



HUD Issues COVID-19 Related Waivers for Public Housing and Housing Choice Voucher Programs

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Introduction

On April 10, 2020, the U.S. Department of Housing and Urban Development (HUD) released a series of waivers and program updates, 44 in total, for the Public Housing and Housing Choice Voucher (HCV) programs. The waivers were issued by HUD’s Office of Public and Indian Housing (PIH) in [Notice PIH 2020-05, COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program](#). The notice also includes 16 waivers related to Native American housing programs, specifically the Native American housing Assistance and Self-Determination Action of 1996 (NAHASDA) Indian Housing Block Grant (IHBG) and the Indian Community Development Block Grant programs. In order to provide relevant information to Public Housing Authorities, this *Direct News* will focus on the Public Housing and Housing Choice Voucher program waivers.

This notice only addresses program waivers and does not discuss the allocation or release of the supplemental funding that was appropriated as part of the Coronavirus Aid, Relief and Economic Security (CARES) Act (Public law 116-136). The funding notices are anticipated to be release towards the end of April 2020 with the first round of funding being available to Public Housing Authorities (PHAs) at the beginning of May 2020.

The purpose of the statutory and regulatory waivers is for HUD to assist PHAs and Tribal housing providers in continuing to operate and provide critical housing services to their local communities. HUD provides a non-inclusive list of critical PHA functions which includes issuing vouchers so families can find housing, processing Requests for Tenancy Approvals (RFTAs) so families can be approved to move into a unit, processing requests for portability moves, ensuring occupancy of Public Housing units, processing minimum rent hardship exemptions, and completing reexaminations for participants who have experienced a decrease in income.

The notice is broken into a number of sections and this *Direct News* will follow the same layout by discussing the underlining waiver authority by program, the applicability of the waivers, and the duration the waivers will be available.

Authority for Waivers and Alternative Requirements

The CARES Act provides the HUD Secretary with broad statutory and regulatory waiver authority to assist in addressing the Coronavirus/COVID-19 national emergency. The CARES Act also provides the HUD Secretary authority to implement waivers and alternative requirements necessary for the safe and effective administration of the Public Housing and HCV programs, consistent with the CARES Act and to prevent, prepare for, and respond to COVID-19.

The HUD Secretary has continued authority to waive and/or establish alternative requirements for statutory and regulatory requirements beyond those issued in this notice. NAHRO asks that PHAs communicate any additional waivers necessary for critical operations during the national emergency to NAHRO's Director of Policy and Program Development, Georgi Banna at gbanna@nahro.org. NAHRO will continue to advocate for additional waivers that are needed during this extraordinary time.

Applicability of Waivers and Alternative Requirements

All waivers and alternative requirements provided in Notice PIH 2020-05 are effective as of April 10, 2020 and may be immediately adopted and implemented by the PHA. PHAs may adopt or revert to the standard program rules at any time during the period of availability (discussed in the next section below).

PHAs can adopt all, some, or none of the waivers at the discretion of the PHA. Some of the waivers have alternative requirements. For these waivers, the PHA must adopt the alternative requirement as stated in the waiver. Alternative requirements will be discussed below in the specific waivers below.

PHAs do not need to notify HUD to adopt the waivers and alternative requirements listed in *Notice PIH 2020-05*. However, PHAs must maintain written documentation of the adopted waivers as HUD may require a PHA to provide HUD information on which waivers were implemented and the dates the PHA used each waiver.

PHAs must also notify the program residents and owners of any waiver and alternative requirements that it is adopting and the impact that that waiver and alternative requirement will have on the resident and owner. PHAs are reminded that resident and owner notice must be clearly communicated to remain in compliance with Section 504 of the Rehabilitation Act, HUD regulations, and the Americans with Disabilities Act requirements. HUD acknowledges communication challenges during this national emergency and reminds PHAs of their ability to place notice information on the PHA's website, provide notice information via voice-mail message, and provide follow up with formal written notice as circumstances allow.

