

ADMINISTRATION FOR  
**CHILDREN & FAMILIES**



# ACF EMERGENCY AND DISASTER WAIVERS AND FLEXIBILITIES

November 2020

## Abstract

The document provides an overview of ACF program waivers and flexibilities that are available to states, tribes, territories, and grantees during emergencies and disasters.

Office of Human Services Emergency Preparedness and Response

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## Introduction

The Administration for Children and Families (ACF)'s role in disasters and emergencies is to provide support to states, tribes, territories, grantees, and federal interagency partners to address the human services needs of affected individuals, families, and communities. ACF provides technical assistance on federal human services programs, ensures continuity of benefits for clients, and assesses impacts to human services infrastructure.

Within ACF, the Office of Human Services Emergency Preparedness and Response (OHSEPR) provides leadership in disaster human services preparedness, response, and recovery.<sup>1</sup> OHSEPR promotes resilience of individuals, families, and communities prior to, during, and after federally declared disasters and public health emergencies.

## Background and Purpose

OHSEPR developed this document to provide information on waivers and flexibilities available to ACF grantees during emergencies and disasters.

The term "waiver" refers to U.S. Department of Health and Human Services' (HHS) dispensations from rules or penalties that can assist grantees in preparing for or responding to an emergency or disaster. Waivers require the express prior approval of HHS. For example, the Office of Head Start (OHS) has a waiver authority that allows for the reduction of the non-federal match requirement for Head Start agencies affected by a major disaster.

The term "flexibility" refers to authorities available to grantees under existing law or regulation that may be used to provide services or otherwise operate their federally funded programs to prepare for or respond to an emergency or disaster. For example, Community Action Agencies can use existing funds to support disaster response.

## Applicability and Usage

Each program is the final authority on the application of its programs' waivers and flexibilities. Certain waivers and flexibilities may require prior ACF approval and/or may include specific requirements. **Therefore, any questions or inquiries on the use of these waivers and flexibilities should be referred to the respective program and/or grant specialists.**

This document emphasizes an all-hazards approach; this means the waivers and flexibilities may apply to any potential disaster (e.g., hurricanes, tornadoes, and wildfires) or public health emergency.

Questions about the disaster (e.g. declarations) or about the coordination of the program's waivers and flexibilities with other forms of disaster relief and benefits (such as those available from the Federal Emergency Management Agency (FEMA)) should be referred to OHSEPR.

Please note some ACF programs do not have applicable waivers and flexibilities for emergencies and disasters and are not included in this document.

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<sup>1</sup> OHSEPR provides leadership in disaster human services under Emergency Support Function (ESF) #6 – Mass Care, Emergency Assistance, Temporary Housing, and Human Services. Additionally, in partnership with the Federal Emergency Management Agency (FEMA), OHSEPR implements the Immediate Disaster Case Management Program.

## COVID-19

During the 2019 novel coronavirus (COVID-19) pandemic of 2020, ACF programs reviewed their existing flexibilities to address the unique issues that arose during COVID-19. Some programs developed COVID-19-specific flexibilities, which are outlined in this document under each program. The following timeline notes key actions that impacted ACF program waivers and flexibilities:

- On January 31, 2020, the HHS Secretary (Secretary) declared a [Public Health Emergency effective January 27, 2020](#), in response to COVID-19, per Section 319 of the Public Health Service Act.
- On March 13, 2020, the [President declared a nationwide emergency](#), pursuant to Section 501(b) of the Stafford Act. In addition, the President then declared a major disaster in every state, most of which were retroactive to January 20, 2020.
- On March 27, 2020, the President signed the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) (Public Law 116-136). This included [\\$6.3 billion in additional funding for ACF](#) to respond to coronavirus-related needs.

## General Waiver Authorities for ACF

In addition to the waivers and flexibilities provided to program offices through their programmatic authorities, ACF also has general waiver authorities provided by the following statutes and regulations.

### Federal Statutes

#### **Public Health Service Act, 42 U.S.C. § 247d**

- The Secretary can declare a Public Health Emergency under Section 319 of the Public Health Service Act. This Public Health Emergency Declaration allows the Secretary to take actions, consistent with his other authorities, including the following:
  - Making grants;
  - Providing awards for expenses; and
  - Entering into contracts and conducting and supporting investigations into the cause, treatment, or prevention of the disease or disorder that caused the health emergency.<sup>2</sup>
- The Secretary, as a result of a public health emergency, may grant extensions to data and reporting deadlines and may waive, wholly or partially, any sanctions from noncompliance relating to submission of data or reports required under laws administered by the Secretary.<sup>3</sup> Before or promptly after granting the extension or waiver, the Secretary must notify Congress and must publish a notice of the extension or waiver to the *Federal Register*.
- Additionally, the Secretary may waive the requirements of the Paperwork Reduction Act for voluntary collections of information when necessary to prepare and respond to public health emergencies.<sup>4</sup> The waiver would take effect on the day the Secretary posts the information on the internet.
- Declarations of a Public Health Emergency under Section 319 of the Public Health Service Act terminate after 90 days or until the Secretary determines that the public health emergency no longer exists (whichever comes first), unless renewed by the Secretary for subsequent 90 day periods.

#### **Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. § 5141 et seq.**

- FEMA is the interpretive authority for the Stafford Act.
- The President may declare a major disaster or emergency exists for one or more states<sup>5</sup> at the request of the governor or a chief executive of an affected Indian tribe, and may also declare a federal emergency, without a gubernatorial request, for subject areas that are determined to be under the primary responsibility of the United States based on the Constitution or laws of the United States.
- Section 301 of the Stafford Act states the following:
  - Any federal agency charged with the administration of a federal assistance program may, if so requested by the applicant, state, or local authorities, **modify or waive**, for a major disaster, such **administrative conditions for assistance** as would otherwise **prevent the giving of assistance** under such programs if

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<sup>2</sup> 42 USC § 247d(a)

<sup>3</sup> 42 USC § 247d(d)

<sup>4</sup> 42 USC § 247d(f)

<sup>5</sup> 42 USC §§ 5170 and 5191

**the inability to meet such conditions is a result of the major disaster.**

[Emphasis added]

- This waiver is limited to administrative, **not** substantive, conditions.
- The state or tribe must request the waivers under 42 U.S.C. § 5141.
- Waivers under Section 301 of the Stafford Act are only available when the President has declared a major disaster.

## HHS Regulations

### ***Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, 45 CFR Part 75***

These requirements apply to non-federal entities, as described under 45 CFR § 75.101.<sup>6</sup> As it relates to waiver or flexibility provisions, there are no specific requirements for disaster and emergency declarations; however, provisions are available under normal conditions.

Exceptions may be made for both classes of federal awards or non-federal entities when exceptions are not prohibited by statute.<sup>7</sup> These exceptions would be published on the Office of Management and Budget (OMB) website. Additionally, exceptions on a case-by-case basis for individual non-federal entities may be authorized by HHS, except where otherwise required by law or where OMB or other approval is required.

Other waiver or flexibility provisions are available. These include, but are not limited to, the following:

- Revision of budget and program plans (45 CFR § 75.308)
  - The inclusion, unless **waived** by the HHS awarding agency, of costs that require prior approval in accordance with the Cost Principles<sup>8</sup> as applicable.
  - Except for requirements listed in paragraph (c)(1) of Section 75.308, the HHS awarding agencies are authorized, at their option, to **waive** prior written approvals required by paragraph (c) of Section 75.308.
- Monitoring and Reporting Program Requirements (45 CFR § 75.342)
  - According to paragraph (f) of this section, the HHS awarding agency may **waive** any performance report required by 45 CFR Part 75 if not needed.
- Compensation-personal services (45 CFR § 75.430)
  - Per the standards for documentation of personnel expenses, for federal awards of similar purpose activity or instances of approved blended funding, a non-federal entity may submit performance plans that incorporate funds from multiple federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved HHS awarding agencies.<sup>9</sup> In these instances, the non-federal entity must submit a request for **waiver** of the requirements based on documentation that (1) describes the method of charging costs, (2) relates the charging of costs

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<sup>6</sup> Please see section 75.101 to determine whether part 75 applies in whole or in part to the ACF Program in question.

<sup>7</sup> 45 CFR § 75.102

<sup>8</sup> 48 CFR Part 31

<sup>9</sup> 45 CFR § 75.430(i)(7)

to the specific activity that is applicable to all fund sources, and (3) is based on quantifiable measures of the activity in relation to time charged.

### **General Administration Requirements-Grant Programs, 45 CFR Part 95<sup>10</sup>**

The waiver or flexibility provisions include the following:

#### *Good Cause Waiver*

- Good cause waiver (45 CFR §§ 95.19 - .34)
  - Good cause are circumstances that go beyond the state's control.<sup>11</sup> Examples include 1) acts of God, and 2) documented action or inaction of the federal government. The state should submit a **waiver** request in writing as soon as the state recognizes that it will be unable to submit a claim within the appropriate time limit. If the request is for only one program, it must be submitted to ACF; however, if it is for more than one program, the request must be submitted to the Division of Cost Allocation. The state's request for **waiver** must include a specific explanation, justification, or documentation of why the claim is or will be late. This request must establish that the lateness in filing the claim is for good cause and not due to neglect or administrative inadequacy. If the claim has not been filed, the state must also indicate when the claim will be filed.

#### *Normal conditions*

- Alternative Approach (45 CFR § 95.627)
  - A state may apply for a **waiver** of any requirement in subpart F of 45 CFR Part 95 by presenting an alternative approach. Waiver requests must be submitted and approved as part of the state's Advance Planning Document (APD) or APD Update.
- Equipment Exceptions (45 CFR § 95.641)
  - Advanced Data Processing (ADP) equipment, as well as other equipment acquired under public assistance programs, is subject to the computation of claims for federal financial participation in the cost of equipment under subpart G of 45 CFR Part 95. Among other things, subpart G provides that a state may charge only depreciation or use allowances for equipment with unit acquisition cost of over \$25,000. However, for ADP equipment, HHS will consider requests for waivers of that restriction. If the acquisition of the equipment is part of an APD<sup>12</sup>, the state may submit the request for a waiver as part of the APD.

## **COVID-19**

The CARES Act provided one-time funding during fiscal year (FY) 2020 to support ACF recipients/grantees to prevent, prepare for, and respond to COVID-19. OMB and ACF issued guidance on administrative and grant flexibilities in response to COVID-19 as follows:

- On March 9, 2020, OMB released a memorandum titled, "[Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus \(COVID-19\)](#)" (M-20-11). The flexibilities offered under this memorandum expired on June 26, 2020.

