areas.

#### HOPWA Waivers – Specific Instructions

The following instructions are applicable to HOPWA grantees with respect to the grantee notification process, the effect of the waivers, and other guidance:

- If the grantee is using its HOPWA funds in a declared-disaster area, the grantee must only identify the HOPWA requirement(s) set out in this memorandum for which the grantee intends to use waiver flexibility.
- If the grantee is using its HOPWA funds outside of a declared-disaster area to assist affected families who have registered with FEMA, the grantee must explain the need for waiver of the requirement(s), and identify the number of HOPWA beneficiaries and HOPWA-eligible families anticipated to benefit from the waiver of such identified requirement(s). Grantees using HOPWA funds outside of the declared-disaster area may only use waiver flexibility under this memorandum with respect to: (1) Citizen Participation Public Comment Period for Consolidated Plan Amendment; (2) Citizen Participation Reasonable Notice and Opportunity to Comment; and (15) HOPWA – Self-Certification of Income and Credible Information on HIV Status.

All HOPWA regulatory waivers in this memorandum will remain in effect for a period of 12 months from the date that a grantee provides HUD with written notification. The use of waiver flexibility to assist an affected family is only permitted when the family being served expressly needs such flexibility. The waivers are available for HOPWA formula and competitive grantees in accordance with the procedures and specifications set out in this memorandum. HOPWA competitive grantees seeking to use waiver flexibility under this memorandum to assist families affected by Hurricanes Harvey, Irma, or Maria must receive HUD approval in accordance with 24 CFR 574.260 and the terms and conditions of their award regarding grant amendments for changes that will significantly alter the scope, location, service area, or objectives of an activity or the number of eligible persons to be served.

The Department believes the two most effective ways to expeditiously meet the housing needs of impacted HOPWA beneficiaries and HOPWA-eligible families are to: 1) identify and prepare vacant units in existing emergency housing and rental projects for immediate occupancy; and 2) provide tenant-based rental assistance (TBRA) and/or emergency, short-term or transitional housing assistance to impacted HOPWA beneficiaries and HOPWA-eligible families. For low-income persons living with HIV/AIDS and their families, HOPWA resources can be used for these purposes, including use of permanent housing placement assistance to help relocate the family to the new unit.

### 15. HOPWA – Self-Certification of Income and Credible Information on HIV Status

Requirement: Source Documentation for Income and HIV Status Determinations

Citation: 24 CFR 574.530, Recordkeeping

Explanation: Each grantee must maintain records to document compliance with HOPWA requirements, which includes determining the eligibility of a family to receive HOPWA assistance.

Justification: This waiver will permit HOPWA grantees and project sponsors to rely upon a family member's self-certification of income and credible information on their HIV status (such as knowledge of their HIV-related medical care) in lieu of source documentation to determine eligibility for HOPWA assistance of families affected by the hurricanes.

Many families whose homes have been destroyed or damaged by Hurricanes Harvey, Irma, or Maria will not have immediate access to documentation of income or medical records and, consequently, will not be able to document their eligibility for HOPWA assistance if the requirement remains effective. The grantee or the project sponsor, as appropriate, is required to maintain the family's income self-certification, confidential documentation of HIV status, and documentation of the family's registration with FEMA.

Applicability: Eligibility is restricted to a low-income person who is living with HIV/AIDS and the family of such person. To document eligibility, grantees and project sponsors must make initial family income determinations for beneficiaries, and make use of credible medical records to evidence a positive HIV status of a member of the family, using source documentation. In addition, source documentation of HIV status and income eligibility must be made within six months of the receipt of HOPWA assistance. This waiver applies only to families displaced by the disaster who have registered with FEMA.

### 16. HOPWA – FMR Rent Standard

Requirement: Rent Standard for Tenant-Based Rental Assistance

Citation: 24 CFR 574.320(a)(2), Rent Standard

Explanation: Grantees must establish rent standards for their tenant-based rental assistance programs based on FMR (Fair Market Rent). Generally, the TBRA payment may not exceed the difference between the rent standard and 30 percent of the family's adjusted income.

Justification: This waiver of the FMR rent standard limit permits HOPWA grantees to

establish rent standards, by unit size, that are reasonable and based upon rents being charged for comparable unassisted units in the area, taking into account the location, size, type, quality, amenities, facilities, management and maintenance of each unit. Grantees, however, are required to ensure the reasonableness of rent charged for a unit in accordance with §574.320(a)(3).

This waiver is required to expedite efforts to identify suitable housing units in the declared-disaster area for rent to HOPWA beneficiaries and HOPWA-eligible families that have been affected by the hurricanes, and to provide assistance to families in the declared-disaster area that must rent units at rates that exceed the HOPWA grantee's normal rent standard as calculated in accordance with §574.320(a)(2).

**Applicability:** Such rent standards are to be used only within the declared-disaster area in calculating the TBRA subsidy for families affected by Hurricanes Harvey, Irma, or Maria.

#### 17. HOPWA – Property Standards for TBRA

**Requirement:** Property Standards for Tenant-Based Rental Assistance (TBRA)

**Citation:** 24 CFR 574.310(b), Housing Quality Standards

**Explanation:** This section of the HOPWA regulations provides that units occupied by recipients of HOPWA TBRA meet the Housing Quality Standards (HQS) established in this section.