Availability of Waivers and Alternative Requirements

The waiver and alternative requirement period of availability begins immediately on April 10, 2020, the issuance date of the notice. The specific waiver and alternative requirement period of availability end dates are listed in each waiver discussed in the notice. The waivers are generally broken into three periods of availability categories: short-term, ending on July 31, 2020; long-term, ending on December 31, 2020; and waiver-specific end dates – dates that are unique to the waiver that may be based on fiscal years or specific activities.

PHAs are not required to use the waiver for the full period of availability and may go back to the standard program requirements at any time. HUD, through PIH notice, may also extend the period of availability if deemed necessary.

Waivers for Both Public Housing and Housing Choice Voucher Programs

PHA 5-Year and Annual Plan Submission Dates, Significant Amendment Requirements

HUD is establishing an alternative requirement for which PHAs with 6/30/20 or 9/30/20 fiscal year-end (FYE) dates must submit their 5-Year and annual plans or civil rights certification for qualified PHAs no later than 10/18/20 (75 days before 1/1/21). PHAs with 12/31/20 FYE dates must submit their 5-Year and annual plans not later than 1/16/21 (75 days before 4/1/21). Unless HUD subsequently updates this waiver authority, PHAs with 3/31 FYE dates will not be impacted.

HUD is also waiving the requirement that PHAs cannot adopt significant amendments or modifications to the annual plan without receiving Board approval and providing an open meeting for the public. PHAs must still notify public housing residents and HCV families of any impacts that the significant amendment may have on them as soon as practicable. This can be done by placing information on the PHA's website, leaving voice-mail messages for residents and additional follow-up communication. Policy changes related to Section 18, Section 22, or the Rental Assistance Demonstration (RAD) are not included within this waiver.

The significant amendment process waiver will remain available through July 31, 2020.

Family Income and Composition; Delayed and Annual Examinations

HUD will allow PHAs to delay annual reexaminations of HCV and public housing families. However, all annual recertifications due in CY 2020 must be completed by December 31, 2020 and PHAs must comply with the alternative requirement regarding increases in payment standards under HAP contract terms (see HCV waivers below).

Family Income and Composition; Annual Examination – Income Verification requirements

HUD is waiving the requirement that PHAs must use the income hierarchy described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV, if a PHA opts to conduct annual

recertifications rather than delaying them. PHAs may consider self-certification as the highest form of income verification to process annual reexaminations. This may occur over the telephone (but must be documented for the written record by PHA staff), through an email or postal mail with a self-certification form by the tenant, or through other electronic communication. Income and family composition examinations and recertifications do not have to be conducted in-person.

This waiver will be made available through July 31, 2020.

Family Income and Composition; Interim Examinations

HUD is waiving the requirements to use the income hierarchy described by PIH Notice 2018-18 and will allow PHAs to forgo third-party income verifications, including EIV. PHAs may consider self-certification as the highest form of income verification for interim reexaminations. Interim reexaminations are not required to be held in-person.

This waiver is available through July 31, 2020.

Enterprise Income Verification (EIV) Monitoring

HUD is waiving mandatory EIV monitoring requirements found in PIH Notice 2018-18 through July 31, 2020.

Family Self-Sufficiency (FSS) Contract of Participation; Contract Extension

HUD will consider the circumstances surrounding COVID-19 to qualify as “good cause” to extend a family’s contract of participation in the FSS program through July 31, 2020.

Waiting List: Opening and Closing; Public Notice

HUD is waiving the requirement that PHAs must give public notice of opening a wait list by publication in a local newspaper and by minority media and other suitable means through July 31, 2020. PHAs may provide public notice of an open waitlist in a voicemail message on its main or general information telephone number and through its website. These messages must meet applicable fair housing requirements.