<sup>10</sup> These requirements apply to grant programs as outlined under 45 CFR §§ 95.1, .503, .601, and .703.

<sup>11</sup> 45 CFR §§ 95.22

<sup>12</sup> Subject to prior approval requirements of 45 CFR Part 95, subpart F

- On March 19, 2020, OMB released a new memorandum that provided [administrative relief to those impacted by COVID-19 due to loss of operation](#) (M-20-17). This expanded the administrative relief to more grantees and was more applicable to ACF. The exceptions were made available starting March 19, 2020, and would be available for 90 days. The flexibilities offered under this memorandum expired on June 16, 2020.
- On March 30, 2020, ACF released an [Information Memorandum \(IM\) to implement the flexibilities](#) provided under OMB Memo M-20-17 (IM-ACF-OA-2020-01).
- On April 9, 2020, OMB released a new memorandum on [repurposing existing federal financial assistance programs and awards to support the emergency response to COVID-19](#). The flexibilities offered under this memorandum expired on June 16, 2020.
- On July 8, 2020, ACF released an update to "Item 6. Allowability of Certain Costs not Normally Chargeable to Awards." The June 8, 2020 memo superseded, clarified, and updated guidance regarding the "other activities" identified under Item 6 of IM-ACF-OA-2020-01 issued on March 30, 2020.
- On July 24, 2020, ACF released an [IM with updated information on available administrative flexibilities](#) (IM-ACF-OA-2020-02). This IM rescinded and superseded IM-ACF-OA-2020-01.



## Administration for Native Americans

The Administration for Native Americans (ANA) promotes economic and social self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and other Native Pacific Islanders. ANA provides community-based project funding to improve the lives of Native children and families. ANA's program areas of interest are focused on strengthening children, families, and communities through community-based organizations, tribes, and village governments. ANA can provide emergency assistance to help fill the gaps that the communities need in two program areas:

- **Social and Economic Development Strategies (SEDS).** Eligible activities include, but are not limited to:
  - Projects to improve the delivery of human services
  - Emergency Preparedness – Planning and coordinating emergency response services within the community and with state and local governments to protect against the acts of nature and other catastrophic events, such as floods and hazardous material exposure
  - Public Safety and Security – Developing or enhancing community-based initiatives to protect the community from external threats and reduce insecurity, violence, and crime
- **Environmental Regulatory Enhancement.** Eligible activities include, but are not limited to:
  - Projects that promote environmental training and education of tribal employees
  - Projects that develop technical and program capability to enforce and monitor tribal and federal environmental quality laws

### Waivers

1. Waiver of 20 percent non-federal match, if it would further purposes of the Native American Programs Act and grantee meets regulatory criteria
2. Waiver of maintenance of effort, if it would result in unnecessary hardship or otherwise be inconsistent with the Native American Programs Act's purposes and grantee meets regulatory criteria
3. Waiver of notice and public procedure for proposed interpretive rule or policy statement determined by the Secretary for "good cause"

The first two are activated by the ANA Commissioner. The third waiver can only be implemented by the Secretary.

### Flexibilities

No other program flexibilities are available.

### COVID-19

ANA encouraged its grantees to review the flexibilities in IM-ACF-OA-2020-01 (superseded by [IM-ACF-OA-2020-02](#)) for administrative, financial management, and audit requirement relief. Please refer to [ACF Grant Recipient COVID-19 Guidance](#) for the most current information on grant flexibilities related to COVID-19.

### Examples of Use of Waivers and Flexibilities

ANA has received requests from Native American grantees seeking flexibility in carrying out their projects in response to COVID-19. The primary requests include the following:

1. Grant modifications in response to tribal and state declarations, school closings, social distancing requirements, telework flexibilities, and continued compensation for project staff; and
2. No-cost extensions and/or extension of deadlines for submitting reports.

## Children's Bureau

The Children's Bureau (CB) focuses on improving the lives of children and families through programs that reduce child abuse and neglect, increase the number of adoptions, and strengthen foster care.

### Child Abuse Prevention and Treatment Act

The Child Abuse Prevention and Treatment Act (CAPTA) grants provide funds for states, tribes, and territories to improve their Child Protective Service systems.

#### **Waivers**

CAPTA does not include waivers applicable to disasters.

#### **Flexibilities**

CAPTA does not include an emergency trigger; however, the funds can be used in a flexible manner to support children and families during an emergency.

#### **COVID-19**

There are no special COVID-19 waivers or flexibilities for CAPTA funds.

### Title IV-E Foster Care

The Title IV-E Foster Care program helps states, tribes, and territories ("title IV-E agencies") to provide safe and stable out-of-home care for children until the children are safely returned home, placed permanently with adoptive families, or placed in other planned arrangements for permanency. Funds are available for the following: monthly maintenance payments to eligible foster care providers; administrative costs to manage the program; training staff and foster parents; foster parent recruitment; and other related expenses. Administrative costs are also available for candidates for foster care when the child meets the statutory criteria.<sup>13</sup>

#### **Waivers**

Title IV-E does not include waivers applicable to disasters.

#### **Flexibilities**

CB developed [Title IV-E and Hurricane Katrina](#) (ACYF-CB-IM-05-06) to remind title IV-E agencies of flexibility in the title IV-E program that may help them serve vulnerable children and families who have been affected by a disaster.

1. Meeting children's needs in foster care maintenance payments: Title IV-E agencies may claim transportation costs for reasonable travel to a child's home or other location for visitation. These costs may be claimed as a foster care maintenance payment.<sup>14</sup> Foster care maintenance payments to providers can include an allowance for the child's personal incidentals, such as items related to personal hygiene; cosmetics; over-the-counter medications and special dietary foods; infant and toddler supplies, including high chairs and diapers; and fees related to activities.<sup>15</sup>
2. Licensing and recruiting foster care providers: Title IV-E agencies may need to license or approve new foster family homes to accommodate children displaced by a disaster. Title IV-E agencies currently have the flexibility to waive non-safety related licensing requirements to allow foster care placements of children with their relatives. These

<sup>13</sup> See [Child Welfare Policy Manual](#) (CWPM), sec. 8.1D.

<sup>14</sup> See CWPM, 8.3B.1 #4

<sup>15</sup> See CWPM, 8.3B.1 #9

requirements must be waived on a case-by-case basis.<sup>16</sup> Title IV-E agencies may claim title IV-E administrative costs for items such as beds or cribs to help recruit and approve foster family homes or adoptive homes.<sup>17</sup> As title IV-E agencies attempt to manage the overwhelming effects of a disaster, licenses for foster homes and child-care institutions may lapse. If a foster family home or child-care institution is licensed for a portion of a month, the title IV-E agency may claim federal financial participation (FFP) for the entire month when an otherwise eligible child has resided in that home or institution for the entire month. The title IV-E agency must prorate any claims when the otherwise eligible child has resided in the home or institution for a portion of the month.<sup>18</sup>

3. Providing the match for federal funds: Title IV-E agencies may claim FFP for allowable title IV-E costs paid with funds donated to support specific activities.<sup>19</sup> The following conditions must be met if a state wishes to use donated funds to meet federal cost-sharing requirements:
  - a. The donated funds must be used to pay for allowable title IV-E expenditures.
  - b. The donor may specify the activities to be supported with its donations but cannot be a sponsor or operator of a program that provides such activities.
  - c. The donor may specify the geographic area in which the activity is to be provided.
4. Case review requirements: Although periodic reviews and permanency hearings are important protections for children in foster care, we remind title IV-E agencies that neither is a title IV-E eligibility requirement, and therefore, delays in conducting these activities will not adversely affect a child's eligibility for title IV-E.
5. Judicial determinations: Title IV-E agencies also may establish alternative procedures for obtaining judicial determinations contrary to the welfare and reasonable efforts, including reasonable efforts to achieve permanency, as there is no federal requirement that these determinations be made at a court hearing. These judicial determinations are required to establish a child's eligibility for title IV-E and cannot be waived.
6. Emergency trigger: Title IV-E does not include an emergency trigger but flexibilities can be activated through various provisions (see examples above) applicable to disasters. Title IV-E agencies are eligible for title IV-E funds in accordance with the Social Security Act and implementing regulations.
7. Licensing: Title IV-E agencies may modify licensing standards as long as the standards are applied to all placements in accordance within the requirements of the statute.<sup>20</sup>
8. Foster Care Maintenance Payments: Title IV-E agencies have the authority to set rates for foster care maintenance payments. Therefore, a title IV-E agency can establish a rate structure to provide an enhanced title IV-E foster care maintenance payment (FCMP) rate.<sup>21</sup>

### **COVID-19**

CB has provided waivers for some title IV-E requirements under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The Stafford Act allows federal agencies

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<sup>16</sup> See CWPM, 8.3A.8.c #1

<sup>17</sup> See CWPM, 8.1 #3

<sup>18</sup> See CWPM, 8.1C #4

<sup>19</sup> See 45 CFR 92.24(a) and (b); CWPM, 8.1F #3

<sup>20</sup> See CWPM, 8.3A.8c

<sup>21</sup> See CWPM, 8.3B.2

that administer federal assistance programs to modify or waive administrative conditions of federal assistance programs under certain limited circumstances.