**Justification:** This waiver is required to enable grantees and project sponsors to expeditiously meet the critical housing needs of the many eligible families that have been affected by Hurricanes Harvey, Irma, or Maria in the declared-disaster area.

**Applicability:** The property standard requirement is waived for units in the declared-disaster area occupied by HOPWA beneficiaries and HOPWA-eligible families. Grantees and their project sponsors must ensure that these units meet HOPWA HQS within 60 days.

#### HOPWA Program Guidance on Using Vacant Units to House Persons Displaced by Hurricanes Harvey, Irma, or Maria

As a first step toward meeting their housing needs, grantees and project sponsors that are receiving families impacted by Hurricanes Harvey, Irma, or Maria are encouraged to contact owners of federally-assisted rental projects and compile a list of vacant units, along with their location and number of bedrooms (including units supported by HOME, CDBG, HOPWA, CoC, and other Federal housing programs). The assisted rental projects may choose, if otherwise permissible and in accordance with their tenant selection requirements, to adopt a priority for the

special population of HOPWA-eligible persons that have been displaced by Hurricanes Harvey, Irma, or Maria.

The recordkeeping waiver flexibility in this memorandum will permit HOPWA grantees and project sponsors to accept self-certification of income and credible information on HIV status from persons affected by Hurricanes Harvey, Irma, or Maria that have registered with FEMA. Grantees or their project sponsors must document the FEMA registration and retain the self-certification. Because eligibility for HOPWA assistance is based on low-income status, many families will not have any income or only qualify for income from federal welfare programs, and this population can be expected to meet the program income eligibility requirements. The grantee or project sponsor must ensure that source documentation of HIV status and income eligibility must be provided within six months of the receipt of HOPWA assistance. For subsequent annual income certifications, families impacted by Hurricanes Harvey, Irma, or Maria will be subject to the same income eligibility requirements as would any other beneficiary of HOPWA assistance.

HOPWA TBRA also involves the use of a lease or occupancy agreement between the owner and tenant, with standard provisions, such as one-year lease terms. In declared-disaster areas it may not be practicable for the term of leases and occupancy agreements to be for at least one year. Accordingly, grantees and project sponsors may wish to consider providing TBRA assistance to impacted HOPWA beneficiaries and HOPWA-eligible families for a period of less than one year if a shorter term would improve their housing opportunities.

#### 18. ESG – Term limits on Rental Assistance and Housing Relocation and Stabilization Services

Requirement: Term limits on Rental Assistance and Housing Relocation and Stabilization Services

Citations: 24 CFR 576.106(a), 576.105(a)(5), and 576.105(b)(2)

Explanation: The ESG regulation at 24 CFR 576.106(a) prohibits a program participant from receiving more than 24 months of ESG rental assistance during any three-year period. Section 576.105(a)(5) prohibits a program participant from receiving more than 24 months of utility payments under ESG during any three-year period. Section 576.105(b)(2) limits the provision of housing stability case management to 30 days while the program participant is seeking permanent housing and 24 months while the program participant is living in permanent housing.

Justification: Waiving the 24 month caps on rental assistance, utility payments, and housing stability case management assistance will assist individuals and families, both those already receiving assistance and those who will receive assistance subsequent to the date of this memorandum, to maintain stable permanent housing in place or in another area and help them return to their hometowns, as desired, when additional permanent housing is available.

Applicability: The 24 month limits on rental assistance and housing relocation and stabilization services are waived for individuals and families who meet both of the following criteria:

1. The individual or family lives in a declared-disaster area or was displaced from a declared-disaster area as a result of the hurricanes and flooding; and
2. The individual or family is currently receiving rental assistance or housing relocation stabilization services or begins receiving rental assistance or housing relocation stabilization services within two years after the date of this memorandum.

For these individuals and families, ESG funds may be used to provide up to three consecutive years of rental assistance, utility payments, and housing stability case management, in addition to the 30 days of housing stability case management that may be provided before the move into permanent housing under 24 CFR 576.105(b)(2). HUD will also consider further waiver requests to allow assistance to be provided for longer than three years, if the recipient demonstrates good cause.

19. ESG – Restriction of rental assistance to units with rent at or below Fair Market Rent (FMR)

Requirement: Restriction of rental assistance to units with rent at or below Fair Market Rent (FMR)

Citation: 24 CFR 576.106(d)(1)

Explanation: Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR Part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

Justification: HUD has determined that the rental vacancy rate in affected areas after the floods is extraordinarily low. Waiving the FMR restriction will make more units available to individuals and families in need of permanent housing.

Applicability: The FMR restriction is waived for any rent amount that takes effect during the two-year period beginning on the date of this memorandum for any individual or family who is renting or executes a lease for a unit in a declared-disaster area. However, the affected recipients and their subrecipients must still ensure that the units in which ESG assistance is provided to these individuals and families meet the rent reasonableness standard. HUD will consider requests to waive the FMR restriction for rent amounts that take effect after the two-year period, if a recipient demonstrates good cause.

ADDITIONAL INFORMATION:

Grantees that are assisting CPD program beneficiaries and CPD program-eligible persons and their families displaced by the hurricanes may require additional relief from the CPD program requirements beyond the waivers described in this memorandum. If a grantee identifies such a need, it should contact the CPD Director in the appropriate HUD field office. Contact information for CPD field offices are available at: <https://www.hudexchange.info/programs/cpd-field-office-directory/>.

