



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

**SPECIAL ATTENTION OF:**

Office Directors of Public Housing;  
Regional Directors; Public Housing  
Agencies; Offices of Native American  
Programs; Indian Tribes, and  
Tribally Designated Housing Entities.

**NOTICE PIH 2020-33(HA), REV-2**

Issued: November 30, 2020

Expires: This Notice remains in effect  
until amended, superseded or rescinded.

Supersedes: Notices PIH 2020-05; PIH  
2020-13

Cross References: Notice PIH-2018-18;  
Notice PIH-2019-11; Notice PIH-2011-64;  
82 FR 5458 (January 18, 2017); 83 FR  
35490 (July 26, 2018); Notice PIH-2020-22;  
Notice PIH-2020-20

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**SUBJECT:** COVID-19 Statutory and Regulatory Waivers and Alternative Requirements for the Public Housing, Housing Choice Voucher (including Mainstream and Mod Rehab), Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program, Revision 2

**1. PURPOSE**

The Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-136) provides the U.S. Department of Housing and Urban Development (HUD) with broad authority to waive or establish alternative requirements for numerous statutory and regulatory requirements for the Public Housing program, Housing Choice Voucher (HCV) program, Indian Housing Block Grant (IHBG) program, and Indian Community Development Block Grant (ICDBG) program.

In Notice PIH 2020-05, published on April 10, 2020, HUD exercised its authority under the CARES Act to establish waivers and administrative flexibilities to provide relief to Public Housing Agencies (PHAs), Indian tribes, and tribally designated housing entities (TDHEs) in response to the COVID-19 pandemic. PIH subsequently published Notice PIH 2020-13, which restated the waivers and alternative requirements established previously in Notice PIH 2020-05, provided additional waivers and alternative requirements, extended the periods of availability for previously established waivers and alternative requirements, and issued technical amendments to several of the previously established waivers and alternative requirements. Additionally, HUD published Notices PIH 2020-20 and PIH 2020-22 which provided waivers and alternative requirements specific to the Section 8 Moderate

Rehabilitation (Mod Rehab) Program and Mainstream vouchers, respectively.

This Notice restates the waivers and alternative requirements included previously in Notice PIH 2020-13, carries forward information on previously specified HUD actions, adds new waivers and alternative requirements, and incorporates the waivers and alternative requirements for Mainstream vouchers and the Mod Rehab Program. In addition, this Notice extends the period of availability of certain waivers, such as those related to Income Verification and Annual Examinations, until June 30, 2021.

With respect to the Public Housing and HCV programs, use of any waiver or alternative requirement established by HUD is at the discretion of the PHA; however, HUD strongly encourages PHAs to utilize any and all waivers and alternative requirements as necessary to keep Public Housing and HCV programs operational to the extent practicable. HUD also encourages PHAs to utilize waivers and alternative requirements to expand housing assistance opportunities, including to families on waiting lists; providing affordable, safe housing during this time assists in addressing issues like homelessness and overcrowding that contribute to risk factors during the COVID-19 pandemic.

### **SUMMARY OF REVISIONS**

A list of the waivers and alternative requirements extended by this Notice from PIH 2020-13, PIH 2020-20, and PIH 2020-22 are included as an appendix. The new waivers and alternative requirements included in this Notice are summarized below.

This Notice establishes the following new waivers and alternative requirements:

- PH-13: Over-Income Limit: Termination Requirement waives the termination requirement for an over-income family and, alternatively, requires the PHA to charge the family the applicable Fair Market Rent as the family's monthly rental amount.
- PH-14: Annual Choice of Rent waives the requirement that a family may not be offered a choice between a flat rent and an income-based rent more than once a year.
- 12.d.: Section 6(j) 1- and 2-Year Substantial Improvement Requirements tolls the timing for determining substantial improvement for PHAs designated as troubled prior to the date of this Notice and that have not received a Public Housing Assessment System (PHAS) assessment for the first full fiscal year after the initial notice of the troubled designation.

This Notice also adds the following alternative requirements to previously established Housing Quality Standard (HQS) and HCV waivers. The newly added alternative requirements are effective as of the date of this Notice. If a PHA previously adopted the waivers listed below, the newly added alternative requirement will only apply to actions taken under the waivers as of the date of this Notice and the PHA must update any applicable policies accordingly.

- HQS-5: HQS Inspection Requirement: Biennial Inspections now provides the alternative requirement that, at a minimum, the PHA must require 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.
- HCV-5: Absence from Unit requires the PHA maintain documentation in the tenant

file which explains the extenuating circumstances that caused the extended absence. In addition, this Notice provides for two additional alternative requirements related to the Section 8 Management Assessment Program (SEMAP).

- 11b-1: SEMAP allows field offices to perform remote SEMAP confirmatory review instead of an on-site confirmatory review before changing any rating from troubled to standard or high performer.
- 11b-2: SEMAP waives the requirement for PHA submission of an annual SEMAP certification in the Inventory Management System–PIH Information Center (IMS-PIC) within 60 days of fiscal year end (FYE) during the timeframe HUD is rolling over prior year scores.

Finally, the regulatory authority for item 11b: SEMAP is corrected to 24 CFR § 985.105.

## **2. BACKGROUND**

An outbreak of a respiratory disease caused by a novel (new) coronavirus has as of this date been detected in over 200 countries world-wide, including in the United States. The virus has been named “severe acute respiratory syndrome coronavirus 2” (SARS-CoV-2) and the disease it causes has been named “Coronavirus Disease 2019” (“COVID-19”). On January 31, 2020, Secretary of Health and Human Services Alex M. Azar II declared a public health emergency for the United States to aid the nation’s healthcare community in responding to COVID-19. On March 13, 2020, President Donald J. Trump declared the COVID-19 pandemic a national emergency.

The Federal Government is working closely with state, local, Tribal, and territorial partners, as well as public health partners, to respond to this public health threat. While various parts of the country are experiencing different levels of COVID-19 activity all 50 states have reported cases of COVID-19 to the Centers for Disease Control and Prevention (CDC).

The COVID-19 pandemic presents significant challenges for HUD and our PHA, Tribal, and TDHE partners to continue to carry out HUD’s fundamental mission to provide decent, safe, and sanitary affordable housing for low-income families. Program operations have been severely impacted as PHAs, tribes, and TDHEs comply with critically important advisories and directives from public health professionals, including social distancing and other preventive practices that will slow the spread of COVID-19 and reduce the risk of exposure.

On March 27, 2020, President Trump signed the CARES Act into law, which authorizes over \$2 trillion in emergency assistance and health care response for individuals, families and businesses affected by the COVID-19 pandemic, and emergency appropriations to support Executive Branch agency operations during the COVID-19 pandemic. The CARES Act further provides HUD with broad authority, in the context of the COVID-19 pandemic, to waive statutes and regulations (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) for the Public Housing and HCV programs, IHBG program, and ICDBG program. Through Notices PIH 2020-05 and PIH 2020 –13, HUD exercised this authority to provide PHAs, Indian tribes, and TDHEs with flexibility to adjust program practices where necessary to prioritize mission critical functions when normal operations are restricted and severely constrained, further prevent the spread of COVID-19, and mitigate the health risks posed by COVID-19 to PHA, Tribal, and TDHE

staff, families, landlords, and their communities at large. In addition, through Notices PIH 2020-20 and PIH 2020-22, HUD provided, among other provisions, additional flexibilities for the Mod Rehab and Mainstream parts of the HCV program.

Due to anticipated impact of COVID-19 on PHAs and assisted families over an extended period, HUD considered which flexibilities remain necessary to maintain PHA operations and which could be allowed to lapse. Through this Notice, HUD is extending the period of availability of many of these previously established waivers and alternative requirements. This Notice consolidates into a single document all previously established waivers and alternative requirements, including those not being extended at this time.

### **3. CONTINUED OPERATIONS DURING THE COVID-19 PANDEMIC**

The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of PHA, Tribal, and TDHE operations. With this flexibility, HUD strongly encourages PHAs, Indian tribes, and TDHEs to continue using available funding to house families, keep families in their homes, and conduct critical operations that can be done remotely and safely. Some critical functions for PHAs include, but are not limited to 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. Some critical functions for Indian tribes and TDHEs include but are not limited to ensuring low income Native American families remain housed, alleviating severe overcrowding, and carrying out eligible affordable housing activities.

HUD encourages PHAs, Indian tribes, and TDHEs to apply the waivers authorized in this Notice based on local circumstances and needs. HUD also encourages PHAs, Indian tribes, and TDHEs to document and expeditiously implement plans for alternative procedures in order to provide stable housing for some of our country's most vulnerable families. Alternative processes may include electronic transmission of information to families, conducting briefings online, conducting conference calls, or using self-service features on the PHA's, Indian tribe's, or TDHE's website if available, and providing business-reply envelopes or secure drop-box apparatuses for document or rent submission for assisted families that do not have access to the Internet.

PHAs and industry groups are encouraged to work together with each other and with HUD during this challenging time to share ideas on how these critical functions can continue in order to house families. Likewise, it is imperative that Indian tribes, as well as regional and national organizations representing Native American housing interests, work together and with HUD's Office of Native American Programs (ONAP) and its area offices to find and share safe and efficient methods to carry out affordable housing activities to support low-income Indian families and their health in Indian Country and across the nation.

*It is important to note that, for the Public Housing and HCV programs, HUD has not provided waiver authority that would allow tenants to stop paying their portion of the rent as determined by the PHA. Thus, it is critically important for PHAs to have revised procedures in place to allow for the timely completion of interim reexaminations for decreases in family*

*income (see further discussion of this topic and the waiver authority/alternative requirement (PH and HCV-3) provided in Section I, paragraph 7, of this Notice).*

#### **4. WAIVER AND ALTERNATIVE REQUIREMENT AUTHORITY**

These waivers and alternative requirements are established under the authority of the CARES Act as well as Secretary Carson's finding that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing and HCV programs, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19.

The Secretary may waive and/or establish alternative requirements for additional statutory and regulatory provisions in addition to these waivers by subsequent Notice.

With respect to the waivers and alternative requirements under Native American programs, such waivers and alternative requirements are also established under the authority of the CARES Act and Secretary Carson's finding that all waivers provided under this Notice are necessary to expedite or facilitate the use of Indian Housing Block Grant and Indian Community Development Block Grant funds to prevent, prepare for, and respond to the coronavirus. HUD will continue to assess the need for further waiver relief during the COVID-19 pandemic, and Indian tribes and TDHEs are encouraged to submit any additional waiver requests to their area ONAPs. HUD will consider all requests and determine whether to approve additional relief.

#### **5. WAIVER AND ALTERNATIVE REQUIREMENT APPLICABILITY**

Through this Notice HUD is making the new waivers and alternative requirements listed in this Notice effective immediately as of the date of this Notice for those PHAs that elect to adopt them. The waivers and alternative requirements previously established in Notices PIH 2020-05, PIH 2020-13, PIH 2020-20 and PIH 2020-22 remain effective as of the date of publication of those notices. PHAs may adopt the use of any of these waivers at any time during the period of availability (see Section 6 below).

With respect to the Public Housing program, the CARES Act provides that the Secretary may waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the use of amounts made available under the CARES Act supplemental appropriation, the FY 2020 Operating Fund and Capital Fund appropriations, and any prior Operating Fund or Capital Fund appropriations. See Notice PIH 2020-07, "Implementation of Supplemental Guidance to the Federal Fiscal Year 2020 Operating Fund Appropriations," available here:

<https://www.hud.gov/sites/dfiles/PIH/documents/PIH2020-07.pdf>.

With respect to the HCV program, the CARES Act provides that the Secretary may waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the use of amounts made available under the CARES Act supplemental appropriation or under the FY 2020 Tenant-Based Rental Assistance (TBRA) appropriation. This means the waiver/alternative requirements are applicable to the HCV program, including special purpose vouchers such as Mainstream vouchers, Family Unification Program (FUP) vouchers, and HUD-Veterans Affairs

Supportive Housing (HUD-VASH) vouchers, provided that HCV program operations including those special purpose vouchers are supported by amounts provided by the FY 2020 TBRA appropriation (including FY 2020 renewal funding, FY 2020 administrative fees, and FY 2020 new special purpose voucher allocations) or amounts from the CARES Act supplemental appropriation during the period of applicability. See Notices PIH 2020-08, (“CARES Act – HCV Program Administrative Fees”) and PIH 2020-09 (“CARES Act Mainstream Funding for Public Housing Authorities (PHAs) Awarded Funding Allocations in the 2017 and 2019 Competitions), both available here: [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/publications/notices](https://www.hud.gov/program_offices/public_indian_housing/publications/notices).

The use of these waivers is at the discretion of the individual PHA. A PHA may choose to apply all, some, or none of the waivers to their Public Housing and HCV programs. PHAs may continue to request regulatory waivers from HUD in accordance with Notice PIH 2018-16 for waivers that are not covered by this Notice, however, the PHA may not implement those waivers until the waiver request is approved by HUD.

Some of the waivers require the use of alternative requirements. If the PHA adopts a waiver with an alternative requirement, the PHA must comply with all the terms and conditions of the alternative requirement. Please see the individual waiver descriptions for information on the applicable alternative requirements.

PHAs are required to keep written documentation that records which waivers the PHA applied to their programs(s) and the effective dates. A summary of the available waivers/alternative requirements and a suggested format for such documentation is included as Attachment I to this Notice. A PHA does not need to notify HUD or receive HUD approval to begin utilizing these waivers/alternative requirements. However, HUD may subsequently require the PHA to provide information to HUD on the waivers used by the PHA and the date the PHA applied the waiver to its program(s).

If a PHA chooses to apply any of the waivers provided for in this Notice, the PHA is required to publicly post or otherwise make available to the public a list of such waivers and alternative requirements by whatever means it considers most effective (e.g., posting to its website, posting in central and any satellite offices and properties) as soon as practicable. The PHA also is required to notify affected residents and owners of any impacts that the waiver and alternative requirement (where applicable) may have on them by whatever means it considers most effective as soon as practicable.<sup>1</sup> HUD recognizes that the COVID-19 pandemic presents unique challenges from a staffing and communication perspective and encourages PHAs to adapt their communications in consideration of local conditions and resources. For example, a PHA may need to initially provide this notification by placing information on its website and as a voice-mail message and following up with more formal written notice as circumstances allow.

HUD reminds PHAs that all materials, notices, and communications to families regarding the

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<sup>1</sup> Although PHAs are required to notify all affected families and owners as soon as practicable, in the case of PH-10: Tenant Notifications for Changes to Project Rules and Regulations, PHAs are specifically required to notify affected families within 30 days of making changes to Public Housing project rules and regulations.

use of the waiver authorities must be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations. Section 504 and the ADA require recipients to ensure effective communication with applicants, participants, and members of the public and to provide appropriate auxiliary aids and services where necessary to afford individuals with hearing, vision, and other communication-related disabilities an equal opportunity to access information. PHAs must provide appropriate auxiliary aids and services necessary to ensure effective communication in all notices and communications, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters, accessible websites and other electronic communications (see 24 CFR 8.6, 28 CFR 35.160, and 28 CFR 36.303).

PHAs must also continue to take reasonable steps to ensure meaningful access to their programs and activities to Limited English Proficient (LEP) individuals. As an aid to recipients, HUD published Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance) in the Federal Register on January 22, 2007 (72 FR 2732). LEP guidance and information is available here:

<https://www.federalregister.gov/documents/2007/01/22/07-217/final-guidance-to-federal-financial-assistance-recipients-regarding-title-vi-prohibition-against>.