### **Examples of Use of Waivers and Flexibilities**

1. CB developed a program instruction (PI) to provide instruction and procedures to title IV-E agencies on [how to request flexibility to meet specific title IV-E requirements as a result of the COVID-19 pandemic](#) and national public health emergency (ACYF-CB-PI-20-10). The PI outlines the following waivers and flexibilities:
  - Simplified Process for Title IV-E Eligibility for Youth Age 18 and Older: Title IV-E agencies may opt to extend eligibility for title IV-E foster care maintenance payments, adoption assistance, and guardianship assistance for youth up to age 19, 20, or 21, as elected by the agency. Under the Stafford Act, a title IV-E agency may request a simplified process for extending title IV-E assistance, instead of submitting a title IV-E plan amendment.
  - Assistance for Youth Age 18 and Older: Education and Employment Conditions: Title IV-E agencies that opted to extend eligibility for title IV-E assistance with respect to foster care, adoption, and legal guardianship services for youth up to age 19, 20, or 21, may modify the requirement for older youth to meet education or employment conditions for youth who are unable to fulfill this requirement as a direct result of the pandemic.
  - Accreditation and Reaccreditation of Qualified Residential Treatment Programs (QRTPs): Title IV-E requires that facilities be accredited in order to be considered eligible for reimbursement under title IV-E as a QRTP, among other requirements.<sup>22</sup> However, if conditions related to the COVID-19 pandemic prevent a facility from completing its accreditation or reaccreditation as a QRTP, the title IV-E agency may request flexibility under the Stafford Act to allow claiming reimbursement of title IV-E expenses on behalf of an otherwise eligible child who is placed in the QRTP. This is only allowed during the time the QRTP is unable to meet the requirement as a result of the major disaster.
  - Provisional Licensure for Foster Family Homes: A title IV-E agency only may claim title IV-E reimbursement on behalf of an otherwise eligible child who is placed in a licensed or approved foster family home in accordance with the Social Security Act. Under the Stafford Act, claiming of title IV-E reimbursement is permitted on behalf of an otherwise eligible child who is placed in a foster family home that is provisionally or conditionally approved or licensed, if the declared major disaster precludes full completion of the licensing process. The title IV-E agency must complete as many of the requirements for licensure as practicable, taking into account local requirements related to physical/social distancing guidelines and shelter in place orders, and must ensure that the foster family home is safe for children.
2. Fingerprint-Based Criminal Records Checks
  - April 15, 2020: CB issued a letter to the child welfare field [addressing the requirement for fingerprint-based criminal records checks](#) of national crime information databases. This letter advises agencies to (1) conduct all available name-based criminal background checks for prospective foster parents, adoptive parents, legal guardians, and adults working in child care institutions, and (2)

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<sup>22</sup> See 42 USC §672(k)(4)(G)

complete the fingerprint-based checks of the national crime information databases, as soon as it can safely do so.

3. Personal Protective Equipment

- April 17, 2020: CB's letter reminds child welfare leaders that the [purchase of personal protective equipment \(PPE\) is an allowable use of title IV-E funds](#) in response to the COVID-19 pandemic.

### **MaryLee Allen Promoting Safe and Stable Families**

The MaryLee Allen Promoting Safe and Stable Families (PSSF) program prevents the unnecessary separation of children from their families, improves the quality of care and services to children and their families, and ensures permanency for children by reuniting them with their parents, by adoption or by another permanent living arrangement. Title IV-B, subparts 1 and 2, provide flexible funds for states, tribes, and territories to: protect and promote child welfare; prevent child abuse, neglect, and exploitation; support at-risk families; and to train their workforce. States and tribes must receive approval of their title IV-B plan and agree to abide by the programmatic and administrative requirements of title IV-B.

### **Waivers**

The PSSF program does not include waivers applicable to disasters.

### **Flexibilities**

1. The grantee agencies have various degrees of flexibility with use of Title IV-B, subparts 1 and 2 (Child Welfare Services and Promoting Safe and Stable Families), Court Improvement Program (CIP) funds, CAPTA, and the Community Based Child Abuse Prevention (CBCAP) program. The flexibility mostly takes the form of prioritizing disaster recovery focused activities (e.g., training, trauma support for staff, and managing logistics related to providing services to displaced families) over non-disaster related activities. States and tribes should work closely with their CB Regional Office representative in determining which disaster recovery activities fall within the scope of one of these programs.
2. Title IV-B does not include an emergency trigger, but flexibilities can be activated through various provisions (see examples above and below) applicable to emergency/disaster situations.

### **COVID-19**

CB has provided flexibilities for title IV-B requirements due to the COVID-19 pandemic, including the examples below.

### **Examples of Use of Waivers and Flexibilities**

1. During the state of emergency, the title IV-B state agency [may count caseworker visits with children conducted by video conferencing as "in the child's residence"](#) for meeting the requirement that 50 percent of caseworker visits take place in the child's residence.<sup>23</sup>
2. CB reminds child welfare leaders in its April 17, 2020 letter that the [purchase and operation of cell phones for children and youth in foster care, their parents, or foster parents is an allowable cost](#) under title IV-B and/or the John H. Chafee Foster Care Program for Successful Transition to Adulthood, as long as the costs are necessary to fulfill one or more program purposes. The letter also reminds child welfare leaders that

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<sup>23</sup> See March 18, 2020 letter and the CWPM, 7.3.#8

PPE is an allowable expenditure of title IV-B funds for program purposes such as caseworker visits.

### Community-Based Child Abuse Prevention

The CBCAP program provides funding to states to develop, operate, expand, and enhance community-based, prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect. Preventive direct services under CBCAP are beneficial activities aimed at preventing child abuse and neglect. Such activities may be directed at the general population or specific populations identified as being at increased risk of abusing or neglecting their children. The primary focus of these activities is to better strengthen and support families by increasing protective factors and reducing the risk factors for abuse or neglect.

#### **Waivers**

The CBCAP program does not include waivers applicable to disasters.

#### **Flexibilities**

CB developed Title II CAPTA and Hurricane Relief Efforts to remind states of [flexibility in the Title II program to provide family support and child abuse prevention services that may help them serve vulnerable children and families](#) who have been affected by Hurricanes Katrina and Rita or other disaster (IM-05-09).

1. The 2017 CBCAP Program Instruction (ACYF-CB-PI-17-06), Section 201(b) of CAPTA, provides that [funds made available to states under the CBCAP program can be used for the following activities](#) related to hurricane relief efforts (see pages 5-6): developing, operating, expanding, and enhancing community-based, prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate) that are accessible, effective, and culturally appropriate, and build upon existing strengths that: a) offer assistance to families; b) provide early, comprehensive support for parents; c) increase family stability; d) improve family access to other formal and informal resources and opportunities for assistance available within communities; e) support the additional needs of families with children with disabilities through respite care and other services; and f) provide referrals to early health and developmental services.
2. CBCAP under CAPTA does not include emergency provisions; however, grantees may utilize program funding flexibilities to meet the needs of children and families in the event of a disaster, consistent with Title II of CAPTA.

#### **COVID-19**

There are no special COVID-19 waivers or flexibilities for CBCAP funds.

## Family Youth and Services Bureau

### Family Violence Prevention and Services Act

The Family Violence Prevention and Services Act (FVPSA) Program funds a range of grants each year for the purposes of: (1) preventing family violence, domestic violence, and dating violence; (2) providing shelter and supportive services for victims and their dependents; (3) improving the design, delivery, and coordination of services to address family violence, domestic violence, and dating violence; (4) gathering information on the incidences of family violence, domestic violence, and dating violence; and (5) increasing knowledge and understanding of issues through research, demonstration, and evaluation projects.

#### **Waivers**

No program waivers are available.

#### **Flexibilities**

Although no waivers or flexibilities exist within FVPSA, during extraordinary circumstances, letters requesting flexibilities, such as carryovers, may be sent to the ACF, Family and Youth Services Bureau (FYSB) Associate Commissioner. Letters should include the following:

1. An explanation of the circumstances facilitating the need for the request;
2. The scope of the disaster;
3. The fiscal year the funds will be used;
4. The proposed use of requested funds;
5. How the request fits within the scope of FVPSA's purpose areas; and
6. How the funds will assist the domestic violence program(s) with recovery.

Upon receipt of the information, the FVPSA Program will review and send written correspondence on either the approval or denial of the request.

#### **COVID-19**

ACF issued IM-ACF-OA-2020-01 to implement administrative flexibilities for grantees conducting human service activities related to or affected by COVID-19; the IM was later superseded by [IM-ACF-OA-2020-02](#). Please refer to [ACF Grant Recipient COVID-19 Guidance](#) for the most current information on grant flexibilities related to COVID-19.

Through the CARES Act, the FVPSA Program received \$45 million in supplemental funding for formula grantees (e.g., FVPSA-funded states, tribes, and coalitions) and \$2 million in supplemental funding for the National Domestic Violence Hotline. This funding provided flexibility in grantee activities to prevent, prepare for, and respond to the COVID-19 public health emergency, while addressing the evolving needs of domestic violence survivors and local domestic violence programs within their communities.

1. The CARES Act provided these funds without a requirement for match. State agencies receiving FVPSA supplemental CARES Act funding were not required to comply with the match requirement detailed in 42 USC§ 10406(c).
2. A streamlined application process was implemented for all FVPSA formula grantees to receive CARES Act funding, and grant recipients were required to submit post-award documents related to the use of funds. Additional details and reporting forms are available at:



- [FY 2020 CARES Act Supplemental Funding Guidance for FVPSA Formula Grantees: Abbreviated Application Process Memo, Allowable Use of Funds, and Reporting Instructions](#)
- [FY 2020 CARES Act Supplemental Funding Guidance for the National Domestic Violence Hotline: Reporting Instructions and Allowable Use of Funds](#)

### **Examples of Use of Waivers and Flexibilities**

1. Abbreviated applications for supplemental funding
  - In May 2020, all FVPSA state administrators, tribes, and state domestic violence coalitions were provided supplemental CARES Act funding through an abbreviated application process that allowed all existing grantees to submit all required documentation 30 days after each agency or tribe had received their supplemental award.
2. Allowability of salaries and other project activities
  - In response to questions on the allowable use of FVPSA funds, the FVPSA Program issued [FAQs on Allowable Use of FVPSA Funds during the COVID-19 Public Health Emergency](#) on March 31, 2020.
3. Administrative Grant Flexibilities
  - IM-ACF-OA-2020-01 allowed all FVPSA grantees to use existing grant awards to pay staff salaries to ensure the continuity of domestic violence services, hotline services, training, and technical assistance, while switching to remote services or the relocation of families out of congregate shelters to minimize risk of exposure to COVID-19. FVPSA grantees also requested extensions on submission of reports and non-competing continuation applications; no-cost extensions; use of grant funds for cancellation fees and travel costs for grant activities cancelled due to COVID-19; and use of grant funds for purchasing supplies and equipment for staff to work remotely.

### **Runaway and Homeless Youth Program**

FYSB's Runaway and Homeless Youth (RHY) Program serves as the national leader for the provision of shelter and supportive services to runaway and homeless youth. The RHY Program administers funds to support Street Outreach, Basic Center, and Transitional Living and Maternity Group Home Programs to serve and protect young people. Public and non-profit organizations funded under all three funding streams must have policies and procedures around preparedness, response, and recovery from disasters, as indicated in 45 CFR 1351.23(g). Policies and procedures must include a plan to notify FYSB immediately in the event of a disaster. The three types of RHY Programs are described below.