CPD Directors in receipt of notification from a grantee intending to use the waiver flexibilities listed in this memorandum should forward the grantee's mail or email notification to the appropriate CPD Headquarters program Office Director, noted below, within 14 days for statutory waiver-reporting purposes.

If you, or any member of your staff, have any questions concerning this memorandum, you may contact the following persons regarding the waivers and suspensions requested peculiar to the program office: regarding the citizen participation and CDBG waivers, Steve Johnson, Director, OBGA Entitlement Communities Division at (202) 708-1577; regarding the HOME waivers, Virginia Sardone, Director, OAHP at (202) 708-2684; regarding the HOPWA waivers, Rita Flegel, Director, OHH at (202) 708-1934; and regarding the ESG waivers, Norm Suchar, Director, SNAPS at (202) 402-5015.

Attachment (s)



**Attachment #1 – Disasters and Jurisdictions Covered by this Memorandum**

- **Hurricane Harvey**, the subject of major disaster declaration (FEMA-DR-4322) made on August 25, 2017, that affected multiple counties in **the State of Texas**;
- **Hurricane Irma**, the subject of a major disaster declaration (FEMA-DR-4335) made on September 7, 2017, for the **U.S. Virgin Islands**, major disaster declarations (FEMA-DR-4336 and FEMA-DR-4337) made on September 10, 2017, for the **Commonwealth of Puerto Rico** and **the state of Florida**, respectively, a major disaster declaration (FEMA-DR-4338) made on September 15, 2017, for **the State of Georgia**; and
- **Hurricane Maria**, the subject of major disaster declarations (FEMA-DR-4339 and FEMA-DR-4340) made on September 20, 2017, for **the Commonwealth of Puerto Rico** and **the U.S. Virgin Islands**.

**Attachment #2 to Memorandum:**  
**Availability of Waivers of CPD Grant Program and Consolidated Plan Requirements to**  
**Facilitate Recovery from Hurricanes Harvey, Irma, and Maria**

This attachment provides further information on the process that CPD grantees should be instructed to follow to access waiver flexibility of CPD statutory and regulatory requirements addressed in the memorandum.

Grantees must send mail or email notification to the Community Planning and Development Director of the HUD Field Office serving the grantee.

The mail or email notification must be sent **three days** before the grantee anticipates using waiver flexibility, and include the following details:

- Requestor's name, title, and contact information;
- Declared-disaster area(s) where the waivers 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:
  1. Citizen Participation Public Comment Period for Consolidated Plan Amendment
  2. Citizen Participation Reasonable Notice and Opportunity to Comment
  3. CDBG – New Housing Construction
  4. CDBG – Suspension of Public Services Cap
  5. CDBG – Emergency Grant Payments for up to Six Months
  6. HOME – Relief from Certification Requirements on Use of HOME Funds for TBRA
  7. HOME – Suspension of the 10% Administration and Planning Cap
  8. HOME – Self-Certification of Income
  9. HOME – Suspension of Various TBRA Program Requirements
  10. HOME – Suspension of Matching Contribution Requirements
  11. HOME – Suspension and Waiver of CHDO Set-aside
  12. HOME – Waiver of Property Standards for HOME-assisted Units
  13. HOME – Suspension and Waiver of Maximum Per unit Subsidy Limit
  14. HOME – Suspension of Owner-Occupied Housing Maximum Value/Sales Price Limitation
  15. HOPWA – Self-Certification of Income and Credible Information on HIV Status
  16. HOPWA – FMR Rent Standard
  17. HOPWA – Property Standards for TBRA
  18. ESG – Term limits on Rental Assistance and Housing Relocation and Stabilization Services
  19. ESG – Restriction of rental assistance to units with rent at or below Fair Market Rent (FMR)

*Additional requirements for HOPWA grantees that are NOT using funds in a declared-disaster area:*

HOPWA grantees using funds outside of the declared-disaster area may request waiver flexibility for (1) Citizen Participation Public Comment Period for Consolidated Plan Amendment, (2) Citizen Participation Reasonable Notice and Opportunity to Comment and (15) HOPWA – Self-Certification of Income and Credible Information on HIV Status to serve affected eligible families who have registered with the Federal Emergency Management Agency (FEMA). The grantee must provide notification to the CPD Field Office Director, including all the details listed above. Grantees using funds outside of a declared-disaster area must also explain the need for waiver of the requirement(s) indicated, and identify the number of HOPWA beneficiaries and HOPWA-eligible families anticipated to benefit from the waiver of the requirement(s).



OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

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

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**Special Attention of:**

All CPD Division Directors  
HUD Field Offices  
HUD Regional Offices  
All ESG Formula Recipients  
All Continuums of Care (CoC)  
Recipients of the Continuum of Care (CoC)  
Program

**Notice:** CPD-17-10

**Issued:** October 23, 2017

**Expires:** This Notice is effective until it is amended, superseded, or rescinded

**Cross Reference:** 24 CFR Part 576 and  
42 U.S.C. 11373 and  
P.L. 114-201

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**Subject: Sub-awarding Emergency Solutions Grants Program Funds to Public Housing Agencies and Local Redevelopment Authorities**

**I. Purpose**

This Notice provides guidance on how Emergency Solutions Grants (ESG) Program funds can be sub-awarded to Public Housing Agencies (PHAs) and Local Redevelopment Authorities (LRAs) following the recent amendment to section 414(c) of the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act) (42 U.S.C. 11373(c)).