## **6. PERIOD OF AVAILABILITY**

With respect to the Public Housing and HCV programs, pursuant to the CARES Act, the waivers/alternative requirements established in prior notices remain effective as of the date of publication which established the waiver/alternative requirement. The new waivers/alternative requirements established in this Notice are effective for immediate use by PHAs as of the date of this Notice. The specific statute, regulation, and/or sub-regulatory guidance being waived (as applicable), the period of availability, and the alternative requirement (if applicable), are found in Section 1, paragraphs 7 through 12 of this Notice.

The period of availability for the public housing and HCV waivers is in most cases extended to June 30, 2021. Other waivers have unique dates, such as when the period of availability is dependent on a PHA's fiscal year end date or based on a specific action or activity. PHAs that adopted waivers/alternative requirements established in Notices PIH 2020-05, PIH 2020-13, PIH 2020-20, and PIH 2020-22 may continue to operate under those waivers/alternative requirements through the extended availability periods provided in this Notice.

The period of availability for these waivers/alternative requirements, collectively or individually, may be further extended by PIH Notice should HUD determine this to be necessary. PHAs are not required to keep the waiver/ alternative requirement in-place for the full period of availability (including any extension) but may at any time choose to revert to regular program requirements and operations.

With respect to Native American programs, pursuant to the CARES Act, waivers and alternative requirements provided under the IHBG program and the ICDBG program are deemed to be effective as of the date the Indian tribe or TDHE began preparing for the

COVID-19 pandemic. In accordance with the Act, this waiver relief is available only for IHBG funding and ICDBG funding provided under the CARES Act, and IHBG and ICDBG funding appropriated under the FY 2020 Consolidated Appropriations Act (Public Law 116-94). Since the initial issuance of this Notice PIH 2020-05, HUD subsequently determined that the waiver authority under the “Community Development Fund” account in the CARES Act also authorized HUD to issue waivers and alternative requirements with respect to ICDBG funding appropriated under the FY 2019 Consolidated Appropriations Act (Public Law 116-6).

The waivers and alternative requirements issued under the IHBG and ICDBG programs are generally available until funds are expended, unless otherwise noted under specific waivers below. HUD is allowing waivers and alternative requirements to remain available to Indian tribes and TDHEs until funds are expended because all funds subject to these waivers and alternative requirements must be used to prevent, prepare for, and respond to COVID-19. A summary of the waivers and alternative requirements issued under the IHBG and ICDBG programs is provided in Attachment II to this Notice.



## SECTION I: WAIVERS APPLICABLE TO THE PUBLIC HOUSING AND HCV PROGRAMS

### 7. WAIVERS APPLICABLE TO BOTH THE PUBLIC HOUSING AND HCV PROGRAMS

#### PH and HCV-1: PHA 5-Year and Annual Plan Submission Dates: Significant Amendment Requirements

Statutory Authority: Section 5A(a)(1), Section 5A(b)(1), Section 5A(g), and Section 5A(h)(2) of the United States Housing Act of 1937 (hereafter “the USHA of 1937”)

Regulatory Authority: 24 CFR §§ 903.5(a)(3), 903.5(b)(3), 903.13(c), 903.21, 903.23

Description: For all PHAs, after submission of their first 5-Year Plan, all subsequent 5-Year Plans must be submitted once every five PHA fiscal years, no later than 75 days before the commencement of the PHA's fiscal year. Non-qualified PHAs must also submit their Annual Plan no later than 75 days before the commencement of their fiscal year. Qualified PHAs are not required to submit an annual plan to HUD but are required to hold an annual hearing to discuss proposed plans for the upcoming fiscal year, and are required to submit an annual civil rights certification.

Due to the potential postponement of public hearings due to limitations on large public gatherings, HUD is waiving these requirements, and providing alternative deadlines for some PHAs. Specifically, HUD is establishing an alternative requirement under which PHAs with 6/30/20 or 9/30/20 fiscal year-end (FYE) dates must have submitted their 5-Year (if due in 2020) and Annual Plans or civil rights certification for qualified PHAs no later than 10/18/20 (75 days before 1/1/21) and PHAs with 12/31/20 FYE dates must submit their 5-Year (if due in 2020) and annual plans no later than 1/16/21 (75 days before 4/1/21). Please see the chart below (the “Revised Submission Requirement” and “Revised Due Date” reflect the revisions from PIH 2020-13):

PHA FYE	Revised Submission Requirement	Revised Due Date
6/30/20 and 9/30/20	75 days before 1/1/21	10/18/20
12/31/20	75 days before 4/1/21	1/16/21

Unless HUD subsequently revises this waiver authority and alternative requirement, PHAs with FYE dates of 3/31 are not impacted by this waiver and are required to submit the 5-Year (if due in 2020) and Annual Plan no later than 75 days before the commencement of their fiscal years.

In addition, the statute and regulations further provide that a significant amendment or modification to the Annual Plan may not be adopted until the PHA has duly called a meeting of its board of directors (or similar governing body) and the meeting, at which the amendment or modification is adopted, is open to the public, and that notification of the amendment or modification is provided to and approved by HUD.

HUD is waiving these requirements and establishing an alternative requirement that any change to a PHA policy, except for changes related to Section 18, Section 22, or the Rental Assistance Demonstration (RAD), that would normally trigger significant amendment

requirements of the PHA Plan, may be effectuated without completing the significant amendment process. PHAs are advised that the accessibility, language access, and other nondiscrimination requirements related to the significant amendment process are not waived.

The PHA is required to notify public housing residents and HCV families of any impacts that the significant amendment may have on them by whatever means it considers most effective as soon as practicable. As noted earlier, HUD recognizes that the COVID-19 pandemic presents unique challenges from a staffing and communication perspective and encourages PHAs to adapt their communications in consideration of local conditions and resources. For example, a PHA may need to initially provide this notification by placing information on its website and as a voice-mail message and following up with more formal written notice as circumstances allow. All materials, notices, and communications must be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations, and Section 508 of the Rehabilitation Act.

All materials, notices, and communications must also be provided in a manner that takes reasonable steps to ensure meaningful access by those with limited English Proficiency.

Period of Availability: The period of availability for the waiver of the significant amendment process ends on December 31, 2020. The period of availability for the 5-Year/Annual Plan submission varies depending on the end date of the PHA fiscal year. Please see the description section above.

### **PH and HCV-2: Family Income and Composition: Delayed Annual Examinations**

Statutory Authority: Section 3(a)(1) of the USHA of 1937

Regulatory Authority: 24 CFR § 982.516(a)(1) - HCV

Regulatory Authority: 24 CFR § 960.257(a) - Public Housing

Description: PHAs are required to conduct a reexamination of family income and composition at least annually. Recognizing the foreseeable difficulties in complying with this requirement in light of the COVID-19 pandemic, HUD is waiving this statutory and regulatory requirement to permit PHAs to delay annual reexaminations of HCV and public housing families. However, if the PHA delays annual reexaminations for HCV families under this authority, it must also comply with the alternative requirement regarding the application of an increase in the payment standard amount during the Housing Assistance Payment (HAP) contract term (see HCV-7 below) if applicable, so as not to delay the application of the increased payment standard amount to the family's HAP calculation.

Period of Availability: All annual reexaminations due in Calendar Year 2020 (CY20) must be completed by 12/31/20. Reexaminations due between 1/1/21 and 6/30/21 must be completed by 6/30/21.

### **PH and HCV-3: Family Income and Composition: Annual Examination; Income Verification Requirements**

Regulatory Authority: 24 CFR § 5.233(a)(2) – HCV and Public Housing

Regulatory Authority: 24 CFR § 960.259(c) – Public Housing

Regulatory Authority: 24 CFR § 982.516(a) - HCV

Sub-regulatory Guidance: Notice PIH 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 §960.259(c) and 24 CFR §982.516(a) require PHAs to obtain third-party verification, or document in the tenant file why third-party verification was not available, during mandatory reexaminations or recertifications of family composition and income. Further, 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. Notice PIH 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 pandemic and remains aware that PHAs are also facing challenges with securely accessing HUD systems while many if not all staff are working remotely.

To address these challenges, HUD is waiving the requirements to use the income hierarchy described by Notice PIH 2018-18 and will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV, if the PHA wishes to conduct the annual recertification rather than delaying the family's annual recertification (as permitted under PH and HCV-2 above).

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.

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 for a person with a disability. In such cases, PHAs may look to applicable public health guidelines and any state or local ordinance on how to maintain appropriate health precautions (e.g., social distancing).

PHAs that conduct annual examinations under this waiver/alternative requirement will be responsible for addressing any material discrepancies (i.e., unreported income or a substantial difference in reported income) 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.<sup>2</sup>

Period of Availability: The period of availability ends on June 30, 2021.

#### **PH and HCV-4: Family Income and Composition: Interim Examinations**

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(a), (b), and (d); 960.959(c) - Public Housing

Sub-regulatory Guidance: Notice PIH 2018-18

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 §960.259(c) and 24 CFR §982.516(a) require PHAs to obtain third-party verification, or document in the tenant file why third-party verification was not available, during mandatory reexaminations or recertifications of family composition and income. 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. Notice PIH 2018-18 further describes the required verification hierarchy process PHAs must follow.

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 pandemic, HUD is waiving the requirements to use the income verification hierarchy as described by Notice PIH 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

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<sup>2</sup> Consistent with Section 15 of Notice PIH 2018-18, if the EIV Income or IVT Report reveal an income source that was not reported by the tenant or a substantial difference in the reported income information, the PHA is required to take specific actions which may include determining any retroactive rent due. PHAs may consider adding such a reminder to families in any self-certification forms.

(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. In such cases, PHAs may look to applicable public health guidelines and any state or local ordinance on how to maintain appropriate health precautions (e.g., social distancing).

PHAs that conduct interim reexaminations under this waiver/alternative requirement will be responsible for addressing any material discrepancies (i.e., unreported income or a substantial difference in reported income) 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.<sup>3</sup>

PHAs may wish to review and adjust their interim reexamination policies (e.g., revising the PHA requirements when families must report increases in income between annual reexaminations or revising the policy regarding how to determine the effective date of an interim examination). PHAs should see HCV-1 and PH-4 for information on how these types of changes can be expedited.

Period of Availability: The period of availability ends on June 30, 2021.

### **PH and HCV-5: Enterprise Income Verification (EIV) Monitoring**

Regulatory Authority: 24 CFR § 5.233 – Public Housing and HCV

Sub-regulatory Guidance: Notice PIH 2018-18

Description: Notice PIH 2018-18 specifies the required monitoring of EIV reports. For example, PHAs are required to monitor the Deceased Tenants Report, the Identity Verification Report, the Immigration Report, the IVT Report, and the Multiple Subsidy Report and the New Hires Report on a monthly basis. Recognizing the challenges PHAs are facing with many if not all staff working remotely, HUD is waiving the mandatory EIV monitoring requirements. PHAs are reminded that EIV data is overwritten; monthly or quarterly reports must be downloaded to preserve the data for a particular month or quarter.

Period of Availability: The period of availability ends on June 30, 2021.

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<sup>3</sup> Consistent with Section 15 of Notice PIH 2018-18, if the EIV Income or IVT Report reveal an income source that was not reported by the tenant or a substantial difference in the reported income information, the PHA is required to take specific actions which may include determining any retroactive rent due. PHAs may consider adding such a reminder to families in any self-certification forms.

**PH and HCV-6: Family Self-Sufficiency (FSS) Contract of Participation: Contract Extension**

Regulatory Authority: 24 CFR § 984.303(d)

Description: Part 984 establishes the requirements for the Section 8 and Public Housing FSS program. Section 984.303(d) authorizes a PHA to extend a family’s contract of participation for a period not to exceed two years upon a finding of good cause. HUD has made a determination that the circumstances surrounding COVID-19 qualify as “good cause” to extend family contracts, and FSS programs may consider this expanded definition of “good cause” as they make their determinations on each family’s eligibility for an extension.

Period of Availability: The period of availability during which the PHA may extend the family’s contract of participation using COVID-19 as the “good cause” ends on June 30, 2021.

**PH and HCV-7: Waiting List: Opening and Closing; Public Notice**

Regulatory Authority: 24 CFR § 982.206(a)(2)

Sub-regulatory Guidance: Notice PIH 2012-34

Description: The HCV program regulations require that when a PHA opens its waiting list, the PHA must give public notice by publication in a local newspaper of general circulation and also by minority media and other suitable means; these same practices are strongly encouraged in the Public Housing program. Recognizing the foreseeable difficulties in complying with this requirement in light of the COVID-19 pandemic, HUD is waiving this requirement and is providing an alternative requirement that the PHA may provide public notice in a voicemail message on its main or general information telephone number and through its website (if such a PHA website is available). PHAs must comply with applicable fair housing and other civil rights requirements when they provide public notice under this alternative requirement, including ensuring effective communication with persons with hearing, visual, and other communication-related disabilities. PHAs must ensure effective communication with persons with disabilities in all notifications and communications. For example, a PHA that chooses to provide public notice through a voice-mail message must ensure the notice is accessible for persons with hearing impairments, which may include also distributing the notice by email and public postings on websites. PHAs must ensure that their website is in compliance with Section 508 of the Rehabilitation Act. The voice-mail notice also must comply with all other applicable civil rights requirements, including ensuring meaningful access for persons with limited English proficiency. See 24 CFR 5.105(a) (“Nondiscrimination and Equal Opportunity”).

Period of Availability: The period of availability ends on June 30, 2021.

## **8. HOUSING CHOICE VOUCHER PROGRAM WAIVERS – HOUSING QUALITY STANDARDS (HQS) INSPECTIONS**

Introduction: HUD recognizes the unprecedented challenge the COVID-19 pandemic poses to PHAs in carrying out the most essential of their HCV program administrative responsibilities – ensuring that assisted families are living in decent, safe, and sanitary housing. HQS inspections protect the health and safety of HCV families. However, conducting physical inspections of units in many communities during the COVID-19 pandemic poses its own health risks for families, participating owners, and PHA personnel, and may run counter to public health orders, directives, or recommendations such as shelter-in-place or other social distancing practices designed to contain and reduce exposure to COVID-19. 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 are in the best position to determine which (if any) of these waivers should be applied to their HCV programs based on the needs and current conditions in their local communities.

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 (or subsequent extensions provided by HUD). HUD has established relatively short periods of availability for these HQS waivers given the health and safety nature of these requirements. However, HUD will consider extending these HQS waivers and alternative requirements if HUD determines an extension is necessary.

A 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. The PHA must grant the reasonable accommodation requests of tenants with disabilities related to HQS inspections. For example, a tenant with a respiratory disability may ask that an HQS inspection be delayed in light of COVID-19 or that the inspectors wear masks and gloves and maintain a six foot distance when entering their unit. 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. Furthermore, use of any of these waivers by the PHA does not create any right in any third party (such as with the assisted family) to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA, for damages, injunction or other relief, for alleged failure to enforce the HQS (see § 982.407).

### **HQS-1: Initial Inspection Requirements**

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

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 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 the 1-year anniversary date of the owner's certification.

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

Period of Availability: The period of availability for a PHA to accept an owner's self-certification for an initial inspection ends on June 30, 2021. For any unit for which a PHA accepted an owner's self-certification, the PHA must conduct an HQS inspection as soon as reasonably possible but no later than the 1-year anniversary of the date of the owner's certification.

### **HQS-2: Project-Based Voucher (PBV) Pre-HAP Contract Inspections: PHA Acceptance of Completed Units**

Statutory Authority: Section 8(o)(8)(A) of the USHA of 1937

Regulatory Authority: 24 CFR §§ 983.103(b), 983.156(a)(1)

Description: The statute and regulations at § 983.103(b) provide that the PHA must inspect each contract unit before execution of the HAP contract and that the HAP contract may not be executed until the units fully comply with HQS. For rehabilitated and newly constructed units, § 983.156(a)(1) further provides that the PHA must inspect the units to determine if the housing has been completed in accordance with the Agreement to Enter into the HAP Contract (AHAP), including compliance with the HQS and any additional requirement imposed by the PHA under the Agreement.