- The **Street Outreach Program** provides grants for street-based outreach and education, including treatment, counseling, provision of information, and referrals for runaway, homeless, and street youth 21 years and younger who have been subjected to or are at risk of being subjected to sexual abuse, prostitution or sexual exploitation.
- The **Basic Center Grant Program** funds grants to establish and operate local centers to provide services for runaway and homeless youth and for the families of such youth. Services provided include the provision of outreach, crisis intervention, emergency shelter, counseling, family unification, and aftercare services to runaway and homeless youth and their families.

- The **Transitional Living Program** provides grants to establish and operate transitional living youth projects for homeless youth, including community-based shelter, such as group homes, host family homes, and supervised apartments for youth, ages 16 to under 22, who cannot safely live with their families.

### **Waivers**

There is no existing authority within FYSB to provide waivers.

### **Flexibilities**

There is no existing authority within FYSB to provide flexibilities.

### **COVID-19**

The RHY Program received \$25 million for additional assistance for RHY grantees to provide critical supportive services and shelter for runaway and homeless youth through supplemental funding. The funds will be for a logical extension of the existing scope of the project and service.

ACF issued an IM (IM-ACF-OA-2020-01) to implement administrative flexibilities for grantees conducting human service activities related to or affected by COVID-19; the IM was later superseded by [IM-ACF-OA-2020-02](#). Please refer to [ACF Grant Recipient COVID-19 Guidance](#) for the most current information on grant flexibilities related to COVID-19.

### **Examples of Use of Waivers and Flexibilities**

1. Grantees have requested use of administrative flexibilities found in IM-ACF-OA-2020-01, such as using grant funds for cancellation of travel and events due to COVID-19; not registering for System for Award Management (SAM) at the time of application; and delaying the submission of financial, performance, and other reports up to three months beyond the normal due date.
2. The RHY Program issued [COVID-19: FAQs for Runaway and Homeless Youth \(RHY\) Program Grantees](#) to provide additional information on flexibilities available to grantees.

### **Adolescent Pregnant Prevention Program**

FYSB's Adolescent Pregnancy Prevention (APP) Program provides funding to support the organizations and communities that work every day to reduce the risk of adolescent pregnancy and supports state, tribal, and community efforts to educate youth on abstinence, contraception, sexually transmitted infections, and sexual risk avoidance. The APP Program administers grant programs across multiple funding streams:

- The **Title V State Sexual Risk Avoidance Education (SRAE) Program** funds states/territories to implement education with messages that normalize the optimal health behavior of avoiding non-marital sexual activity.
- The **General Departmental SRAE Program** awards funds to organizations to implement sexual risk avoidance education that teaches participants how to voluntarily refrain from non-marital sexual activity.
- The **Personal Responsibility Education Program (PREP)** awards funds to state, tribal, and community efforts to prevent teen pregnancy and the spread of sexually transmitted infections and to support youth in the successful transition to adulthood.

Funding is not specifically awarded to grantees to provide emergency services. However, grantees must have the capacity to refer program participants to health care, educational services, career development, or counseling services (e.g., substance abuse, including alcohol, tobacco cessation, mental health issues, and intimate partner violence) to address identified social, mental, physical, and general safety needs of the youth and their families. With

HHS/ACF authorization, grantees are to consult with their federal Project Officers to modify their existing state plans and funded applications to deliver pre-approved emergency services that conform to program requirements.

### **Waivers**

No program waivers are available.

### **Flexibilities**

During extraordinary circumstances, and with HHS/ACF authorization, letters requesting flexibilities may be sent to FYSB for approval. Letters should include the following:

1. Explanation of the circumstances facilitating the need for the request;
2. Description of the scope of the disaster's impact on the program;
3. Indication of the budget year or project period impacted;
4. Description of the proposed use of funds for the requested period to extend grant activities and how the request fits within the scope of the grant project; and
5. How the funds will assist the APP program(s) with recovery.

### **COVID-19**

ACF issued an IM (IM-ACF-OA-2020-01) to implement administrative flexibilities for grantees conducting human service activities related to or affected by COVID-19; the IM was later superseded by [IM-ACF-OA-2020-02](#). Please refer to [ACF Grant Recipient COVID-19 Guidance](#) for the most current information on grant flexibilities related to COVID-19.

Several APP Program state, territory, tribal, faith-based, and community-based grantees have submitted questions related to flexibilities in programming, data collection, and the use of federally awarded funds in light of the current COVID-19 situation. To address specific programmatic questions and concerns of grantees, the APP Program has [developed responses to frequently asked questions \(FAQs\)](#).

The APP Program has provided the following recommendations to grantees to assist in developing innovative program adaptations during social distancing:

- Prepare self-guided, learning sessions in digital or hard copy for participants to access.
- Call parents regularly to ask about their needs and how they can best support their middle school students.
- Check in with youth and offer additional mental/emotional health support, when needed.
- Provide information and access to basic services, such as housing and food for families.
- Support teachers and others working with youth virtually to deliver programming.
- Invite youth to develop and lead virtually delivered sessions.

### **Examples of Use of Waivers and Flexibilities**

1. Grantees have requested use of administrative flexibilities found in IM-ACF-OA-2020-01, such as approval to pay staff salaries and benefits during the public health emergency. This flexibility has been granted to grantees that have not been able to fully implement their grant projects due to social distancing and school closures. Grantees have also requested no-cost extensions and extensions for performance and financial reports.
2. Grantees who are unable to provide direct services, due to the public health emergency that required the closure of schools and/or community based programming, have submitted plans to their assigned federal Project Officer to conduct virtual educational sessions.

## Office of Child Care

### Child Care and Development Fund

The Child Care and Development Fund (CCDF) is the primary federal funding source dedicated to providing child care assistance to low-income families. As a block grant, CCDF gives funding to state, territory, and tribal lead agencies to provide child care subsidies through vouchers or certificates to low-income families (as well as some grants and contracts with providers). CCDF is a dual-purpose program with a two-generational impact. CCDF provides access to child care services for low-income families, so they can work, attend school, or enroll in training to improve the well-being of their families. At the same time, it also promotes the healthy development and school success of our nation's low-income children by providing them with higher-quality early learning and afterschool experiences. CCDF provides funds for two primary purposes:

- Subsidized Child Care Assistance for Families
  - Child care services funded through CCDF are available to eligible families through certificates (vouchers), grants, or contracts with providers. Parents may select any legally operating child care provider that meets health and safety requirements and any other relevant state or local standards.
  - NOTE: In the event of an emergency or disaster declaration, some states, tribes, and territories may temporarily modify regulatory or licensing standards, so that regulations are not a barrier to providing needed services to families in a way that preserves the health and safety of children.
- Child Care Quality Improvement Activities
  - Lead agencies must spend certain percentages of CCDF funds on activities to improve the quality of child care. Specifically, states and territories must spend no less than eight percent in FY 2018 and 2019 and nine percent in FY 2020 and each succeeding fiscal year. Starting in FY 2017, lead agencies are required to spend a minimum of three percent on activities related to the quality of care for infants and toddlers

CCDF has several resources for disasters and emergencies.

- [Child Care Resources for Disasters and Emergencies](#)
- [Emergency Preparedness Resources for Grantees and Child Care Providers](#)
- FEMA may provide [reimbursement for certain child care services during federally declared major disasters and emergencies](#). Lead agencies are encouraged to share FEMA guidance with their state or local emergency management officials. Additional information about the reimbursement for child care can be found in [FEMA'S Public Assistance Program and Policy Guide](#) and [FEMA's Individuals Assistance Program and Policy Guide](#).

### **Waivers and Amendments**

Access to child care is especially important in the event of a major disaster, as children have unique needs in emergency situations and are among the most vulnerable populations. Meeting the urgent need of children and families in the aftermath of a disaster may require some programmatic changes. When considering changes to program requirements, CCDF lead agencies have two main options for such changes: (1) apply for a waiver for extraordinary circumstances and (2) revise CCDF Program Policies through a plan amendment.

1. Apply for a waiver for extraordinary circumstances: If a state, territory, or tribe needs relief from specific CCDF requirements (e.g., 12-month eligibility) due to a federal or state declared emergency situation or disaster, the lead agency may apply for a waiver for extraordinary circumstances (see below). A waiver is only necessary if the change would not be in compliance with CCDF requirements; a waiver is not necessary if the change is to the lead agencies' policies. Lead agencies may apply for waivers for extraordinary circumstances, which are defined as temporary circumstances or situations, such as a natural disaster. Such waivers are limited to an initial period of no more than two years from the date of approval, and may be extended, for at most one additional year from the date of initial approval.<sup>24</sup>
  - a. Waiver requests<sup>25</sup> must be submitted to ACF in writing and:
    - i. Indicate the type of waiver (e.g., extraordinary circumstances).
    - ii. Detail or list each sanction or provision of the Act or the regulations that the state or territory seeks relief from (e.g., 12-month eligibility; waiving copays; etc.).
    - iii. Describe how a waiver from that sanction or provision, will, by itself, improve delivery of child care services for children.
    - iv. Certify and describe how the health, safety, and well-being of children served through CCDF will not be compromised as a result of the waiver.
  - b. Upon approval of the waiver request, lead agencies have 60 days to submit a CCDF plan amendment to correspond with the provision(s) in the waiver request. For example, if a lead agency is approved for a waiver for 12-month eligibility, the lead agency would have 60 days to submit a plan amendment using the ACF-118. The plan amendment would describe how the waiver affects who is covered by the 12-month eligibility waiver (e.g., families displaced by Hurricane XXX) and for how long (e.g., until September 2018).
2. Revise CCDF Program Policies through a plan amendment: If the lead agency needs to revise some program policies but would still be within the bounds of federal requirements, they can do so through a CCDF plan amendment. Amendments can be submitted on an ongoing basis through the end of the plan period. A plan amendment is required within 60 days of the effective date of the requirement; lead agencies may proceed with implementing the program change and subsequently submit the amendment up to 60 days following the effective date.

### **Flexibilities**

1. CCDF is allocated on a formula basis, meaning there are no additional funds available to respond to federal or state declared emergency situations (unless additional funds are specifically appropriated for this purpose). However, CCDF does provide states, territories, and tribes affected by emergency situations with some options to continue providing child care services despite disruptions to families and providers. For example, lead agencies have flexibility to define eligible populations and set priority rules for the program. In addition, lead agencies may use quality dollars to provide immediate assistance to displaced families. Some of these options would require the lead agencies to submit a CCDF plan amendment. Information about the options and flexibility is

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<sup>24</sup> See 45 CFR 98.19(b)(2)

<sup>25</sup> See 45 CFR 98.19(c)

described in detail in [Flexibility in Spending CCDF Funds in Response to Federal or State Declared Emergency Situations](#) (CCDF-ACF-IM-2017-02).