Housing Choice Voucher – Housing Quality Standards (HQS) Waivers

Housing Quality Standards (HQS) Inspections

Housing Agencies that delay inspections under any of these waivers must inspect the units as soon as reasonably possible, when it is safe to do so. Housing agencies retain the right to conduct an inspection and the use of the waivers does not relieve owners of their responsibility to maintain the unit in accordance with HQS.

Initial Inspection Requirements

A PHA may rely on the owner’s certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit instead of conducting an initial inspection. A PHA may add other requirements or conditions to the owner’s certification. The

PHA is required to conduct an HQS inspection on the units as soon as reasonably possible, but no later than October 31, 2020. The waiver may also apply to PHA-owned units.

A PHA may accept a self-certification until July 31, 2020.

Project-Based Voucher (PBV) Pre-HAP Contract Inspections, PHA Acceptance of Complete Units

A PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit. A PHA may add other requirements. The PHA must conduct an HQS inspection no later than October 31, 2020 but must do so as soon as reasonably possible. If there's a requirement under the Agreement to enter into a Housing Assistance Payment (AHAP) contract for newly constructed or rehabilitated projects, the PHA may choose to allow the owner to certify that the PHA requirement has been met. The waiver may also apply to PHA-owned units, if the independent entity is unable to perform the inspection.

A PHA may accept a self-certification until July 31, 2020 and must complete all delayed inspections by October 31, 2020.

Initial Inspection: Non-Life-Threatening Deficiencies (NLT) Option

A PHA has the option to approve an assisted tenancy for units that fail HQS with non-life-threatening conditions, as long as PHAs withhold housing assistance payments from the owner if the non-life-threatening failing conditions are not corrected within 30 days. A PHA may now provide 60 days to correct non-life-threatening failing conditions. This option is available for both tenant-based, project-based units, and PHA-owned units.

A PHA may approve an extension up to July 31, 2020.

HQS Initial Inspection Requirement – Alternative Inspection Option

A PHA may allow the occupancy of a unit prior to an initial inspection if the unit has passed an alternative inspection in the past 24 months. The PHA may then make assistance payments retroactive to the beginning of the lease term once the unit meets HQS. The PHA must also inspect the unit within 15 days of the request for tenancy approval.

This waiver would allow PHAs to waive the requirement to conduct their own inspections for these units which have undergone alternative inspections. A PHA may begin payments based on the alternative inspection and the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit. A PHA may add other requirements.

The initial inspection option is available to the PHA for both tenant-based and project-based units. The waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection.

A PHA may use this waiver until July 31, 2020 and has until October 31, 2020 to inspect a unit that utilizes this waiver.

Biennial Inspections

The Department is waiving the requirement that PHAs inspect the unit not less than biennially (certain small, rural PHAs may inspect units triennially). All delayed biennial inspections must be completed as soon as reasonably possible, but no later than October 31, 2020. This waiver may be applied to PHA-owned units if the independent entity is unable to perform the inspection.

Interim Inspections

This waiver states that if an HQS reported deficiency is life-threatening, the PHA must notify the owner of the reported life-threatening deficiency and the owner must correct it within 24 hours of the PHA notification or provide documentation that the deficiency does not exist. For non-life-threatening deficiencies, the PHA must notify the owner within 30 days and the owner must either make the repair or document that the deficiency does not exist within 30 days of the PHA notification. The PHA may add other requirements. The PHA is not required to conduct an on-site inspection to verify the repairs have been made, but may rely on alternative verification methods (photos, tenant certification, etc.). This waiver may apply to PHA-owned units where the independent entity is unable to perform the inspection.

This waiver extends until July 31, 2020.

PBV Turnover Unit Inspections

The Department is waiving the regulation that requires a PBV unit inspection before the unit is leased to a new family. The PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit. The PHA may add other requirements. The waiver may be applied to PHA-owned units if the independent entity is unable to complete inspections.

This waiver may be used until July 31, 2020 and units with delayed inspections must be inspected by October 31, 2020.

