



Revision, Extension and Update of April 2020 Memorandum: HOME COVID-19 Statutory Suspensions & Waivers

January 25, 2021



Welcome & Introductions

- Sponsored by HUD's Office of Affordable Housing Programs
- Presenters
 - Stephen Lathom, Sr. Consultant, TDA Consulting
 - Monte Franke, Franke Consulting Group
- Resources:
 - Webinar PowerPoint Slides
 - December 4, 2020 Memoranda extending and revising both April 2020 Memos
 - Original April 10, 2020 Memoranda
 - General Suspensions & Waivers
 - TBRA-related Suspensions & Waivers

If you can't hear computer audio,
use conference line:

415-655-0002

Access Code: 145 222 8731

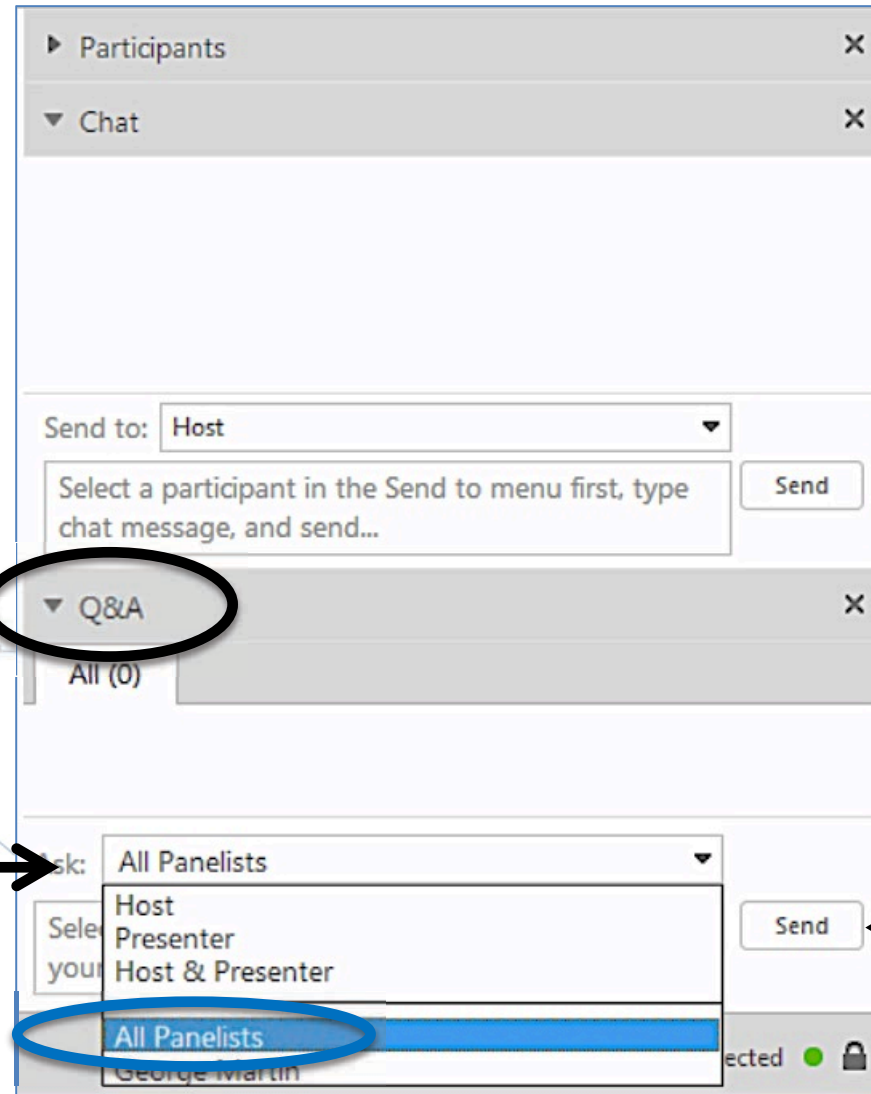
Webinar Topics

- Overview of December 4th Memoranda, including
 - Extended deadline
 - Two new waivers
 - Income determinations and documentation
- General Suspensions and Waivers revisions/clarifications
 - Q&A
- TBRA Suspensions and Waivers
 - Q&A

Submitting Questions

Ask questions using the **Q&A** Tool in the WebEx Panel.

