



OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

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

Special Attention of:

HOPWA Grantees

CPD Field Office Directors and
Deputy Directors

Notice: CPD-20-05

Issued: May 8, 2020

This Notice remains effective until
amended, superseded, or rescinded.

Cross References: 24 CFR Part 574 –
Housing Opportunities for Persons With
AIDS (HOPWA); Pub. L. No. 116-136,
Title XII

Subject: Coronavirus Aid, Relief, and Economic Security Act Implementation Instructions and
Related Flexibilities for the Housing Opportunities for Persons With AIDS Program

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I. Purpose

The purpose of this Notice is to provide instructions for implementing the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, provisions to the Housing Opportunities for Persons With AIDS (HOPWA) program, and provide additional information for HOPWA grantees and project sponsors related to coronavirus disease 2019 (COVID-19) response.

II. Award Information

The CARES Act includes \$65 million in supplemental grant funding for the HOPWA program that the Department will distribute in the following manner:

- \$53.7 million will be allocated to formula grantees using the same data elements from the statutory allocation formula (42 U.S.C. § 12903) used to determine FY 2020 HOPWA formula allocations.
- \$10 million in additional one-time, non-renewable funding will be allocated to HOPWA permanent supportive housing competitive grantees that were initially funded with appropriated funds from FY 2010 or earlier and are currently administering grant awards. The supplemental grant funding will be allocated to such competitive renewal grantees in a manner proportionate to their existing grants.
- \$1.3 million in funding will be awarded, without competition, to increase prior awards made to existing HOPWA technical assistance (TA) providers. The purpose of the TA funding is to provide an immediate increase in capacity building and TA available to grantees.

III. Eligible Activities

A. General

The supplemental grant funds authorized under the CARES Act are to be used as additional funding to maintain operations, and for rental assistance, supportive services, and other necessary actions, in order to prevent, prepare for, and respond to COVID-19.

These funds may be used to provide the eligible HOPWA activities identified at 24 CFR Part 574, so long as these funds are used for activities that are consistent with grantees' community needs for COVID-19 preparedness and response, as discussed more fully below. In order to protect persons living with HIV/AIDS, the CARES Act provides that the supplemental grant funds may be used to self-isolate, quarantine, or provide other coronavirus infection control services as recommended by the Centers for Disease Control and Prevention for household members not living with HIV/AIDS.

Grantees may consider using the supplemental grant funds authorized under the CARES Act for activities such as:

- Stays at hotels, motels, or other locations to self-isolate, quarantine, or provide other infection control for HOPWA-eligible individuals or their family members (See Section III.D);
- Providing transportation services for eligible households to access medical care, supplies, and food or to commute to places of employment;

- Assisting HOPWA-eligible households in accessing essential services and supplies such as food, medications, medical care, personal protective equipment (PPE) and information;
- Providing nutrition services for eligible households in the form of food banks, groceries, and meal deliveries;
- Educating assisted households on ways to reduce the risk of contracting or spreading COVID-19 to others; and
- Costs related to infection control measures such as cleaning and disinfectant supplies, gloves, PPE, and other safety-related supplies for staff and assisted households.

As provided by the CARES Act, these supplemental funds may be used to cover or reimburse allowable costs as of the date a grantee or project sponsor began preparing for coronavirus, which HUD shall presume to be no earlier than January 21, 2020 – the date the first confirmed case was reported in the United States according to the Centers for Disease Control and Prevention (CDC). Grantees and project sponsors must maintain documentation demonstrating when they began preparing for COVID-19, such as notes on formal planning meetings or calls, and must maintain documentation to support any costs incurred by the recipient that the recipient plans to cover or reimburse with CARES Act grant funding.

Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), prohibits the duplication of benefits for programs that provide financial assistance to people or entities suffering losses as a result of a Federally-declared disaster or emergency. The duplication of benefits occurs when Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally-declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs. HOPWA grantees must establish and maintain adequate procedures to prevent any duplication of benefits with CARES Act funds. HUD will issue additional guidance to facilitate compliance with this requirement.

B. Administrative Costs

The CARES Act provides that a grantee may use up to six (6) percent of the supplemental grant funding received under the CARES Act for administrative purposes, and a project sponsor may use up to ten (10) percent of its subaward under the CARES Act for administrative purposes. The administrative cost limits for grantees and project sponsors specified in the CARES Act are only applicable to the supplemental grant funds received under the CARES Act and to any portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID-19 pandemic as described in section V of this Notice. All other HOPWA awards remain subject to 42 U.S.C. § 12905(g), which limits costs for administrative expenses to three (3) percent of the grant amount for grantees and seven (7) percent of the amount received by project sponsors.

C. Short-Term Rent, Mortgage, and Utility Assistance

The CARES Act provides that the supplemental grant funding may be used to provide short-term rent, mortgage, and utility (STRMU) assistance payments to prevent homelessness of a tenant or

mortgagor of a dwelling for a period of up to 24 months. The 24-month limit on STRMU assistance specified by the CARES Act is only applicable to the supplemental grant funds received under the CARES Act and any portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID-19 pandemic as described in section V of this Notice. STRMU assistance provided under all other HOPWA awards remains subject to 42 U.S.C. § 12907(b)(3)(B), which limits STRMU assistance to a period of no more than 21 weeks of any 52-week period.