**A. Background**

On July 29, 2016, President Obama signed into law the Housing Opportunity Through Modernization Act of 2016, Public Law 114-201 (HOTMA), which amended the McKinney-Vento Act to permit local governments receiving ESG funding to sub-award their ESG funds to PHAs and LRAs for eligible ESG activities. Prior to HOTMA, ESG recipients and subrecipients were not permitted to sub-award ESG Program funds to PHAs. As indicated in the October 24, 2016 HOTMA Federal Register Notice (81 FR 73030), HUD is issuing this Notice to explain the conditions and requirements that apply to subawarding ESG funds to PHAs and LRAs.

**B. Applicability**

HUD is providing the guidance in this Notice to all ESG recipients. The HOTMA amendment to the McKinney-Vento Act only permits recipients or subrecipients of ESG funds that are units of general purpose local government to sub-award funds to PHAs and LRAs.

**C. Key Terms and Definitions**

- 1. Public Housing Agency (PHA)**—means any State, county, municipality, or other governmental entity or public body or agency or instrumentality thereof which is authorized to engage in or assist in the development or operation of public housing, or a consortium of such entities or bodies as approved by the Secretary.<sup>1</sup>

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<sup>1</sup> See section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)), which is incorporated by reference in section 414(c) of the McKinney-Vento Act.

2. **Local Redevelopment Authority (LRA)**—means any entity defined as a local redevelopment authority under applicable State law.
3. **Local Government**—means a unit of general purpose local government; an instrumentality of a unit of general purpose local government, other than a public housing agency, that is established pursuant to legislation and designated by the chief executive to act on behalf of the local government with regard to ESG activities; or a combination of general purpose local governments, such as an association of governments, that is recognized by HUD.<sup>2</sup>

## **II. HOTMA Amendment to the McKinney-Vento Act**

The HOTMA amendment permits ESG recipients and subrecipients that are local governments to sub-award funds to PHAs and LRAs. Specifically, section 414(c) of the McKinney-Vento Act, as amended by HOTMA, states:

**“DISTRIBUTIONS TO NONPROFIT ORGANIZATIONS, PUBLIC HOUSING AGENCIES, AND LOCAL REDEVELOPMENT AUTHORITIES.** Any local government receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, **to public housing agencies (as defined under section 3(b)(6) of the United States Housing Act of 1937), or to local redevelopment authorities (as defined under State law).** Any State receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.” (emphasis added).

This change became effective upon enactment of HOTMA on July 29, 2016, and no regulations are needed to implement this change.

## **III. Allowable Sub-awards to PHAs and LRAs**

- A. ESG Program Grants to Metropolitan Cities and Urban Counties.** The HOTMA amendment provides explicit authority to local governments to sub-award funds to PHAs and LRAs. Any local government that received an ESG Program grant from HUD or received ESG Program funds from an urban county as a member government may sub-award all or a portion of those funds to a PHA or LRA, subject to the requirements in Section IV. of this Notice.
- B. ESG Program Grants to States.** The HOTMA amendment does not authorize States to directly sub-award ESG funds to PHAs or LRAs. However, subject to the requirements of Section IV. of this Notice, any local government that receives ESG Program funds from a State may sub-award such funds to a PHA or LRA. As a result of changes made by MAP-21, a State may sub-award to an LRA if the LRA is an instrumentality of a unit of general purpose local government, other than a PHA, that is established pursuant to legislation and

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<sup>2</sup> The definition of “local government” reflects a change made by the Moving Ahead for Progress in the 21st Century (MAP-21) Act, Public Law No. 112-141 (2012).

designated by the chief executive to act on behalf of the local government with regard to ESG activities.

- C. Private Nonprofit Organizations.** Private nonprofit organizations that receive ESG Program funds as subrecipients are prohibited from sub-awarding ESG Program funds to PHAs or LRAs.

#### **IV. Key Requirements**

The statutory authority to sub-award ESG Program funds to a PHA or LRA applies to all ESG Program grant funds, including funds awarded before July 29, 2016. However, this authorization is subject to certain conditions and requirements.

##### **A. Consistency with the Consolidated Plan**

1. ESG Program recipients and subrecipients must ensure that the sub-award to a PHA or LRA is consistent with the applicable Consolidated Plan. If a current Consolidated Plan or Annual Action Plan identifies specific ESG activities or subrecipients that would change as a result of a sub-award to a PHA or LRA, the ESG Program recipient must amend its plan as required under the recipient's citizen participation plan.
2. The ESG Program interim rule requires that the ESG Program recipient amend its approved Consolidated Plan in order to:
  - make a change to its allocation priorities;
  - make a change in its method of distributing funds;
  - carry out an activity not previously described in the plan; or
  - change the purpose, scope, location, or beneficiaries on an activity (see 24 CFR 576.200(b)).

##### **B. Consistency with Contractual Obligations and State Law**

1. If a local government that received ESG Program funds from a State or urban county intends to sub-award some of those funds to a PHA or LRA, the local government must make sure that the sub-award is permissible under the local government's agreement with the State or urban county.
2. The ESG Program recipient is ultimately responsible for administering ESG Program funds, including funds that are administered by its subrecipients.
3. Recipients and subrecipients must also ensure that sub-awarding funds to a PHA or LRA does not conflict with existing contracts or subgrant agreements. HOTMA does not authorize local governments to reallocate funds that are already obligated through a binding contract or subrecipient agreement.
4. ESG Program recipients and subrecipients must ensure the sub-award to a PHA or LRA is consistent with the functions the PHA or LRA is authorized to carry out under State law.

