



Housing Authority of the County of Merced

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HUD Notice PIH 2020-05

On April 10, 2020, the U.S. Department of Housing and Urban Development (HUD) issued PIH Notice 2020-05, providing guidance to Public Housing Authorities (PHAs) in response to the Covid-19 national emergency. This PIH Notice allows PHAs to establish alternative requirements for several statutory and regulatory requirements. Below are the alternative requirements hereby adopted by the Housing Authority of the County of Merced (Authority). All alternatives are adopted effective April 20, 2020 and will end July 31, 2020 unless an alternative availability period is noted below. The Authority is adopting the following statutory and/or regulatory waivers:

The PH and HCV are for both Public Housing and Housing Choice Voucher Programs (the following waivers apply to both PH and HCV)

1. PH and HCV-3: Family Income and Composition: Annual Examination - Income Verification Requirements

HUD Regulatory Authority: 24 CFR § 5.233(a)(2) Sub-regulatory Guidance

Regulatory Description: PIH Notice 2018-18 Description: **PHAs are required to use the Enterprise Income Verification (EIV) System for verification of family income at the annual examination.** 24 CFR § 5.233(a)(2) requires PHAs to use EIV as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with §5.236 and administrative guidance issued by HUD. PIH Notice 2018-18 describes the required verification hierarchy process PHAs must follow. HUD understands that documentation may be difficult to obtain as a result of the COVID-19 public health emergency. PHAs are also facing challenges with securely accessing HUD systems while many if not all staff are working remotely.

HUD TEMPORARY Waiver: To address these challenges, 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 verification requirements for annual reexaminations, including the use of EIV. During the allowable period of availability, **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 by PHA staff with a contemporaneous written record), through an email or postal mail with a self-certification form by the tenant, or through other electronic communications. PHAs are encouraged to incorporate procedures to remind families of the obligation to provide true and complete information when adopting these flexibilities. PHAs are

further reminded that there is no HUD requirement that income and family composition examinations and recertifications must be conducted in-person unless determined necessary as a reasonable accommodation as long as applicable public health guidelines are followed (e.g., social distancing) and any state or local ordinance is followed.

PHAs that conduct annual examinations under this waiver/alternative requirement will be responsible for addressing any material discrepancies that may arise later. For example, if a tenant self-certified that the tenant lost their job, but later the EIV Income Validation Tool (IVT) shows the tenant's employment continued, the PHA must take enforcement action in accordance with their policies and procedures.

The period of availability to conduct annual reexaminations using these modified verification requirements ends on July 31, 2020.

2. PH and HCV-4: Family Income and Composition: Interim Examinations

HUD Statutory Authority: Section 3(a)(1) of the USHA of 1937 Regulatory Authority: 24 CFR § 5.233(a)(2) - HCV and Public Housing Regulatory Authority: 24 CFR § 982.516(c)(2) - HCV Regulatory Authority: 24 CFR § 960.257(b) and (d) - Public Housing Sub-Regulatory Guidance: PIH Notice 2018-18.

Statutory Description: For the HCV and public housing programs, PHAs are required to adopt policies (in their Administrative Plans and Admissions and Continued Occupancy Plans (ACOPs), respectively) prescribing when and under what conditions the family must report a change in family income or composition. However, at any time that a family requests an interim determination of family income or composition because of any changes since the last determination, the PHA must make the interim determination within a reasonable time after the family's request. In most cases, the reason a family requests an interim determination is due to a loss in income or a change in family composition.

PHAs are required to use EIV for verification of family income at interim reexamination. 24 CFR § 5.233(a)(2) requires PHAs to use EIV as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with §5.236 and administrative guidance issued by HUD. PIH Notice 2018-18 further describes the required verification hierarchy process PHAs must follow.

HUD TEMPORARY Waiver: To assist PHAs that may be prioritizing the **processing of interim reexaminations** due to decreases in family income and mitigate the challenges of transferring documentation during periods of shelter-in-place/stay-at-home efforts in response to the COVID-19 emergency **HUD is waiving the requirements to use the income verification hierarchy as described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for interim reexaminations, including the required use of EIV.** During the allowable period of eligibility, PHAs may consider self-certification as the highest form of income verification to process interim reexaminations. This may occur over the telephone (with

a contemporaneous written record by the PHA staff person), through an email with a self-certification form by the family, or through other electronic communications.

