

This document provides notice to the public of HUD's intent to exercise authority under Section 8071 of the SUPPORT ACT. HUD will publish the document in the Federal Register.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6265-N-01]

Notice of Waivers and Alternative Requirements for the Pilot Recovery Housing Program

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Updated Program Notice describes the program rules, waivers, and alternative requirements that apply to any and all appropriations authorized under Section 8071 of the SUPPORT for Patients and Communities Act (“SUPPORT Act”), entitled Pilot Program to Help Individuals in Recovery From a Substance Use Disorder Become Stably Housed, herein referred to as the Recovery Housing Program, or RHP. This pilot program authorizes assistance to grantees (states and the District of Columbia) to provide stable, temporary housing to individuals in recovery from a substance use disorder. The assistance is limited, per individual, to a period of not more than two years or until the individual secures permanent housing, whichever is earlier. This notice also extends the deadline for submission of fiscal year (FY) 2020 RHP Action Plans provided in HUD’s November 25, 2020, notice entitled, “Notice of FY 2020 Allocations, Waivers, and Alternative Requirements for the Pilot Recovery Housing Program” (“Program Notice”) and provides instructions for submitting RHP Action Plans for FYs 2020 and 2021.

DATES: [Month] [Day], 2021.

FOR FURTHER INFORMATION CONTACT: Jessie Handforth Kome, Director, Office of Block Grant Assistance, Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by

calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Ms. Kome at 202-708-0033. (Except for the “800” number, these telephone numbers are not toll-free).

Email inquiries may be sent to RecoveryHousing@hud.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authorization and Appropriations

Section 8071 of the SUPPORT for Patients and Communities Act (Pub. L. 115-271, approved Oct. 24, 2018) (“SUPPORT Act”) authorizes the appropriation of funds, as may be necessary, for each fiscal year of 2019 to 2023 for assistance to states to provide stable, temporary housing to individuals in recovery from a substance use disorder. The SUPPORT Act requires amounts appropriated or amounts otherwise made available to grantees for RHP be treated as though such funds are CDBG funds under title I of the Housing and Community Development Act (42 U.S.C. 5302) (HCD Act) and authorizes the Secretary of HUD to waive or specify alternative requirements to any provision of title I of the HCD Act necessary to facilitate or expedite the use of RHP funds, except for requirements related to fair housing, nondiscrimination, labor standards, the environment, and requirements that activities benefit persons of low- and moderate-income.

The SUPPORT Act authorized HUD to establish a funding formula based on specific factors listed in section 8071 of the SUPPORT Act and to allocate funds appropriated or otherwise made available for RHP according to the established funding formula. HUD published the funding formula in the Federal Register on April 17, 2019 (84 FR 16027) (the “Formula Notice”). In accordance with the SUPPORT Act, HUD distributes amounts appropriated for RHP according to the Formula Notice unless the appropriation act directs HUD to do otherwise.

Following an appropriation of funds, HUD determines the RHP grantees and publishes their allocation amounts online at https://www.hud.gov/program_offices/comm_planning/budget.

Congress appropriated \$25,000,000 for RHP in each of fiscal years 2020 and 2021. HUD will allocate future appropriations for RHP through 2023 in accordance with the Formula Notice and requirements of the appropriation. Grantees and their award allocations will continue to be published at https://www.hud.gov/program_offices/comm_planning/budget.

B. Notice of Program Rules, Waivers, and Alternative Requirements

HUD published its Notice of FY 2020 Allocations, Waivers, and Alternative Requirements for the Pilot Recovery Housing Program” (85 FR 75361) (Program Notice) on its website on November 4, 2020, and in the Federal Register on November 25, 2020 (85 FR 75361). The Program Notice imposed the rules, waivers, and alternative requirements and provided specific program deadlines that apply for FY 20. The Program Notice describes requirements on the use of RHP and the applicable waivers and alternative requirements the HCD Act and 24 CFR part 570 necessary to expedite or facilitate the use of RHP funds. This Updated Program Notice adopts those waivers and alternative requirements and applies them to the use of all past and future RHP allocations, and further, revises the FY 20 RHP Action Plan submission deadline and on submitting RHP Action Plans.

II. Applicable Rules, Waivers, and Alternative Requirements

This Updated Program Notice is based on the applicable waivers and alternative requirements to the CDBG program requirements included in the November 25, 2020, Program Notice. The Secretary has determined that those statutory and regulatory waivers and alternative requirements will apply to this Updated Program Notice because they are necessary to expedite or facilitate the use of RHP funds. The waivers and alternative requirements are only applicable

to the use of RHP funds and do not apply to CDBG funds used in conjunction with RHP funds or other sources of CDBG funds (i.e., from other grants or guaranteed loan funds) used for RHP-eligible activities.