## **C. Consistency with ESG Program Requirements**

ESG program recipients and subrecipients, including any PHAs and LRAs that receive an ESG sub-award, must comply with the ESG Program requirements under 24 CFR part 576. It is important to note that some ESG Program requirements are similar but not the same as requirements PHAs must follow in administering other HUD programs; these should be taken into consideration when sub-awarding ESG Program funds to a PHA or LRA. Local governments and PHAs must take care to ensure that PHAs and LRAs apply the ESG Program requirements when administering ESG Program rental assistance. For example, the housing standards for ESG (§576.403) are similar but not the same as HUD's Housing Quality Standards (HQS); a unit that meets HQS might not necessarily meet the ESG Program habitability standards and vice versa. The following requirements are particularly important to consider when sub-awarding ESG Program funds to a PHA or LRA:

### **1. Organizational Conflicts of Interest (24 CFR 576.404(a))—Prohibited Practices**

- a. Recipients and subrecipients are prohibited from conditioning the provision of any type or amount of ESG Program assistance on an individual's or family's acceptance or occupancy of emergency shelter or housing owned by the recipient, the subrecipient, or a parent or subsidiary of the subrecipient.
- b. If subrecipients or their parents or subsidiaries own housing, those subrecipients are prohibited from conducting the initial evaluation for ESG assistance and from administering ESG homelessness prevention assistance for occupants of that housing.

### **2. Prohibitions against Using ESG Program Funds with Other Subsidies (24 CFR 576.105(d) and 576.106(c))**

- a. Except for a one-time payment of rental arrears on the tenant's portion of the rental payment, recipients and subrecipients are prohibited from providing rental assistance to a program participant who is receiving tenant-based rental assistance, or living in a housing unit receiving project-based rental assistance or operating assistance, through other public sources.
- b. Recipients and subrecipients are prohibited from providing rental assistance to program participants who have been provided with replacement housing payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) during the period of time covered by the URA payments.
- c. Recipients and subrecipients are prohibited from providing financial assistance under 24 CFR 576.105(a) to a program participant who is receiving the same type of assistance through other public sources or to a program participant who has been provided with replacement housing payments under the URA, during the period of time covered by the URA payments.

**Note:** HUD strongly discourages PHAs and LRAs from using ESG funds to pay for rental arrears owed to them by a program participant. PHAs/LRAs are prohibited from paying themselves rental arrears unless the cost: a) meets the criteria for allowable costs under 2 CFR 200.403; b) is necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing (24 CFR

576.104); and c) is not prohibited by the conflict of interest requirements in 24 CFR 576.404(a).

#### **V. Questions Regarding this Notice**

Questions regarding this Notice should be submitted to HUD's Ask A Question at:

[www.hudexchange.info/get-assistance/my-question/](http://www.hudexchange.info/get-assistance/my-question/)





OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

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

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**Special Attention of:**

All CPD Directors  
HUD Field Offices  
HUD Regional Offices  
All Continuums of Care  
All CoC Program Recipients and  
Subrecipients

**Notice: CPD-17-11**

**Issued: October 23, 2017**

**Expires:** This notice is effective until  
amended, superseded, or  
rescinded.

**Cross Reference:** 24 CFR Part 578, 42  
U.S.C. 11371, et seq.

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**Subject:** Determining a Program Participant's Rent Contribution, Occupancy Charge or Utility Reimbursement in the Continuum of Care (CoC) Program when the Program Participant is Responsible for the Utilities

**A. Purpose of this Notice**

This Notice clarifies HUD's expectation that recipients and subrecipients will consider reasonable monthly utility costs when calculating rent contributions or occupancy charges for program participants who are responsible for paying their own utilities. For the purpose of this notice, "utilities" exclude telephone but include gas, oil, electric, sewage, water, and trash removal.

This notice applies to recipients and subrecipients that are providing Transitional Housing (TH), Permanent Supportive Housing (PSH), and Rapid Re-Housing (RRH) funded through the Continuum of Care (CoC) Program (24 CFR part 578). Specifically, this notice applies to TH, PSH, and RRH projects in which some or all of the costs of utilities are the responsibility of the program participant.

This Notice:

1. Clarifies how to take into account a reasonable amount for utilities paid by a program participant when calculating that program participant's rent contribution or occupancy charge in TH or PSH that uses CoC Program funds for leasing, rental assistance or operating costs; and
2. Provides guidance on how to pay a "utility reimbursement" to program participants who are responsible for their own utilities.

## **B. Background**

TH and PSH projects. On July 31, 2012, HUD published the CoC Program interim rule, which went into effect on August 30, 2012, and applies to grants awarded in the FY 2012 CoC Program Competition and beyond. The interim rule provides that recipients can use CoC funds to provide rental assistance on behalf of program participants in TH or PSH (24 CFR 578.51), lease units and structures to provide TH or PSH (24 CFR 578.49), provide supportive services in TH or PSH (24 CFR 578.53), and pay operating costs for TH or PSH units or structures the recipients lease or own (24 CFR 578.55).