Although the CARES Act increases the term limit on STRMU assistance in 42 U.S.C. § 12907(b)(3)(B) to 24 months, the other provisions related to STRMU in § 12907 remain unchanged and in effect for the supplemental grant funds received under the CARES Act. This includes the provisions that assistance with rent, mortgage, and utility payments be provided in a manner appropriate to maintain the assisted household in their residence; and that each assisted household be provided the opportunity to receive case management services from appropriate social service agencies (see 42 U.S.C. § 12907(b)(5) and (6)).

D. Hotel/Motel Stays

The supplemental grant funding provided under the CARES Act and any portion of a grantee's FY 2020 formula funds that have been approved under its Annual Action Plan (AAP) for allowable activities to prevent, prepare for, and respond to the COVID-19 pandemic as described in section V of this Notice may be used to pay for relocation services including lodging at hotels, motels, or other locations for eligible persons living with HIV/AIDS as well as household members who are not living with HIV/AIDS. Such funding may also be used to lodge one or more household members who may need to temporarily isolate from other members of the household. Members of households that currently reside in HOPWA-subsidized units are not precluded from receiving additional assistance for hotel/motel stays if isolation is needed.

HUD recommends that grantees and project sponsors limit hotel/motel stays to no more than 60 days in a six-month period, with exceptions related to COVID-19 related health and safety concerns. Grantees should ensure they have policies in place regarding hotel/motel stays that detail time limits as well as processes for granting extensions based on documented household health and safety concerns in accordance with CDC guidance, if needed.

IV. Formula Grant Agreement Execution

Formula grantees will sign a grant agreement in order to accept the supplemental grant funds from HUD. Each Field Office will inform their respective grantees of the process for executing the grant agreement.

V. Consolidated Plan Amendments for Formula Grantees

HUD is waiving 24 CFR 91.505(c) -Amendments to the Consolidated Plan- to the extent necessary to require submission of the substantial amendment to HUD for review in accordance with this Notice. To receive its supplemental CARES Act grant allocation, a grantee must submit to HUD for review a signed standard federal form SF-424, SF-424D, the certifications at 24 CFR 91.225(a) and (e) or 24 CFR 91.325(a) and (e), and a substantial FY 2019 Action Plan

amendment meeting the requirements of 24 CFR part 91 and this Notice. HUD recommends that the substantial amendment and other required documents be received by HUD within 15 business days of publication of this Notice.

HUD has waived 24 CFR 91.105(c)(2) and (k), 24 CFR 91.115(c)(2) and (i) to the extent necessary to allow the grantee to provide no fewer than 5 calendar days for citizen comment (rather than 30 days) for its consolidated plan substantial amendment (see Section XII of this Notice). Grantees should post the approved substantial amendment on its official website along with a summary of citizen comments received within the comment period.

Each substantial amendment submitted to HUD will be subject to the review process set forth in 24 CFR 91.500. HUD intends to expedite its review.

If the substantial amendment is not disapproved, both HUD and the grantee will sign the grant agreement and then HUD will establish the grantee's line of credit in the amount of funds included in the FY 2019 Action Plan substantial amendment, up to the allocation amount.

HUD is exercising its authority under the CARES Act to allow HOPWA formula grantees to use a portion of their FY 2020 allocations on allowable activities to prevent, prepare for, and respond to COVID-19, including the provision of PPE, provided such activities are identified and approved in their FY 2020 AAPs and that all CARES Act funding has been expended. Grantees with previously approved FY 2020 AAPs that are interested in using a portion of their FY 2020 formula funds to prevent, prepare for, and respond to COVID-19 may amend such AAPs and resubmit for approval. All FY 2020 formula funds used for COVID-19 response will receive the same benefits and flexibilities as the CARES Act funding described in sections III.B, III.C, and III.D of this Notice.

VI. Competitive Grant Agreement Execution

Competitive grantees will sign a grant agreement in order to accept the supplemental grant funds from HUD. Within 15 business days of the publication of this Notice, each competitive grantee is expected to submit a brief description of planned uses for the supplemental grant funds to the Office of HIV/AIDS Housing (OHH) at HUD headquarters via the HOPWA email box at HOPWA@HUD.gov.

This brief description should list the type and amount of each eligible activity the grantee anticipates undertaking with the funding, the process that will take place to carry out the work quickly, and how eligible households will access the assistance during any period of time the grantee's main operations are closed due to local public health department directive. Each grantee must also include a completed HOPWA budget form HUD-40110-B and completed forms SF-424 and SF-424D in its submission.

HUD will review the descriptive packages in accordance with the following process:

- HUD will expedite its approval or disapproval of the descriptive packages;
- HUD recommends that jurisdictions with disapproved descriptions revise and resubmit within 15 business days after HUD sends the first notification of its disapproval; and

- HUD will expedite its approval or disapproval of the revised descriptions after receiving the resubmission.