HUD is waiving the HQS inspection requirement and establishing an alternative requirement. Instead of conducting the pre-HAP contract HQS inspection, 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. At minimum the PHA must require the owner's 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 the 1-year anniversary date of the owner's certification.

If the PHA has imposed an additional requirement under the AHAP for newly constructed or rehabilitated projects, the PHA may choose to allow the owner to certify that the PHA requirement has been met instead of inspecting the housing to make that determination.

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

Period of Availability: The period of availability for PHAs to accept owner's self-certification for the pre-HAP inspection/completion of work requirement ends on June 30, 2021. For any unit for which a PHA accepted an owner's self-certification, the PHA must conduct an HQS inspection as soon as reasonably possible but no later than the 1-year anniversary of the date of the owner's certification.

### **HQS-3: Initial Inspection: Non-Life-Threatening Deficiencies (NLT) Option**

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 (published January 18, 2017)

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 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.

Period of Availability: The period of availability for the PHA to approve an extension of up to an additional 30 days ends on June 30, 2021. The extension to make the NLT repairs may extend beyond June 30, 2021, depending on the date the PHA approved the extension. For example, if the PHA approved the extension on June 15, 2021, the maximum extension provided to the owner would be July 15, 2021.

#### **HQS-4: HQS Initial Inspection Requirement: Alternative Inspection Option**

Statutory Authority: Section 8(o)(8)(A)(iii) of the USHA of 1937

Regulatory Authority: Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions, 82 Fed. Reg. 5458 (published January 18, 2017)

Description: Section 8(o)(8)(A)(iii) provides the PHA with the option to authorize occupancy of a unit prior to the initial inspection being completed if the unit had in the previous 24 months passed an alternative inspection. Under the statute the PHA may then make assistance payments retroactive to the beginning of the lease term once the unit had been determined to meet HQS pursuant to the PHA's inspection. The HOTMA HCV Federal Register Notice that implemented this statutory option further provided that the PHA must inspect the unit within 15 days of the RFTA.

HUD is waiving the requirement that the PHA must conduct its own inspection of the unit in order to commence making assistance payments under the Initial Inspection – Alternative Inspection option. Under this waiver and alternative requirement, the PHA may commence assistance payments at the beginning of the lease term 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 or units in question. At minimum, the PHA must require this owner certification. The PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so. The PHA must conduct the HQS inspection for the unit for which it has commenced assistance payments under this waiver authority as soon as reasonably possible but no later than the 1-year anniversary date of the owner's certification.

This 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.

Period of Availability: The period of availability for the waiver to place a unit under HAP contract and commence payments ends on June 30, 2021. For any unit for which a PHA entered into a HAP contract and commenced payment pursuant to this alternative requirement, the PHA must conduct an HQS inspection as soon as reasonably possible but no later than the 1-year anniversary of the date of the owner's certification.

#### **HQS-5: HQS Inspection Requirement: Biennial Inspections**

Statutory Authority: Section 8(o)(D) of the USHA of 1937

Regulatory Authority: 24 CFR §§ 982.405(a), 983.103(d)

Description: The statute and the regulations require the PHA to inspect the unit not less often than biennially during the term of the HAP contract. Per the recent Federal Register Notice, 85 Fed. Reg. 11381 (Feb. 27, 2020), small rural PHAs may instead inspect the unit not less often than triennially, but since small rural PHAs do not have the authority to begin using a three-year inspection interval until after the next scheduled inspection after Feb. 27, 2020, is

carried out, the majority of small rural PHAs have not yet moved from a biennial to a triennial requirement. HUD is waiving this requirement and providing an alternative requirement. Under this waiver authority, PHAs may delay biennial inspections for both tenant-based and PBV units and 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 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.

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

Period of Availability: The PHA must resume biennial inspections by June 30, 2021 and must conduct all delayed biennial inspections no later than December 31, 2021.

### **HQS-6: HQS Interim Inspections**

Statutory Authority: Section 8(o)(8)(F) of the USHA of 1937

Regulatory Authority: 24 CFR §§ 982.405(g), 983.103(e)

Description: The statute requires that upon notification to the PHA by a family or government official that the assisted unit does not comply with the HQS, the PHA must inspect the unit within 24 hours of when the PHA received the notification if the condition is life-threatening. 24 CFR 982.405(g) provides that if the reported condition is not life-threatening, the PHA must inspect the unit within 15 days. The regulation further provides that in the event of extraordinary circumstances HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

HUD is waiving these requirements and establishing an alternative requirement for both tenant-based and PBV units. If the reported deficiency is life-threatening, the PHA must notify the owner of the reported life-threatening deficiency and that the owner must either correct the life-threatening deficiency within 24 hours of the PHA notification or provide documentation (e.g., text or email a photo to the PHA) that the reported deficiency does not exist. In the case of a reported non-life-threatening deficiency, the PHA must notify the owner of the reported deficiency 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 or any approved PHA extension. The PHA may add other requirements or conditions in addition to the owner's documentation but is not required to do so.

As is the case under the current HCV program 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 (e.g., photos submitted by the owner, tenant certification, etc.).

This waiver may also be applied to PHA-owned units if the independent entity is unable to perform the inspection.

Period of Availability: The period of availability ends on June 30, 2021. After June 30, 2021, the PHA must conduct the HQS inspection in accordance with the applicable time

periods upon notification by a family or government official that the assisted unit does not comply with the HQS.

### **HQS-7: PBV Turnover Unit Inspections**

Regulatory Authority: 24 CFR § 983.103(c)

Description: The regulation requires that before providing assistance to a new family in a PBV contract unit, the PHA must inspect the unit. 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 the 1-year anniversary date of the owner's certification.

This waiver may also be applied to PHA-owned units if the independent entity is unable to perform the inspection.

Period of Availability: The period of availability to fill a turnover PBV unit without conducting an HQS inspection ends on June 30, 2021. For any unit for which a PHA accepted an owner's self-certification, the PHA must conduct an HQS inspection as soon as reasonably possible but no later than the 1-year anniversary of the date of the owner's certification.

### **HQS-8: PBV HAP Contract: HQS Inspections to Add or Substitute Units**

Statutory Authority: Section 8(o)(8)(A) of the USHA of 1937

Regulatory Authority: 24 CFR §§ 983.207(a), 983.207(b)

Sub-regulatory Guidance: Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions (82 Federal Register 5458, Jan. 18, 2017)

Description: At the discretion of the PHA and subject to all PBV requirements (including the program cap and income-mixing requirements), the PHA may amend the HAP contract to add additional PBV contract units or to substitute a different unit for a previously covered contract unit. The PBV requirements include inspecting the proposed substitute or additional unit to determine that the unit meets HQS before it may be added to the HAP contract.

HUD is waiving the HQS inspection requirement. In order to substitute or add a new unit to the PBV HAP contract, 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 the owner's certification. However, the PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so.

This waiver may also be applied to PHA-owned units if the independent entity is unable to

perform the inspection.

Period of Availability: The period of availability for PHAs to accept owner's self-certification for an initial inspection ends on June 30, 2021. For any unit added to a PBV HAP contract based upon an owner's self-certification, the PHA must conduct an HQS inspection as soon as reasonably possible but no later than the 1-year anniversary of the date of the owner's certification.

### **HQS-9: HQS Quality Control Inspections**

Regulatory Authority: 24 CFR § 982.405(b), 983.103(e)(3)

Description: The regulations require PHAs to conduct supervisory quality control inspections of a sampling of units under contract. HUD is waiving this regulatory requirement.

Period of Availability: The period of applicability ends on June 30, 2021.

### **HQS-10: Housing Quality Standards: Space and Security**

Regulatory Authority: § 982.401(d)

Description: The regulation establishes a minimum standard for adequate space for both an HCV- and PBV-assisted family. Specifically, it requires that each dwelling unit have at least 1 bedroom or living/sleeping room for each 2 persons. HUD is waiving this requirement for PHAs 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 pandemic, and the additional family members would result in the unit not meeting the space and security standards. This provision does not apply to an initial or new lease. A participant must not enter into a new lease for a unit that does not comply with the space and security standards.

Period of Availability: For any family occupying a unit that does not meet the space and security requirements pursuant to this waiver, 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.

### **HQS-11: Homeownership Option: Initial HQS Inspection**

Statutory Authority: Section 8(o)(8)(A)(i), Section 8(y)(3)(B) of the USHA of 1937

Regulatory Authority: 24 CFR § 982.631(a)

Description: The statute provides that HQS re-inspections are not required for homeownership vouchers but does not exempt the unit from the initial HQS inspection. The regulation provides that the PHA may not commence monthly homeownership assistance payments until the PHA has inspected the unit and determined that the unit passes HQS. HUD is waiving this requirement. However, the family is still required to obtain an independent professional inspector in accordance with § 982.631(b)(1) and the PHA is still required to review the independent inspection and has discretion to disapprove the unit for assistance under the homeownership option because of information in the inspection report in

accordance with § 982.631(b)(4).

Period of Availability: The period of availability ends on June 30, 2021.

## **9. HOUSING CHOICE VOUCHER PROGRAM WAIVERS: GENERAL**

### **HCV-1: Administrative Plan**

Regulatory Authority: 24 CFR § 982.54(a)

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 likely foreseeable difficulties in complying with this requirement in light of the COVID-19 pandemic, HUD is waiving the requirement to allow the PHA administrative plan to be revised on a temporary basis without Board approval through March 31, 2021. Any informally adopted revisions under this waiver authority must be formally adopted no later than June 30, 2021.

Period of Availability: The period of availability to informally adopt changes to the PHA administrative plan ends on March 31, 2021; the PHA must formally adopt such revisions no later than June 30, 2021.

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

Regulatory Authority: 24 CFR § 982.301(a)(1), § 983.252(a)

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 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.

Period of Availability: The period of availability ends on June 30, 2021.

### **HCV-3: Term of Voucher: Extensions of Term**

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

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 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.

Period of Availability: The period of availability ends on June 30, 2021.

#### **HCV-4: PHA Approval of Assisted Tenancy: When HAP Contract is Executed**

Regulatory Authority: 24 CFR § 982.305(c)

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 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.

Period of Availability: The period of availability to execute the HAP contract after the normally 60-day period from the beginning of the lease term ends on June 30, 2021.

#### **HCV-5: Absence from Unit**

Regulatory Authority: 24 CFR § 982.312

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 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 PHA must maintain documentation in the tenant file which explains the extenuating circumstances that caused the extended absence.

Period of Availability: 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 June 30, 2021. The PHA may not make payments beyond June 30, 2021, and the HAP contract will terminate on that date if the family is still absent from the unit.

#### **HCV-6: Automatic Termination of HAP Contract**

Regulatory Authority: 24 CFR § 982.455

Description: When an HCV family's income increases to the extent that the housing assistance payment is reduced to \$0, PHAs are required to terminate HAP contracts 180 days after the last housing assistance payment to the owner. In recognition that the COVID-19 pandemic 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 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 June 30, 2021.

Period of Availability: The period of availability for the extension ends June 30, 2021. The PHA may not extend the HAP contract beyond June 30, 2021.

### **HCV-7: Increase in Payment Standard During HAP Contract Term**

Regulatory Authority: 24 CFR § 982.505(c)(4)

Description: The regulation requires that if the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount shall be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.

HUD is waiving this requirement and as an alternative requirement allowing the PHAs to apply the increased payment standard at any time (e.g., interim reexamination, owner rent increase) after the effective date of the increase in the payment standard amount, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

Note that if the PHA has delayed the family's annual recertification under the waiver authority described earlier in this Notice (see PH and HCV-2), the PHA must use the increased payment standard amount to calculate the family's HAP beginning the date that the family's first regular examination would have been effective in the absence of the waiver. Alternatively, the PHA may conduct an interim reexamination where the only change is the increased payment standard amount. Regardless of the method used, the participant must receive the increased payment standard no later than the effective date of the family's first regular reexamination following the increased payment standard.

Period of Availability: The waiver period of availability ends on June 30, 2021.

### **HCV-8: Utility Allowance Schedule: Required Review and Revision**

Regulatory Authority: 24 CFR § 982.517

Description: The regulations require the PHA to review its schedule of utility allowances each year and revise its allowance for a utility category 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. HUD is waiving this requirement to allow PHAs to delay the review and update of utility allowances.

Period of Availability: Any review and update of utility allowances that were due at some point in time in CY 2020 must be completed no later than June 30, 2021.



### **HCV-9: Homeownership Option: Homeownership Counseling**

Statutory Authority: Section 8(y)(1)(D) of the USHA of 1937

Regulatory Authority: 24 CFR §§ 982.630, 982.636(d)

Description: The statute requires that to be eligible for voucher homeownership assistance the family must participate in a homeownership and housing counseling program provided by the agency. The regulations at § 982.630 provide that before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. The regulations at § 982.636(d) provide that a family determined eligible for homeownership is moving under portability may purchase a unit if the receiving PHA is administering a voucher homeownership program and is accepting new homeownership families. However, the family must attend the briefing and counseling sessions required by the receiving PHA.

While HUD encourages families to continue to complete briefing and counseling sessions that are operational and can be accomplished in accordance with social distancing directives, HUD is waiving these requirements to allow the PHA to permit the family to purchase the home without fulfilling the normally applicable pre-assistance homeownership counseling requirements.

Period of Availability: The period of availability ends on June 30, 2021.

### **HCV-10: Family Unification Program: FUP Youth Age Eligibility to Enter HAP Contract**

Statutory Authority: Section 8(x)(2) of the USHA of 1937

Description: The statute provides that a FUP youth must be not more than 24 years of age (not yet reached their 25<sup>th</sup> birthday) to be eligible to be placed under HAP contract. A FUP youth issued a voucher at 24 years of age may not be able to lease the voucher before their 25<sup>th</sup> birthday where PHA operations may have been shut down or severely curtailed, unit searches are not possible due to shelter-in-place orders, or where the movement of people is significantly restricted.

HUD is waiving this requirement and providing as an alternative requirement that the PHA may execute a HAP contract on behalf of any otherwise eligible FUP youth not more than 25 years of age (not yet reached their 26<sup>th</sup> birthday). This waiver may also be applied to the Foster Youth to Independence (FYI) initiative.

Period of Availability: The period of availability ends on June 30, 2021.

### **HCV-11: Family Unification Program: Length of Assistance for Youth**

Statutory Authority: 42 U.S.C. 1437f(x)(2)

Description: The statute limits the availability of assistance to a period “not to exceed 36 months.” COVID-19 may have resulted in job loss or the inability to identify a unit affordable to the youth without rental subsidy. As a result, the youth may again be at risk of

homelessness at termination upon having received 36 months of assistance. To prevent such an outcome, HUD is waiving the statutory limitation and establishing an alternative requirement. Specifically, for FUP youth who will reach the 36-month limit between April 10, 2020, and June 30, 2021, a PHA may suspend terminations of assistance for a period of up to six months from the date the youth's assistance would have been terminated absent this waiver. Depending on the timing and length of the suspension, impacted youth may have their assistance extended beyond June 30, 2021. This waiver does not apply to the FYI initiative as no participant in FYI will have received 36 months of assistance during the period of availability.

Period of Availability: The period of availability to grant the extension ends on June 30, 2021.

### **HCV-12: Family Unification Program: Timeframe for Referral**

Statutory Authority: 42 U.S.C. 1437f(x)(2)

Description: The statute provides that assistance may be provided on behalf of “otherwise eligible youths who have attained at least 18 years of age and not more than 24 years of age and who have left foster care or will leave foster care within 90 days.” Due to the COVID-19 pandemic, it may be difficult for youth to find units that are available for lease within the 90-day timeframe, increasing the risk that such youth may experience homelessness. To prevent such an outcome, HUD is waiving the statutory limitation and establishing an alternative requirement. Specifically, PHAs may accept referrals from child welfare agencies for youth who will leave foster care within 120 days. This waiver may also be applied to the FYI initiative.