The utility costs in TH and PSH projects may be paid in a number of ways. If the recipient owns the building or unit, the recipient may generally decide whether to pay the utility costs with CoC operating funds (or non-CoC funds) or make the program participant responsible for utilities for which the units are individually metered. The same options apply if the recipient leases the building or unit and the utilities are not included under the recipient's lease. If the recipient uses rental assistance funds to provide TH or PSH, the recipient may pay the utility costs using CoC rental assistance funds (or non-CoC funds) or make the program participant responsible for paying the utility costs that are not included in the program participant's rent. However, as explained in further detail below, when a program participant is made responsible for paying utility costs in TH or PSH, the recipient must incorporate those costs into the program participant's occupancy charge or rent contribution and must reimburse the program participant if the reasonable utility costs exceed the applicable amount under 24 CFR 578.77.

Section 578.77 of the CoC Program interim rule establishes how recipients and subrecipients must calculate rent contributions and maximum occupancy charges for program participants in TH and PSH projects. The rent contribution requirement in 24 CFR 578.77(c) applies to TH and PSH projects in which CoC rental assistance funds are used. The maximum occupancy charge requirement in 24 CFR 578.77(b) applies to all other TH and PSH projects for which CoC funds are used. These requirements are based on section 3(a) of the U.S. Housing Act of 1937 (1937 Act) and section 426(c) of the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act). The 1937 Act determines the amount a tenant must contribute toward rent in HUD's Section 8 programs. The McKinney-Vento Act prohibits CoC-funded supportive housing from charging occupants in excess of the rent contribution amount determined under the 1937 Act.

Consistent with HUD's interpretation of the rent contribution requirement in the 1937 Act, the CoC Program's rent contribution and maximum occupancy charge requirements apply to the program participant's total share of the housing costs, including the reasonable costs of utilities paid separately. Therefore, recipients and subrecipients must incorporate the reasonable costs of utilities paid separately when determining the amount a program participant must pay to reside in a TH or PSH unit. In addition, recipients and subrecipients must reimburse program participants for any amount that their reasonable utility costs exceed their rent contribution or maximum occupancy charge under 24 CFR

578.77. This “utility reimbursement” may be paid using CoC program funds. For program participants receiving rental assistance, the utility reimbursement may be paid using rental assistance funds. For program participants in other CoC-funded TH or PSH projects, the utility reimbursement may be paid using operating funds.

Rapid Re-housing (RRH) projects. RRH projects may use CoC funds to provide up to 24 months of tenant-based rental assistance and/or supportive services as needed to help a program participant quickly move into permanent housing and achieve housing stability. Utilities that are not included in the program participant’s rent may be paid using rental assistance funds (or non-CoC funds). RRH projects are not subject to the occupancy charge and rent contribution requirements in 24 CFR 578.77. Instead, RRH projects must follow the written policies and procedures established by the CoC, including standards for determining what percentage or amount of rent each program participant must pay while receiving rapid rehousing assistance (24 CFR 578.37(a)(1)(ii)(A)). This means that CoCs have broad discretion over the amount of rental assistance that can be provided to a program participant receiving RRH assistance.

For example, a CoC may design RRH rental assistance so that:

- each program participant pays a fixed percentage of income toward rent;
- each program participant pays a rent contribution based on an incremental, sliding scale;
- each program participant pays a fixed amount or percent of the rent (e.g., \$1000 per month or 50% of the monthly rent); or
- each program participant pays a rent contribution that increases over time until the program participant is paying 100% of the monthly rent.

However, the CoC interim rule explicitly requires RRH projects to calculate rent as the sum of the total monthly rent for the unit and, if the tenant pays separately for utilities, the monthly allowance for utilities established by the public housing authority (PHA) for the area in which the housing is located (24 CFR 578.37(a)(1)(ii)(B)). Therefore, if utilities are not included in a program participant’s rent, and rent is part of the CoC’s rental assistance calculation, that calculation must incorporate the applicable utility allowance, and the program participant must be reimbursed for any amount that the allowance exceeds the program participant’s share of rent. This utility reimbursement may be paid using rental assistance funds.

**C. Determining the Appropriate Rent Contribution, Occupancy Charge, or Utility Reimbursement for Program Participants who are Responsible for their own Utilities**

TH and PSH projects. Determining the applicable tenant rent contribution, occupancy charge, or utility reimbursement for a program participant **residing in TH or PSH** who is responsible for the utilities is a three-step process. Each step of the process is outlined below in additional detail:

1. Calculate the Program Participant's Rent-Contribution or Maximum Occupancy Charge;
  2. Determine the Reasonable Utility Consumption Amount; and
  3. Determine the Rent Contribution, Occupancy Charge, or Utility Reimbursement Amount.
- 
1. Calculate the Program Participant's Rent Contribution or Maximum Occupancy Charge. 24 CFR 578.77(c) establishes the following as the rent contribution that program participants *must* pay when the recipient or subrecipient is providing rental assistance payments on the program participant's behalf in TH and PSH projects. 24 CFR 578.77(b) establishes the maximum occupancy charge that recipients or subrecipients *may* charge program participants where the recipient or subrecipient is providing the program participant TH or PSH with funds other than rental assistance funds (e.g., by using leasing funds). There is no requirement, however, that recipients or subrecipients charge occupancy charges and many recipients and subrecipients choose not to impose occupancy charges on their program participants.

