

## LAW ALERT

### HUD Provides Guidance on CARES Act Relief for Project-Based Rental Assistance

HUD is funding up to \$224 million in COVID-19 Supplemental Payments (CSPs) for Properties Receiving Project-Based Rental Assistance under the Section 8, Section 202, or Section 811 Programs that have incurred eligible costs between March 27, 2020 and July 31, 2020. Eligible property owners must request CSPs by **August 5, 2020** via the request application process described below.

#### **I. Availability of Additional Funds**

The CSPs will be divided up as follows:

- \$190 million for Section 8 Project Based Rental Assistance (PBRA) properties;
- \$25 million for Section 202 Housing for the Elderly; and
- \$9 million for Section 811 Housing for Persons with Disabilities and Section 202/162 PACs

If CARES Act appropriations cannot fully fund all eligible CSP requests, HUD may partially fund individual requests. Following the receipt of CSP requests for this period and considering other subsidy needs, HUD will assess the sufficiency of appropriations to support additional CSPs for increased operating costs incurred from August 2020 through December 2020.

#### **II. Two Tiers of Funding**

There are two separate categories of CSP payments:

- A. ***Tier I Standard Payments.*** *Tier I* payments help offset costs for COVID-19 prevention, preparation, and response to an outbreak at the property. *Tier I* payments reimburse expenses up to a capped amount,

based on a formula that accounts for property size, whether the property has a service coordinator funded from HUD rent receipts, and whether the property's controlling documents specify it houses elderly residents.

B. ***Tier II Exceptional Cost Payments.***

*Tier II* payments provide larger sums to address cost increases associated with responding to reported COVID-19 outbreaks among property residents or to extensive community exposure. There is no cap on *Tier II* payments to individual properties, except as limited by the availability of funds.

C. ***Shortfalls.*** In case of a shortfall within the *Tier I* funding pool, HUD will

apply an across-the-board reduction to all eligible requests in order to fund all *Tier I* requests. In the case of a shortfall within *Tier II*, HUD will reduce payments according to property-level attributes that indicate relative need, including elderly housing and contract rents that are below Fair Market Rents (FMR).

#### **III. CSP Application Process for August 5, 2020 Filing Deadline**

**Form Submission.** For both *Tier I* and *Tier II* CSP requests, owners must submit standard form [HUD-52671-E](#), including the accompanying certifications, to their contract administrator.

CSP funding is not being provided on a first-come, first-served basis. All requests received by HUD or the PBCA by **11:59PM local time on August 5** will be given equal consideration. Requests received after this deadline may be

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evaluated at HUD's discretion only after all other eligible CSPs have been funded, and in no case will be considered if received after August 12, 2020. Owners may submit only one request form per property for the current request period. Owners must identify the request as either a *Tier I* or a *Tier II* request.

#### **IV. Applicability and Eligible Expenditures:**

The following programs are eligible for CSP:

- A. Section 8 Project-Based Rental Assistance (PBRA)<sup>1</sup>
  1. New Construction
  2. State Housing Agencies Program
  3. Substantial Rehabilitation
  4. Section 202/8
  5. Rural Housing Services Section 515/8 6
  6. Loan Management Set-Aside (LMSA)
  7. Property Disposition Set-Aside (PDSA)
- B. Section 202/162 Project Assistance Contract (PAC)
- C. Section 202 Project Rental Assistance Contract (PRAC)
- D. Section 202 Senior Preservation Rental Assistance (SPRAC)
- E. Section 811 PRAC

**Eligible Expenditures.** Activities eligible for reimbursement through CSP requests include categories, such as:

- Increased cleaning and disinfecting as preventive and response measures.
- Office technology and other equipment needs to facilitate social distancing.
- Personal projective equipment (PPE) for use by property management staff and residents.

- Site control measures to enforce orders restricting access to and from properties.
- Temporary staffing and supply increases to serve residents.

#### **V. Additional Eligibility Requirements**

- A property must demonstrate financial need and lack of other project funds.
- A property must be in good standing with HUD to receive a CSP.
- Owners must certify and may need to provide information of the project's financial need.
- One-time or temporary expenses reimbursed by a CSP must be excluded from computations of future budget-based rent adjustment (BBRA) requests

#### **VI. Record Retention and Reporting**

Section 15011 of the CARES Act requires monthly reporting on activities by recipients who receive more than \$150,000 in CARES Act funding. Owners must maintain detailed supporting documentation of all expenses reimbursed by HUD through a *Tier I* or *Tier II* CSP.

Amounts received from a CSP will be treated as project funds and must be managed consistent with other rental assistance provided by HUD under the applicable HAP, PRAC, SPRAC or PAC contract. Receipt of funds through a CSP must be specifically denoted in the project financial statement notes. Any deposit of surplus cash in the project residual receipts account or retention of amounts in the project operating account must also be clearly denoted.