All past and future RHP allocations are subject to the requirements in the Program Notice, as amended by this Updated Program Notice and any subsequent notices (collectively, the “RHP notices”). The applicable rules, statutory and regulatory waivers, and alternative requirements described in the RHP notices apply to fiscal year allocations for RHP as of the applicability date of any RHP notice. Grantees can use funds from separate allocations for the same RHP-eligible activity. However, grantees should be aware that each allocation has a distinct period of performance and separate limitations on administrative and technical assistance costs.

A. Submission Deadlines

The Program Notice provides that RHP Grantees submit an RHP Action Plan for FY 20 allocations, including the Form SF-424, application for federal funds, by August 16, 2021. This Updated Program Notice amends Section B. of the Program Notice and extends the deadline for RHP Action Plans for FY 20 allocations to **December 31, 2021**. Grantees with FY 21 allocations must submit a RHP Action Plan or amendment for FY 21 funds by **August 16, 2022**, according to the requirements in the Program Notice, as amended by section II.B. of this Updated Program Notice.

Grantees will have a single, combined RHP Action Plan for the use of RHP funds, including any and all allocations from existing and future appropriations authorized under the SUPPORT Act. For future allocations, grantees must submit a RHP Action Plan or amendment, including a Form SF-424, application for federal funds, for the allocated funds by August 16 of

the fiscal year following the fiscal year in which the funds were authorized. For example, a grantee with an allocation in fiscal year 2022 will require a RHP Action Plan or RHP Action Plan amendment, as well as any required submissions, by August 16, 2023.

Any RHP Action Plan must meet the specific requirements in the Program Notice, as amended by section II.B. of this Updated Program Notice. If a grantee receiving an allocation fails to submit a RHP Action Plan for its allocation by no later than the deadline(s) provided in this Updated Program Notice or submits a RHP Action Plan for less than the total allocation amount, HUD may simultaneously notify the grantee of the reduction in its allocation amount and reallocate those funds in accordance with the SUPPORT Act's requirements.

B. Overview of Grant Process and Modified RHP Action Plan Requirements

The following sections describe the RHP Action Plan requirements and process that RHP grantees must complete to access RHP grant funds. These requirements and processes amend those provided in section II.H. of the Program Notice. Grantees that receive a RHP allocation must submit a RHP Action Plan according to the requirements in the Program Notice, as amended by this Updated Program Notice and described below.

A grantee will have a single RHP Action Plan that describes the use(s) of RHP funds for all of its allocations. While each fiscal year allocation will be a separate grant with separate grant numbers and agreements, this combined administrative approach of a single RHP Action Plan is intended to expedite and facilitate the use of RHP funds by grantees while reducing administrative burden. (Note: RHP Action Plan submissions or substantial amendments for less than the amount of the allocation amount may result in allocation amount reductions. For example, a grantee's submission for its FY 20 allocation should have activity budgets that amount to its FY 20 funds.)

- i. *Initial RHP Action Plan Submission:* A grantee must submit a RHP Action Plan for its initial allocation(s), pursuant to the requirements in section II.H. of the Program Notice, not later than August 16 of the fiscal year following the fiscal year in which the funds were authorized. (Note: RHP Action Plans for FY 20 allocations have an extended deadline of December 31, 2021, as provided by section II.A. of this Updated Program Notice.) For example, a grantee must submit a RHP Action Plan for its FY 21 allocation not later than August 16, 2022. All requirements of section II.H. of the Program Notice related to Action Plan requirements apply to all initial RHP Action Plans, and RHP Action Plans must be submitted to HUD via the Disaster Recovery Grants Reporting (DRGR) system. As a reminder, the citizen participation plan (CPP) may be amended in accordance with 24 CFR 91.105(a)(3) and 91.115(a)(3) concurrently to address RHP funds, and to allow no less than 15 calendar days of public comment and encourage participation by organizations interested in residential recovery programs for individuals with substance use disorders.

A grantee may submit an initial RHP Action Plan for multiple allocations. A grantee that submits an initial RHP Action Plan for multiple allocations must submit its RHP Action Plan no later than the deadline for the earliest fiscal year allocation. For example, the deadline for an initial RHP Action Plan that includes both FY 20 and FY 21 allocations is December 31, 2021 (the submission deadline for FY 20 allocations). The grantee must submit the RHP Action Plan via the DRGR system subject to the requirements in section II.H. of the Program Notice, as amended by this Updated Program Notice. In the DRGR system, the grantee must set up project and activity budgets for the total of the allocations prior to submitting to HUD.

