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# CARES Act Funds for Local Communities: Expanding Hospitals, Stabilizing Land Values and Wages, Reducing Homelessness

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## CARES Act Funds for Local Communities: Housing, Homelessness, and Hospitals

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- As of May 4, 2020, HUD had announced the allocations for the first \$3 billion in HUD CARES Act funding, including \$1 billion for ESG grantees, \$2 billion for Community Development Block Grant (CDBG) grantees, and \$53.7 million for Housing Opportunities for Persons With AIDS (HOPWA) grantees.
- Allocations are at [www.hud.gov/program\\_offices/comm\\_planning/budget/fy20/](http://www.hud.gov/program_offices/comm_planning/budget/fy20/).
- **Housing Community Development Block Grants. \$5 billion** in formula funding to states and communities for housing, homelessness, and public health.
- **Emergency Solutions Grants. \$4 billion** for states and local governments to provide services to the existing homeless population and in homelessness prevention funding.
- **Tenant-Based Rental Assistance. \$1.25 billion** to assist public housing agencies maintain normal operations, divided between \$850 million to preserve Section 8 voucher rental assistance and \$400 million to make adjustments in CY2020 section 8 renewal funding allocations.

- **Project Based Rental Assistance. \$1 billion** to assist make up for reduced tenant rental payments to owners or sponsors of section 8 housing as a result of coronavirus, \$50 million for assistance to owners or sponsors of section 202 elderly housing as a result of coronavirus, and \$15 million for assistance to owners or sponsors of section 811 disabled housing.
- **LIHEAP. \$900 million** in Low Income Home Energy Assistance Program assistance funds.
- **Public Housing Operating Fund. \$685 million** to assist public housing agencies facing operating shortfalls due to reduced tenant rent payments and for containing the spread of coronavirus in public housing properties.
- **Housing Opportunities for Persons With AIDS (HOPWA). \$65 million** in supplemental HOPWA funding grants to prevent, prepare for, and respond to coronavirus (HOPWA-CV grants).

- The CARES Act provides a supplemental \$5 billion in Community Development Block Grants (CDBG-CV), available through September 2022, for coronavirus preparation and response.
- Of that \$5 billion, \$2 billion is appropriated as supplemental formula grants for Section 106 grantees, in proportion to the CDBG amounts they received for FY2020. These amounts were required to be disbursed within 30 days (end of April).
- \$1 billion is appropriated directly to states for coronavirus preparation and response, but at the discretion of the Secretary based on public health needs, extent of housing market disruption, and other factors, within 45 days (mid-May).
- The remaining \$2 billion remains available for allocation on a rolling basis to states and units of general local government, at the discretion of the Secretary.
- Funds can be used to reimburse expenditures made on coronavirus preparation and response actions that occurred prior to passage of CARES.
- The Secretary has authority to waive many HUD requirements in connection with expenditure of the funds if deemed necessary, and grantees may “adopt and utilize expedited procedures” for amending their statements of activities.
- HUD encourages grantees to amend or prepare their Annual Action Plans “as soon as possible” and not to wait for the Federal Register notice.
- CARES eliminates the statutory 15% cap on the amount of grant funds that can be used on “public services”, for both CDBG-CV and FY19 and FY 20 CDBG funds.