1. Please ask questions to **all panelists**,
2. Type your question, and
3. Select **“Send”**



Poll: Today's Participants

- Are you:
 - HOME participating jurisdiction
 - State recipient or subrecipient
 - HUD staff
 - Consultant/TA provider
 - Other interested party
- Have you used any of the COVID suspensions/waivers in your HOME program or project?
 - Yes
 - No

Overview



COVID-19 Suspensions & Waivers

- HUD issued two memos on April 10, 2020
 - Availability of Waivers and Suspensions of the HOME Program Requirements in Response to COVID-19 Pandemic
 - Suspensions and Waivers to Facilitate Use of HOME-Assisted Tenant-Based Rental Assistance (TBRA) for Emergency and Short-term Assistance in Response to COVID-19 Pandemic
- HUD issued two further memos on December 4, 2020
 - Extended both through September 30, 2021 (had been 12/31/20)
 - Made various revisions/clarifications and **added** two new waivers

Getting There Online

← → ↻ 🔒 hudexchange.info/programs/home/

Resources and assistance to support HUD's community partners

HUD EXCHANGE Programs ▾ Resources ▾

HOME Investment Partnerships Program

HOME provides grants to state and local governments to create affordable housing for low-income households

Home > Programs > HOME: HOME Investment Partnerships Program

New Training

Get Started

The new **Building HOME** self-paced online training curriculum provides the foundational training you need to implement your HOME program!

Policy Guidance

- HOME COVID-19 Guidance**
- Laws and Regulations
- CPD Notices
- Policy Memos

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HOME COVID-19 Guidance

This page contains COVID-19 guidance and resources for the HOME Program.

Regulatory Resources

[FAQs](#)

[Emergency TBRA](#)

[Income Determination](#)

[Landlords and Tenants](#)

Regulatory Waivers and Statutory Suspensions

On **April 10, 2020**, CPD issued two memoranda containing statutory suspensions and regulatory waivers for the HOME Program to provide flexibility for jurisdictions to address the COVID-19 pandemic. Several of the suspensions/waivers require the Office of Affordable Housing Programs (OAHP) to make Integrated Disbursement and Information System (IDIS) changes for PJs before they can be employed. These include:

- Increased administrative and planning set-aside
- Reduction or elimination of Community Housing Development Organization (CHDO) set-asides
- Increased CHDO operating set-aside
- Reduction of match requirements

On **April 20, 2020**, HUD held a webinar to discuss these waivers and provide answers to other questions regarding COVID-19 response. Watch the webinar: [HOME Program COVID-19 Response: Statutory Suspensions and Regulatory Waivers Webinar](#).

On **December 4, 2020**, HUD issued revisions and updates to these two memoranda, posted at the links below.

HOME PJs that wish to implement one or more statutory suspensions and/or regulatory waivers must send the request by email to their CPD Field Office and also to OAHP at HOMECOVID19@hud.gov.

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

The April 2020 Memo announced the availability of certain statutory suspensions and regulatory waivers to enable HOME PJs affected by the COVID-19 pandemic to use HOME funds to address immediate housing needs and to help prevent spread of the virus.

This memorandum revises and extends certain statutory suspensions and regulatory waivers outlined in the April 2020 Memo through September 30, 2021 (the "extended waiver period") and adds a new statutory suspension and new regulatory waivers.