Period of Availability: Through June 30, 2021, a PHA may receive referrals of otherwise eligible youth who will leave foster care within 120 days.

### **HCV-13: Homeownership: Maximum Term of Assistance**

Regulatory Authority: 24 CFR §982.634(a)

Description: The regulation establishes a maximum term on homeownership assistance for non-elderly/non-disabled families of 15 years if the initial mortgage has a term of 20 or more years, and 10 years in all other cases. HUD is waiving this term. Specifically, for any family that is in the last year of this term (i.e., the 15th year or the 10th year, as applicable) and that is experiencing financial hardship as a result of the COVID-19 pandemic, a PHA may provide homeownership assistance for up to 1 additional year.

Period of Availability: Through June 30, 2021, a PHA may extend homeownership assistance for up to 1 additional year.

## **HCV-14: Mandatory Removal of Unit from PBV HAP Contract**

Regulatory Authority: 24 CFR §983.211(a); §983.258

Description: Under the PBV program, a PHA is required to remove a unit from a PBV HAP contract after 180 days of zero housing assistance payments to the unit owner on behalf of the family residing in the unit. This situation arises when the family increases its income to such an extent that it no longer requires housing assistance. In recognition that the COVID-19 pandemic is creating uncertainty for owners and families, HUD is waiving this requirement. As an alternative requirement, HUD is authorizing a PHA at its discretion to keep such units under contract for a period of time that exceeds 180 days but does not extend beyond June 30, 2021. Similarly, with respect to 24 C.F.R §983.258, HUD is providing that a PHA that adopts the alternative requirement may resume housing assistance payments on behalf of a family residing in such a unit should the family's income change at any point during the period of time covered by the extension.

Period of Availability: The period of availability for the extension ends on June 30, 2021.

## **10. PUBLIC HOUSING PROGRAM WAIVERS**

### **PH-1: Fiscal Closeout of Capital Grant Funds**

Regulatory Authority: 24 CFR § 905.322(b)

Description: Section 905.322(b) establishes deadlines for the submission of an Actual Development Cost Certificate (ADCC) and an Actual Modernization Cost Certificate (AMCC) (two financial reporting documents required to close out Capital Fund grants). Specifically, the ADCC must be submitted 12 months from the date of completion or HUD termination of a development activity, and the AMCC must be submitted not later than 12 months from the activity's expenditure deadline. HUD is waiving this requirement and extending the deadlines for an ADCC or AMCC that fell between March 1, 2020, and September 30, 2020, by 6 months.

Period of Availability: For ADCC and AMCC forms due between March 1 and September 30, 2020, the deadline for submission is extended by 6 months.

### **PH-2: Total Development Costs**

Regulatory Authority: 24 CFR § 905.314(c) - (d)

Description: The public housing regulations establish a Maximum Project Cost which represents the total amount of public housing funds that may be used for development of a public housing project. The Total Development Cost (TDC) and Housing Construction Cost (HCC) limits are published periodically by HUD. These limits may not be exceeded without a waiver approved by HUD or an exception approved by HUD pursuant to 24 CFR § 905.314(c).

HUD is waiving the TDC and HCC limits to allow the amount of public housing funds committed to development of a project to exceed the applicable TDC and HCC limits by 25 percent without a waiver from HUD. Amounts in excess of 25 percent up to 50 percent may

be approved by the HUD program office on a case-by-case basis, if sufficient justification is provided. This waiver applies to public housing development, Mixed-Finance development and Choice Neighborhoods development. However, all other requirements of development set forth in 24 CFR § 905.600 still apply. HUD recognizes that COVID-19 may seriously impact development costs. The lack of available labor; shortage of materials; extended development timeframes; and changes in financial markets, all have the potential to increase development costs above the established HUD TDC and HCC limits.

If a project still exceeds TDC and HCC limits after the increase approved by HUD is taken into consideration, then a PHA may submit a request for an exception pursuant to 24 CFR § 905.314(c) or request a waiver for other good cause for HUD's consideration.

Period of Availability: A complete Development Proposal must be submitted to HUD no later than December 31, 2021, for a project to be eligible for this waiver.

### **PH-3: Cost and Other Limitations: Types of Labor**

Regulatory Authority: 24 CFR § 905.314(j)

Description: This regulation establishes that non-high performer PHAs may use force account labor for modernization activities only when the use of force account labor for such activities has been included in a Capital Fund Program 5-Year Action Plan that is approved by the PHA Board of Commissioners and HUD. HUD will waive this requirement to allow for the use of force account labor for modernization activities even if this activity has not been included in the non-high performer PHA's 5-Year Action Plan.

Period of Availability: The period of availability ends on June 30, 2021.

### **PH-4: ACOP: Adoption of Tenant Selection Policies**

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

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, through March 31, 2021. Any informally adopted revisions under this waiver authority must be formally adopted no later than June 30, 2021.

Period of Availability: The period of availability to informally adopt changes to the PHA ACOP ends on March 31, 2021; the PHA must formally adopt such revisions no later than June 30, 2021.

### **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)

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 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 at 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.

Period of Availability: The period of availability ends on June 30, 2021.

### **PH-6: Energy Audits**

Regulatory Authority: 24 CFR § 965.302

Description: PHAs are required by this regulation to complete an energy audit for each PHA-owned project not less than once every five years. Due to shelter-in-place orders, and closures of many non-essential businesses, access to qualified energy auditors is likely to be limited during the period of time that the program is affected because of the COVID-19 pandemic. Therefore, HUD is waiving this requirement and is alternatively providing flexibility for PHAs to complete required energy audits. Specifically, any audit due on or after the date of the publication of this notice until December 31, 2021, as well as any audit for which a PHA exercised its discretion to delay the audit for one year under the Notice 2020-13, will be due no later than December 31, 2021. For example, a PHA that chose to adopt the waiver to delay completion of an audit due on November 30, 2020 for one year would now be required to complete that audit by December 31, 2021. Further, any audit due during Calendar Year 2021 must be completed no later than December 31, 2021.

Period of Availability: The period of availability ends on December 31, 2021.

### **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

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 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.

Period of Availability: The period of availability ends on June 30, 2021.

#### **PH-8: Resident Council Elections**

Regulatory Authority: 24 CFR § 964.130(a)(1)

Description: The regulations require that resident councils must adhere to certain minimum standards regarding election procedures, including that all procedures must assure fair and frequent elections of resident council members—at least once every three years for each member. HUD recognizes that conducting resident council elections may not be possible as a result of COVID-19 public health actions. HUD is waiving the regulation to allow PHAs to delay resident council elections beyond the three-year limit if necessary. However, the delayed resident council election must be rescheduled and held as soon as reasonably possible once circumstances permit, after June 30, 2021.

Period of Availability: The period of availability of this waiver ends on June 30, 2021.

#### **PH-9: Review and Revision of Utility Allowances**

Regulatory Authority: 24 CFR § 965.507

Description: The regulations require the PHA to review at least annually the basis on which utility allowances have been established and revise allowances if required on the basis of that review. Due to shelter-in-place orders, and closures of many non-essential businesses, PHAs are encouraged to focus administration on critical program functions. Further, access to information on changing utility rates may be limited in some jurisdictions. Therefore, HUD is waiving this requirement to allow PHAs to delay the review and update of utility allowances.

Period of Availability: Any review and update of utility allowances that were due at some point in time in CY 2020 must be completed by June 30, 2021.

#### **PH-10: Tenant Notifications for Changes to Project Rules and Regulations**

Regulatory Authority: 24 CFR § 966.5

Description: PHAs are required by this regulation to provide 30-day notice to impacted families for changes to policies, rules and special charges to families. HUD is waiving the requirement to provide such advance notice, except advance notice must be provided for any changes related to tenant charges. Although HUD is waiving the advanced notice, PHAs must still provide adequate notification to impacted families within 30 days of making such changes. HUD encourages PHAs to give advance notice to the extent feasible.

Period of Availability: The period of availability ends on June 30, 2021.

### **PH-11: Designated Housing Plan Renewals**

Statutory Authority: Section 7(f) of the USHA of 1937

Description: The statute requires that PHAs submit a request to HUD to extend the effective period for Designated Housing Plans upon expiration of the Plan's current effective period. All original designations remain in effect for 5 years from the date HUD approves the Plan; renewals beyond the initial 5 years are granted for 2-year periods. HUD is waiving the statute to extend the effective period through June 30, 2021, for plans due to expire between July 2, 2020 and June 30, 2021. If the request for renewal is not approved upon the expiration of the extended effective period, the Plan will have expired and the designated project or portion of a project will convert to its original status. Therefore, the PHA will need to submit a renewal request at least 60 days prior to the extended expiration date of June 30, 2021.

Period of Availability: The period of availability ends on June 30, 2021.

### **PH-12: Public Housing Agency Annual Self-Inspections**

Statutory Authority: Section 6(f)(3) of the USHA of 1937

Regulatory Authority: 24 CFR § 902.20(d)

Description: The statute requires PHAs which own or operate public housing to make an annual inspection of each public housing project to determine whether units in the project are maintained to applicable standards and remain safe for residents. HUD is waiving the requirement that the PHA must inspect each project during CY 2020.

This waiver does not alleviate the PHA of its responsibility to provide safe housing. PHAs are reminded to expeditiously identify, respond to, and address serious conditions that could jeopardize life or property.

HUD encourages PHAs that choose not to utilize this waiver, or that wish to conduct inspections on a more limited basis to consider establishing and maintaining methods of performing remote, video-assisted or "virtual" inspections of dwelling units to identify maintenance needs while complying with CDC and local guidelines, especially for those units that may not be inspected this year. PHAs should also consider utilizing electronic means (such as videoconferencing, text messaging and email) of receiving maintenance requests and reports of life-threatening safety concerns directly from residents while minimizing in-person interactions. Additionally, it is recommended that PHAs continue to conduct exterior/site inspections or maintenance evaluations in compliance with social distancing requirements outlined by the CDC. As outlined in Maintenance Guidebook II, Chapter 2, Sections A and B, PHAs are required to establish both a regular and emergency maintenance plan. In separate and forthcoming guidance, HUD will describe an approach for the recommencement of Real Estate Assessment Center (REAC) inspections. This guidance may also be helpful to PHAs in determining when to resume self-inspections, however, PHAs will be required to complete an inspection of every public housing property during CY 2021.

Period of Availability: The period of availability ends on December 31, 2020.

### **PH-13: Over-Income Limit: Termination Requirement**

Statutory Authority: Section 16(a) of the United States Housing Act of 1937 as amended by section 103 of the Housing Opportunity Through Modernization Act

Implementation Notice: Housing Opportunity Through Modernization Act of 2016: Final Implementation of Public Housing Income Limit, 83 Fed. Reg. 35,490 (July 26, 2018)

Description: For public housing families whose income has exceeded the over-income limit for the locality (120 percent of the area median income (AMI) or as established by HUD in the Implementation Notice at 83 FR 35490) for two consecutive years, a PHA must terminate the family's tenancy within 6 months of the third income determination or charge the family a monthly rent equal to the greater of: (1) the applicable Fair Market Rent (FMR); or (2) the amount of monthly subsidy for the unit, including amounts from the operating and capital fund (alternative rent). HOTMA requires HUD to determine the alternative rent options for families that remain in public housing through formal rulemaking. However, HUD has not published a final rule that implements this requirement, and PHAs are therefore not yet able to calculate alternative rents.

Due to the ongoing COVID-19 pandemic and the culminating efforts on the federal and local levels to prevent evictions and limit the spread of COVID-19, HUD is waiving the requirement that a family whose income has exceeded the over-income limit for the locality for two consecutive years be terminated within 6 months of the third income determination. As an alternative requirement, a family whose income has exceeded the over-income limit for the locality for two consecutive years will remain public housing households instead of being terminated and will be charged the applicable FMR as the family's monthly rental amount. This waiver will enable PHAs to continue to expend CARES Act supplemental Operating Funds and other funds to maintain and improve the buildings and units in which these households reside including activities to prevent, prepare for and respond to the COVID-19 pandemic.

In an effort to prevent evictions during COVID-19, HUD encourages PHAs to adopt this waiver. PHAs are reminded that if they do not adopt this waiver, they will be required to terminate over-income families within 6 months of their third income determinations because the HOTMA alternative rent structure for such families has not been implemented through final rulemaking. However, PHAs must still comply with any federal, state and local eviction moratorium that is in place.

PHAs must update the ACOP to reflect changes to their over-income policy in accordance with this waiver.

Period of Availability: The period of availability ends on June 30, 2021.

### **PH-14: Annual Choice of Rent**

Statutory Authority: Section 3(a)(2)(A) of the USHA of 1937

Regulatory Authority: 24 CFR § 960.253

Description: Once a year, PHAs must give families the option of choosing between a flat rent and an income-based rent. A family may not be offered this choice more than once per year



with the exception that a family may switch from a flat rent to an income-based rent because of financial hardship. Thus, under current rules families who switch from a flat rent to an income-based rent because of financial hardship may not switch back to a flat rent prior to their next annual recertification. Families experiencing a financial hardship due to the COVID-19 pandemic because of a change in circumstances, for example a loss of employment, may no longer be experiencing such hardship and want to continue paying a flat rent. HUD is waiving the requirement that a family may not be offered a choice of rent more than once a year. Alternatively, a PHA may give families no more than two opportunities to choose between a flat rent and an income-based rent within the same one-year period.

Period of Availability: The period of availability ends on June 30, 2021.

## **11. PHAS, SEMAP, AND UNIFORM FINANCIAL REPORTING STANDARDS**

### **a. PHAS**

Regulatory Authority: 24 CFR Part 902

Description: Part 902 sets out the indicators by which HUD measures the performance of a PHA. The indicators measure a PHA's physical condition, financial condition, management operations, and Capital Fund obligation and occupancy. HUD inspections resumed on October 5, 2020. For any PHAs with a fiscal year end of March 31, 2021, HUD will not issue a new PHAS score unless the PHA requests that a new PHAS score be issued. HUD will instead carry forward the most recent PHAS score on record. For any PHAs with a fiscal year end on and after June 30, 2021, HUD will issue advisory scores through March 31, 2022.

Period of Availability: HUD will resume issuing PHAS scores for PHAs beginning with fiscal years ending on June 30, 2021. The scores will be advisory only for four consecutive quarters ending with PHAs with fiscal years ending on March 31, 2022.

### **b. SEMAP**

Regulatory Authority: 24 CFR § 985.105

Description: Part 985 sets out the requirements by which Section 8 tenant-based assistance programs are assessed. For PHAs that have a SEMAP score pending as of the date of this Notice, and for any PHA with a fiscal year ending on or before December 31, 2020, HUD will not issue a new SEMAP score unless the PHA requests that a new SEMAP score be issued. HUD will instead carry forward the most recent SEMAP score on record.

Period of Availability: HUD will resume issuing new SEMAP scores beginning with PHAs with fiscal year end dates of June 30, 2021.

**b-1: SEMAP Field Office Confirmatory Review**

Regulatory Authority: 24 CFR § 985.105(d)

Description: Allows field offices to perform remote SEMAP confirmatory review instead of an on-site confirmatory review before changing any rating from troubled to standard or high performer.

Period of Availability: The period of availability ends on June 30, 2021.

**b-2: SEMAP Certification Timing**

Regulatory Authority: 24 CFR § 985.101(a)

Description: Waives the requirement for PHAs to submit an annual SEMAP certification in IMS-PIC within 60 days of FYE during the timeframe HUD is rolling over prior year scores.

Period of Availability: The period of availability ends on June 30, 2021.