As noted in the previous waiver description, there is no HUD requirement that income and family composition examinations and recertifications must be conducted in-person unless it may be necessary as a reasonable accommodation for a person with a disability as long as applicable public health guidelines are followed (e.g., social distancing) and any local and state ordinances is followed. **PHAs that conduct interim reexaminations under this waiver/alternative requirement will be responsible for addressing any material discrepancies that may arise later.** For example, if a tenant self-certified that the tenant lost their job, but later the EIV IVT Report shows the tenant's employment continued, the PHA must take enforcement action that is consistent with its policies and procedures.

The period of availability ends on July 31, 2020.

HOUSING CHOICE VOUCHER PROGRAM WAIVERS – HOUSING QUALITY STANDARDS (HQS) INSPECTIONS (the following waivers are for HCV)

In order to provide PHAs with the necessary flexibilities to continue to allow families to lease units and to postpone normally required HQS inspections for units under HAP contract, HUD is authorizing the use of the HQS-related waivers and alternative requirements listed in this section.

PHAs that delay inspections under these waivers must inspect the units as soon as reasonably possible when it is again safe to do so, but must complete all delayed unit inspections no later than the date specified in this notice **Any PHA that applies any of these waivers to its HCV program retains the right to conduct an HQS inspection on any assisted unit at any time.** Likewise, the PHA may always choose to conduct an initial inspection on a unit a family wishes to lease if such an inspection is determined to be warranted by the PHA, regardless of whether the PHA chooses to apply the initial HQS inspection waivers to its HCV program. **Crucially, use of any of these waivers by the PHA does not relieve owners of their responsibility to maintain the unit in accordance with HQS as required in the HAP contract, nor does it in any way restrict the PHA from taking action to enforce the owner's obligations.**

1. HQS-1: Initial Inspection Requirements

HUD Statutory Authority: Section 8(o)(8)(A)(i), Section 8(o)(8)(C) of the USHA of 1937 Regulatory Authority: 24 CFR §§ 982.305(a), 982.305(b), 982.405.

Regulatory Description: Section 8(o)(8)(A)(i) requires that the PHA must inspect the unit before any assistance payment is made to determine whether the unit meets HQS. Section 8(o)(8)(C) requires the PHA to conduct the initial inspection within certain time frames after receiving the RFTA. Section 982.305 provides that the PHA may not approve the assisted tenancy or execute a HAP contract until the unit has been inspected by the PHA and passes HQS. Additionally, Section 982.305 requires that the PHA must inspect the unit to determine that the unit satisfies the HQS before the beginning of the initial lease term **and that the PHA must**

perform this inspection within either 15 days or within a reasonable time depending on the size of the PHA.

HUD TEMPORARY Waiver: HUD is waiving these requirements and providing an alternative requirement. In order to place the unit under HAP contract and commence making payments, 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 or units in question instead of conducting an initial inspection. At minimum, the PHA must require this owner certification. However, the PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so. The PHA is required to conduct an HQS inspection on the unit as soon as reasonably possible but no later than October 31, 2020.

This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection- This would be Project-Based developments.

The period of availability for PHAs to accept owner's self-certification for an initial inspection ends on July 31, 2020.

The period of availability for the PHA to inspect a unit that was placed under HAP contract based on the owner's self-certification ends on October 31, 2020.

2. HQS-3: Initial Inspection: Non-Life-Threatening Deficiencies (NLT) Option

HUD Statutory Authority: Section 8(o)(8)(A)(ii) of the USHA of 1937 Regulatory Authority: Housing Opportunity Through Modernization Act (HOTMA) of 2016: Implementation of Various Section 8 Voucher Provisions, 82 Fed. Reg. 5458 (Jan. 18, 2017).

HUD Description: Section 8(o)(8)(A)(ii) provides the PHA with the option to choose to approve an assisted tenancy, execute the HAP contract, and begin making housing assistance payments on a unit that fails the initial HQS inspection, provided the unit's failure to meet HQS is the result only of NLT conditions. **The statute further requires that the PHA must withhold housing assistance payments from the owner if the NLT conditions are not corrected within 30 days.**

HUD TEMPORARY Waiver: HUD is waiving the requirement that the PHA must withhold the payment if the NLT repairs are not made in 30 days. Instead, **the PHA may provide an extension of up to an additional 30 days to the owner to make the NLT repairs and continue to make payments to the owner during the period of that maximum 30-day extension. If the owner has not made the NLT repairs by the end of the PHA extension period, the PHA must withhold payments.**

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

The period of availability for the PHA to approve **an extension of up to an additional 30 days ends on July 31, 2020.** The extension to make the NLT repairs may extend beyond July 31, 2020,

depending on the date the PHA approved the extension. For example, if the PHA approved the extension on July 15th, **the maximum extension provided to the owner would be August 15th.**

3. HQS-7: PBV Turnover Unit Inspections

HUD Regulatory Authority: 24 CFR § 983.103(c).