- The Coronavirus Aid, Relief and Economic Security Act (CARES Act) (Public Law 116-136) makes available \$4 billion (\$1 billion immediately, \$3 billion to follow) in supplemental Emergency Solutions Grants (ESG) Program grants to prevent, prepare for, and respond to coronavirus (ESG-CV grants). Originally, \$2.777 billion was appropriated for FY20.
- The ESG Program, formerly known as the Emergency Shelter Grants Program, came into prominence as part of the McKinney-Vento Homeless Assistance Act of 1987. The ESG program was modified in 2012 to shift the focus of the program from homeless shelters (a temporary solution to the homelessness problem) to assisting people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness (a more permanent solution)
- ESG funds may be used for five program components: street outreach, emergency shelter, homelessness prevention, rapid re-housing assistance, and HMIS (Homeless Management Information System); as well as administrative activities.
- ESG is a formula grant program, administered by HUD's Office of Community Planning and Development (CPD). Eligible recipients generally consist of metropolitan cities, urban counties, territories, and states, as defined in 24 CFR 576.2.
- Metropolitan cities, urban counties and territories may subgrant ESG funds to private nonprofit organizations.
- State recipients must subgrant all of their ESG funds (except for funds for administrative costs and under certain conditions, HMIS costs) to units of general purpose local government and/or private nonprofit organizations.
- All recipients must consult with the Continuum(s) of Care operating within the jurisdiction in determining how to allocate ESG funds.
- To access ESG-CV funds, ESG grantees are advised to amend or prepare their plans as soon as possible. Grantees have the option of incorporating CARES Act funding into their FY20 Consolidated Plans currently being drafted. **However, HUD recommends that grantees submit a substantial amendment to their most recent annual Action plan to expedite their access to CARES Act funding.**
- HUD has indicated that ESG grantees should proceed with all amendments and plans now by adding the ESG-CV and HOPWA-CV allocations into their plans as available resources for the year.
- ESG recipients have the ability to omit the citizen participation and consultation requirements for substantial amendments and new consolidated plan submissions for ESG-CV funding. However, each grantee must publish how it has used and will use its allocation, at a minimum, on the Internet at the appropriate Government website or through other electronic media.
- In summary, HUD is trying to make it easier for those ESG grantees that can articulate a coronavirus-based need for additional ESG funds to access those funds.
- The HEROES Act, H.R. 6800, includes a request for an additional \$6.5 Billion in ESG grant funds to be made available through September 30, 2025.

# Housing Opportunities for Persons with AIDS (HOPWA)

- The CARES Act makes available \$65 million (\$53 million immediately, \$12 million to follow) in supplemental Housing Opportunities for Persons With AIDS (HOPWA) funding grants to prevent, prepare for, and respond to coronavirus (HOPWA-CV grants). Originally, \$410 million was appropriated for FY20.
- The HOPWA Program is the only Federal program dedicated to the housing needs of people living with HIV/AIDS. Under the HOPWA Program, HUD makes grants to local communities, States, and nonprofit organizations for projects that benefit low-income persons living with HIV/AIDS and their families. It was created as part of the Cranston-Gonzalez National Affordable Housing Act that became effective in November 1990.
- The HOPWA program changed to “better reflect current HIV epidemic trends” with enactment of the Housing Opportunity Through Modernization Act (HOTMA), Public Law 114-201, in July 2016. HOTMA included provisions to modernize the HOPWA formula along with provisions related to other HUD programs.
- HOPWA is primarily a CPD-administered formula grant program like CDBG and ESG (based on the number of cases and highest incidence of AIDS), but 10% of the annual HOPWA allocated funds are awarded pursuant to a competitive grant award program for the renewal of permanent supportive housing projects, demonstration projects for Special Projects of National Significance, and for non-formula areas. HUD gives priority to the renewal of competitive projects that have provided permanent supportive housing for this special needs population. In addition, competitive grant funding is also available to provide additional funding for training, oversight, and technical assistance activities.
- The appropriation provided the Secretary of HUD with allocation discretion over \$10 million of the HOPWA appropriation.
- Applicants for formula awards are the eligible states and the most populous city in each eligible Metropolitan Statistical Area that qualifies and follows HUD's Consolidated Planning process. Eligible competitive grant applicants include states, units of general local government, and nonprofit organizations.
- As is the case with ESG grants, the CARES Act provides various flexibilities and authority for HUD to issue waivers and alternative requirements to make it easier for HOPWA grantees to use HOPWA-CV grant funds and annual HOPWA grant funds for coronavirus response.
- In addition to allowing for, and encouraging, the use of Plan amendments to expedite grant awards, the CARES Act reduced from 30 to 5 the number of days a grantee must provide for public comment.
- The HEROES Act, H.R. 6800, includes a request for an addition \$15 million in HOPWA grant funds to be made available through September 30, 2021.