OHH will forward approved submissions to respective field offices and inform field offices when the grant agreement may move forward for execution. Local HUD field offices will inform their respective grantees of the process for executing the grant agreement after the grantee description is submitted, reviewed, and approved by OHH.

VII. Expectations for Competitive Grantees

Competitive grantees are expected to continue implementing their current grant as approved. The supplemental grant funding provided under the CARES Act is not required to be spent on permanent supportive housing activities, but rather can be used for eligible activities under 24 CFR part 574, in accordance with the CARES Act and as set forth in section III.A of this Notice that are necessary actions in order to prevent, prepare for, and respond to COVID-19.

VIII. Project Sponsor Agreements

Grantees are expected to execute new or amend existing project sponsor agreements for the supplemental funds within fourteen calendar (14) days of execution of the formula or competitive grant agreements. The selection of project sponsors under the HOPWA program is not subject to the procurement requirements of 2 CFR part 200, subpart D (see 24 CFR 574.3).

IX. Technical Assistance

The TA funding provided under the CARES Act will be used for the development of webinars, resource guides, and other TA materials to assist grantees in administering the supplemental grant funds and implementing activities related to COVID-19 preparedness and response. Grantees in need of individualized TA related to responding to COVID-19 or regular HOPWA program administration should submit a TA request via the “Request Program Assistance” webpage on the HUD Exchange portal: <https://www.hudexchange.info/program-support/technical-assistance/>. In the TA request submission process select “HOPWA: Housing Opportunities for Persons With AIDS” as the topic and write “Health Preparedness and Response” in the subject line.

X. Reporting

HOPWA grantees that accept the supplemental grant funding authorized under the CARES Act will be required to report on the activities undertaken with such funding. Consistent with 24 CFR 574.520, grantees will report information to HUD on the use of the supplemental grant funds, including the number of individuals assisted and the types of assistance provided. This information will be reported in the HOPWA Consolidated Annual Performance and Evaluation Report (Form HUD-40110-D) for formula grantees or HOPWA Annual Progress Report (Form HUD-40110-C) for competitive grantees, or similar combined data collection instrument to be specified by HUD.

24 CFR 91.520 requires HOPWA formula grantees to submit a Consolidated Annual Performance and Evaluation Report (CAPER) to HUD within 90 days after the close of the

grantee's program year. The HOPWA Grant Agreement requires competitive grantees to submit an Annual Progress Report (APR) in accordance with 24 CFR 574.520(b) within 90 days of the end of each 12-month operating period. Any HOPWA grantee with a CAPER or APR due to HUD within six months of the date of this Notice may have up to a 90-day extension to submit their reports. The extension will allow a grantee to submit their APR or CAPER within 180 days of the end of their program or operating year. Grantees that wish to utilize the extension should submit an email to HOPWA@hud.gov and notify the grantee's local HUD Field Office.

XI. Additional CARES Act Reporting

Section 15011 of the CARES Act requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter, a report containing information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. As outlined in the Office of Management and Budget (OMB) memorandum, M-20-21, existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and format for this reporting is still under development and will need to be reviewed against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further guidance will be released by the Department in the near future.

XII. Waivers

HUD issued a memorandum providing regulatory waivers of certain HOPWA and other CPD program requirements to prevent the spread of COVID-19 and provide additional supports to eligible individuals and families who are economically impacted by COVID-19. The memorandum is available online at: https://www.hud.gov/sites/dfiles/CPD/documents/COVID-19_Mega_Waiver_03-31-2020.pdf.

The memorandum includes a simplified notification process for grantees to use the waiver flexibility to expedite the delivery of assistance. Grantees wishing to utilize any of the waivers provided in the memorandum should notify their local CPD Director, by email to their COVID-19 specific email address, of their intent to utilize a specific waiver flexibility two days before they anticipate using the waiver flexibility.

Additionally, it is expected that the Department will issue further waivers addressing identified needs by grantees and guidance on the administrative flexibilities provided under Office of Management and Budget (OMB) Memo M-20-17. These waivers will be made available online at: https://www.hud.gov/program_offices/comm_planning/hopwa_covid-19.

Regulatory waiver flexibilities offered by HUD specific to the use of amounts in the HOPWA program in response to the COVID-19 pandemic may be deemed effective as of the date a grantee began preparing for coronavirus, which HUD shall presume to be no earlier than January

21, 2020 – the date the first confirmed case was reported in the United States according to the CDC. Grantees and project sponsors must maintain documentation demonstrating when the recipient began preparing for COVID-19, such as notes on formal planning meetings or calls, and must maintain documentation to support any costs incurred by the recipient that the recipient plans to cover or reimburse with CARES Act grant funding.

XIII: Further Information

All questions related to this Notice should be directed to the “HOPWA Ask A Question” portal available online at <https://www.hudexchange.info/program-support/my-question/>. In Step 2 of the question submission process, select “HOPWA: Housing Opportunities for Persons With AIDS” from the “My question is related to” drop down list and write “Health Preparedness and Response” in the subject line.