Regulatory Description: The regulation requires that before providing assistance to a new family in a PBV contract unit, the PHA must inspect the unit.

HUD TEMPORARY Waiver: HUD is waiving this regulatory requirement and providing as an alternative requirement 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 or units in question to allow a new family to occupy the vacated PBV unit. At minimum, the PHA must require this owner certification. However, the PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so. **The PHA is required to conduct the HQS inspection on the unit as soon as reasonably possible, but no later than October 31, 2020.** This waiver may also be applied to PHA-owned units if the independent entity is unable to perform the inspection.

The period of availability to fill a turnover PBV unit without conducting an HQS inspection ends on July 31, 2020. The period of availability for completing inspections for turnover PBV units that were reoccupied without an HQS inspection under this waiver authority ends on October 31, 2020.

HOUSING CHOICE VOUCHER PROGRAM WAIVERS – GENERAL

1. HCV-1: Administrative Plan

Regulatory Authority: 24 CFR § 982.54 (a)

Regulatory Description: The regulation requires that any revisions of the PHA's administrative plan must be formally adopted by the PHA Board of Commissioners or other authorized PHA officials. Recognizing the foreseeable difficulties in complying with this requirement in light of the COVID-19 emergency, HUD is waiving the requirement to allow the PHA administrative plan to be revised on a temporary basis without Board approval. As an alternative requirement any informally adopted revisions under this waiver authority must be formally adopted as soon as practicable following June 30, 2020, but no later than July 31, 2020. Period of Availability:

The period of availability ends on July 31, 2020

2. HCV-2: Information When Family is Selected - PHA Oral Briefing

HUD Regulatory Authority: 24 CFR § 982.301(a)(3), § 983.252(a)

Regulatory Description: The regulation requires when the PHA selects a family to participate in either the HCV or PBV program, the PHA must give the family an oral briefing.

HUD TEMPORARY Waiver: HUD is waiving this requirement and as an alternative requirement allowing the PHA to conduct the briefing by other means such as a webcast, video call, or expanded information packet. Section 504 and the ADA require PHAs to ensure effective communication with applicants, participants and members of the public in all communications and notices. The PHA must ensure that the method of communication for the briefing effectively communicates with, and allows for equal participation of, each family member, including those with vision, hearing, and other communication-related disabilities, and ensures meaningful access for persons with limited English proficiency.

The period of availability ends on July 31, 2020

3. HCV-3: Term of Voucher – Extensions of Term

Regulatory Authority: 24 CFR § 982.303(b)(1).

Regulatory Description: The regulation provides that at its discretion, the PHA may grant a family one or more extensions of the initial voucher term in accordance with the PHA policy as described in the PHA administrative plan.

HUD TEMPORARY Waiver: HUD is waiving the requirement that the extension(s) must be in accordance with the PHA's administrative plan in order to allow the PHA to provide extensions even though it has been unable to formally amend its policy in the administrative plan.

The period of availability ends on July 31, 2020.

4. HCV-4: PHA Approval of Assisted Tenancy – When HAP Contract is Executed

Regulatory Authority: 24 CFR § 982.305(c).

Regulatory Description: The PHA may not make any housing assistance payments to the owner until the HAP contract is executed. The regulation provides that PHA must use best efforts to execute the HAP contract before the beginning of the lease term and that the HAP contract must be executed no later than 60 days from the beginning of the lease term. Any HAP contract executed after the 60-day period is void and the PHA may not pay any housing assistance payments to the owner.

HUD TEMPORARY Waiver: HUD is waiving the regulatory requirement to allow PHAs to execute the HAP contract after the 60-day deadline has passed and make housing assistance payments back to the beginning of the lease term. However, the PHA and owner must execute the HAP contract no later than 120 days from the beginning of the lease term.