The rent contribution or the maximum occupancy charge is the highest of the following amounts (rounded to the nearest dollar):

- a. 30 percent of the family's monthly adjusted income (as outlined at Part 5.609 and 5.611(a));
- b. 10 percent of the family's monthly gross income; or
- c. If the family is receiving payments for welfare assistance from a public agency and a part of the payments (adjusted in accordance with the family's actual housing costs) is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated for housing costs.

Please keep in mind that for TH and PSH projects in which rental assistance is provided, the rent contribution is not optional and must equal the rent contribution specified above. For projects that provide TH or PSH using funds other than rental assistance funds, the occupancy charge is optional and can be lower but not higher than the maximum occupancy charge specified above.

2. Determine the Reasonable Monthly Utility Consumption Amount. For the purposes of determining the reasonable monthly utility consumption, recipients or subrecipients must use the local PHA's schedule of utility allowances, which are based on unit size and the utilities the program participant is expected to pay. Contact your local PHA to obtain the schedule of utility allowances and exception utility allowances.
3. Determine the Rent Contribution, Occupancy Charge, or Utility Reimbursement Amount.

**Rental Assistance:** As detailed above, each program participant in transitional or permanent supportive housing on whose behalf rent is paid with CoC Program rental assistance funds must pay rent in the amount determined in 24 CFR 578.77(c). This amount, however, must be adjusted by the pre-determined reasonable utility consumption amount when the program participant is required to pay for utilities. For example, if the program participant's rent contribution is \$300, as determined above, and the reasonable monthly utility consumption amount is \$40 then the program participant is only required to contribute \$260 in rent. The recipient must pay the difference between \$260 and the rent specified on the program participant's lease.

**Housing Leased or Owned by the Recipient:** Similarly, if a program participant is residing in transitional or permanent supportive housing where an occupancy charge could be imposed (e.g., in housing leased by the recipient or subrecipient or in housing owned by the recipient or subrecipient), any utilities paid by the program participant must be considered in the amount of the occupancy charge, which cannot exceed the amount determined in 24 CFR 578.77(b). For example, if the recipient calculates the maximum occupancy charge permitted and the program participant's occupancy charge calculation is \$200, but the reasonable monthly utility consumption amount is \$50, then the program participant's occupancy charge payment is reduced to \$150.

Since occupancy charges are optional in the CoC Program, in instances where occupancy charges are not imposed, but where utilities are the responsibility of the program participant, the recipient or subrecipient still must ensure that the reasonable monthly utility consumption amount is not more than the maximum occupancy charge in 24 CFR 578.77(b).

**Reimbursement:** If, when the recipient or subrecipient deducts the reasonable monthly utility consumption amount from the program participant's rent contribution or maximum occupancy charge amount (as determined by 24 CFR 578.77(c) or 24 CFR 578.77(b) respectively), the calculation equals a number less than \$0, then the recipient or subrecipient must provide a utility reimbursement to the program participant in accordance with the methods outlined in Section D of this Notice. For example, if a program participant's maximum occupancy charge would be \$0 because the program participant does not have any income and the reasonable

monthly utility consumption is \$30, then the recipient or subrecipient must provide the program participant a utility reimbursement of \$30 paid in accordance with the methods in Section D of this Notice.

4. Examples.

This section provides examples to assist recipients and subrecipients in understanding the calculation described in Section C.3 above.

Rent Contributions. This calculation is used when rental assistance is provided on behalf of program participants, but utilities are not included in the rent and are the responsibility of the program participant.

Example 1

A	Contract Rent	\$500
B	Tenant Rent Calculation in 24 CFR 578.77(c) <i>before</i> making adjustments for utilities	\$80
C	Reasonable Monthly Utility Consumption	\$30
	Calculation B-C	\$50
D	Program Participant Rent – to be Paid Directly to Landlord or Property Owner	\$50
E	Recipient Rental Assistance Payment to Landlord or Property Owner	\$450 (A-D)
F	Utility Reimbursement to be Paid to Program Participant	\$0

In the above example, the program participant owes the landlord or property owner rent because the calculation of B minus C resulted in a positive number (\$50). This also means that the recipient does not owe the program participant a utility reimbursement.

Example 2

A	Contract Rent	\$600
B	Tenant Rent Calculation in 24 CFR 578.77(c) <i>before</i> making adjustments for utilities	\$30
C	Reasonable Monthly Utility Consumption	\$50
	Calculation B-C	-\$20
D	Program Participant Rent – to be Paid Directly to Landlord or Property Owner	\$0
E	Recipient Rental Assistance Payment to Landlord or Property Owner	\$600 (A-D)
F	Utility Reimbursement to be Paid to Program Participant	\$20

In the above example, the recipient owes the full contract rent to the landlord or property owner because the calculation in B-C resulted in a negative number (-\$20). Therefore, the amount the program participant owes to the landlord or property owner is \$0, and the amount the recipient owes to the program participant for a utility reimbursement is \$20.

Occupancy Charges. This calculation is used when program participants are expected to be responsible for utilities and an occupancy charge could be imposed. Note: In these examples, the contract rent is not applicable to this calculation because the recipient or subrecipient is paying the full cost of the housing directly to the landlord or property owner.

**a. Occupancy Charges ARE imposed on program participants at maximum allowable amount**

Example 3

A	Occupancy Charge Calculation in 24 CFR 578.77(b) <i>before</i> making adjustments for utilities	\$100
B	Reasonable Monthly Utility Consumption	\$30
	Calculation A-B	\$70
C	Program Participant Occupancy Charge – to be Paid to the Recipient or Subrecipient	\$70
D	Utility Reimbursement to be Paid to the Program Participant	\$0

In the above example, the recipient does not owe a utility reimbursement to the program participant because the calculation of A-B resulted in a positive number

(\$70). The program participant owes \$70 to the recipient or subrecipient as the occupancy charge.