ii. *Substantial Amendment Process for Additional Allocation(s)*: A grantee with a HUD-approved Action Plan for any RHP allocation(s) must submit a substantial amendment to its RHP Action Plan to incorporate any subsequent allocation(s). For example, a grantee that has a HUD-approved RHP Action Plan for its FY 20 allocation must submit a substantial amendment to incorporate its FY 21 allocation or any future allocations. The grantee must submit the substantial amendment via the DRGR system by the deadline outlined in section II.A. of this Updated Program Notice. In the DRGR system, grantees must ensure any subsequent allocation(s) are fully budgeted in the amendment to the RHP Action Plan prior to submission to HUD. The process for the substantial amendment to the RHP Action Plan is as follows:

1. The grantee amends its RHP Action Plan (revised to reflect each substantial amendment). The substantial amendment shall include the HUD-approved RHP Action Plan and the modifications made to it by the substantial amendment. A grantee's substantial amendment(s) to its RHP Action Plan must comply with the requirements in II.H. of the Program Notice, as amended by this Updated Program Notice, and include, at a minimum, the use of the new RHP funds in the substantial amendment. The grantee may modify or add new activities to the RHP Action Plan. The grantee may also make changes to existing activities under the previous grant(s).
2. The grantee publishes each substantial amendment to its RHP Action Plan in accordance with the grantee's adopted CPP. The grantee shall provide opportunity for public comment and public hearings, if any, on the substantially

amended RHP Action Plan and consider and summarize public comments received, in accordance with the requirements described in steps 2 and 3 in section II.H. of the Program Notice.

3. The grantee submits its RHP Action Plan to HUD. A complete action plan submission includes items i through xii in section II.H. of the Program Notice.
4. HUD will review the substantial amendment to the RHP Action Plan in accordance with 24 CFR 91.500 and determine whether to accept the substantial amendment per criteria identified in this Updated Program Notice and the Program Notice.
5. Once HUD accepts the substantial amendment to the RHP Action Plan, HUD and the grantee will enter into a grant agreement for each new allocation. HUD transmits the RHP grant agreement to the grantee, and the grantee signs and returns the grant agreement for HUD's signature.
6. HUD will establish the grantee's line(s) of credit to reflect the amount of new RHP funds.
7. The grantee may draw down funds from each grant's line of credit, consistent with the applicable draw down requirements, after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58 or as authorized by the respective Appropriations Act and, as applicable, receives from HUD or the grantee the Authority to Use Grant Funds (AUGF) form and certification.

C. Timeliness, Period of Performance, and Closeout

RHP funds for FY 21 and for future allocations are subject to the same requirements as those for FY 20 allocations provided in the Program Notice. Each grant is subject to its RHP expenditure deadline in accordance with the executed grant agreement. Pursuant to the grant agreement, a grantee must expend RHP funds for each RHP grant before the end of the grant's period of performance. All RHP funds must be expended before the end of the period of performance on September 1 of the eighth Federal fiscal year from the fiscal year of the appropriation, which is 29 days before the RHP appropriation account is cancelled in accordance with 31 U.S.C. §1552(a), 24 CFR 570.200(k), and 24 CFR 570.480(h). For example, if Congress appropriates funds under Section 8071 of the SUPPORT Act for fiscal year 2022, all FY 21 funds must be expended before the end of the period of performance on September 1, 2028. Grant funds are not available for obligation and expenditure after the period of performance.

HUD, via the DRGR system, will block remaining RHP funds that exceed the grant expenditure deadline to prevent grantees from drawing down funds past the grant's period of performance. The grantee will be able to continue drawing down funds from its line(s) of credit for remaining active grants until each expenditure deadline has been reached.

Additionally, section 8071(c)(1) of the SUPPORT Act requires grantees to "expend at least 30 percent of such funds within one year of the date funds become available to the grantee for obligation." The date of HUD's execution of the grant agreement is used for this purpose. Pursuant to 24 CFR 570.496(b) (states) and 570.910(b)(5) (District of Columbia), any amount of funds that exceeds 70% of a grant allocation not expended by such date is subject to cancellation.

Pursuant to section II.P. of the Program Notice, HUD will close out RHP grants in accordance with the 24 CFR 570.489(o), which imposes the closeout requirements of 2 CFR part 200. HUD notes that those closeout requirements are now located at 2 CFR 200.344.

III. Findings and Certifications

Paperwork Reduction Act

The information collection requirements in this Updated Program Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2506-0165. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for RHP grants under the SUPPORT Act are 14.218 (Community Development Block Grants/Entitlement Grants), 14.225 (Community Development Block Grants/Special Purpose Grants/Insular Areas, and 14.228 (Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii) (formerly CDBG Grant/Small Cities Program).

Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). During periods in which HUD's offices are closed to the public due to coronavirus, the FONSI will be available online at hud.gov. During periods when HUD's offices are open to the public, the

FONSI will be available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the FONSI must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

Dated: _____

James Arthur Jemison II
Principal Deputy Assistant Secretary for
Community Planning and Development

[BILLING CODE: 4210-67]