2. There is no authorization needed for CCDF lead agencies to use the flexibility in the CCDF program, as described in CCDF-ACF-IM-2017-02, to provide services to families impacted by a disaster. However, lead agencies should consult with their ACF regional office to determine if any amendments to the CCDF plan are required within 60 days.

### **COVID-19**

In addition to the flexibilities described above, the CARES Act provided additional flexibilities, as well as \$3.5 billion in CCDF discretionary funds to prevent, prepare for, and respond to COVID-19. More information about the CARES Act funds, as it relates to CCDF, can be found in [CCDF Discretionary Funds Appropriated in the CARES Act](#) (CCDF-ACF-IM-2020-01). Blanket waivers have not been granted for CCDF requirements in response to COVID-19, but lead agencies may request waivers on a case-by-case basis as described above. OCC regularly updates its [COVID-19 Resources webpage](#) for states, territories, tribes, and grantees.

### **CARES Act Flexibilities**

1. *Supporting Providers during Closures or Decreased Enrollment:* The CARES Act allows lead agencies to maintain the supply of child care by funding child care providers (including those funded by CCDF and/or private payments from parents) to pay, and ultimately retain, their staff during the public health crisis, even if those programs have closed.
  - a. Under existing CCDF regulations, lead agencies may pay CCDF subsidies based on a child's enrollment rather than attendance.<sup>26</sup> The CARES Act extends this use of funds to include paying for two providers. Lead agencies are encouraged to place conditions on payments to child care providers that ensure that child care providers use a portion of funds received to continue to pay the salaries and wages of staff.
  - b. Lead agencies may provide CARES Act funds for the purposes of cleaning and sanitation (including cleaning supplies or deep cleaning services), other supplies, equipment (such as PPE), virtual professional development opportunities, staffing, and other activities necessary to maintain or resume the operation of programs. Lead agencies may also provide temporary grants to impacted providers to retain the child care supply during periods of closures, regardless of whether the providers are eligible to serve or are currently serving children receiving CCDF subsidies.
2. *Supporting Child Care Services for Essential Workers:* CARES Act funds can be used to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to COVID-19, *without regard to the federal income eligibility requirements*. This support can take the form of subsidies to families of essential workers or as supply-building grants targeting child care providers serving essential workers.
3. The quality spending requirements and the requirements to spend a substantial portion on direct services do not apply to CARES Act CCDF discretionary funds.
4. Changes based on the additional flexibilities allowed by the CARES Act require an amendment, but not a waiver. As with existing CCDF plan amendments, a plan

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<sup>26</sup> 45 CFR 98.45(l)(2)(i)

amendment is required within 60 days of the effective date of the requirements; lead agencies may proceed with implementing the program change and subsequently submit the amendment up to 60 days following the effective date.

## Office of Child Support Enforcement

### Child Support Enforcement Grants

The Office of Child Support Enforcement (OCSE) oversees the national child support program and helps state and tribal child support agencies to develop, manage, and operate their programs. Child support services are available upon application on behalf of a child living apart from a parent. Services are available automatically for families receiving assistance under the Temporary Assistance for Needy Families (TANF) program. Services include locating non-custodial parents, establishing paternity, establishing support orders, collecting support, and disbursing payments and services for non-custodial parents. The program has authority to locate either parent, a child, or relatives of a child under certain circumstances.

#### **Waivers**

1. In the event of an emergency or natural disaster, a tribal child support enforcement grantee can request a waiver for all or part of non-federal share.<sup>27</sup> The tribal grantee may submit the waiver request to OCSE, and it is subject to the OCSE Commissioner's approval.
2. An unanticipated need to acquire information technology (IT) services to continue the operation of a program can serve as the trigger for a state's request to OCSE for a waiver of prior approval of IT acquisitions or services.

#### **Flexibilities**

Flexibility can be offered to states with regard to submission of annual APD updates used in the decision process on Federal Financial Participation approval for IT procurements. Existing regulatory authority permits waiving federal prior approval of purchase of emergency equipment and any other APD. Specific regulatory authority for emergency situations can be found at 45 CFR 95.624. APD documents are expected to provide information on computer equipment and services purchased under emergency authority to replace equipment lost and damaged in emergency situations.

#### **COVID-19**

OCSE is providing flexibilities to states, territories, and tribal child support agencies in meeting certain administrative requirements under the Stafford Act. Guidance for states to request waivers and flexibilities can be found in OCSE Dear Colleague Letter, [Flexibilities for State and Tribal Child Support Agencies during COVID-19 Pandemic](#) (DCL-20-04).

#### **Examples of Use of Waivers and Flexibilities**

1. A number of states have requested and received approval to modify timeframes for administrative requirements of the child support program.
2. To date, 30 tribes have been approved for emergency waivers of the non-federal share for FY 2020.
3. OCSE granted states and tribes extensions to various reporting deadlines during the COVID-19 pandemic, including self-assessment and required data reports.

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<sup>27</sup> 45 CFR § 309.130(e)



## Office of Community Services

### Social Services Block Grant

The Social Services Block Grant (SSBG) funds enable each state to furnish social services best suited to meet the needs of the individuals residing within the state. Services may be, but are not limited to the following: daycare for children or adults; protective services for children or adults; special services to persons with disabilities; adoption; case management; health-related services; transportation; foster care for children or adults; substance abuse; housing; home-delivered meals; independent/transitional living; employment services; or any other social services found necessary by the state for its population.

SSBG funds are subject to statutory limitations set forth in Section 2005 of the Social Security Act.<sup>28</sup> Among other limitations, states may not use SSBG funds for the purchase or improvement of land, or the purchase, construction, or permanent improvement of any building or other facility. Funds may also not be used for medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of an allowable social service.

In addition, in the past, Congress has made available one-time supplemental funds to address emergency/disaster situations through the SSBG program. Such supplemental funding is available only upon enactment of appropriation legislation by Congress.

#### **Waivers**

In extraordinary circumstances, the Secretary has authority to waive the limitation in Section 2005 on purchase or improvement of land and the purchase, construction, or permanent improvement of a building. In addition, the Secretary may also waive the limitation on the provision of medical care.

The responsible state SSBG official must submit a waiver request addressed to the Secretary with attention to the Director of the Office of Community Services (OCS). The waiver request must describe the extraordinary circumstances that justify the waiver and explain how the waiver will contribute to the state's ability to meet and carry out the purposes of the SSBG program in the disaster circumstances.

#### **Flexibilities**

States have significant flexibility in the allocation of existing SSBG funds to address social service needs within the state. States may consult with OCS to amend existing service plans based on changes in priority social service needs as a result of the disaster.

#### **COVID-19**

1. ACF issued IM-ACF-OA-2020-01 to implement administrative flexibilities for grantees conducting human service activities related to or affected by COVID-19; the IM was later superseded by [IM-ACF-OA-2020-02](#). OCS issued a [Dear Colleague Letter](#) to its grantees regarding the flexibilities in IM-ACF-OA-2020-01. Please refer to [ACF Grant Recipient COVID-19 Guidance](#) for the most current information on grant flexibilities related to COVID-19.
2. OCS published [guidance within a Dear Colleague Letter on approaches to partnership to address the spread of COVID-19](#), including grant flexibilities.

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<sup>28</sup> 42 USC 1397d

3. SSBG did not receive CARES Act funding.

### **Examples of Use of Waivers and Flexibilities**

1. In addition to the regularly approved expenditures under the SSBG program, Hurricane Sandy SSBG supplemental funding supported relevant states with the repair, renovation and rebuilding of health care facilities (including mental health facilities), child care facilities, and other social services facilities damaged or destroyed by the disaster.  
  
States were required to submit a waiver request to OCS for approval to use funds for construction. States were required to establish procedures for verifying that repair, renovation, or rebuilding costs were not reimbursable through FEMA disaster assistance, under a contract for insurance, or by self-insurance.
2. During Hurricane Katrina and Hurricane Rita, four states (Alabama, Florida, Louisiana, and Mississippi) had the flexibility to reprogram available Low Income Home Energy Assistance Program (LIHEAP) funds to respond to this emergency situation. This flexibility helped states meet additional energy-related needs resulting from the extraordinary flooding and destruction caused by Hurricane Katrina. At the time, HHS had authorized the widespread use of existing funds to be channeled to immediate efforts to counteract the effects of the hurricanes.

### **Community Services Block Grant**

The Community Services Block Grant (CSBG) program provides states, territories, and tribes with funds to lessen poverty in communities. The program reduces poverty in communities through a range of services and activities to assist the needs of low-income individuals including the homeless, migrants, and the elderly. Grantees receiving funds under the CSBG program are required to provide services and activities addressing employment, education, better use of available income, housing, nutrition, emergency services, and/or health.

#### **Waivers**

The CSBG program does not include waivers specifically applicable to disasters. However, Section 678F(a)(2) of the CSBG Act allows the Secretary to waive restrictions on the use of CSBG funds for purchase or improvement of land, or the purchase, construction, or permanent improvement of property in extraordinary circumstances if doing so will contribute to the ability of the state to carry out the purposes of the grant.<sup>29</sup>

ACF will consider and expedite responses to waiver requests for emergency repairs for service facilities directly impacted by a disaster that are not covered by other federal disaster assistance or other sources, such as property insurance.

#### **Flexibilities**

1. In a disaster, states may consider circumstances where individuals may have been made low-income by the disaster, though they would not have been considered so before. States are encouraged to streamline the eligibility determination process following a disaster. States have substantial discretion in defining the procedures for determining if an individual or family meets the eligibility requirements, including the timeframes for review and necessary documentation appropriate to the services or

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<sup>29</sup> 42 USC 9918(a)(2)

strategies being implemented. OCS issued a [Disaster Flexibilities and Waivers IM \(#154\)](#) in March of 2018.