PBV HAP Contract – HQS Inspections to Add or Substitute Units

The Department is waiving the HQS inspection requirement when substituting or adding a new unit to a PBV HAP contract. Instead, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit. The PHA may add other conditions. The waiver may also be applied to PHA-owned units.

A PHA may accept the owner's self-certification until July 31, 2020 and has until October 31, 2020 to inspect the units to which this waiver applies.

HQS Quality Control Inspections

The Department is waiving its supervisory quality control inspections until October 31, 2020.

HQS Space and Security

The Department is waiving the regulation requiring one bedroom for every two people where the PHA wishes to assist a current participant that needs to add a member or members to the

assisted household as a result of the COVID-19 emergency. This waiver does not apply to an initial or new lease.

The waiver will be in effect for the duration of the current lease term or one year from the date of this notice, whichever period of time is longer.

Homeownership Option – Initial HQS Inspection

The Department is waiving the requirement for an initial HQS inspection before commencing monthly homeownership assistance payments. The family is still required to obtain an independent professional inspector and the PHA is still required to review the independent inspection and has discretion to disapprove the unit because of the contents of the inspection report.

The waiver ends on July 31, 2020.

Housing Choice Voucher – General Waivers

Administrative Plan

The Department is waiving the requirement that a PHA's administrative plan must be formally adopted by a PHA's board.

A PHA may revise an administrative plan without board approval though any revisions must be formerly adopted as practicable following June 30, 2020, but no later than July 31, 2020.

Information When Family Is Selected – PHA Oral Briefing

The Department is waiving the requirement that the PHA must give an oral briefing to families in the HCV and PBV programs. The PHA must instead conduct the briefing by other means such as webcast, video call, ex expanded information packet. The PHA must ensure that the method of communication for the briefing effectively communicates with each family member, including those with vision, hearing, and other communication-related disabilities and those with persons with limited English proficiency.

This waiver ends on July 31, 2020.

Term of Voucher – Extensions of Term

The Department is waiving the requirement the voucher term extensions must be in accordance with the PHA administrative plan.

The waiver is available until July 31, 2020.

PHA Approval of Assisted Tenancy – When HAP Contract is Executed

The Department is waiving the requirement that the HAP contract may not be executed 60 days after the lease term begins. A PHA may now execute a HAP contract after 60 days after the beginning of a lease and make HAP back to the beginning of the lease term. The HAP contract must be executed no later than 120 days from the beginning of the lease term.

The period of availability to execute the HAP contract after the 60-day term ends on July 31, 2020.

Absence from Unit

The Department is waiving the requirement that a voucher family may not be absent from a unit for a period of more than 180 consecutive calendar days. The PHA has discretion whether to continue the HAP contract in this situation and not terminate due to extenuating circumstances (e.g., hospitalization, extended stays at nursing homes, or caring for family members).

The period of availability to continue making these HAP payments despite the family's absence ends on December 31, 2020. The PHA may not make payments after this date if the family is absent and the HAP contract will terminate.

Automatic Termination of HAP Contract

The Department is waiving the requirement to terminate a HAP contract 180 days after a housing assistance payment is reduced to \$0. This is in recognition that the COVID-19 emergency may cause the temporary addition of household members which causes the calculation of HAP to reach \$0. As an alternative requirement, the PHA, following a written notice to the owner and family, may extend the period of time following the last payment to the owner that triggers the automatic termination.

The extension beyond the 180 days may not extend beyond December 31, 2020.

Increase in Payment Standard under HAP contract term

The Department is waiving the requirement that if a payment standard is increased during the term of a HAP contract, the increased payment standard shall not be effective until the family's first regular reexamination. Instead, the increased payment standard may be effective at any time (e.g., interim reexamination, owner rent increase) after the effective date as long as it is not later than then family's first regular reexamination.

This waiver is ends on December 31, 2020.