Date Published: December 2020

CPD Memo: Revision and Extension of April 2020 Memo - Suspensions and Waivers to Facilitate Use of HOME-Assisted TBRA for Emergency and Short-term Assistance in Response to COVID-19 Pandemic

The April 2020 TBRA Memo announced the availability of certain statutory suspensions and regulatory

Quick Summary

- Extended waiver period
 - All statutory suspensions and regulatory waivers extended from Dec. 31, 2020 to **September 30, 2021**
- **New** waivers:
 - Recertification of in-place tenants of HOME rental units
 - Maximum per unit subsidy for HOME rental projects
- Clarification on treatment of **unemployment income**
 - Treatment of COVID-19 related unemployment is clarified in both memos
- **Other Revisions**
 - Summarized in next few slides

General Suspensions & Waivers Extensions, Revisions & Updates



General Extensions, Revisions & Updates

| Suspension/Waiver | Extended to 9/30/21 | Revision/Update |
|---|---------------------|---|
| 10% Admin & planning cap | | No change (duration was based funding fiscal year) |
| CHDO Set-Aside | | No change (already addressed FY 2020 and prior) |
| CHDO operating expenses | | No change (only FY 2019 & 2020 funds, expenses thru 6/30/21) |
| Match | | No change (already covered through 9/30/2021) |
| Citizen participation | | No change (already addressed FY 2020 and prior) |
| 9-month homebuyer sale deadline | ✓ | |
| PJ response to findings | ✓ | |
| Income documentation - intake | ✓ | FPUC/econ. impact payments not included |
| Income documentation - recert | New | Allows self-cert instead of source docs during 6 th yr cycle |
| Maximum per unit subsidy | New | Existing project operating subsidy & new projects |
| On-site inspections (rental) | ✓ | |
| Annual inspections (TBRA) | ✓ | Inspection required prior to new assistance beyond 9/30/21 |
| 4-year project completion | ✓ | 4-yr deadlines & 1-yr extensions to 9/30/21 |
| Troubled project operating reserve | ✓ | Not paid by other sources; reduce back-rent by subsidy |

Income Determination

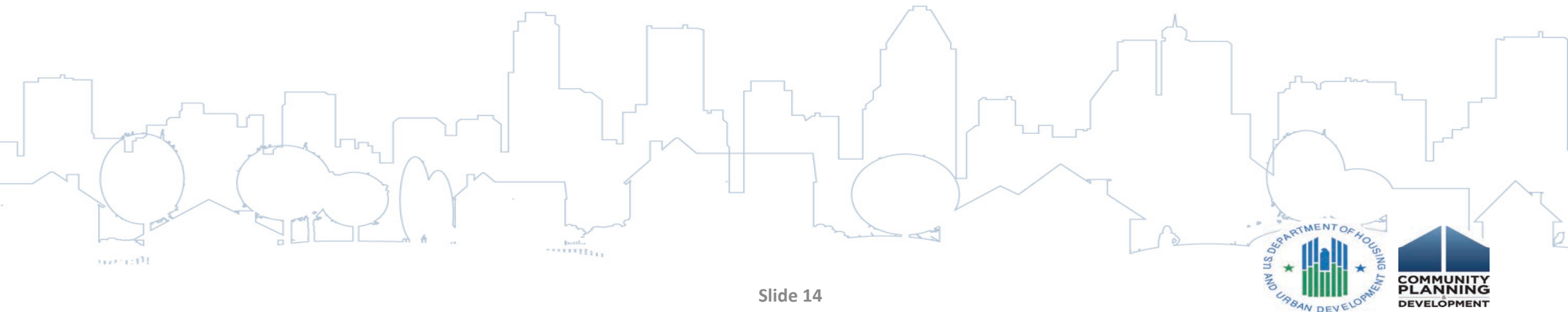
- Extends allowance for self-certification of income in lieu of two months source documents for HOME rental and TBRA intakes
 - Accommodate social distancing, office closures, etc.
 - This is included in both the general waiver and TBRA waiver memos
- **Adds** waiver to allow self-certification by in-place tenants of HOME rental units due for recertification requiring source documents
 - Updated HOME Sample Self-Certification of Annual Income Form (HUD Exchange)

Income Determination - Unemployment

- Incorporates prior guidance that federal “supplement” to weekly unemployment is excluded from income
 - Federal Pandemic Unemployment Compensation (FPUC) – \$600/wk thru 7/31/20
 - Under Consolidated Appropriations Act, 2021: \$300/wk for up to 11 weeks thru 3/14/21
 - Lost Wages Supplemental Payment Assistance provided via FEMA – Was \$300-\$400/wk supplement, primarily in the fall
- Other COVID-related unemployment (PUA and PEUC) programs treated like *regular* unemployment and included in income
 - These extended unemployment to self-employed, contractors, “gig economy” workers, etc. not traditionally covered by unemployment insurance system

