

Appendix I: Notification of Waiver Use to HUD Field Office

Summary Document for CPD Mega Waiver

What

The U.S. Department of Housing and Urban Development (HUD) announced the availability of a “Mega Waiver,” which provides flexibility for certain regulatory requirements associated with several Community Planning and Development (CPD) grant programs to prevent the spread of COVID-19 and to facilitate assistance to eligible communities and households economically impacted by COVID-19. On April 8, 2020, the Montana Departments of Commerce (Commerce) and Public Health and Human Services (DPHHS) requested use of the Mega Waiver, specifically notifying HUD of their intention to waive Consolidated Plan requirements for all CPD formula programs which include the following:

- Community Development Block Grant (CDBG),
- CDBG CARES,
- HOME Investment Partnerships Program (HOME),
- Housing Trust Fund (HTF),
- Emergency Solutions Grant (ESG); and,
- ESG CARES

The Mega Waiver was also requested to utilize program-specific waivers for the following CPD programs:

- Housing Opportunities for Persons with AIDS (HOPWA) and
- Emergency Solutions Grant (ESG).

Among other things, waivers will allow for the expedited use of CPD formula program funding, provide greater flexibility in noticing and public engagement processes (when necessary because of urgency, public comment period is reduced to not less than 5 days and, when necessary for health and safety, virtual noticing and hearings are authorized), and extend the development and submission of the State’s 2020–2024 Consolidated Plan for Housing and Community Development (ConPlan) and 2020–2021 Annual Action Plan (AAP) to August 2021. These waivers are described in detail in the attachment following this summary document.

Commerce and DPHHS notified approximately 5,000 citizens of their request of the Mega Waiver and Consolidated Plan changes via Commerce’s listserv and website on April 10, 2020, and held a virtual public hearing April 14, 2020, to explain the Mega Waiver and enumerate its various components, as well as detail additional efforts to use existing and new resources to effectively respond to COVID-19. Specifically, Commerce and DPHHS presented their plans to expand the use of Community Development Block Grant (CDBG) funds for not only the National Objective of Low and Moderate Income Benefit, but also for the National Objectives of (1) Urgent Need and (2) Slums and Blight. The State is considering using CDBG funds for Urgent Need activities that will address COVID-19 impacts. Also, Commerce and DPHHS presented their plans to use funds authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which was signed by President Trump on March 27, 2020, in response to the COVID-19 public health crisis. The CARES Act made available \$5 billion in CDBG Coronavirus (CDBG CARES) funds, of which \$2 billion was allocated based on the fiscal year 2020 CDBG formula, with the remaining \$3 billion to be allocated based on needs using best available data. Montana’s first allocation of CDBG CARES funds was \$3,925,296. Comments regarding the Mega Waiver, the use of CDBG funds for Urgent Need and Slums and Blight, and the use of newly authorized CDBG CARES funds were received through April 15, 2020.

It is worth noting that Commerce and DPHHS completed other public engagement processes concurrent with the Mega Waiver engagement process. In some respects, these efforts overlapped.

Why

In December 2019, a new coronavirus known as SARS-CoV-2 was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. The first case was reported in the United States in January 2020. In March 2020, the World Health Organization declared the coronavirus outbreak a pandemic and President Trump declared the outbreak a national emergency. In Montana, Governor Steve Bullock announced a state of emergency on March 12, 2020, to direct a coordinated response to an outbreak of COVID-19.

As a consequence of the coronavirus outbreak, many HUD CPD recipients are facing challenges such as ensuring appropriate shelter options are available for program participants who need to be separated from others because they are exhibiting symptoms, training staff on how to safely work with program participants and prevent spreading the virus, obtaining needed supplies, and maintaining necessary staffing levels. Further, many program participants are suffering economic consequences from the mass shutdown of businesses and lack of availability of traditional mainstream benefits.

A number of CPD program funding recipients have inquired about the availability of waivers of various CPD program requirements to facilitate assistance to program participants and prevent the spread of the coronavirus. In accordance with 24 CFR 5.110, HUD may, upon a determination of good cause and subject to statutory limitations, waive regulatory provisions. Additional regulatory waiver authority is provided in 24 CFR 91.600. These regulatory provisions provide HUD the authority to make waiver determinations for the HOPWA, ESG, and Continuum of Care (CoC) programs and consolidated planning requirements for all CPD formula programs. On April 2, 2020, HUD announced a Mega Waiver that allows states, like Montana, to take immediate steps to modify the use of existing and future resources identified in the State’s Consolidated Plans and accompanying Action Plans. Commerce and DPHHS are using the Mega Waiver.

Who

Commerce is the lead agency overseeing CPD grant programs. Commerce administers the CDBG, HOME, HTF, and CDBG CARES programs while DPHHS administers the ESG and ESG CARES programs as well as Montana’s HOPWA Program, which is funded via competitive award and not through a CPD formula grant.

The table below details the roles and responsibilities of Commerce and DPHHS and its administrators.

Agency Role	Name	Department/Agency
Lead Agency	Tara Rice, Director	Montana Department of Commerce
CDBG and CDBG CARES Administrator	Jennifer Olson, Division Administrator	
HOME Administrator		
HTF Administrator		
ESG and ESG CARES Administrator	Morgan Taylor, Interim Division Administrator	Montana Dept. of Public Health & Human Services
HOPWA Administrator		

Questions and comments regarding the Mega Waiver and other State efforts to address the impacts of COVID-19 can be provided to Commerce using the contact information below.