Utility Allowance Schedule – Required Review and Revision

The Department is waiving the requirement to review the schedule of utility allowances and revise the allowance if there has been a change of 10 percent or more in the utility rate since the last time the utility allowance schedule was revised. PHAs may delay the review and update of utility allowances.

Any review must be completed by no later than December 31, 2020.

Homeownership Option – Homeownership Counseling

The Department is waiving briefing and counseling sessions to permit families to purchase a home without fulfilling the normally applicable pre-assistance homeownership counseling requirements, though HUD encourages families to continue the sessions that can be accomplished in accordance with social distancing directives.

This waiver ends on July 31, 2020.

Family Unification Program (FUP) Youth Age Eligibility to Enter HAP Contract

The Department is waiving the requirement that FUP youth must be not more than 24 years of age (not yet reached their 25th birthday) and is replacing it with the requirement that FUP youth be not more than 25 years of age (not yet reached their 26th birthday).

This waiver ends on December 31, 2020.

Public Housing – General Waivers

Fiscal Closeout of Capital Grant Funds

HUD is waiving the requirement that PHAs submit Actual Development Cost Certificates (ADCC) and Actual Modernization Cost Certifications (AMCC) that fall between March 1, 2020 and September 30, 2020 by six months.

Total Development Costs

HUD is waiving the Total Development Cost (TDC) and Housing Construction Cost (HCC) limits to allow the amount of Public Housing funds committed to development of a project to exceed the applicable limits by 25 percent without a waiver from HUD. Amounts in excess of 25 percent and up to 50 percent may be approved on a case-by-case basis. This waiver is applied to public housing development, Mixed-Finance development, and Choice Neighborhoods development.

Any Development Proposals submitted to HUD before December 31, 2021 are eligible for this waiver.

Costs and Other Limitations; Types of Labor

HUD will allow non-high performer PHAs to use force account labor for modernization activities even if the use of such activities is not included in the Capital Fund 5-Year Action Plan through December 31, 2020.

ACOP; Adoption of Tenant Selection Policies

HUD is waiving the requirement that PHA policies in the ACOP must be duly adopted and implemented with formal board approval. However, any informally adopted revisions under this waiver authority must be formally adopted as soon as practicable after June 30, 2020 but not later than July 31, 2020.

Community Service and Self-Sufficiency Requirement (CSSR)

HUD is waiving and suspending the CSSR requirement. If a PHA adopts this waiver, a family will remain exempt from the CSSR until their first reexamination after March 31, 2021.

Energy Audits

HUD is waiving and suspending the requirement to complete energy audits for PHA projects if the audit is due to HUD before December 31, 2020.

Over-Income Families

HUD is waiving the requirement that PHAs terminate rental assistance or charge an alternative rent to families whose income exceeds the program maximum over two consecutive reexamination cycles through December 31, 2020. Through this waiver PHAs would be allowed to permit over-income families to remain in their units and pay the same rental amount until that PHA conducts the family's next annual income recertification.

Resident Council Elections

HUD will allow PHAs to delay resident council elections beyond the three-year limit, if necessary, through July 31, 2020. Delayed elections must be rescheduled and held as soon as reasonably possible after July 31, 2020.

Review and Revision of Utility Allowance

HUD is allowing PHAs to delay the review and update of utility allowances. Any review and update of utility allowances that were due at some point in time in CY 2020 must be completed by the end of 2020.

Tenant Notifications for Changes to Project Rules and Regulations

HUD is waiving the requirement to provide 30-day notices to impacted families for changes to policies, rules, and special charges to families, except for notices related to tenant charges, through July 31, 2020.

Although HUD is waiving the advanced notice, PHAs must still provide adequate notification to families within 30 days of making such changes.

PHAS, SEMAP, and Uniform Financial Reporting Standards Changes

PHAS (Public Housing Assessment System)

HUD is waiving the inspection requirement of PHAS and postponing physical inspections (except for threat to life or property inspection) for all PHAs until further notice.