Income Determination – “Stimulus Checks”

- CARES Economic Impact Payments (i.e., \$1,200 stimulus payments) **not included** in income determination
- Consolidated Appropriations Act, 2021 payments of \$600 similarly **not included** in income determination
 - Note, not specifically addressed in December memos as act not passed and signed until December 27th



Maximum Per Unit Subsidy

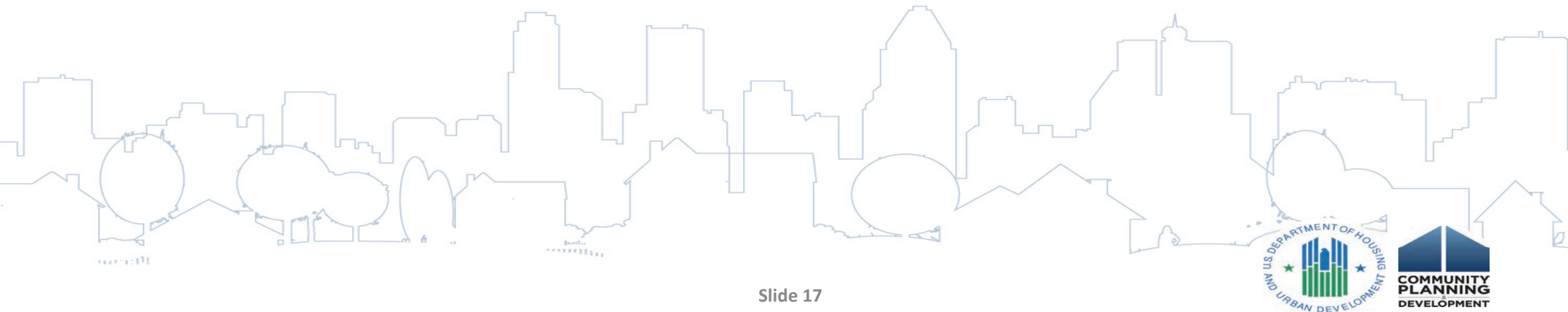
- Suspension & waiver of Maximum Per Unit Subsidy limit (§92.250(a)) for:
 - Operating reserves to preserve financial viability of HOME-assisted rental projects currently under a period of affordability (*more shortly*)
 - Projects currently underway or in the planning stages (but committed prior to end of extended waiver period) to cover increased project development costs to prevent COVID-19 spread or economic effects of the pandemic

Inspections

- Extends inspection waivers thru September 30th for both new move-ins and annual inspections
 - LBP visual inspection for pre-1978 units ***still required***
 - Inspections required within 120 days of end of extended waiver period for rental units
 - Any provision of TBRA beyond September 30, 2021 require HQS inspection prior to new rental assistance contract

Four-Year Project Completion

- Clarification applies waiver to projects with deadlines previously extended by HUD for one-year
 - e.g., original four-year deadline was February 2020, extended by HUD to February 2021... waiver now extends thru September 30, 2021
- Completion deadline is extended to September 30, 2021



Operating Reserves for Troubled HOME Projects

- Clarifies that HOME cannot pay for cost paid by another source (2 CFR Part 200)
 - Including rent from tenants
- Requires owner to
 - Forego residual receipt (aka cash flow) distributions during waiver period + 6 months
 - Forgive/waive back-rent on HOME rental units equal to amount of HOME provided for operating deficit
 - Not report late/missed rent from HOME tenants to credit bureaus

Sizing Operating Reserve

- For period from April 1, 2020 to September 30, 2021
- Maximum deficit reserve equals:
 - HOME units/total units (aka HOME percentage)
multiplied by
 - Sum of operating costs, reserve deposits, and debt service
- **Clarification**
 - Less other sources, including rent received
 - New waiver on max. subsidy removes indirect cap driven by prior HOME investment
- Post-waiver reconciliation required