2. In a disaster, Community Action Agencies (CAAs) are encouraged to provide services to low-income individuals, children, and families that are impacted and support federal, state, and local relief efforts. Individuals who receive CSBG-funded services must qualify as low-income. For previous disaster precedents see the following information memoranda: [Hurricane Katrina](#) (CSBG-IM90) and [Hurricane Katrina and Hurricane Rita CSBG Update](#) (CSBG-IM91).
3. Additional funding is not possible unless Congress makes a special appropriation; however, any remaining CSBG funding the state has may be used to support disaster response, as long as it aligns with the statutorily allowable activities. State CSBG-designated organizations do not have to request a federal waiver to utilize their existing CSBG funding to support disaster response and assistance for eligible low-income individuals and families.

### **COVID-19**

ACF issued IM-ACF-OA-2020-01 to implement administrative flexibilities for grantees conducting human service activities related to or affected by COVID-19; the IM was later superseded by [IM-ACF-OA-2020-02](#). OCS published the ACF IM within a [Dear Colleague Letter](#). Please refer to [ACF Grant Recipient COVID-19 Guidance](#) for the most current information on grant flexibilities related to COVID-19.

In response to COVID-19, OCS issued guidance to CSBG grantees, including information on flexibilities and waivers in [Disaster Relief Supplemental Funds](#) (CSBG-IM-2020-156) and [Immediate Guidance on COVID-19 Response](#) (CSBG-IM-2020-157).

### **Examples of Use of Waivers and Flexibilities**

CSBG eligible entities, such as CAAs, can serve a critical role in serving low-income individuals and families in communities before and after major disasters. For example, in response to wildfires in 2017, a CAA created the Disaster Relief Housing Assistance Fund, which provided rental and deposit assistance to those immediately affected by the wildfires.

### **Low Income Home Energy Assistance Program**

The Low Income Home Energy Assistance Program (LIHEAP) assists low-income households, particularly those with the lowest incomes that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs. Assistance is available to low income households through states, tribes, and territories. LIHEAP activities include the following: financial assistance towards a household's home energy bill; emergency assistance if a household's home energy service is shut off or about to be shut off; and a range of other energy-related services that grantees may choose to offer, such as weatherization improvements, utility equipment repair and replacement, budget counseling, and other assistance following qualified disasters, as determined by the grantee. LIHEAP funds may be used for any purpose authorized by the federal LIHEAP statute, including heating assistance, cooling assistance, crisis assistance, weatherization, "assurance 16" activities, and administrative costs.

LIHEAP has the following resources for disasters and emergencies:

- [LIHEAP Q & As on Disaster Relief](#)

- [LIHEAP Dear Colleague Letter Disaster - Relief and Outreach in the Wake of Recent Storms and Power Outages](#)

### **Waivers**

Weatherization waivers are available to increase the 15 percent weatherization cap up to 25 percent after April 1, if grantees choose to provide low cost residential weatherization and other energy-related home repair. Grantees can weatherize a home or install new heating and cooling systems, water heaters, refrigerators, and stoves. The waiver will only apply if this work is completed under the LIHEAP weatherization program. Grantees must submit a written waiver request to ACF and receive written prior approval before obligating more than 15 percent of its grant towards weatherization. If a grantee provides these services under their Crisis Intervention Program, there is no limit.

### **Flexibilities**

1. Under the federal LIHEAP law, LIHEAP grantees must have some mechanism in place to respond to emergencies within 48 hours, or within 18 hours in life threatening situations; however, the 48/18 hour timeframes do not apply when a grantee is affected by a natural disaster.
2. The requirement that LIHEAP crisis assistance be made available at geographically accessible sites also does not apply if those sites are impacted by a natural disaster.
3. The response does not necessarily require the grantee to solve the problem at hand, but can include moving people away from the crisis situation, for example, into hotels or shelters. Anything with costs associated with mitigating further loss, or to prevent loss of life, is allowable. For example, allowable costs may include the following:
  - a. Costs to temporarily shelter or house individuals in hotels, apartments, or other living situations in which homes have been destroyed or damaged, i.e., placing people in settings to preserve health and safety and to move them away from the crisis situation;
  - b. Costs for transportation (e.g., cars, shuttles, and buses) to move individuals away from the crisis area to shelters when health and safety is endangered by loss of access to heating or cooling;
  - c. Utility reconnection costs;
  - d. Repair or replacement costs for furnaces and air conditioners;
  - e. Insulation repair;
  - f. Coats and blankets, as tangible benefits to keep individuals warm;
  - g. Crisis payments for utilities and utility deposits; and
  - h. Purchase of fans, air conditioners, and generators.
4. The LIHEAP statute does not authorize waiver of the federal maximum income eligibility guidelines. However, federal law permits income eligibility to be established up to either 60 percent of the state's median income (SMI) or 150 percent of the HHS federal poverty guidelines – whichever is greater. The 60 percent of the SMI may be higher than 150 percent of the HHS poverty level depending on the state; both income standards are adjusted by the number of persons living in a household that is applying for assistance. It should also be noted that the LIHEAP statute permits LIHEAP grantees the flexibility to provide services to households with at least one member who receives assistance under TANF, Supplemental Security Income (SSI), and Supplemental Nutrition Assistance Program (SNAP) programs. This "categorical eligibility" also includes some means-tested veteran's programs. It means a grantee may use the income verification

information collected under these other programs to establish income eligibility for LIHEAP.<sup>30</sup>

5. Once a disaster is declared based on the grantee's designation, no additional authorization or prior approval is needed to use existing LIHEAP funds to respond to emergencies. However, grantees must submit a written plan revision by letter to OCS within a reasonable time after the disaster and/or revised policy implementation.
6. Unallowable uses of LIHEAP funds that are not home energy related include the following:
  - i. Payments for water/sewage (unless some of it is involved in overall weatherization, but paying water bills is generally not allowable);
  - j. Mortgage or rent assistance is not allowable, unless these are necessary costs to shelter individuals from the crisis situation for a temporary period of time (see allowable uses);
  - k. Utility assistance for households housing displaced victims, unless the household is already low income and qualifies for LIHEAP assistance;
  - l. Ramps and wheelchairs;
  - m. School uniforms and school supplies;
  - n. Clothing (except for coats); and
  - o. Mattresses, cots, airbeds, and pillows.

### **COVID-19**

The CARES Act provided LIHEAP \$900 million in supplemental funding for FY 2020 to help "prevent, prepare for, or respond to" home energy needs surrounding the national public health emergency created by COVID-19. Grantees may use these funds in FY 2020/2021 for any purpose normally authorized under the federal LIHEAP statute<sup>31</sup>, including heating, cooling, crisis, weatherization assistance, case management for the reduction of home energy burden, and administrative costs.

#### *CARES Act Fund Obligation Timeframe*

The CARES Act allows LIHEAP grantees to obligate any portion of these supplemental funds in federal fiscal year (FFY) 2020 and/or FFY 2021, contingent upon their own rules for obligating their own funds.<sup>32</sup> This means that LIHEAP grantees may carryover up to 100 percent of the supplemental funding for obligation in FFY 2021—that is, by September 30, 2021. Grantees must exclude the amount of these supplemental funds from the total amount of the base funding when determining total amount of LIHEAP resources available to carryover to FY 2021. That is because at least 90 percent of the non-supplemental FFY 2020 funding must still be obligated by September 30, 2020. The supplemental CARES Act LIHEAP funding must not be carried over into FY 2022 or beyond, for obligation purposes.

#### *LIHEAP Income Eligibility Related to CARES Act Funding*

- Stimulus Payment from the Internal Revenue Service (IRS)
  - LIHEAP grantees must not consider the economic impact payments (up to \$1,200 for qualifying individuals and an additional \$500 per child) as income for eligibility. These payments count as a rebate or advance payment of a credit that

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<sup>30</sup> See 42 USC 8624(b)(2)(B)

<sup>31</sup> 42 USC 8621 et seq.

<sup>32</sup> 45 CFR 96.30(a)

are exempted as income. Section 103(d) of the American Taxpayer Relief Act amended the relevant statutory provision, 26 USC § 6409, and specifies that, "... any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any federal program or under any state or local program financed in whole or in part with federal funds."

- Supplemental CARES Act-funded Unemployment Compensation Payments
  - With respect to the supplemental CARES Act-funded unemployment compensation payments, each LIHEAP grantee retains the authority under the federal LIHEAP statute to define "income" for the purpose of determining income eligibility for the program, in accordance with how each grantee treats income for state-funded assistance programs.<sup>33</sup> Therefore, each LIHEAP grantee must decide whether to include or exclude such CARES Act-funded supplemental unemployment compensation payments from the LIHEAP income eligibility calculation. If a grantee rule allows it, grantees may treat these supplemental payments differently than the regular unemployment insurance benefits.
- Applicability of LIHEAP Disaster Response Policies and Flexibilities
  - COVID-19 has been declared a national emergency and disaster. Each grantee should also assess the applicability of any state and local declarations of emergency and disaster concerning COVID-19. The flexibilities noted in the LIHEAP disaster response guidance are always available to LIHEAP grantees as they interpret what is a home energy-related emergency or disaster in their area.

#### *LIHEAP COVID-19 Resources*

- [LIHEAP Dear Colleague Letter - Initial COVID-19 Program Guidance](#)
- [LIHEAP Dear Colleague Letter - 2020-10 CARES Act Supplemental Funding Release FFY20](#)

#### ***Examples of Use of Waivers and Flexibilities***

LIHEAP state grantees have been using available flexibilities to respond to the COVID-19 pandemic in many different ways. This mostly included extending application deadlines, changing eligibility criteria, and eliminating requirements for in-person application appointments.

Examples of additional flexibilities are also available on the [LIHEAP Clearinghouse website](#).

#### **Rural Community Development Discretionary Grant**

The Rural Community Development (RCD) program provides discretionary grants to assist low-income communities in developing affordable, safe water and wastewater treatment facilities.<sup>34</sup>

The program provides training and technical assistance to low-income rural communities with a population of 2,000 or less in developing and managing affordable, safe water and wastewater treatment facilities. The program also supports and promotes water and wastewater treatment systems safety through security and emergency preparedness training and technical assistance to small community water and wastewater utility staff and local officials. Six regional grantees

<sup>33</sup> 42 USC 8624(b)(2) and 45 CFR 96.30(a)

<sup>34</sup> Section 680 of the Community Services Block Grant Act, as amended; the Coats Human Services Reauthorization Act of 1998 (P.L. 105-285)

and two tribal grantees provide services to multiple states. While the program does not pay to construct or upgrade facilities, grantees assist communities in accessing funds for these purposes.