HUD will not issue PHAS scores that are pending or for fiscal years ending in 2020 unless a PHA requests a PHAS score. HUD will carry forward the PHAs most recent PHAS score on record.

New PHAS scores will issued by HUD beginning with PHAs that have a fiscal year end date of March 31, 2021.

SEMAP (Section Eight Management Assessment Program)

HUD will not issue SEMAP scores that are pending or for fiscal years ending in 2020 unless a PHA requests a SEMAP score. HUD will carry forward the PHAs most recent SEMAP score on record.

New SEMAP scores will issued by HUD beginning with PHAs that have a fiscal year end date of March 31, 2021.

Uniform Financial Reporting Standards; Filing of Financial Reports; Reporting Compliance Dates

HUD is waiving the unaudited and audited financial submission requirements and adopting an alternative requirement.

Unaudited Financials: Submission of unaudited financials have been extended for six (6) months for PHAs with fiscal year ends of December 31, 2019 and March 31, 2020. December 31, 2019 fiscal year end PHAs now must submit their unaudited financials by August 31, 2020 and March 31, 2020 fiscal year end PHAs now must submit their unaudited financials by November 30, 2020.

Audited Financials: Submission of audited financials have been extended for six (6) months for PHAs with fiscal year ends of June 30, 2019; September 30, 2019; December 31, 2019; and March 31, 2020. June 30, 2019 fiscal year end PHAs now must submit their audited financials by September 30, 2020; September 30, 2019 fiscal year end PHAs now must submit their audited financials by December 31, 2020; December 31, 2019 fiscal year end PHAs now must submit their audited financials by March 31, 2021; and March 31, 2020 fiscal year end PHAs now must submit their audited financials by June 30, 2021.

Other Waivers and Administrative Relief

PHA Reporting Requirements on HUD Form 50058

HUD is waiving the requirement that PHAs must submit form HUD-50058 60 calendar days after any action recorded on line 2b for transactions impacted by implemented waivers and alternative requirements. Through December 31, 2020, PHAs will have 90 days to submit their form HUD-50058 after the effective date of action to HUD. Although the waiver provides up to 90 days to submit form HUD-50058, HUD encourages PHAs that have operational capacity to continue submitting form HUD-50058 within the normal 60-day timeframe.

HUD will issue guidance in the near future that will provide PHAs with workarounds to ensure that the delayed submission of form HUD-50058 does not cause any fatal errors in the IMS-PIC system.

Designated Housing Plans – HUD 60-Day Notification

HUD is waiving the statutory requirement that HUD must respond to Designated Housing Plans that demonstrate project compliance with requirements to establish occupancy by elderly and/or disabled families no later than 60 days after receiving the plan. Currently, if HUD does not respond within 60 days, the plan is considered accepted.

This waiver would allow HUD more than 60 days to review Designated Housing Plans through July 31, 2020.

Extension of Deadline for Programmatic Obligation and Expenditure of Capital Funds

HUD is extending both the Capital Fund obligation end date and the Capital Fund expenditure date for all open Capital Fund grants by one year from the current obligation and expenditure

end date. No programmatic expenditure end date shall be extended beyond one month prior to the closure of the relevant appropriation account.

Conclusion

The 44 waivers and alternative requirements in Notice PIH 2020-05 are the first steps HUD is providing to the Public Housing and Housing Choice Voucher programs in response to the COVID-19 national emergency. Additional steps may very well be necessary to ensure HUD rental assistance programs meet the changing needs of the residents and communities PHAs serve.

HUD has set up a mailbox at PIH-covidwaivers@hud.gov to hear feedback about additional waivers PHAs may need. NAHRO also requests that you send any feedback and additional waivers to NAHRO's Director of Policy and Program Development, Georgi Banna at gbanna@nahro.org as NAHRO continues to advocate on the behalf of PHAs with HUD and Congress.