**c. Uniform Financial Reporting Standards: Filing of Financial Reports; Reporting Compliance Dates**

Regulatory Authority: 24 CFR §§ 5.801(c), 5.801(d)(1)

Description: Section 5.801 establishes uniform financial reporting standards (UFRS) for PHAs (and other entities). Section 5.801(c) requires that PHAs submit financial information in accordance with 24 CFR § 5.801(b) annually, not later than 60 days after the end of the fiscal year of the reporting period. Section 5.801(d)(1) requires that PHAs submit their unaudited financial statements not later than 60 calendar days after the end of their fiscal year, and that PHAs submit their audited financial statements not later than 9 months after the end of their fiscal year.

HUD is waiving these requirements and is providing the alternative requirements for the following PHAs:

- (1) PHAs with a FYE of June 30, 2019; September 30, 2019; December 31, 2019; and March 31, 2020, and a deadline to submit audited financial information in accordance with 24 CFR § 5.801(b) and (d); and

FYE	Due Date	Extended Due Date
6/30/2019	3/31/2020	9/30/2020
9/30/2019	6/30/2020	12/31/2020
12/31/2019	9/30/2020	3/31/2021
3/31/2020	12/31/2020	6/30/2021

- (2) PHAs with a FYE of December 31, 2019 and March 31, 2020, and a deadline to submit unaudited financial information in accordance with 24 CFR § 5.801(b) and (d).

<b>FYE</b>	<b>Due Date</b>	<b>Extended Due Date</b>
12/31/2019	2/29/2020	8/31/2020
3/31/2020	5/31/2020	11/30/2020

Period of Availability: Varies by PHA by FYE, see description for details.

## **12. OTHER WAIVERS AND ADMINISTRATIVE RELIEF**

### **a. PHA Reporting Requirements on HUD Form 50058**

Regulatory Authority: 24 CFR Part 908, § 982.158

Sub-regulatory Guidance: Notice PIH 2011-65

Description: PHAs must submit form HUD-50058 no later than 60 calendar days from the effective date of any action recorded on line 2b of the form HUD-50058 or form HUD-50058 MTW (Moving-To-Work). The Notice states HUD will monitor timeliness of reporting and may sanction a PHA for late reporting.

HUD recognizes that PHAs that implement waivers and alternative requirements under this Notice likely will submit form HUD-50058 later than 60 calendar days from the effective date of certain actions, particularly related to reexaminations and inspections. HUD is waiving the 60-day deadline and providing that PHAs must submit form HUD-50058 or HUD-50058 MTW for transactions impacted by implemented waivers and alternative requirements within 90 days of the effective date of action.

Although this waiver provides up to 90 days for PHAs to submit HUD-50058 forms into IMS-PIC (Inventory Management System–PIH Information Center), HUD encourages those PHAs that have operational capacity to do so to continue submitting HUD-50058 forms within the normal 60-day timeframe.

PIH recognizes this Notice and any subsequent Notices providing waiver authority to HUD-50058 submission requirements could impact the PHA’s ability to submit HUD-50058 forms into the IMS-PIC system and potentially result in fatal errors. In order to minimize the occurrence of these errors resulting from implementing these waivers, PIH will be issuing guidance in the near future that will provide PHAs with workarounds to avoid any potential issues in the PIC system.

For PHAs that submit HUD-50058 forms and receive a fatal error, PIH will not require these HUD-50058 forms to be re-submitted consistent with the waiver of reporting provisions in the Notice. PIH encourages these PHAs to not re-submit these forms until after PIH issues the revised guidance for HUD-50058 reporting. For PHAs that submit HUD-50058 forms successfully in the interim period before the new reporting guidance

is issued, PIH may require corrections to these HUD-50058 forms and re-submission to IMS-PIC.

Period of Availability: The period of availability ends December 31, 2020.

**b. Designated Housing Plans: HUD 60-Day Notification**

Statutory Authority: Section 7(e)(1) of the USHA of 1937

Description: The statute requires HUD to notify PHAs that have submitted a Designated Housing Plan whether the plan complies with the requirements to establish the designation of a project for occupancy by elderly and/or disabled families no later than 60 days after receiving the plan. Under the statute, if HUD does not respond within 60 days the plan is considered accepted. HUD is temporarily waiving this deadline to ensure that it can review and adequately address any programmatic and fair housing concerns while its operations are impacted by the COVID-19 pandemic but will complete Designated Housing Plan reviews as expeditiously as possible. HUD is waiving the 60-day notification requirement for those plans submitted after March 1, 2020.

Period of Availability: This waiver expired on July 31, 2020.

**c. Extension of Deadline for Programmatic Obligation and Expenditure of Capital Funds**

Statutory Authority: Section 9(j)

Regulatory Authority: 24 CFR § 905.306(d)(5) and 905.306(f)

Description: Section 9(j)(1) requires PHAs to obligate Capital Funds not later than 24 months after the date on which the funds became available, or the date on which the PHA accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units, plus the period of any extension approved under Section 9(j)(2). Section 9(j)(5)(A) requires a PHA to expend Capital Funds not later than four years after the date on which the funds become available for obligation, plus the period of any extension approved under Section 9(j)(2). Section 9(j)(2) authorizes the Secretary to extend the time period for the obligation of Capital Funds for such period as the Secretary determines necessary if the Secretary determines that the failure of the PHA to obligate assistance in a timely manner is attributable to an event beyond the control of the PHA. The authority for extension of the Section 9(j) obligation and extension deadlines for an event beyond the control of the PHA is also found in the implementing regulation at 24 CFR § 905.306 (d)(5). The regulations do not permit extensions of the expenditure dates other than for the period of time of a HUD-approved extension of the obligation deadline.

Period of Availability: HUD is extending both the obligation end date and the expenditure end date for all Capital Fund grants that were open on April 10, 2020, by 18 months from the obligation and expenditure end date in Line of Credit Control System (LOCCS) that was in effect on April 10, 2020; however, no programmatic expenditure end date shall be extended beyond one month prior to the closure of the relevant appropriation account, pursuant to 31 U.S.C. § 1552.

**d. Section 6(j) 1- and 2-Year Substantial Improvement Requirement**

Statutory Authority: Section 6(j)(3)(B)(ii)

Regulatory Authority: 24 CFR § 902.75(d)

Description: PHAs that are designated troubled under PHAS are required by statute and regulation to, within the first full fiscal year after the initial release of the troubled designation, improve the PHAS score by 50 percent of the difference between the initial score and the score required to get the PHA out of troubled status; and, within the second full fiscal year after the initial release of the troubled designation, improve the PHAS score to at least the score required to get the PHA out of troubled status.

Item 11(a) of Notice PIH 2020-05, restated in Notice PIH 2020-13, provided that HUD will not issue a new PHAS score unless the PHA requests that a new PHAS score be issued for any PHA that had a PHAS score pending or any PHA with a fiscal year ending on or before December 31, 2020. Item 11(a) of this Notice extends the provision to any PHA with a fiscal year ending on or before March 31, 2021 and specifies that the scores will be advisory only for four consecutive quarters ending with PHAs with fiscal years ending on March 31, 2022.

Due to the suspension of the issuance of new PHAS scores, the 1 and 2-year statutory and regulatory substantial improvement benchmarks may fall on the same fiscal year for a troubled PHA. Therefore, for PHAs designated as troubled prior to the date of this Notice that have not received a PHAS assessment for the first full fiscal year after the initial notice of the troubled designation, HUD will: (1) evaluate the 1-year substantial improvement benchmark based on the first released score for fiscal years ending on or after June 30, 2022; and, (2) toll the evaluation of the 2-year recovery benchmark to the next sequential fiscal year. HUD waives Section 6(j)(3)(B)(ii) and 24 CFR § 902.75(d) to the extent that these provisions conflict with this alternative requirement.

During this period while PHAS scores are suspended or advisory, HUD will continue using all information available to HUD to identify and address critical deficiencies that may have a negative impact on resident health and safety and other programmatic deficiencies. Further, PHAs subject to a Memorandum of Agreement (MOA) must continue to comply with the terms and conditions of such MOAs, and may be subject to declarations of substantial default as outlined in HUD regulations.

Period of Availability: The period of availability for this waiver and alternative requirement: (1) is effective on the date of this Notice; and, (2) will continue through June 30, 2023, at which time HUD will reevaluate any additional impacts of this waiver on any PHA in the process of being evaluated.

e. **Mod Rehab Program Waivers Established in Notice PIH 2020-20 and Extended in this Notice**

**MR-1: Family Income and Composition: Delayed Annual Examinations**

Statutory Authority: Section 3(a)(1) of the USHA of 1937

Regulatory Authority: 24 CFR § 882.515(a)

Description: PHAs are required to conduct a reexamination of family income and composition at least annually. Recognizing the foreseeable difficulties in complying with this requirement in light of the COVID-19 pandemic, HUD is waiving this statutory and regulatory requirement to permit PHAs to delay annual reexaminations of Mod Rehab families.

Period of Availability: All annual recertifications due in Calendar Year (CY) 2020 must be completed by June 30, 2021. Reexams due between 1/1/21 and 6/30/21 must be completed by 6/30/21.

**MR-0: Family Income and Composition: Annual Examination; Income Verification Requirements**

Regulatory Authority: 24 CFR §5.233(a)(2)

Sub-regulatory Guidance: Notice PIH 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. Notice PIH 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 pandemic. PHAs are also facing challenges with securely accessing HUD systems while many if not all staff are working remotely.

To address these challenges, HUD is waiving the requirements to use the income hierarchy described by Notice PIH 2018-18 and will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV, if the PHA wishes to conduct the annual recertification rather than delaying the family's annual recertification (as permitted under MR-1 above).

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.

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 for a person with a disability. In such cases, PHAs may look to applicable public health guidelines and any state or local ordinance on how to maintain appropriate health precautions (e.g., social distancing).

PHAs that conduct annual examinations under this waiver/alternative requirement will be responsible for addressing any material discrepancies (i.e., unreported income or a substantial difference in reported income) 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.<sup>4</sup>

Period of Availability: The period of availability to conduct annual reexams using these modified verification requirements ends on June 30, 2021.

### **MR-3: Family Income and Composition: Interim Examinations**

Statutory Authority: Section 3(a)(1) of the USHA of 1937

Regulatory Authority: 24 CFR §§ 5.233(a)(2), 882.515(b)

Sub-regulatory Guidance: Notice PIH 2018-18

Description: 24 CFR § 882.515(b) provides that if the PHA receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. 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. Notice PIH 2018-18 further describes the required verification hierarchy process PHAs must follow.

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

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<sup>4</sup> Consistent with Section 15 of Notice PIH 2018-18, if the EIV Income or IVT Report reveal an income source that was not reported by the tenant or a substantial difference in the reported income information, the PHA is required to take specific actions which may include determining any retroactive rent due. PHAs may consider adding such a reminder to families in any self-certification forms.

during periods of shelter-in-place/stay-at-home efforts in response to the COVID-19 pandemic, HUD is waiving the requirements to use the income verification hierarchy as described by Notice PIH 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. In such cases, PHAs may look to applicable public health guidelines and any state or local ordinance on how to maintain appropriate health precautions (e.g., social distancing).

PHAs that conduct interim reexaminations under this waiver/alternative requirement will be responsible for addressing any material discrepancies (i.e., unreported income or a substantial difference in reported income) 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.<sup>5</sup>

Period of Availability: The period of availability ends on June 30, 2021.

#### **MR-4: Enterprise Income Verification Monitoring**

Regulatory Authority: 24 CFR § 5.233

Sub-regulatory Guidance: Notice PIH 2018-18

Description: Notice PIH 2018-18 specifies the required monitoring of EIV reports. For example, PHAs are required to monitor the Deceased Tenants Report, the Identity Verification Report, the Immigration Report, the IVT Report, and the Multiple Subsidy Report and the New Hires Report on a monthly basis. Recognizing the challenges PHAs are facing with many if not all staff working remotely, HUD is waiving the mandatory EIV monitoring requirements. PHAs are reminded that EIV data is overwritten; monthly or quarterly reports must be downloaded to preserve the data for a particular month or quarter.

Period of Availability: The period of availability ends on June 30, 2021.

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<sup>5</sup> Consistent with Section 15 of Notice PIH 2018-18, if the EIV Income or IVT Report reveal an income source that was not reported by the tenant or a substantial difference in the reported income information, the PHA is required to take specific actions which may include determining any retroactive rent due. PHAs may consider adding such a reminder to families in any self-certification forms.



### **MR-5: PHA Inspection Requirement: Annual Inspections**

Regulatory Authority: 24 CFR § 882.516(b)

Description: The Mod Rehab Program regulations require that the PHA must inspect or cause to be inspected each dwelling unit under contract at least annually and at such other times as may be necessary to assure that the owner is meeting the obligations to maintain the unit in decent, safe and sanitary condition and to provide the agreed upon utilities and other services. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

HUD recognizes the unprecedented challenge the COVID-19 pandemic poses to PHAs in carrying out the most essential of Mod Rehab program administrative responsibilities – ensuring that assisted families are living in decent, safe, and sanitary housing. However, conducting physical inspections of units in many communities during the COVID-19 pandemic poses its own health risks for families, participating owners, and PHA personnel, and may run counter to public health orders, directives, or recommendations such as shelter-in-place or other social distancing practices designed to contain and reduce exposure to COVID-19.

In order to provide PHAs with the necessary flexibilities to postpone the normally required inspections, HUD is waiving the annual inspection requirement and is allowing PHAs to delay annual inspections for Mod Rehab units. All delayed annual inspections must be completed as soon as reasonably possible but no later than one year after the date the annual inspection would have been required absent the waiver.

Any PHA that applies this waiver to its Mod Rehab program retains the right to conduct an inspection on any assisted unit at any time. The PHA must grant the reasonable accommodation requests of tenants with disabilities related to inspections. For example, a tenant with a respiratory disability may ask that an inspection be delayed in light of COVID-19 or that the inspectors wear masks and gloves and maintain a six-foot distance when entering their unit.

Crucially, use of this waiver 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.

Period of Availability: The PHA must conduct the delayed annual inspection as soon as reasonably possible but no later than one year after the date the annual inspection would have been required absent the waiver.

### **MR-6: Adjustment of Utility Allowance**

Regulatory Authority: 24 CFR § 882.510

Description: The regulations require that the PHA must determine, at least annually, whether an adjustment is required in the Utility Allowance applicable to units assisted under the Mod Rehab program on grounds of changes in utility rates or other change of

general applicability to all units in the Mod Rehab program.

HUD is waiving this requirement to allow PHAs to delay the review and update of utility allowances.

Period of Availability: Any review and update of utility allowances that were due at some point in time in CY 2020 must be completed no later than June 30, 2021.

**PHA Reporting Requirements for Mod Rehab on HUD Form 50058.** PHAs must submit form HUD-50058 no later than 60 calendar days from the effective date of any action recorded on line 2b of the form HUD-50058. Notice PIH 2011-65 states HUD will monitor timeliness of reporting and may sanction a PHA for late reporting.

In Notice PIH 2020-05, published on April 10, 2020, HUD exercised its authority under the CARES Act to establish waivers and administrative flexibilities to provide relief to PHAs administering the public housing and HCV programs. Through that notice, HUD waived the 60-day deadline and provided that PHAs must submit form HUD-50058 for transactions impacted by implemented waivers and alternative requirements within 90 days of the effective date of action. HUD recognizes that PHAs that implement Mod Rehab waivers and alternative requirements under this Notice will also likely submit form HUD-50058 later than 60 calendar days from the effective date of certain actions, particularly related to reexaminations and inspections. Consequently, HUD is similarly waiving the 60-day deadline for the Mod Rehab program and providing that PHAs must submit form HUD-50058 for transactions within 90 days of the effective date of action.