Simplified Example

- 50-unit project, 10 HOME units (i.e. 20% of total)
- Operating exp. + replacement reserve + debt service = \$250,000 (\$5,000/unit)
 - HOME share of combined expenses is \$50,000
- Given reduction in rent collections, HOME units expected to only generate actual revenue of \$30,000
 - Deficit on HOME units only = \$20,000
- PJ awards \$20,000 in Operating Deficit Reserve, at end of waiver period must reconcile to actual revenue/expenses
 - Rent collections increased to \$40,000, expenses were \$50,000...
 - HOME deficit of only \$10,000, leaving \$10,000 to be returned to PJ

Electing Waivers

- Already notified HUD you are using specific waivers that have been extended?
 - No new notice needed
- Expect to use original suspensions/waivers not previously elected?
 - Need to notify HUD
- Expect to elect new waivers?
 - Need to notify HUD
- Need to provide notice, email:
 - FO specific COVID waiver email (listed in December 4, 2020 memo) AND
 - Office of Affordable Housing Programs (OAHP) COVID email: HOMECOVID19@hud.gov

Poll: Use of Waivers

- Is your PJ implementing Operating Deficit Reserve workouts?
 - Yes, we have already done so
 - Yes, we expect to do so soon
 - No, we have not/do not plan to
 - N/A, I'm not a PJ
- Is your PJ implementing an emergency TBRA program?
 - Yes, we already have started
 - Yes, we're in the process of starting
 - No, we have not/do not plan to
 - N/A, I'm not a PJ

Questions



TBRA Suspensions & Waivers Revisions & Extensions



TBRA Revisions & Extensions

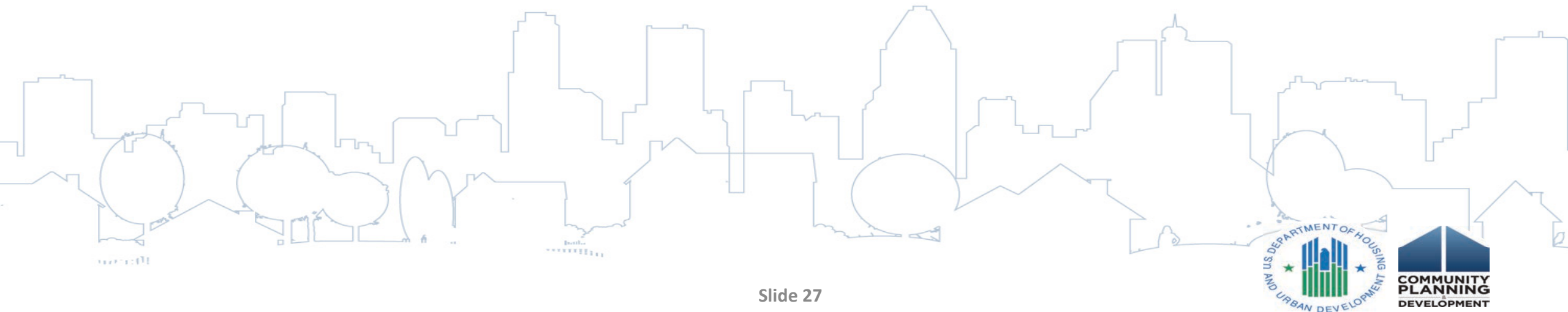
| Suspension/Waiver | Extended to 9/30/21 | Summary of Revision |
|--|---------------------|---|
| ConPlan certification | ✓ | |
| Tenant selection | ✓ | |
| Citizen participation | ✓ | |
| Rent reasonableness | ✓ | |
| Term of rental contract | ✓ | |
| <i>Income determinations</i> | ✓ | FPUC & economic impact payments not included in income |
| <i>Eligible costs & max subsidy</i> | ✓ | Past due rent, fees, utility costs & late fees from 1/27/20 |
| <i>Tenant protections - lease</i> | ✓ | Lease required; 1 year or other term agreed by parties |
| <i>Housing quality standards</i> | ✓ | Inspection required prior to extension beyond 9/30/21 |
| <i>Annual inspections</i> | ✓ | Inspection required prior to extension beyond 9/30/21 |

