

Get the Facts: HOPWA Property Standards Waiver and Habitability Requirements



The U.S. Department of Housing and Urban Development HUD has issued several memoranda providing regulatory waivers of certain Housing for Persons With AIDS (HOPWA) requirements to help with the nation's response to the COVID-19 global pandemic. One of these waivers was for HOPWA – Property Standards.

As a follow up to the December 14, 2021, HOPWA Property Standards Waivers Office Hours featuring information about the Property Standards waiver, this Get the Facts edition includes Q & As about the waiver, HOPWA annual inspections, and HOPWA habitability inspection requirements in general.

Section One: Questions and Answers about the HOPWA Property Standards Waiver

Does HUD require any sort of notification to use the flexibilities described in the HOPWA Property Standards waiver?

Yes, per HUD waiver memos, grantees are required to email notification to the Community Planning and Development Director of the HUD Field Office serving the grantee two days before the grantee anticipates using the waiver flexibility. Only HOPWA grantees can notify HUD of their intent to use this and any other HOPWA programmatic waivers.

What is waived in the Property Standards waiver?

Conducting an onsite/in person initial inspection is waived, but only if the initial inspection can be conducted remotely using virtual/technology methods, such as video streaming, recorded videos and/or photographs - or a combination.

Both a HOPWA grantee and its project sponsors must update their HOPWA program policies to include language that initial inspections will be conducted per the conditions noted in the waiver and that an onsite/in person inspection will occur by the deadline outlined in the waiver.

For more information on virtual inspections, please review the [HOPWA Flexibilities Virtual Inspections Webinar](#).

Does this waiver apply to *both* initial and annual inspections?

No, the waiver only applies to initial inspections. For more information about annual inspections and annual inspection flexibilities, please see Section Two.

Did this waiver also waive lead-based paint requirements?

No. Neither HUD's Office of HIV/AIDS Housing, this waiver, nor HUD's Office of Healthy Homes waived lead-based requirements associated with 24 CFR Part 35 - all housing programs subject to lead-based paint regulations must continue following all applicable regulations. However, HOPWA programs can conduct lead-based paint visual assessments as part of conducting virtual inspections. For more information on lead-based paint virtual assessments, see Section Four.

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Are follow-up inspections required in units where initial, virtual inspections occurred, but assistance is no longer being provided to that unit?

No. When the initial inspection for a unit was conducted remotely/virtually, and assistance is no longer being provided in that unit, an in-person inspection is not required. Project sponsors should make sure to include clear documentation in the household file detailing why an in-person reinspection did not occur for that unit. For example, the family moved to a different unit, the family is no longer receiving HOPWA assistance, etc.

As a Grantee, how do we document the use of the Property Standards waiver?

Grantees must follow the notification process described in each memo, including the waiver extension memos, update their HOPWA policies and procedures, and should include a copy of notifications to HUD in their HOPWA program files.

As a project sponsor, how do we document the use of the Property Standards waiver?

Project sponsors must update their HOPWA policies and procedures and implement any specific documentation requirements outlined by their grantee. Program staff who are conducting inspections should document on the inspection form itself that the inspection was conducted remotely.

While not a HUD requirement, as a method to 'keep track of' the units where an initial inspection was conducted remotely, it is recommended that project sponsors maintain a list of those units. This will help with determining (and remembering) which units will require an onsite/in person inspection by the deadline indicated in the applicable waiver memorandum.

As a project sponsor, how do we document the use of the Property Standards waiver in assisted household files?

Project sponsors should include a notation on the applicable inspection form itself indicating that an inspection was conducted remotely using virtual methods. Upon conducting an on-site/in person reinspection, a new inspection form should be completed per standard practice.

When does this Property Standards waiver expire?

Each waiver memorandum issued included different expiration dates, so please review the expiration dates of relevant memoranda carefully and follow the guidance in each memo. Project sponsors should direct their questions about any HOPWA waiver to their HOPWA grantee. The current property standards waiver will expire on March 31, 2022, and further extensions are not anticipated.

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Section Two. Questions and Answers about HOPWA Habitability Annual Inspections

Annual inspections weren't covered by the property standards waiver - what flexibilities were offered regarding annual re-inspections?

For annual inspections, HUD's Office of HIV/AIDS Housing (OHH) provided grantees with the flexibility to either delay these inspections until they can be done safely in person or to perform these inspections virtually, in the same manner as the initial inspections referred to in the waiver.

Annual inspections may be delayed or conducted remotely for as long as needed based on local health and safety conditions, as outlined by the program in their policies and procedures. Annual inspections may continue to be delayed or conducted remotely, either for all of the scheduled units or on a case-by-case basis as determined by local conditions and documented in the program's policies and procedures. However, grantees are encouraged to resume onsite/in person annual inspections when it is safe to do so.

Is a follow-up, in-person inspection required for annual inspections that were conducted remotely?

No, OHH is not requiring that an onsite/in-person inspection be conducted for any annual inspection that was conducted remotely. However, to help assure that units meet HOPWA regulatory habitability requirements, grantees are encouraged to resume onsite/in person inspections when it is safe to do so based on local health and safety conditions. In addition, grantees may implement more stringent annual inspection requirements and project sponsors should ensure they understand the policies and requirements of their local HOPWA program.

Section Three. General Questions and Answers about HOPWA Habitability Inspections

What is the inspection requirement under HOPWA regulations?