### ***Waivers***

The RCD program does not include waivers specifically applicable to disasters.

### ***Flexibilities***

ACF will consider and expedite responses to requests for emergency service facilities directly impacted by a disaster that are not covered by other federal disaster assistance or other sources such as property insurance.

### ***COVID-19***

ACF issued IM-ACF-OA-2020-01 to implement administrative flexibilities for grantees conducting human service activities related to or affected by COVID-19; the IM was later superseded by [IM-ACF-OA-2020-02](#). OCS published the ACF IM within a [Dear Colleague Letter](#). Please refer to [ACF Grant Recipient COVID-19 Guidance](#) for the most current information on grant flexibilities related to COVID-19. Also, OCS published a [Dear Colleague Letter](#) for RCD grantees on partnerships to address the spread of COVID-19.

### ***Examples of Use of Waivers and Flexibilities***

Some RCD grantees have requested grant flexibilities including deadline extensions for the following: submitting performance progress reports; renewing grantee Central Contractor Registry information; and reviewing, responding to, and processing audits.

## Office of Family Assistance

### Temporary Assistance for Needy Families

The Temporary Assistance for Needy Families (TANF) program is a block grant to states, the District of Columbia, territories (hereafter collectively referred to as states), and tribes that funds monthly cash assistance payments to low-income families with children, as well as a wide range of services that are reasonably calculated to address the program's four broad purposes which are as follows: to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; prevent and reduce the incidence of out-of-wedlock pregnancies; and encourage the formation and maintenance of two-parent families.

#### **Waivers**

There is no waiver authority within TANF that would be triggered in the event of a disaster.

#### **Flexibilities**

The PI, [Using Federal TANF and State Maintenance-of-Effort \(MOE\) Funds for Families in Areas Covered by a Federal or State Disaster Declaration](#) (TANF-ACF-PI-2007-08), describes in detail the flexibilities available in areas covered by a federal or state disaster declaration. Key provisions of this PI are summarized below.

1. HHS may grant a reasonable cause exception and therefore forgive the penalty for some of the TANF penalties, including those associated with failure to meet the work participation rate requirement.<sup>35</sup>
2. HHS may decide to reduce a state's work participation penalty for failure to meet required work participation rates, if noncompliance is due to extraordinary circumstances such as a natural disaster.<sup>36</sup>
3. States and tribes may provide "non-recurrent, short term" benefits<sup>37</sup> to deal with a specific crisis situation or episode of need, not intended to meet recurrent or ongoing needs, and will not extend beyond four months. States and tribes may consider offering a wider range of services or benefits to address the crisis than those currently offered in the TANF plan and may also change the eligibility criteria for any current services or benefits.
4. States and tribes may streamline the application process to expedite eligibility and payment determinations.
5. States and tribes may consider families to have good cause for not participating in work activities.
6. States may relax or waive their residency requirements for families affected by a disaster.
7. States may also have a temporary residency policy.
8. States may continue TANF assistance (includes commingled funds) for a child who is temporarily absent from the home in which s/he resides.

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<sup>35</sup> Section 409(b) of the Social Security Act; [42 USC § 609(b)]; 45 CFR. § 262.5 (states) and 45 CFR § 286.225 (tribes).

<sup>36</sup> Per section 409(a)(3)(C) Social Security Act; [42 USC § 609(a)(3)(C)] and the implementing TANF regulations at 45 CFR § 261.51(d)

<sup>37</sup> 45 CFR § 260.31(b)(1) and 45 CFR § 286.10(b)(1)



**COVID-19**

The PI, [Questions and answers about TANF and the Coronavirus Disease 2019 \(COVID-19\) pandemic](#) (TANF-ACF-PI-2020-01), provides guidance on how states and tribes may use TANF to assist needy families experiencing financial difficulties due to the COVID-19 emergency. The guidance also outlines the flexibilities within TANF that enable states and tribes to ease requirements on TANF applicants or recipients.

***Examples of Use of Waivers and Flexibilities***

The above-mentioned TANF flexibilities information also applies during the COVID-19 emergency. In addition, states and tribes may choose to implement a range of flexibilities, such as these suggested in TANF-ACF-PI-2020-01:

1. Offering online or telephonic applications to minimize face-to-face contact;
2. Providing online approaches for participants to engage in work activities virtually, such as online trainings and work readiness;
3. Providing case management by phone or other virtual/electronic communication platforms; and
4. Increasing cash benefit levels for TANF cash assistance recipients who have reduced income or increased needs related to the COVID-19 pandemic.

## Office of Head Start

### Head Start Programs

Head Start is a national program that promotes school readiness for low-income children from birth to age five by supporting the development of the whole child and family well-being. Head Start and Early Head Start programs offer a variety of service models, depending on the needs of the local community. Many Head Start and Early Head Start programs are offered through a center-based model. Some programs offer home-based services that assign dedicated staff to conduct weekly visits to children in their own home and work with the parents. Head Start enhances children's cognitive, social, and emotional development through the provision of health, educational, nutritional, social, and other necessary services. Delivered through 1,700 agencies in local communities, Head Start and Early Head Start programs provide services to over a million children every year, in every U.S. state and territory, for the children of migrant and seasonal farm workers, and in over 155 tribal communities.

### Waivers

1. The Head Start Act authorizes reduction of the required non-federal match under certain circumstances, including communities adversely affected by a major disaster.<sup>38</sup>
2. Allowable administrative and development costs may not exceed 15 percent of the total approved costs of a program, unless a waiver is granted for a specific period not to exceed 12 months when it is determined that such waiver is necessary in order to carry out the purposes of the Head Start Act.<sup>39</sup>
3. The Head Start Act allows a program to waive or reduce the under-enrollment percentage recapturing, withholding, or reduction if the Secretary finds a portion of the enrollment shortfall is related to the agency's serving of highly mobile children; reasonably expected to be temporary; or if the number of slots is small enough such that the under-enrollment does not cause a significant shortfall.<sup>40</sup>
4. The Head Start Act allows a Head Start agency to waive alternative credentialing and degree requirements for staff qualifications under certain circumstances, such as individuals who will receive such credential, certificate, or degree under the terms of such program no later than 180 days after beginning employment as a teacher with such agency.<sup>41</sup>
5. A program may waive the children selection requirement that at least 10 percent of its total funded enrollment is filled by children eligible for services under the Individuals with Disabilities Education Act.<sup>42</sup>
6. Programs that operate a locally-designed program option are allowed a waiver of program option requirements, including a combination of program options to better meet the unique needs of their communities or to demonstrate or test alternative approaches for providing program services.<sup>43</sup>

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<sup>38</sup> Section 640(b)(4) of the Head Start Act, 42 USC § 9835(b)(4); 45 CFR §1303.4

<sup>39</sup> Section 644(b) of the Head Start Act, 42 USC § 9839(b)(4); 45 CFR § 1305.5

<sup>40</sup> Section 641(a)(5)(B) of the Head Start Act, 42 USC § 9839(b)(4),

<sup>41</sup> Section 648(a)(3)(4) of the Head Start Act, 42 USC § 9839(b)(4),

<sup>42</sup> 45 CFR § 1302.14 (b)(1)

<sup>43</sup> 45 CFR § 1302.24

7. A debarred agency may be eligible to compete for Head Start funding if it receives a waiver for deviating from the government-wide policy in Executive Order 12549.<sup>44</sup>
8. A waiver of transportation requirement may be allowed in cases in which compliance itself would create a safety problem or requirements for child restraint systems and bus monitors under certain circumstances.<sup>45</sup>
9. The Head Start Act allows waivers of alternate teacher credential requirements for three years for individual classroom teachers in center-based programs, if the grantee has met certain requirements relating to recruitment of teachers and the individual teacher already meets certain minimum credentialing requirements.<sup>46</sup>

The above waivers are enacted by the Secretary, the Office of Head Start (OHS), or another responsible HHS official.

### **Flexibilities**

Broad flexibility within the law and regulations will be provided to programs to ensure they can meet current needs of the communities they are serving. Regional offices and the OHS Central Office are available to work with grantees to design a program that continues to serve the highest number of children and families in the safest environment after a disaster has occurred.

1. Head Start developed an IM, [General Disaster Recovery Flexibilities](#), which gives programs various flexibilities to prepare for, respond to, and recover from a significant disaster, such as a hurricane, wildfire, or tornado (ACF-IM-HS-19-01).
2. The Head Start Act allows center-based Head Start programs the flexibility to satisfy the total number of hours of service required by the regulations.<sup>47</sup>
3. Grantees have flexibility related to their FY 2020 non-federal match contributions. Programs can request a waiver of non-federal match by placing \$0 in Section C of the SF424A without needing a separate request.<sup>48</sup>
4. Grantees are provided flexibility related to governing body and policy council approvals for applications.<sup>49</sup>

### **COVID-19**

COVID-19 has deeply impacted Head Start and Early Head Start programs, enrolled children and families, and their communities. Most Head Start sites and communities have been closed for several months and may remain closed for some time. OHS expects programs to take actions that are feasible, reasonable, and safe in terms of continuing to provide services and implementing management and oversight systems. The CARES Act included \$750 million for programs under the Head Start Act to support preventative, preparedness, and responsive activities during the pandemic. Several administrative flexibilities are available to Head Start grantees during the COVID-19 emergency. To view all of OHS's regularly updated guidance and resources, visit the Early Childhood Learning and Knowledge Center's [Responding to COVID-19](#) landing page.

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<sup>44</sup> 45 CFR § 1304.11(f); 2 CFR § 180.135

<sup>45</sup> 45 CFR § 1303.70(c)(1)

<sup>46</sup> Section 648A(a)(4)(B) of the Head Start Act, 42 USC § 9835(b)(4)

<sup>47</sup> Section 640 (k)(1) of the Head Start Act, 42 USC § 9835(b)(4)

<sup>48</sup> Sent via e-blast to all grantees on April 4, 2020

<sup>49</sup> Sent via e-blast to all grantees on April 14, 2020

### *COVID-19 Resources*

- On March 30, 2020, ACF issued IM-ACF-OA-2020-01, ACF Grant Flexibilities in Conducting Human Service Activities Related to or Affected by COVID-19; the IM was later superseded by [IM-ACF-OA-2020-02](#).
- Head Start developed a COVID-19 Fiscal Flexibilities IM that [describes how OHS is implementing each item from the ACF IM](#) (ACF-IM-HS-20-03). Please refer to [ACF Grant Recipient COVID-19 Guidance](#) for the most current information on grant flexibilities related to COVID-19.
- OHS has responded to ongoing operational, policy, and grant questions via various webinars and Q and A sessions. The COVID-19 [Q and A Archive](#) contains responses to common grantee questions and concerns regarding income eligibility, staff pay and benefits, child care partnerships, new hire requirements, and program monitoring.