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

5. HCV-5: Absence from Unit

Regulatory Authority: 24 CFR § 982.312

Regulatory Description: The regulation requires that a family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason.

HUD TEMPORARY Waiver: HUD is waiving this regulatory requirement to allow the PHA at its discretion to continue housing assistance payments and not terminate the HAP contract due to extenuating circumstances (e.g., hospitalization, extended stays at nursing homes, caring for family members).

The period of availability for the PHA to choose to continue making HAP payments despite the family's absence of more than 180 consecutive days ends on December 31, 2020. **The PHA may not make payments beyond December 31, 2020, and the HAP contract will terminate on that date if the family is still absent from the unit.**

6. HCV-6: Automatic Termination of HAP contract

Regulatory Authority: 24 CFR § 982.455.

Regulatory Description: When an HCV family's income increases to the extent that the housing assistance payment is reduced to \$0, PHAs are required by this regulation to automatically terminate HAP contracts 180 days after the last housing assistance payment to the owner. In recognition that the COVID-19 emergency is creating economic and employment instability for many families, as well as situations where families may on a temporary basis be adding members whose additional income may result in a \$0 HAP subsidy calculation.

HUD TEMPORARY Waiver: HUD is waiving this requirement. As an alternative requirement, the PHA, upon 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 of the HAP contract. The extension beyond the normally applicable 180 days is determined by the PHA but may not extend beyond December 31, 2020.

The period of availability for the extension ends December 31, 2020. The PHA may not extend the HAP contract beyond December 31, 2020.

PUBLIC HOUSING PROGRAM WAIVERS

1. PH-4: ACOP: Adoption of Tenant Selection Policies

Regulatory Authority: 24 CFR § 960.202(c)(1)

Regulatory Description: The regulation requires that the PHA policies in the ACOP must be duly adopted and implemented. HUD is waiving this requirement to permit PHAs to adopt and implement changes to the ACOP on an expedited basis, without formal board approval. As an

alternative requirement, any informally adopted revisions under this waiver authority must be formally adopted as soon as practicable following June 30, 2020, but no later than July 31, 2020. Please note that the requirement for tenant selection policies to be consistent with the fair housing and equal opportunity at § 5.105 remains in effect. Period of Availability:

The period of availability ends on July 31, 2020.

2. PH-5: Community Service and Self-Sufficiency Requirement (CSSR)

Statutory Authority: Section 12(c) of the USHA of 1937 Regulatory Authority: 24 CFR § 960.603(a) and 960.603(b).

Statutory Description: The statute and regulations require that each adult resident of public housing, except for any family member that is exempt, must contribute 8 hours per month of community service or participate in an economic self-sufficiency program or a combination of both. A family's noncompliance with the service requirement is grounds for non-renewal of the lease at the end of the lease term.

HUD TEMPORARY Waiver: HUD is waiving this requirement and is alternatively suspending the community service and self-sufficiency requirement. If a PHA adopts this waiver, tenants will not be subject to this requirement until the family's next annual reexamination. Upon the family's next annual reexamination, PHAs should report on Form HUD-50058 each individual's CSSR status as either exempt for those that are exempt, or pending for those that are otherwise eligible but for which the suspension prevents a housing authority from determining compliance. After a PHA completes an annual reexamination for any family, the CSSR becomes effective again for family members for the subsequent annual reexamination cycle.

The period of availability ends on March 31, 2021

3. PH-7: Over-Income Families

Statutory Authority: Section 16(a)(5) of the USHA of 1937 Regulatory Authority: Housing Opportunity Through Modernization Act of 2016: Final Implementation of the Public Housing Income Limit (83 FR 35490, July 26, 2018) Sub-regulatory Guidance: Notice PIH 2019-11.

Statutory Description: PHAs are required by statute and the Federal Register Notice to terminate or charge an alternative rent to families whose income exceeds the program maximum income level for two consecutive years. HUD defined the two-year time period as two consecutive reexamination cycles. In order to be consistent with the delay in annual reexaminations permitted under waiver PH and HCV-2.

HUD TEMPORARY Waiver: HUD is waiving this requirement and is permitting families to remain in their units and to continue to pay the same rental amount until such time that a PHA conducts the next annual income recertification that would impact the family. In order to adopt this waiver, PHAs must also adopt a waiver under PH and HCV-2.

The period of availability ends on December 31, 2020.