- The CARES Act provides \$900 million in supplemental Low Income Home Energy Assistance Program (LIHEAP) assistance funds, available through September 2021, for use in preparing or responding to coronavirus.
- These funds were released by HHS in LIHEAP block grants to states, territories, and tribes on May 8, 2020. Supplemental funds may be used for either FY2020, FY2021, or for both years.
- Grantees may use these funds for any purpose normally authorized under the LIHEAP statute including heating, cooling, crisis, weatherization assistance, case management for the reduction of home energy burden, and administrative costs.
- Grantees must include the total of their supplemental funding with all their other FY2020 grant award amounts for purposes of calculating the federal statutory earmarking caps.
- HHS expressly reminds grantees who utilize supplemental funds in both FY2020 and FY2021 that they will “need to carefully track the extent to which . . . earmarking caps are impacted by carryover of the supplemental funding into FY 2021, while not exceeding the total earmarking caps for each year.”
- HHS has also stated that for purposes of distributing standard or supplemental LIHEAP funds, LIHEAP grantees have discretion to decide whether to include or exclude CARES-Act funded supplemental unemployment compensation payments from the LIHEAP income eligibility calculation.

- HUD rental assistance programs subsidize the difference between tenant contributions toward rent and a unit's rent (or operating expenses). The CARES Act provides supplemental funding to help cover anticipated increased costs, and support administrative expenses. The Act provides the HUD Secretary broad waiver authority to expedite or facilitate the use of the funds to respond to coronavirus.
- \$1.25 billion for Tenant-Based Rental Assistance for FY2020, which funds the Housing Choice Voucher program, with \$400 million for increased subsidy costs and \$850 million for administrative and other expenses incurred by public housing authorities (PHAs), including "activities to support or maintain the health and safety of assisted individuals and families, and costs related to retention and support of participating owners." Funds will be allocated based on need, as determined by the HUD Secretary.
- \$1 billion for Project-Based Rental Assistance for FY2020 to maintain normal operations and take other necessary actions to meet the needs of residents and owners of project-based Section 8 properties.
- \$685 million for the Public Housing Operating Fund for FY2020, to be used to maintain the operation of public housing properties and support coronavirus-related expenses, including health and safety activities for residents, and education and child care needs of impacted families. Funds will be allocated to PHAs as additional FY2020 funding based on the operating fund formula.
- The CARES Act also provides \$50 million for Section 202 Housing for the Elderly, including for owners to "maintain normal operations and take other necessary actions" during the time operations might be affected by COVID-19 (including up to \$10 million available for service coordinators) and \$15 million for Section 811 Housing for Persons with Disabilities, for the same maintenance of operations purposes described for Section 202.
- In addition to program funding, the CARES Act also provides resources to support HUD's administration and oversight of these funds, including \$50 million for Management and Administration: \$35 million for Administrative Support offices to "prevent, prepare for, and respond to" coronavirus, and to support salaries and expenses, and information technology needs including telework; \$15 million for the program offices that will administer the additional funding provided by the bill; and \$5 million to the HUD Office of Inspector General (OIG) for audits and investigations of projects and activities funded under the CARES Act.
- The HEROES Act proposes an additional \$4 billion for Tenant Based Rental Assistance for FY 2020, an additional \$750 million for Project Based Rental Assistance for FY 2020, \$500 million for the Section 202 Program (including \$300 million in one-time grants for service coordinators) available through FY 2023, and \$200 million for the Section 811 Program through FY2023.