HOPWA regulations require that "all housing assisted under [applicable HOPWA activities] must meet the applicable housing quality standards." To meet and comply with this requirement and to ensure a unit meets HOPWA habitability before assistance begins, an initial inspection is conducted, and an annual inspection is conducted to ensure a unit meets HOPWA habitability requirements so that assistance may continue.

Under which HOPWA activities are inspections required?

Per 24 CFR 576.310(b), habitability standards are required when HOPWA funds are used for acquisition, rehabilitation, conversion, lease, and repair of facilities; new construction; project- or tenant-based rental assistance, including assistance for shared housing arrangements; and operating costs for housing.

What form or type of inspection is required - Section 8 Housing Quality Standards (HQS) or HOPWA habitability?

A HOPWA grantee may choose which type of inspection to use and describe the type of inspection that will be used for all applicable housing activities in both the grantee and project sponsor's HOPWA policies and procedures.

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Where can I find information on HOPWA habitability and HQS?

HOPWA habitability Standard requirements can be found at 24 CFR 574.310(b) or at the [Habitability Standards page](#) on the HUD Exchange.

Information on HQS can be found at the [Housing Quality Standards \(HQS\) – Frequently Asked Questions page](#) or [Chapter 10 of the Housing Choice Voucher Guidebook](#).

Is certification required to conduct inspections?

No, there is not a requirement to be certified to conduct HCV HQS or HOPWA habitability inspections. However, HOPWA program staff who are conducting either type of inspection should be trained by someone who knows how to complete an HCV HQS or HOPWA habitability inspection.

What is the difference between habitability and HQS?

Both HOPWA habitability Standards and HQS have similar overarching categories (performance requirements) describing the requirements that must be met. HQS also includes *Acceptability Criteria* for each of the performance requirements – the acceptability criteria are used to help guide how to determine if the performance requirement does or does not meet inspection standards. In this way, HQS inspections are more stringent. Both HOPWA habitability and HQS require that housing meet all applicable State and local housing codes, licensing requirements, and any other requirements in the area where the housing is located.

Where can I find the inspection forms (documentation) for both habitability and HQS?

The HOPWA habitability Standards can be found on the [Habitability Standards page](#) on the HUD Exchange. The HQS long-form (recommended), also known as the form-HUD-52580-A can be found [here](#) while the HQS short form, also known as the form-HUD-52580 can be found [here](#).

If we use HQS, do we use the HQS long or short form?

There is no requirement to use one or the other; however, the long-form is more detailed with its acceptability criteria (or HUD-approved variations to these criteria) outlining specifically what is required for a unit to pass inspection. Therefore, the long form may be better suited for program staff, landlords, and assisted families to understand how a unit passes HQS inspection.

Are there additional requirements beyond habitability and HQS?

Yes. In addition to inspection and lead-based paint visual assessment requirements, all units assisted with HOPWA tenant-based rental assistance, leasing, project-based rental assistance, or operating costs must also meet all state and local housing codes, licensing requirements, or other local requirements for assistance to be used.

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Are inspections regulatorily required for any allowable costs under the HOPWA Permanent Housing Placement (PHP) or STRMU activities?

No. Under the HOPWA regulations, HOPWA habitability inspections are required to ensure each housing unit (and the building itself) supported with HOPWA funding through tenant-based rental assistance; leasing; project-based rental assistance; operating costs; acquisition, rehabilitation, conversion, or repair; and new construction for single room occupancy (SRO) dwellings and community residences only must comply with the housing quality standards as outlined in 24 CFR 574.310(b). Neither PHP nor STRMU is listed as one of the HOPWA activities requiring a HOPWA habitability inspection. *Therefore, conducting an inspection when using PHP or STRMU is not required per HOPWA regulations* although it is generally good practice to make sure that a unit assisted with PHP or STRMU funds is safe and habitable.

Section Four. Lead Based Paint Visual Assessments

If the program isn't conducting in-person annual inspections, must a lead-based paint visual assessment be conducted in person?

A lead-based paint visual assessment may be conducted remotely using virtual methods at the same time as the initial and/or annual inspection.

When are lead-based paint visual assessments usually conducted?

A lead-based paint visual assessment usually occurs as part of any initial and annual inspection.

A lead-based paint visual assessment must occur only when there will be a resident who is pregnant and/or a child 6 years of age or younger *AND* the unit of housing was constructed before 1978. If there will not be a resident who meets the above description, lead-based paint assessments are not required, regardless of when the unit was constructed.

Note that while HOPWA habitability nor an HQS inspection is required for STRMU, lead-based paint visual assessments are required when providing more than 100 consecutive days of STRMU assistance. *BUT* only if there is a resident who is pregnant and/or a child 6 years of age or younger *AND* the unit of housing was constructed before 1978.

HOPWA program staff who will be conducting inspections and lead-based paint visual assessment *must* take HUD's [Lead-Based Paint Visual Assessment Training Course](#).

Where can we find additional information or ask questions about HOPWA habitability?

- [HOPWA Remote Methods: Virtual Inspections and Intake, Initial, and Annual Certifications](#)
- [HOPWA Ask-A-Question](#)

This resource is prepared by technical assistance providers and intended to help Grantees and Project Sponsors understand guidance related to the HOPWA Program and COVID-19. The contents of this document, except when based on statutory or regulatory authority or law, do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.