Although this waiver provides up to 90 days for PHAs to submit HUD-50058 forms into IMS-PIC (Inventory Management System-PIH Information Center), HUD encourages those PHAs that have operational capacity to do so to continue submitting HUD-50058 forms within the normal 60-day timeframe.

PIH recognizes this Notice and any subsequent Notices providing waiver authority to HUD-50058 submission requirements could impact the PHA's ability to submit HUD-50058 forms into the IMS-PIC system and potentially result in fatal errors. In order to minimize the occurrence of these errors resulting from implementing these waivers, PIH will be issuing guidance in the near future that will provide Mod Rehab PHAs with workarounds to avoid any potential issues in the PIC system.

For PHAs that submit HUD-50058 forms and receive a fatal error, PIH will not require these HUD-50058 forms to be re-submitted consistent with the waiver of reporting provisions in the Notice. PIH encourages these PHAs to not re-submit these forms until after PIH issues the revised guidance for HUD-50058 reporting. For PHAs that submit HUD-50058 forms successfully in the interim period before the new reporting guidance is issued, PIH may require corrections to these HUD-50058 forms and re-submission to IMS-PIC.

Period of Availability: The period of availability ends June 30, 2021.

f. **Mainstream Voucher Waivers Established in Notice PIH 2020-22 and Extended in this Notice**

**MS-1: Initial Lease Term**

Regulatory Authority: 24 CFR 982.309(a)(2)(ii)

Description: Under the HCV program, voucher participants must enter into an initial lease term with the owner for one year, unless the PHA determines that a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. To provide a greater range of housing opportunities for Mainstream voucher holders, the PHA may enter initial lease terms of less than one year regardless of whether the shorter lease term is a prevailing market practice. Therefore, both section 8(o)(7)(A) of the 1937 Act (42 U.S.C. 1437f(o)(7)(A)) and 24 CFR 982.309(a)(2)(ii) are waived.

Period of Availability: The period of availability ends on June 30, 2021.

**MS-2: Criminal Background Screening**

Regulatory Authority: 24 § CFR 5.856 §, 982.553(a)

Description: PHAs are required to apply the same criminal background screening process to all HCV participants. As discussed in section 2 of this notice, HUD encourages PHAs to use their Mainstream vouchers to prevent, prepare for, and respond to coronavirus which, for some communities, will mean finding long term housing solutions for those transitioning out of institutional settings or currently in rapid rehousing or other emergency temporary housing. To help PHAs assist populations in need of transitioning into long term housing, PHAs may establish, as an alternative requirement, screening requirements for applicants for Mainstream vouchers which are distinct from those in place for its HCV program in general. At a minimum, PHAs must comply with the statutory (and implementing regulatory) requirements to determine if applicants are subject to a lifetime sex offender registration requirement (42 U.S.C. 13663(a) and 24 CFR 5.856) and comply with the mandatory screening and denial requirements outlined in 42 U.S.C. 13661 and 982.553(a).

Period of Availability: The period of availability ends on June 30, 2021.

**MS-3: Mainstream Age Eligibility to Enter HAP Contract Statutory Authority**

Statutory Authority: 42 U.S.C. 8013(k)(2)

Description: The statute provides that the eligible member of a Mainstream household must be non-elderly, defined as at least 18 years of age and under 62 years of age (not yet reached their 62<sup>nd</sup> birthday) to be eligible to be placed under HAP contract. A Mainstream-eligible individual issued a voucher at 61 years of age may not be able to lease the voucher before their 62<sup>nd</sup> birthday where PHA operations may have been shut down or severely curtailed, unit searches are not possible due to shelter-in-place orders, or where the movement of people is significantly restricted. As an alternative

requirement, the PHA may choose to expand the definition of an eligible non-elderly family member to include those who were issued a voucher prior to turning 62 and were not yet 63 on the effective date of the HAP Contract.

Period of Availability: The period of availability ends on June 30, 2021.

## SECTION II: WAIVERS APPLICABLE TO NATIVE AMERICAN PROGRAMS

### **13. WAIVERS AND ALTERNATIVE REQUIREMENTS APPLICABLE TO THE IHBG PROGRAM UNDER THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996 (NAHASDA), AS AMENDED**

Introduction: The CARES Act provides HUD with broad authority, in the context of the COVID-19 pandemic, to waive statutes and regulations (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) for the IHBG program. The following waivers and alternative requirements apply only to new IHBG funding provided under the CARES Act (IHBG-CARES grants), and FY 2020 IHBG formula funds under the Further Consolidated Appropriations Act, 2020. IHBG recipients are reminded that these waivers and alternative requirements do not apply to IHBG funds appropriated in any other prior year. In applying these waivers and alternative requirements, IHBG recipients must ensure that they are doing so only with respect to IHBG-CARES grants and their FY 2020 IHBG grant.

The CARES Act also provides that any waivers granted by HUD shall be deemed to be effective as of the date an Indian tribe or TDHE began preparing for COVID-19. Accordingly, the relief provided by the following waivers and alternative requirements will apply retroactively to the date that the respective IHBG recipient began preparing for COVID-19. Additionally, any related costs previously incurred by IHBG recipients that are also eligible and allowable IHBG-CARES costs may be covered or reimbursed with IHBG-CARES grant funding. Recipients should maintain documentation demonstrating when the recipient began preparing for COVID-19. Such documentation should be maintained to ensure that both HUD and the recipient can clearly identify the date when waivers and alternative requirements issued by HUD began to apply, and to support costs incurred by the recipient that it covers or reimburses with IHBG-CARES grant funding.

HUD has determined that the following waivers and alternative requirements are necessary to expedite or facilitate the use of IHBG funds to prevent, prepare for, and respond to COVID-19.

Period of Availability: The period of availability of each IHBG waiver and alternative requirement below ends when funds subject to the waiver and alternative requirement are expended, unless otherwise specified under each waiver and alternative requirement (e.g., Indian Housing Plan (IHP) / Annual Performance Report (APR) deadline extensions).

#### **a. Application Process for IHBG-CARES Grants and Indian Housing Plan Requirements**

Statutory Authority: Section 101(b), Section 102, and Section 103 of NAHASDA

Regulatory Authority: 24 C.F.R. §§ 1000.214; 1000.218; 1000.220; 1000.224; 1000.226; 1000.228; 1000.230; and 1000.232

Description: Section 101(b), Section 102, and Section 103 of NAHASDA and the implementing regulations in Subpart C of 24 CFR Part 1000 require IHBG recipients to submit an IHP that must be found to be in compliance with NAHASDA as a condition of

receiving an IHBG grant. HUD is required to act on IHP submissions within 60 days or it is deemed approved. These provisions also provide that IHBG recipients may amend their IHPs and outline the process of HUD review of such IHP amendments. Certain IHP amendments that add new activities or involve a decrease in the amount of funds provided to protect and maintain the viability of housing assisted under the 1937 Act known as Formula Current Assisted Stock (FCAS) units require HUD to review such modifications and determine that they comply with NAHASDA. HUD is required to act on such modifications within 30 days.

HUD recognizes the challenges that Indian tribes and TDHEs are facing at the present time. Many IHBG recipients are shut down for business. Many Indian tribes have declared a state of emergency, limited travel, and have imposed social distancing directives to minimize the risk of spreading COVID-19 in their communities. This has had a severe impact on Tribes' and TDHEs' abilities to conduct business.

To facilitate and expedite the use of IHBG-CARES grant funding and FY 2020 IHBG funding for COVID-19 related purposes, HUD is waiving the requirements in Section 101(b), Section 102, and Section 103 of NAHASDA, and regulations in Subpart C of 24 CFR Part 1000, including 24 CFR §§ 1000.214; 1000.218; 1000.220; 1000.224; 1000.226; 1000.228; 1000.230; and 1000.232, only to the extent necessary to establish the following alternative requirements:

In recognition of the limited ability of Indian tribes and TDHEs to conduct regular business at this time, HUD is minimizing application requirements while also ensuring that IHBG recipients will expend CARES Act funding in accordance with the Act and program requirements.

1) *Abbreviated IHP to Receive IHBG-CARES Grant Funding*

Given the current exigent situation, applicants for IHBG-CARES grants funding will only be required to submit an Abbreviated IHP, in accordance with guidance that will be published by HUD in the very near future, in order to receive an IHBG-CARES grant. An Abbreviated IHP is a more streamlined version of the regular IHP.

These Abbreviated IHPs must specify how the IHBG recipient will carry out activities or projects that meet the requirements of the CARES Act (to prevent, prepare for, and respond to COVID-19), will allow the IHBG recipient to rely on certain information included in its previously submitted FY 2020 IHP, and provide HUD with specific information that will be requested in further guidance. To the extent feasible, HUD will expedite its review and approve all Abbreviated IHPs within 15 days to expedite awarding grant funding under the CARES Act.

Abbreviated IHPs that HUD fails to act on in a timely manner will not be deemed to be approved by operation of law.

HUD will also accept any Abbreviated IHPs that cannot be formally adopted by an Indian Tribe or TDHE in accordance with their normal policies and procedures for adopting IHPs, provided an official or principal of the Indian tribe or TDHE who is authorized to act on behalf of the Indian tribe or TDHE provides a statement to HUD

indicating that it is not practical or safe for the Indian tribe or TDHE to assemble a board or other governing body to conduct business to secure required approvals, at the time, due to the impact of COVID-19 on operations of the Indian tribe or TDHE (or the beneficiary Indian tribe of the TDHE). The Indian tribe or TDHE should take the necessary action, at a later date, when it is feasible and safe to do so, to either ratify the Abbreviated IHP previously submitted by the official or principal, if required under its policies and procedures, or submit an amendment to the Abbreviated IHP.

2) *Recipients that did Not Submit an IHP in FY 2020*

Section 101(b)(1) of NAHASDA states that the Secretary may make a grant under the Act if an IHP is submitted and determined to comply with the requirements of Section 102 of the Act.

Sections 101(b)(1) and (2) are waived for any Tribe or TDHE that did not submit an IHP, or whose IHP was not approved in FY 2020, and accordingly did not receive an IHBG grant in FY 2020. A Tribe or TDHE that did not receive IHBG funds in FY 2020 may still apply to receive an IHBG-CARES grant, provided it submits an Abbreviated IHP to HUD, in accordance with further guidance that will be published by HUD. HUD may require additional information from these recipients but will seek to streamline the application process to ensure that funding can be awarded as expeditiously as possible, while also ensuring compliance with the CARES Act and NAHASDA. This waiver is necessary to provide an opportunity to all potential IHBG applicants to access this new funding to help address the ongoing crisis, regardless of whether they failed to submit an IHP in FY 2020.

3) *IHP Certifications*

Some Indian tribes and TDHEs have expressed to HUD that under the current conditions, they likely will have difficulty securing required internal approvals to be able to provide HUD with information normally required under a regular IHP. This includes certifications submitted by an Indian tribe authorizing a TDHE to act as its IHBG recipient, and other certifications of compliance required under Section 102(b) of NAHASDA.

Accordingly, HUD is waiving the IHP certification requirements in Section 101-103 of NAHASDA and establishing the following alternative requirements as follows: IHBG recipients are required to provide HUD with all required IHP certifications in their Abbreviated IHPs. However, if an authorized official of an Indian tribe or TDHE provides a statement to HUD indicating that it is not practical or safe for the Indian tribe or TDHE to secure new certifications due to the impact of COVID-19 on its operations, or the operations of a beneficiary Indian tribe, HUD will, consistent with Section 103(d) of NAHASDA, accept all IHP certifications that were previously submitted and accepted by HUD for FY 2020 IHBG grants (or for FY 2019 IHBG grants for those IHBG recipients that have not yet submitted their FY 2020 IHP), in lieu of requiring new tribal certifications to be submitted. IHBG recipients that

choose to use this alternative requirement will be deemed to have submitted such past certifications for the IHBG-CARES grant and will be bound by such certifications, accordingly.

Under this alternative requirement, TDHEs may submit Abbreviated IHPs on behalf of their beneficiary Indian tribes without having to provide any required new IHP Tribal certifications when applying for IHBG CARES Act funds or amending their FY 2020 IHBG IHPs for COVID-19 related purposes. However, these TDHEs are required to consult with their beneficiary Indian tribes that they serve, in a manner that is feasible and when it is safe and practical to do so, and submit any appropriate amendments or certifications to their Abbreviated IHPs if they are directed to do so by the beneficiary Indian tribe.

4) Reprogramming of FY 2020 IHBG Funding

HUD strongly encourages IHBG recipients to consider reprogramming existing FY 2020 IHBG funding to help address COVID-19, because this funding likely is more immediately available. To expedite and facilitate the use of such funds for this purpose, HUD is waiving Section 103 of NAHASDA and 24 CFR § 1000.230 to the extent necessary to allow IHBG recipients to expend IHBG FY 2020 funds on IHBG activities that meet the eligible purposes of the CARES Act (to prevent, prepare for, and respond to COVID-19), including activities made eligible under the waivers and alternative requirements provided in this Notice, without first having to amend their FY 2020 IHP. IHBG recipients that choose to do this must still amend their FY 2020 IHP before submitting their APR to reflect these new uses or activities, but may request an extension of time to submit the IHP amendment and subsequent APR if submission is not feasible and safe for Tribal or TDHE staff at the time they would otherwise be due.

Additionally, HUD is waiving the requirement in 24 CFR § 1000.232 that provides that certain IHP amendments that add new activities or involve a decrease in the amount of funds provided to protect and maintain the viability of FCAS units require HUD to review such modifications and determine that they comply with NAHASDA. IHBG recipients may reprogram FY 2020 funding to add new activities and decrease funding for FCAS units without HUD prior review and approval, provided that the IHBG recipient is carrying out eligible COVID-19-related IHBG activities. IHBG recipients that choose to do this must still amend their FY 2020 IHP before submitting their APR to reflect these new uses or activities, but may request an extension of time to submit the IHP amendment and subsequent APR if submission is not feasible and safe for Tribal or TDHE staff at the time they would otherwise be due.



**b. IHP Submission Deadline for Annual IHBG Formula Grants**

Statutory Authority: Section 101(b) and 102(a) of NAHASDA

Regulatory Authority: 24 CFR §§ 1000.214, 1000.216, 1000.225

Description: Section 101(b) of NAHASDA permits the Secretary to make a grant on behalf of an Indian tribe for a fiscal year only if the Indian tribe has submitted an IHP for such fiscal year. Section 102(a) of NAHASDA requires the IHP be submitted no later than 75 days before the beginning of each tribal program year.

Due to the disruption in Tribal and TDHE operations caused by COVID-19, and to facilitate recipients' efforts to respond, HUD is waiving these requirements and modifying them to allow for a new IHP submission deadline for recipients with program years beginning April 1, 2020, and July 1, 2020. IHBG recipients with these program years beginning these dates may submit their IHP for their program year on or before October 16, 2020. Additionally, IHBG recipients with program years beginning October 1, 2020, may submit their IHP for their program year on or before January 17, 2021. HUD is also establishing alternative requirements for the content of IHPs.

**Original and Extended IHP Due Dates by Program Year Starts**

<b>Program Year Starts</b>	<b>Original IHP Due Date</b>	<b>Extended IHP Due Date</b>
4/1/2020	1/17/2020	10/16/2020
7/1/2020	4/17/2020	10/16/2020
10/1/2020	7/18/2020	1/17/2021

As the ongoing COVID-19 pandemic progresses, HUD will assess whether additional extensions are needed and may grant further extensions, if appropriate.

**c. Annual Performance Report Submission Deadline**

Statutory Authority: Sections 403 and 404 of NAHASDA

Regulatory Authority: 24 CFR § 1000.514

Description: NAHASDA requires that, not less frequently than annually, each recipient must review the activities conducted and housing assisted under the Act to assess compliance with the IHBG program requirements. The results of each review must be included in an APR submitted to the Secretary under Section 404 and made available to the public. 24 CFR § 1000.514 of IHBG Regulations requires the APR be submitted to HUD within 90 days of the end of a recipient's program year.