General Reminder

- To continue providing TBRA to any household after September 30, 2021, **all** regular requirements will apply
 - New contract, source documents for verification, alignment with lease and lease provisions, HQS inspection, etc.
- Generally, will require PJ have an existing TBRA program (or will develop one in the meantime)

TBRA Income Definition

- Same income definition clarifications as covered earlier
 - FPUC, FEMA Lost Wages Supplemental Payment Assistance & “Stimulus Checks” excluded
 - Self-certification permitted



TBRA Eligible Costs

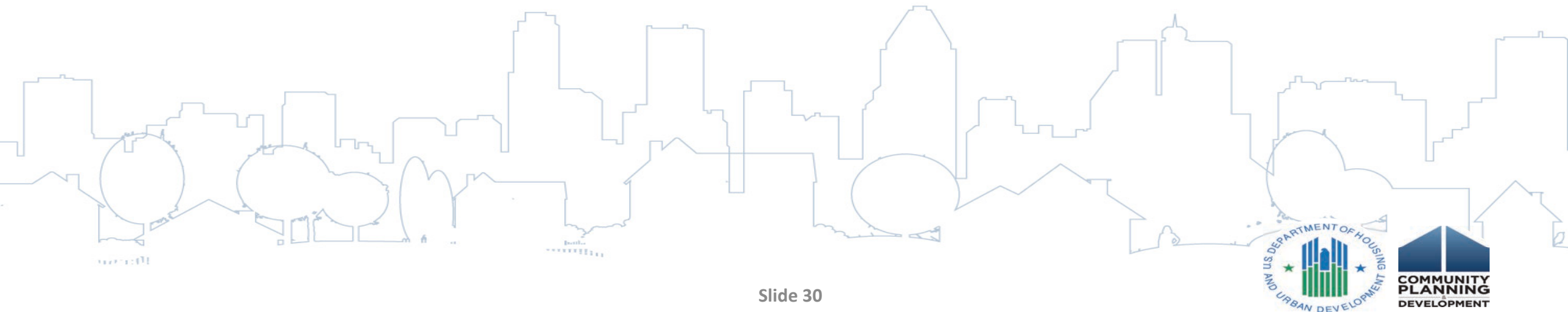
- Clarifies ability to pay past-due rent or utilities & associated late fees
 - Payment of past-due rent (due on/after 1/27/20) and fees, including late fees **as provided in lease**
 - Reminder, no rent late fees allowed under CARES Act for period from March 27 to July 24, 2020
 - And other state/local limitations may be/have been in effect
 - Past-due (due on/after 1/27/20) utilities and late fees
 - As well as service restoration
- Assistance may not pay costs when other assistance has been provided to pay same costs (2 CFR Part 200)

TBRA Lease

- Clarifies that §92.253(a) lease provisions still apply:
 - Tenant must have written lease with 12-month term unless shorter term mutually agreed
 - Reminder that VAWA still applies pursuant to §92.359
- PJs not required to make owners amend leases that contain one or more of the prohibited lease terms in §92.253(b)

TBRA Inspections

- Extends inspection waivers thru September 30th for both new move-ins and annual inspections
 - LBP visual inspection for pre-1978 units ***still required***
- Any TBRA provided beyond September 30, 2021 waiver period requires HQS inspection prior to new TBRA contract



Poll Question: TBRA After Waiver Period

- Does your PJ expect to continue TBRA after the waiver period?
 - Yes, we already have a standing TBRA program
 - Yes, we expect to start a “regular” TBRA program but had not done TBRA previously
 - No, we have not/do not plan to operate TBRA after the waiver period
 - No, we’re not doing either emergency or regular TBRA



QUESTIONS

ANSWERS

Reminder – Resources Available

- COVID memos & other guidance materials
 - <https://www.hudexchange.info/programs/home/covid-19/#regulatory-resources>
- Emergency HOME TBRA toolkit
 - <https://www.hudexchange.info/programs/home/emergency-tbra-toolkit/#regulatory-resources>
- Updated HOME Sample Self-Certification of Annual Income
 - <https://www.hudexchange.info/resource/6069/home-sample-self-certification-of-annual-income-form/>