Montana Department of Commerce
Community Development Division
Attn: ConPlan / COVID-19 Response
301 S. Park Avenue
P.O. Box 200523
Helena, MT 59620-0523
Email: DOCConPlan@mt.gov
Phone: 406-841-2770
Website: <http://commerce.mt.gov/conplan>

Summary Document Attachment: Mega Waiver Request

Per the justification encompassed in the CPD Mega Waiver notice, the following waivers are requested:

Emergency Shelter Grant (ESG)

Requester Name:

State of Montana – Department of Public Health and Human Services
Sara Loewen
Bureau Chief, Intergovernmental Human Services
sloewen@mt.gov
406.447.4265 (o) 406.475.1234 (cell)

Declared Disaster Area: Montana, statewide

Date of Anticipated First Use: 4/15/2020

List of waiver flexibilities:

- ESG Program - HMIS Lead Activities
- ESG Program - Re-evaluations for Homelessness Prevention Assistance
- ESG Program - Housing Stability Case Management
- ESG Program - Restriction of Rental Assistance to Units with Rent at or Below FMR

Housing Opportunities for Persons With AIDS (HOPWA)

Requester Name:

State of Montana – Department of Public Health and Human Services
Sara Loewen
Bureau Chief, Intergovernmental Human Services
sloewen@mt.gov
406.447.4265 (o) 406.475-1234 (cell)

Declared Disaster Area: Montana statewide, North Dakota statewide, and South Dakota statewide

Date of Anticipated First Use: 4/15/2020

List of waiver flexibilities:

- HOPWA Program – Self-Certification of Income and Credible Information on HIV Status
- HOPWA Program – FMR Rent Standard
- HOPWA Program – Property Standards for TBRA
- HOPWA Program - Space and Security

Consolidated Plan

Requester Name:

State of Montana – Department of Commerce
Jennifer Olson
Administrator, Community Development Division
jeolson@mt.gov
406.841.2773 (o) 406.431-4504 (cell)

Declared Disaster Area: Montana statewide

Date of Anticipated First Use: 4/10/2020

- Consolidated Planning Requirements – HOME, CDBG, CDBG CARES, HTF, ESG, ESG CARES and HOPWA – Citizen Participation Public Comment Period for Consolidated Plan Amendment.

- The State’s Citizen Participation Plan will be updated to reflect the reduction of a 30 day public comment period to a 5 day public comment period for the 2020 Consolidated Plan, 2020 Annual Action Plan and 2019 Annual Action Plan to use the above mentioned program funds to support communities impacted by COVID-19 repercussions.
- The Departments will begin the 5-day public comment period on April 10, 2020 and hold a public hearing on April 14, 2020. The public hearing will identify the amendments to the 2015-2019 Consolidated Plan Amendments, 2019 Annual Action Plan Amendments, the 2020 Consolidated Plan, and the 2020 Annual Action Plan. Details regarding the executive summary, contact information, consultation, citizen participation plan, and the Method of Distribution will be provided to the public as well as a copy of this waiver request. This information will also be posted on the Consolidated Plan website, sent to the consultation distribution list, and share through other virtual means including but not limited to the Commerce Facebook page and Twitter page.
- Since the 2020 Consolidated Plan and 2020 Annual Action Plan has not completed the standard public comment process, the Departments are requesting the waiver to extend the submission of these documents to no later than August 16, 2021.
- Consolidated Planning Requirements – HOME, CDBG, CDBG CARES, HTF, ESG, ESG CARES and HOPWA – Citizen Participation Reasonable Notice and Opportunity to Comment
 - The Departments of Commerce and Public Health and Human Services will provide reasonable notice and opportunity to comment on the amendment to the 2019 Annual Action Plan, the 2020 Annual Action Plan and the 2020 Consolidated Plan. The documents will include the following CPD formula program fund allocations to support communities impacted by COVID-19 repercussions and carryout the specific HUD programmatic goals and objectives.
 - *2019 Action Plan Amendment*
 - \$1,000,000 in allocated CDBG funding for Urgent Needs
 - \$1,100,000 in allocated CDBG Housing Development
 - \$300,000 in allocated CDBG Housing Stabilization
 - \$1,300,000 in allocated CDBG Public Facilities
 - \$1,788,226 in allocated CDBG Economic Development
 - Other funds for administration and planning
 - *2020-2024 Consolidated Plan and 2020 Action Plan*
 - \$6,680,700 in allocated CDBG funding to support the following activities with no less than 70% of the funds used to meet the Low- and Moderate-Income National Objective
 - Housing and Homelessness
 - Public and Community Facilities
 - Economic Development
 - Urgent Need
 - Administrative and planning costs
 - \$3,134,369 in allocated HOME funding to support housing activities and administrative costs
 - \$3,000,000 in allocated HTF funding to support housing activities and administrative costs
 - \$732,063 in allocated ESG funding to support program activities
 - \$3,925,296 in allocated CDBG CARES funding to support the following activities with no less than 70% of the funds used to meet the Low- and

Moderate-Income National Objective and according to pending federal register notices.

- Housing and Homelessness
- Public and Community Facilities
- Economic Development
- Urgent Need
- Administrative costs, as applicable
- \$2,524,355 in allocated ESG CARES funding to support program activities