Due to the disruption in Tribal and TDHE operations caused by COVID-19, and to facilitate recipients' efforts to respond, HUD is establishing an alternative requirement under which IHBG recipients with Program Years ending December 31, 2019, submit their APRs for their program year on September 27, 2020, IHBG recipients with program years ending March 31, 2020, submit their APR for their program year on December 30, 2020, and IHBG recipients with program years ending June 29, 2020, submit their APR for their program year on December 30, 2020.

**Original and Extended APR Due Dates by Program Year Ends**

<b>Program Year Ends</b>	<b>Original APR Due Date</b>	<b>Extended APR Due Date</b>
12/31/2019	3/30/2020	9/27/2020
3/31/2020	6/29/2020	12/30/2020
6/29/2020	9/30/2020	12/30/2020

As the ongoing COVID-19 pandemic progresses, HUD will assess whether additional extensions are needed and may grant further extensions, if appropriate.

**d. Income Verification**

Regulatory Authority: 24 CFR § 1000.128

Description: 24 CFR § 1000.128 requires IHBG recipients to verify that a family is income-eligible. Families are required to provide documentation to verify this determination, and a recipient is required to maintain that documentation. Families may be required by the IHBG recipient to periodically verify income after initial occupancy, and the recipient is required to maintain documentation.

Given the COVID-19 related challenges facing families seeking IHBG assistance, families currently receiving IHBG assistance that are due for income recertification, and Tribal and TDHE staff charged with verifying income and maintaining documentation, HUD is establishing the following alternative requirement under 24 CFR § 1000.128:

- 1) IHBG recipients may deviate from their current written admissions and occupancy policies, and may allow less frequent income recertifications; and
- 2) IHBG recipients may carry out intake and other tasks necessary to verify income remotely if the IHBG recipient or eligible families chooses to do so, including allowing income self-certification over the phone (with a written record by the IHBG recipient’s staff), or through an email with a self-certification form signed by a family.

**e. Public Health Services**

Statutory Authority: Section 202(3) of NAHASDA

Description: Section 202(3) of NAHASDA authorizes the use of IHBG funds for the provision of housing-related services for affordable housing. Under this eligible activity, IHBG funds can be used to provide services such as housing counseling, activities related to the provision of self-sufficiency and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in the IHBG program.

HUD is waiving Section 202(3) and establishing an alternative requirement to the extent necessary to allow IHBG funds to be used to carry out a wide range of public health services under this category of eligible activities. Accordingly, in addition to the housing services normally eligible under Section 202(3), IHBG recipients may be used on a wide

range of public health activities designed to allow IHBG-eligible residents and staff of the IHBG recipient to prepare for, prevent, and respond to COVID-19.

Eligible uses of IHBG funds under this waiver and alternative requirement include, but are not limited to: providing testing, diagnosis or other related services to residents; establishing a fixed or mobile location to conduct testing and treatment; paying for necessary equipment, supplies, and materials, including personal protective equipment; carrying out public health services designed to help staff, eligible residents, and other third-party providers serving eligible residents, prepare for, prevent, and respond to COVID-19; delivering meals on wheels or other food delivery services to eligible residents that are sheltered-in-place and complying with a stay at home order, or otherwise maintaining recommended social distancing.

HUD strongly encourages IHBG grantees to coordinate with recipients of other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, to ensure IHBG funds are used to supplement rather than supplant such funding.

**f. COVID-19-Related Assistance to Non-Low Income and Non-Native Families**

Statutory Authority: Section 201(b) of NAHASDA

Regulatory Authority: 24 CFR §§ 1000.104, 1000.106, 1000.108, 1000.110, 1000.312, 1000.314, 1000.318

Description: Section 201(b) of NAHASDA and its implementation regulations, except for specified exceptions, limit assistance under eligible housing activities to low-income Indian families.

The COVID-19 pandemic poses a unique threat to the health and safety of Tribal communities. Persons infected with the virus, regardless of income or tribal membership, pose a health risk to the entire community, and low-income families are especially vulnerable given the severe overcrowding in Indian Country, infrastructure challenges, and the lack of access to running water and readily available health care services in many remote communities. To effectively prevent, prepare for, and respond to COVID-19, IHBG recipients may find the need to use IHBG resources or NAHASDA-assisted housing units to provide shelter-in-place housing and public health services to otherwise ineligible persons and families, with the goal of protecting the health and safety of the most vulnerable low-income Native American families who may be infected.

Given this, HUD is waiving Section 201(b) and its implementing regulations, and establishing alternative requirements to the extent necessary to allow IHBG funds to be used by recipients to prevent, prepare for, and respond to COVID-19 through the following limited activities that provide assistance to all affected and threatened people without regard to income limits or Indian status: temporary shelter-in-place, isolation centers, purchasing and making medical testing kits available, purchasing and distributing masks and other personal protection equipment, emergency food preparation and distribution, cleaning and decontamination, and other directly related activities.

Permanent rental assistance, mortgage assistance, housing rehabilitation, and new housing construction may not be provided for the benefit of such otherwise ineligible

families under this waiver and alternative requirement.

This assistance may only be provided to such otherwise ineligible families if: it is provided during the COVID-19 pandemic; if it is designed to protect the health and safety of low-income Native American families; if it is provided on an urgent basis (as documented by the IHBG recipient); and if it is temporary in nature. When providing this assistance, IHBG recipients must maintain records documenting that these criteria were met at the time that such assistance was provided.

Under this waiver and alternative requirement, IHBG recipients may house low-income non-Indian families or over-income Indian and non-Indian families in NAHASDA-assisted units, including FCAS units), to shelter-in-place those families per CDC guidelines to protect low-income Indian families and the Tribal community from the further spread of COVID-19, regardless of income or Indian status. IHBG funds may also be used to provide temporary rental assistance to otherwise ineligible persons or families in privately owned units, hotels/motels, and similar facilities designed to shelter-in-place or isolate infected persons from others, if the criteria under this waiver and alternative requirements are met. The use of NAHASDA-assisted units, including FCAS, or funds for the temporary shelter-in-place or isolation of any individuals shall be temporary and no individual shall be isolated longer than medically necessary.

24 CFR §§ 1000.312 and 1000.314 identify FCAS units as low rent, Mutual Help, and Turnkey III housing units owned and operated by an IHBG recipient. 24 CFR § 1000.318 establishes when these units can be considered FCAS for purposes of the IHBG formula. These regulations are also waived and modified to the extent necessary to not impact the FCAS eligibility of FCAS units used for this purpose of addressing COVID-19 regardless of income or Indian status, provided such units are operated as low income housing dwelling units once no longer needed to shelter-in-place persons, and upon a determination that such units are safe to be occupied again by low income families not infected with COVID-19.

Assistance provided in accordance with this waiver shall not count towards the maximum amount of assistance that IHBG recipients may otherwise provide to non-low-income families specified in 24 CFR § 1000.110.

By providing temporary assistance to address the immediate health, safety, and economic needs of all citizens in Indian Country, recipients can better insure the health and safety of low-income Indian families in their communities.

**g. Useful Life**

Statutory Authority: Section 205 of NAHASDA

Regulatory Authority: 24 CFR §§ 1000.141, 1000.142, 1000.143, 1000.144, 1000.146, 1000.147

Description: Section 205(a)(2) of NAHASDA requires each dwelling unit in a recipient's housing developed or assisted under the Act will remain affordable, according to binding commitments satisfactory to HUD, for the remaining useful life of the property. The

IHBG regulations require each recipient to describe, in its IHP, its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By approving the IHP, HUD determines the useful life in accordance with Section 205(a)(2).

HUD is waiving these requirements to determine and maintain affordability during the useful life of housing units assisted with IHBG-CARES grant funding and FY 2020 IHBG funding used to address COVID-19 if that assistance is related to cleanup of COVID-19 contamination and temporary use dwelling units for purposes of housing and quarantining families to inhibit the spread of COVID-19 to low-income Indian families and the Tribal community.

#### **h. Total Development Cost Limits**

Regulatory Authority: 24 CFR §§ 1000.156, 1000.158, 1000.160, 1000.162

Description: The IHBG regulations require that affordable housing under NAHASDA be of moderate design with a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe's general geographic area to buyers who are at or below the area median income. To achieve this requirement the recipient must either, adopt written standards for its affordable housing programs that reflect the requirement specified, or use TDC limits published periodically by HUD that establish the maximum amount of funds (from all sources) that the recipient may use to develop or acquire/rehabilitate affordable housing. The limits provided by the TDC may not, without prior HUD approval, exceed by more than 10 percent the TDC maximum cost for the project. Non-dwelling structures used to support an affordable housing activity must be of a design, size and with features or amenities that are reasonable and necessary to accomplish the purpose intended by the structures.

HUD expects that COVID-19 will likely have both a short- and long-term impact on IHBG recipients' programs. Because of the long-term need to prevent, prepare for, and respond to COVID-19, IHBG recipients may find it appropriate to use IHBG-CARES grant funds to acquire or construct new housing units with the goal of reducing severe overcrowding in Indian Country that leave Native American populations, particularly the elderly and persons with disabilities, especially vulnerable to COVID-19. Accordingly, HUD is establishing an alternative requirement relating to limitations on cost or design standards and TDC with respect to dwelling and non-dwelling units developed, acquired or assisted with funding provided to be used by recipients to prevent, prepare for, and respond to COVID-19. An IHBG recipient may exceed the current TDC maximum by 20 percent without HUD review or approval if the purpose of the development, acquisition or assistance is to prevent, prepare for, and respond to COVID-19. The recipient, however, must maintain documentation that indicates the dwelling and non-dwelling units developed, acquired or assisted with this funding will, after this crisis, be for IHBG eligible families and the design, size, and amenities are moderate and comparable to housing in the area. The TDC limits can be exceeded by more than 20 percent if the recipient receives written approval from HUD Headquarters. This waiver applies to both single-family and multi-family housing, as well as non-dwelling structures supporting an activity to prevent, prepare for, and respond to COVID-19.

Period of Availability: This waiver and alternative requirement is available only so long as the Total Development Costs specified in Notice PIH 2019-19 remain in effect.

**i. Prohibition Against Investment of CARES Act Grant Funds**

Statutory Authority: Section 204(b) of NAHASDA

Regulatory Authority: 24 CFR § 1000.58

Description: Section 204(b) of NAHASDA permits IHBG recipients to invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by HUD. Under 24 CFR § 1000.58 of the IHBG regulations, HUD has approved certain IHBG recipients based, among other things, on a history of compliance and capacity, to invest IHBG funding certain securities and interest-bearing accounts for the purpose of carrying out affordable housing activities.

HUD is waiving Section 204(b) of NAHASDA and 24 CFR § 1000.58 and prohibiting the investment of any IHBG funding provided under the CARES Act. Such funding is to be used by recipients to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA during the period that each recipient's program is impacted by COVID-19. Given the limited scope of this funding to address the immediate health, safety and economic needs of citizens in Indian Country, drawing down funds for investment in securities and long-term interest-bearing accounts is prohibited.

**j. IHBG-CARES Funds Not Counted in Undisbursed Funds Factor**

Regulatory Authority: 24 CFR § 1000.342

Description: 24 CFR § 1000.342 codifies the UDFP in the IHBG formula. It provides that if an Indian tribe's initial IHBG allocation calculation is \$5 million or more and the Indian tribe has undisbursed IHBG funds on October 1 of the fiscal year for which the allocation is made in an amount that is greater than the sum of the prior 3 years' initial allocation calculations, its grant allocation will be the greater of the initial allocation calculation minus the amount of undisbursed IHBG funds that exceed the sum of the prior 3 years' initial allocation calculations, or its 1996 Minimum.

HUD is waiving 24 CFR § 1000.342 and establishing an alternative requirement to the extent necessary to exclude IHBG-CARES funds from counting towards an Indian tribe's undisbursed IHBG funds from prior years under the UDFP. IHBG-CARES funds are available for a specific purpose under the CARES Act and were allocated by HUD to allow Indian tribes and TDHEs to prevent, prepare for, and respond to COVID-19. If this funding were counted against an Indian tribe and resulted in it receiving less IHBG formula funding under the next IHBG formula allocation, such a reduction in future funding would undermine the purposes of the IHBG-CARES funds and have an adverse impact on Indian tribes working to respond to the current National Emergency.

## **14. WAIVERS AND ALTERNATIVE REQUIREMENTS APPLICABLE TO THE INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

Introduction: Pursuant to the CARES Act, HUD may waive, or specify alternative requirements for, any provision of any statute or regulation that HUD administers in connection with the use of amounts made available for the ICDBG program under the CARES Act (ICDBG-CARES grants), and FY 2020 ICDBG funds (both Single Purpose Grants and Imminent Threat Grants) appropriated under the Further Consolidated Appropriations Act of 2020 (Public Law 116–94) (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding by HUD that any such waivers or alternative requirements are necessary to expedite or facilitate the use of such amounts to prevent, prepare for, and respond to COVID-19. HUD has since determined that these flexibilities can also be granted with respect to ICDBG funds appropriated under the FY 2019 Consolidated Appropriations Act (Public Law 116-6).

Accordingly, the following waivers and alternative requirements apply only to ICDBG-CARES grants (the new ICDBG funding provided under the CARES Act), and FY 2019 and FY 2020 ICDBG funds. ICDBG grantees are reminded that these waivers and alternative requirements do not apply to ICDBG funds appropriated in any other prior year. In applying these waivers and alternative requirements, ICDBG grantees must ensure that they are doing so only with respect to ICDBG-CARES grant funding and their FY 2019 and FY 2020 ICDBG grant(s).

The CARES Act also provides that any waivers granted by HUD shall be deemed to be effective as of the date an Indian tribe began preparing for COVID-19. Accordingly, the relief provided by following waivers and alternative requirements will apply retroactively to the date that the respective ICDBG grantee began preparing for coronavirus. Additionally, any related costs previously incurred by ICDBG grantees that are also eligible and allowable ICDBG-CARES costs may be covered or reimbursed with ICDBG funding provided under the CARES Act. ICDBG-CARES grantees should maintain documentation demonstrating when the grantee began preparing for COVID-19. Such documentation should be maintained to ensure that both HUD and the grantee can clearly identify the date when waivers and alternative requirements issued by HUD began to apply, and to support costs incurred by the recipient that it covers or reimburses with ICDBG-CARES grant funding.

HUD has determined that the following waivers and alternative requirements are necessary to expedite or facilitate the use of ICDBG funds to prevent, prepare for, and respond to COVID-19.

Period of Availability: The period of availability of each ICDBG waiver and alternative requirement below ends when funds subject to the waiver and alternative requirement are expended, unless otherwise specified under each waiver and alternative requirement.

### **a. Citizen Participation**

Statutory Authority: Section 104 of the Housing and Community Development Act of 1974 (HCD Act)

Regulatory Authority: 24 CFR §§ 1003.604,1003.305(c)(3)

Description: Section 104 of the HCD Act and 24 CFR § 1003.604 requires ICDBG

applicants to consult with residents prior to submitting their funding applications. The regulation mandates minimum citizen participation requirements, including holding one or more meetings to obtain the views of residents. 24 CFR § 1003.305(c)(3) requires ICDBG recipients to meet the citizen participation requirements of 24 CFR § 1003.604 before amending previously awarded ICDBG grants.