### ***Examples of Use of Waivers and Flexibilities***

1. OHS will not hold programs accountable for requirements such as screenings, assessments, data collections, and enrollment that are not possible or reasonable for them to achieve during the current closures. Due to the impacts of COVID-19, the 2019–2020 Program Information Report will not be required this year.
2. Per ACF-IM-HS-20-03, grantees can shift up to \$1 million between budget categories without prior ACF approval.

## Office of Refugee Resettlement

### Cash and Medical Assistance and Refugee Support Services

The Office of Refugee Resettlement (ORR) provides eligible populations with critical resources to assist them in becoming self-sufficient, integrated members of American society. ORR eligible populations include the following: refugees; asylees; certain Amerasians admitted as immigrants from Vietnam; Cuban and Haitian entrants; special immigrant visa holders from Iraq and Afghanistan; and certified victims of human trafficking. The term "refugees" throughout this section refers to the ORR eligible populations listed here.

ORR partners with and provides guidance to states and Replacement Designees (RDs) that administer the refugee resettlement program (RRP) within a given state. RDs are an alternative entity to the state government when the state has withdrawn from administering some or all of the RRP. To operate the RRP and serve refugees, ORR provides two main grants to states and RDs, the Cash and Medical Assistance (CMA) and Refugee Support Services (RSS) grants.

CMA reimburses 100 percent of Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) provided to refugees, as well as associated administrative costs. CMA also reimburses states for medical screening costs through local public health clinics or physicians so that contagious diseases and medical conditions that may be a public health concern or a barrier to refugees' economic self-sufficiency are identified and treated.

ORR allocates RSS funds on a formula basis to states and RDs to provide a range of services, such as case management, employment services, and English as a Second Language services), to promote the self-sufficiency of refugees who have resided in the United States for fewer than 60 months.

ORR partners with resettlement agencies and other non-profit organizations to administer various programs that increase economic self-sufficiency and integration for refugees, including Voluntary Agencies Matching Grant Program.

### **Waivers**

States or RDs may apply for a waiver of any requirement of Part 400 of the RRP unless required by statute.<sup>50</sup> Within 130 days of receipt of a waiver application, the ORR Director will approve or disapprove the application.

### **Flexibilities**

1. RCA – states or RDs have latitude to issue initial RCA payments to refugees who are in urgent need on an emergency basis.<sup>51</sup>
2. RSS – states or RDs can request the ORR Director's approval of any additional effective service aimed at strengthening and supporting the ability of a refugee to achieve and maintain economic self-sufficiency, family stability, or community integration, which is not available from any other funding source.<sup>52</sup>

### **COVID-19**

ORR issued two policy letters in light of the impacts of COVID-19 as follows:

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<sup>50</sup> 45 CFR § 400.300

<sup>51</sup> 45 CFR § 400.52

<sup>52</sup> 45 CFR § 400.155(h)

- [COVID-19 Extended Assistance for ORR Populations](#) (Policy Letter 20-03) provides states and RDs automatic approval of two waivers if they request to extend the eligibility period for enrollment in RCA and RMA up to 18 months for clients who became eligible for assistance on or after April 1, 2019, with additional months of assistance not to extend beyond September 30, 2020.
- [Assistance for ORR Populations Affected by COVID-19](#) (Policy Letter 20-04) provides states and RDs automatic approval of up to seven waivers related to various regulatory requirements in the RCA, RMA, and RSS programs. The requested and approved waivers will remain in effect through September 30, 2020.

For discretionary grants to resettlement agencies and other non-profit organizations, ORR permitted client enrollment over the phone, expanded the eligibility period for clients through September 30, 2020, granted flexibility in modification requests, enhanced flexibility with achieving strict outcomes, allowed delays in programmatic and financial reporting, and implemented other program specific flexibilities. Additionally, ORR amended the guidelines for the Voluntary Agencies Matching Grant Program in order to activate a funding exception which guarantees 75 percent of projected funds to grantees, temporarily waives the match requirement, and extends services for clients enrolled in FY 2020.

#### **Examples of Use of Waivers and Flexibilities**

1. States and RDs can request that ORR waive the employment conditions for receipt of RCA.<sup>53</sup> While ORR encourages states and RDs to utilize virtual trainings when possible, with this waiver, RCA recipients will not need to comply with employment service requirements to receive RCA.
2. States and RDs can request that ORR waive the time limitations for RSS services.<sup>54</sup> With this waiver, states and RDs can provide RSS to refugees who have been in the United States for more than 60 months.
3. States and RDs can request that ORR waive RSS' primary use of funds for employability services designed to enable refugees to gain employment within one year.<sup>55</sup> With this waiver, states and RDs can utilize RSS for emergency payments (e.g., housing, utilities, and burial costs) associated with the impact of COVID-19.

#### **Unaccompanied Alien Children**

The Unaccompanied Alien Children (UAC) program provides a safe and appropriate environment for unaccompanied children from the time the minor is placed into ORR custody until his/her safe and timely release with sponsors, typically a family member in the United States, or until he/she is removed to his/her home country by the U.S. Department of Homeland Security (DHS) immigration officials. The UAC program cares for children who are under 18 years old, have no lawful immigration status in the United States, and have no parent or legal guardian in the United States available to provide care and physical custody while their immigration case is pending. Once referred by DHS, ORR temporarily places children in ORR-funded shelters, group homes, staff-secure facilities, secure facilities, foster care, or residential treatment centers, depending on the needs of the particular child.

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<sup>53</sup> 45 CFR § 400.75

<sup>54</sup> 45 CFR § 400.152

<sup>55</sup> 45 CFR § 400.146

## **Waivers**

There are no waivers in this program.

## **Flexibilities**

1. The Trafficking Victims Protection Reauthorization Act of 2008 requires federal agencies to transfer custody of UAC to ORR within 72 hours. Under exceptional circumstances, this process may take longer.<sup>56</sup>
2. ORR placement of children may be delayed in the event of an emergency.<sup>57</sup>

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<sup>56</sup> 8 USC § 1232(b)(3).

<sup>57</sup> See *Flores Settlement* ¶ 12.

## Office on Trafficking in Persons

The Office on Trafficking in Persons (OTIP) develops anti-trafficking strategies, policies, and programs to prevent human trafficking; build health and human services capacity to respond to human trafficking; increase victim identification and access to services; and strengthen the health and well-being outcomes of trafficking survivors. OTIP administers four grant programs and a direct assistance program that could be affected by a man-made or natural disaster:

- [Trafficking Victim Assistance Program](#) (TVAP) funds comprehensive case management services and assistance (e.g., food, clothing, housing, health care, and legal services) to foreign victims of trafficking, potential victims seeking HHS certification, and eligible family members through a network of grant and sub-recipient programs.
- [Domestic Victims of Human Trafficking Program](#) (DVHT) funds comprehensive case management services, assistance, and referrals for U.S. citizen, Native American, and lawful permanent resident victims of trafficking and potential victims in the United States.
- [Demonstration Grants to Strengthen the Response to Victims of Human Trafficking in Native Communities \(VHT-NC\) Program](#) funds direct services, assistance, and referrals to Native American (i.e., American Indians, Alaska Natives, Native Hawaiians, and/or Pacific Islanders) victims of severe forms of human trafficking.
- The [National Human Trafficking Hotline](#) provides a toll-free, 24-hour confidential, multilingual hotline for victims and witnesses of human trafficking. The hotline provides crisis intervention, urgent and non-urgent referrals, tip reporting, and anti-trafficking resources.

### **Waivers**

OTIP does not have waivers applicable to disasters.

### **Flexibilities**

While there are no specific statutory waivers or flexibilities under the authorizing statute<sup>58</sup>, grantees may request the following types of administrative relief and technical assistance in the event of a man-made or natural disaster:

1. Temporary suspension of grantee requirements that is permissible within the regulations or statute. For example, delay in the submission of required grant reports;
2. Supplemental funding, contingent upon availability, to address unanticipated project implementation costs within the scope of the project related to the disaster response;
3. No-cost extension or carryovers of the grant period with proper justification to address unanticipated delays in project implementation;
4. Extension of participant enrollment in the TVAP program up to 36 months for victims impacted by disasters;
5. Technical assistance and other support, such as victim screening and assessment tools to help identify trafficking victims that may be identified in the aftermath of a disaster;
6. On-site and virtual technical assistance from a subject matter expert from the National Human Trafficking Training and Technical Assistance Center's consultant database;
7. Coordination of assistance from the National Human Trafficking Hotline in referring victims to nearby resources and assistance; and

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<sup>58</sup> Trafficking Victims Protection Act of 2000, as amended, Pub. L. 106-386, Div. A., Sections 106(b), 107(b)(1)(B), and 107(f), 22 USC 7104(b), 7105(b)(1)(B), and 7105(f).



8. Coordination of victim support among the TVAP, DVHT, and VHT-NC grant recipient programs to the extent that such coordination is provided in the funding award documents.

Letters requesting flexibilities may be sent to OTIP for approval. Letters should include the following:

1. An explanation of the circumstances facilitating the need for the request;
2. The scope and impact of the disaster;
3. The fiscal year the funds will be used;
4. The proposed use of requested funds;
5. How the request fits within the scope of grant purpose areas; and
6. How the funds will assist the grant program with recovery.

## **COVID-19**

For OTIP grants that allow program funds to cover case management and direct services, OTIP will allow flexibilities to grantees to ensure they are able to continue serving clients and that the clients are able to access remote case management services. OTIP will allow costs related to remote case management implementation to cover grantees' increased cost of remote case management software or hardware and related security costs. OTIP will also allow costs supporting clients' access to remote case management through the purchase of technology or communication tools for clients, such as cell phones, phone cards, payment of phone bills, and internet access services.

To address COVID-19, grantees may use grant funds for direct services allowed in TVAP and DVHT. The following services may be particularly helpful during COVID-19:

- Food assistance, including grocery gift cards and food delivery for clients who may not leave their homes;
- Behavioral health services, including telehealth, mental health, or substance use counseling; and
- Purchase of cell phones for clients to access remote case management and stay connected to service providers and family members.