Example 4

A	Occupancy Charge Calculation in 24 CFR 578.77(b) <i>before</i> making adjustments for utilities	\$25
B	Reasonable Monthly Utility Consumption	\$40
	Calculation A-B	-\$15
C	Program Participant Occupancy Charge – to be Paid to the Recipient or Subrecipient	\$0
D	Utility Reimbursement to be Paid to the Program Participant	\$15

In the above example, the recipient/subrecipient does owe a utility reimbursement to the program participant because the calculation of A-B resulted in a negative number (-\$15). Therefore, the recipient or subrecipient owes the program participant \$15 and the program participant does not have to pay an occupancy charge to the recipient or subrecipient

**b. Occupancy Charges are NOT imposed on program participants.**

Example 5

A	Maximum Occupancy Charge Calculation in 24 CFR 578.77(b) <i>before</i> making adjustments for utilities	\$35
B	Reasonable Monthly Utility Consumption	\$20
	Calculation A-B	\$15
D	Utility Reimbursement to be Paid to the Program Participant	\$0

In the above example, the program participant does not pay an occupancy charge because the recipient does not impose occupancy charges as a condition of occupancy. Additionally, the recipient does not owe the program participant a utility reimbursement because the reasonable monthly utility consumption amount is less than the maximum amount the program participant could pay as an occupancy charge per 24 CFR 578.77(b).



Example 6

A	Maximum Occupancy Charge Calculation in 24 CFR 578.77(b) <i>before</i> making adjustments for utilities	\$55
B	Reasonable Monthly Utility Consumption	\$60
	Calculation A-B	-\$5
D	Utility Reimbursement to be Paid to the Program Participant	\$5

In the above example, the program participant does not pay an occupancy charge because the recipient does not impose occupancy charges as a condition of occupancy. However, the recipient does owe the program participant a utility reimbursement because the reasonable monthly utility consumption amount is more than the maximum amount the program participant could pay as an occupancy charge per 24 CFR 578.77(b).

#### D. Paying the Utility Reimbursement

For program participants residing in RRH, if the PHA's monthly allowance for utilities exceeds the amount the program participant is required to pay for a rent contribution, the program participant must be reimbursed for the difference. Similarly, for program participants residing in TH or PSH if reasonable monthly utility compensation alone exceeds the amount the program participant is required to pay for a rent contribution or the maximum amount the program participant could be required to pay, or is required to pay, in an occupancy charge, the program participant (or the utility company on behalf of the program participant) must be reimbursed for the difference (this would occur wherever the calculation in Section C.4 above resulted in the program participant being owed a utility reimbursement).

Where a utility reimbursement is owed to the program participant this amount would need to be paid in one of the following ways:

1. Pay the program participant directly. The recipient or subrecipient can pay the utility reimbursement directly to the program participant.
2. Pay the Utility Company on Behalf of the Program Participant. The recipient or subrecipient can pay the utility reimbursement to the utility company on behalf of the program participant. If the recipient or subrecipient chooses to do this, the recipient or subrecipient must have the permission of the program participant and notify the program participant in writing of the amount paid to the utility company (to allow the program participant to pay any outstanding amounts).  
Note: the recipient or subrecipient must maintain records of the program participant's permission to pay the utility company directly and the notification(s) to the program participant of the amount(s) paid on their behalf.

In either method, the budget line item that the recipient uses to pay the utility reimbursement depends on the type of assistance provided. If the program participant is receiving rental assistance the utility reimbursement may be paid with rental assistance funds. If the program participant lives in TH or PSH for which leasing or operating funds are used, the utility reimbursement may be paid with operating funds. In no case may leasing funds awarded under the CoC Program be used to pay for those utilities that are not included in the recipient or subrecipient's lease. Note: To the extent the utility reimbursement would be an eligible cost under the CoC Program, recipients or subrecipients may also use program income or matching funds to pay for the utilities.

#### **E. Maintaining Records.**

HUD expects recipients and subrecipients that operate projects where the utilities are the responsibility of the program participant to maintain records demonstrating compliance with the requirements clarified in this Notice. All records must be maintained in compliance with 24 CFR 578.103.

The following is a list of records that should be maintained to demonstrate compliance:

1. Recipient records. The following records should be maintained in the recipient or subrecipient's records.
  - a. Utility schedules used to determine the reasonable monthly utility consumption amount.
  - b. Occupancy Charges policy, if applicable:
    - 1) Is a charge imposed (yes/no)?
    - 2) If yes, what percent will be charged of the participants?; and
    - 3) Are there any exceptions?
2. Program participant records. The following records should be maintained in each program participant's record.
  - a. The annual income calculation as set forth in 24 CFR 578.103(a)(6).
  - b. The amount of the program participant's rent contribution, occupancy charge, or utility reimbursement and how the amount was determined.
  - c. Where a utility reimbursement is due to the program participant, evidence that the utility reimbursement was paid in accordance with Section D of this Notice. Where the utility reimbursement is paid directly to the utility company, the written permission of the program participant to pay the utility company directly as well as the documentation provided to the program participant that the utility was paid.