- The CARES Act establishes both a foreclosure moratorium and an eviction moratorium.
- Forbearance:
  - Servicers of federally-backed mortgage loans must offer forbearance of up to 180 days (with an option of an additional 180 days) to borrowers who have suffered a direct or indirect financial hardship due to coronavirus.
  - During forbearance, the servicer may not charge additional fees, penalties, or interest.
  - Servicers of federally-backed mortgages were precluded from pursuing or initiating foreclosure actions against borrowers for 60 days (ended May 17, 2020).
- Evictions:
  - A 120-day moratorium (plus a 30-day notice requirement) on initiating eviction proceedings on or after March 27, 2020 for nonpayment of rent, relating to units either in a covered federal housing program or under federally-backed mortgage loans. The first date a tenant could be required to vacate under these provisions is thus August 23, 2020.
  - During the moratorium, no charges or fees relating to nonpayment of rent may accrue.
- Understanding the basics of both these programs is important for municipalities and counties. Providing guidance to residents that enables them to remain in their homes not only maintains stability in the local tax base, but limits the number of abandoned properties that may create nuisances requiring public response.

- One aim of the CARES Act is to address the short supply of facilities to deal with the present and future pandemics.
- The CARES Act Provider Relief Fund (\$100 billion in CARES) expressly authorizes use of PRF funds for “building or construction of temporary structures, leasing of properties . . . emergency operation centers, retrofitting facilities, and surge capacity,” in addition to other expenses related to coronavirus.
- The majority of the first \$100 billion of PRF funds were allocated for general distribution to Medicare facilities on a formula basis (\$50 billion) and to rural care facilities (\$10 billion).
- CARES 3.5 supplemented the PRF with an additional \$75 billion, which will be distributed by application on a “rolling basis”, but HHS has not yet provided detail as to how providers can apply for those additional funds or how HHS will make allocation decisions.
- PRF fund recipients must document that “funds were used for increased healthcare-related expenses or lost revenue attributable to coronavirus, and that those expenses or losses were not reimbursed from other sources and other sources”
- Municipalities or counties that own facilities that have received or are eligible for PRF funds therefore have an opportunity to utilize those funds to expand capacity.
- Similarly, municipalities or counties that have leased public facilities to PRF-eligible providers should be aware that those providers may use PRF funds to fund those transactions.

- The CARES Act does not waive the usual compliance or audit provisions attendant to federal grants. For example:
  - CARES provides \$5 million to the HUD Office of Inspector General specifically to be used for “conducting audits and investigations of projects and activities carried out with funds made available in this Act to [HUD] to prevent, prepare for, and respond to coronavirus.”
  - HHS guidance on PRF fund expenditures: “HHS will have significant anti-fraud monitoring of the funds distributed, and the Office of Inspector General will provide oversight as required in the CARES ACT to ensure that Federal dollars are used appropriately.”
  - LIHEAP guidance: “LIHEAP grantees must track, account for, and report on, the LIHEAP CARES Act supplemental funding separate from the rest of their FY 2020 funding.”
- Particularly where many of the CARES Act funds are accompanied by provisions waiving certain obligations that would otherwise be required, and where an emphasis exists on expediting the expenditure of such funds, ensuring compliance with the specific requirements of these emergency and temporary grants is critical.

- Legislation dubbed “CARES 4.0” was filed in the House of Representatives on May 12, 2020.
- Although subject to significant amendment and revision, CARES 4.0 proposes a number of additional funding streams for housing-related programs, including the following:
  - \$11.5 billion for Emergency Solution Grants
  - \$5 billion for formula Community Development Block Grants
  - \$4 billion for Tenant-Based Rental Assistance (including \$1 billion for temporary vouchers for homeless individuals and families and domestic violence victims)
  - \$2 billion for a Public Housing Operating Fund
  - \$750 million for Project-Based Rental Assistance
  - \$500 million for elderly housing
  - \$200 million for housing for persons with disabilities
  - \$100 million for housing counseling assistance, including foreclosure and eviction mitigation counseling.
  - \$15 million for HOPWA
  - \$14 million for fair housing grants and education

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