Considering COVID-19-related social distancing directives, and other prohibitions against large in-person gatherings, in person citizen meetings are not advised. Accordingly, HUD is waiving 24 CFR § 1003.604(a)(2) and 24 CFR § 1003.305(c)(3), and will not require Indian tribes to hold one or more meetings to obtain the views of residents before applying for ICDBG-CARES grant funding or amending their FY 2020 ICDBG grants to address COVID-19. Indian tribes will continue to be required, however, to meet the citizen participation requirements by publishing or posting information on their plans to use ICDBG grants, and accepting and considering comments, to the extent the Indian tribe determines that that can be done without subjecting residents to unnecessary risks to health and safety. Such alternative requirements to publish or post information for their plans must ensure effective communication with persons with disabilities. Indian tribes may also choose to hold virtual meetings with the public to meet these streamlined citizen participation requirements, if feasible.

When holding a virtual meeting, a grantee should take appropriate steps to ensure effective communication with persons with disabilities consistent with the requirements of accessibility laws, such as Section 504 of the Rehabilitation Act and ensuring meaningful access for persons with limited English proficiency.

For virtual meetings, such steps will include ensuring that information is provided on an accessible website, that e-mails and other digital notifications are accessible, and that the application or platform used to host the hearing is also accessible. Additional services such as audio description or captioning may also be needed to provide effective communication in a digital context. Helpful guidelines for ensuring the accessibility of web-based and digital materials are available through the World Wide Web Consortium's Web Accessibility Initiative at <https://www.w3.org/WAI/>. Examples of auxiliary aids and services that may be necessary when conducting hearings online can be found at 28 C.F.R. § 35.104. If no method of conducting a virtual hearing is available that appropriately accommodates an individual's disability, the grantee may not hold against the individual his or her inability to participate in the hearing, and an in-person hearing may be scheduled for a later date when the unnecessary risks to the health and safety of participants have alleviated.

Additionally, grantees should be mindful that many low-income persons may not be able to participate in a virtual meeting due to lack of Internet access. Grantees are encouraged to also make any virtual meetings available via telephone so that persons can participate even if they do not have access to the Internet.

**b. Application Process for ICDBG-CARES Grants and Funding Criteria**

Regulatory Authority: 24 CFR §§ 1003.400, 1003.401, 1003.402; Section I.A.1.b. of the combined FY 2019/2020 ICDBG Notice of Funding Availability (NOFA)



Description: The regulation at 24 CFR § 1003.400 specifies the funding criteria for ICDBG Imminent Threat (IT) grants. It provides that: 1) The urgency and immediacy of the threat must be independently verified before an ICDBG IT application can be approved by HUD; 2) Funds may only be used to deal with imminent threats that are not of a recurring nature and which represent a unique and unusual circumstance, and which impact on an entire service area; 3) HUD will establish grant ceilings. The regulation at 24 CFR § 1003.401 specifies the application process that applicants must follow. The regulation at 24 CFR § 1003.402 addresses the availability of funding and what happens to remaining unobligated ICDBG IT funds at the end of each fiscal year. It provides that if any reserved funds are not used to fund ICDBG IT grants during a fiscal year, they will be added to the allocation of ICDBG funds for the subsequent fiscal year and will be used as if they were a part of the new allocation.

The COVID-19 pandemic has resulted in a declared national emergency and is a domestic and international crisis. This is a unique well-documented emergency that is having an impact on all Tribal communities. Considering this, HUD is waiving and modifying 24 CFR § 1003.400, 24 CFR § 1003.401, 24 CFR § 1003.402, and Section I.A.1.b. of FY 2019/2020 ICDBG NOFA to the extent necessary to provide for the following alternative requirements:

1) Criteria for Funding

HUD issued further guidance in the ICDBG-CARES Implementation Notice (Notice PIH 2020-11) on the application process and criteria for ICDBG applicants applying for ICDBG-CARES grants to address the COVID-19 pandemic.

With respect to applications for ICDBG-CARES grants and FY 2019 and 2020 ICDBG Imminent Threat grants to address the COVID-19 pandemic: The urgency and immediacy of the threat need not be independently verified before approval of an application. The urgency and immediacy of the threat will be presumed by HUD, unless HUD has evidence to the contrary. Similarly, these applications need not demonstrate that COVID-19 is a non-recurring imminent threat and that it has an impact on an entire service area. HUD will presume these criteria are met unless HUD has evidence to the contrary.

2) Grant Ceilings

For ICDBG-CARES grants, HUD is waiving the current ICDBG Imminent Threat grant ceilings (currently set at \$450,000 for projects in areas that have not received a Presidential Major Disaster Declaration, and \$900,000 for areas that have received a Presidential Major Disaster Declaration). HUD published grant ceilings in Notice PIH 2020-11.

HUD may also further revise these grant ceilings in the future depending on how the pandemic evolves, program demand, the availability of additional appropriations, and related factors. HUD will notify Indian tribes in writing if these grant ceilings are revised in the future.

3) Reimbursement of Costs and Letter to Proceed

The CARES Act provides that ICDBG-CARES grant funds provided under the Act may be used to cover or reimburse allocable costs to prevent, prepare for, and respond to COVID-19 incurred by an ICDBG applicant, including costs incurred prior to the enactment of the Act. Accordingly, any previous costs incurred by an ICDBG applicant or grantee before the enactment of the Act may be reimbursed with ICDBG-CARES grant funding.

Considering this, HUD is waiving 24 CFR § 1003.400(b) to the extent necessary to allow ICDBG applicants and grantees to receive ICDBG-CARES grants without having to demonstrate to the satisfaction of HUD that other Tribal funding sources cannot be made available to alleviate the threat. Additionally, HUD will not consider recently awarded IHBG funding provided under the CARES Act, and regular IHBG funding that has already been budgeted in the relevant IHP or contracted, when assessing available Federal resources. HUD is also waiving the letter to proceed provision in 24 CFR § 1003.401(a) so that ICDBG applicants and grantees do not need to have received a letter to proceed from the Area ONAP as a condition of reimbursing themselves for eligible costs already incurred that can be reimbursed pursuant to the CARES Act.

Also, pursuant to 24 CFR § 1003.605(b) and 24 CFR § 58.34(a)(10), grants to provide assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration do not have to submit a Request for Release of funds and certification. However, the responsible entity must document in writing its determination that each activity or project is exempt from environmental review.<sup>6</sup> In the case of imminent threat activities that do not meet the conditions in 24 CFR § 58.34(a)(10) for exemption from environmental review, ICDBG applicants or recipients may not commit ICDBG funds to reimburse expenses for such activities until HUD approves a Request for Release of Funds.

ICDBG-CARES grantees remain responsible for ensuring that they are coordinating locally, and with other Federal agencies, to ensure that funds are used appropriately to address gaps in funding, and to avoid any duplication of benefits.

4) Availability of Funds

HUD is waiving 24 CFR § 1003.402 which provides that if any reserved funds are not used to fund IT grants during a fiscal year, they will be added to the allocation of ICDBG funds for the subsequent fiscal year and will be used as if they were a part of the new allocation. HUD is waiving this regulation to expedite and facilitate the use of ICDBG-CARES grant funds to address COVID-19. If ICDBG-CARES grant funds are not awarded in a fiscal year, HUD will assess how the COVID-19 pandemic is

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<sup>6</sup> Additional guidance on the use and documentation of 24 CFR 58.34(a)(10) is available at [CPD Notice 20-07](#).

progressing, program demand, available funding, and related factors, and reserves the right to adjust how funding is awarded to ensure needs of tribes are met, including possibly setting aside a portion of funding to address the needs of Tribes with the greatest needs. HUD may also award additional funding through the IHBG-CARES program if a sufficient amount of ICDBG-CARES funding remains unobligated after a period of time and projected program demand is low.

**c. Removal of Public Services 15 Percent Cap under FY 2019 and FY 2020 ICDBG Grants**

Statutory Authority: Section 105 of HCD Act

Regulatory Authority: 24 CFR § 1003.201(e); FY 2019/2020 ICDBG NOFA

Description: Section 105 of the HCD Act and the ICDBG implementing regulation at 24 CFR § 1003.201(e) authorize the use of ICDBG funds to carry out public services activities, but provide that the amount of ICDBG funds used for public services shall not exceed 15 percent of the respective ICDBG grant. Congress lifted the 15 percent cap on public services funded under the ICDBG Imminent Threat funding appropriated under the CARES Act and for FY 2019 and FY 2020 ICDBG funding in recognition of the great and immediate need for public services to help address and prepare for the impact of COVID-19 in Tribal communities.

Accordingly, HUD is waiving Section 105 of the HCD Act, 24 CFR § 1003.201(e), and language in the definition of the term “public services” in the FY 19/20 ICDBG NOFA to the extent necessary to remove the 15 percent cap on FY 2019/2020 ICDBG funding (both Single Purpose and Imminent Threat grants), to align with ICDBG Imminent Threat funding provided under the CARES Act. ICDBG grantees that have been awarded FY 2019/2020 ICDBG funds are reminded that they must still comply with the provisions of 24 CFR § 1003.305 if they are seeking to amend their grants to carry out additional public services or other activities to prevent, prepare for, or respond to COVID-19.

**d. Rental Assistance, Utility Assistance, Food, Clothing, and Other Emergency Assistance**

Statutory Authority: Section 105 of the HCD Act.

Regulatory Authority: 24 CFR § 1003.207(b)(4)

Description: Section 105(a)(8) authorizes the use of ICDBG funds for a variety of public services. Under the implementing regulation at 24 CFR § 1003.207(b)(4), the general rule is that ICDBG funds may not be used for income payments. For purposes of the ICDBG program, income payments mean a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage) or utilities, but excludes emergency payments made over a period of up to three months to the provider of such items or services on behalf of an individual or family.

COVID-19 is having a substantial negative impact on Native American families’ ability

to work, earn an income, pay their rent or mortgage, access or pay for food and clothing, and access many other essential services. Many tribes and TDHEs have reported to HUD that they shut down and community members are sheltering in place. Additionally, HUD expects that tribes will need to respond to long-term impacts of COVID-19. To help Tribal communities address these challenges, HUD is waiving Section 105(a)(8) and 24 CFR § 1003.207(b)(4) to the extent necessary to establish the following alternative requirement:

- 1) ICDBG grant funds may be used to provide emergency payments for low and moderate income individuals or families impacted by COVID-19 for items such as food, medicine, clothing, and other necessities, as well as rental assistance and utility payment assistance, without regard for the 3-month limitation in 24 CFR § 1003.207(b)(4), but for a period not to exceed six months unless further expanded by HUD at a later date. At this time, emergency mortgage assistance will remain limited to no more than 3 months under 24 CFR § 1003.207(b)(4). However, HUD may provide additional waiver relief for ICDBG-funded mortgage assistance at a later date as the COVID-19 pandemic progresses. Indian tribes are reminded that the CARES Act provided foreclosure and forbearance relief for borrowers under the Section 184 Indian Home Loan Guarantee program, as well as other borrowers.
- 2) These emergency payments must be used to either cover costs incurred directly by the ICDBG grantee in cases where the ICDBG grantee is providing this assistance, or made directly to a third party provider of such items or services on behalf of an individual or family, and may not be paid directly to an individual or family in the form of income payments, debit cards, or similar direct income payments. ICDBG grantees may establish lines of credit with third party providers (e.g., grocery stores) on behalf of specific beneficiary families, provided all expenses can be properly documented and all ICDBG-CARES funds used for this purpose are expended on eligible activities. In all cases, ICDBG grantees must ensure that proper documentation is maintained to ensure that all costs incurred are eligible.

ICDBG grantees using this alternative requirement must document, in its policies and procedures, how they will determine the amount of assistance to be provided is necessary and reasonable.

**e. Purchase of Equipment**

Regulatory Authority: 24 CFR §§ 1003.207(b)(1); 1003.201(c)(1)(ii)

Description: The purchase of equipment with ICDBG funds is generally ineligible under 24 CFR § 1003.207(b)(1), with some exceptions.

Given the immediate need for medical and personal protective equipment, and other related equipment needed to help prevent, prepare for, and respond to the COVID-19 pandemic in Tribal communities, HUD is waiving 24 CFR § 1003.207(b)(1) and authorizing the use of ICDBG funds for the purchase of equipment necessary to prevent,

prepare for, and respond to the COVID-19. Equipment must be used for authorized program purposes, and any proceeds from the disposition of equipment will be considered ICDBG-CARES program income. HUD may issue further guidance in the future on the disposition of program income after grant closeout.

ICDBG grantees must ensure that ICDBG funds are used to supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

**f. Operating Expenses for Public Facilities**

Regulatory Authority: 24 CFR § 1003.207(b)(2)

Description: 24 CFR § 1003.207(b)(2) provides that expenses associated with repairing, operating or maintaining public facilities, improvements and services are generally ineligible, with some exceptions.

Indian tribes may find the need to use ICDBG funds to fund a variety of public facilities, including constructing facilities for testing, diagnosis, or treatment, rehabilitating existing facilities to establish infectious disease treatment clinics, acquiring and converting hotels, motels, or similar facilities to expand capacity of hospitals to accommodate isolation of patients during recovery, and more. These facilities will likely need to be operated and maintained for the duration of the COVID-19 pandemic. Accordingly, HUD is waiving 24 CFR § 1003.207(b)(2) to the extent necessary to allow the use of ICDBG funds to pay for such operating and maintenance expenses of any public facility, to the extent it is used for COVID-19-related purposes. In incurring such costs, ICDBG grantees may not use this waiver to pay for associated staffing costs of such public facilities. ICDBG grantees must also ensure that ICDBG funds are used to supplement other Federal sources of funding for this purpose, including funding provided by the Indian Health Service, and should not be used to supplant such funding.

**g. New Housing Construction by Tribes**

Statutory Authority: Section 105 of the HCD Act

Regulatory Authority: 24 CFR § 1003.207(b)(3)

Description: 24 CFR 1003.207(b)(3) generally prohibits the use of ICDBG funds for new housing construction, with some exceptions. ICDBG may be used for new housing construction if provided as last resort housing under 24 CFR Part 42, or when carried out by a Community-Based Development Organization (CBDO).

As HUD found in its 2017 Native American Housing Needs Study, severe overcrowding and substandard housing is a major challenge in Indian Country. These conditions increase risks of infection amongst low- and moderate-income Native American families. Indian tribes may find the need to construct temporary or permanent new housing to help prevent, prepare for, and respond to COVID-19, and may find it necessary to do so without having to carry out such activities through a CBDO. Accordingly, HUD is waiving and modifying Section 105 of the HCD Act and 24 CFR 1003.207(b)(3) to the

extent necessary to provide for the following alternative requirement: Indian tribes and tribal organizations may use ICDBG funds to carry out new housing construction when such construction is carried out to reduce overcrowding, or to otherwise prevent, prepare for, or respond to COVID-19.

When assessing applications for ICDBG-CARES grants that propose to carry out new housing construction, HUD will only fund applications that propose to carry out new housing construction that is clearly designed to prevent, prepare for, and respond to COVID-19, and that the applicant plans to carry out expeditiously. As a reminder, such new housing construction must meet applicable federal accessibility requirements, including requirements under Section 504 of the Rehabilitation Act and 24 CFR part 8 HUD will issue additional ICDBG-CARES implementation guidance in the near future.

**15. Further Information.** Questions concerning this Notice should be submitted by email to the following HUD mailbox: [PIH-covidwaivers@hud.gov](mailto:PIH-covidwaivers@hud.gov).

/s/

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R. Hunter Kurtz  
Assistant Secretary for Public and  
Indian Housing

## Appendix:

The availability period for the following waivers and alternative requirements is extended through June 30, 2021:

- PH and HCV-2: Family Income and Composition: Delayed Annual Examinations
- PH and HCV-3: Family Income and Composition: Annual Examination; Income Verification Requirements
- PH and HCV-4: Family Income and Composition: Interim Examinations
- PH and HCV-5: Enterprise Income Verification (EIV) Monitoring
- PH and HCV-6: Family Self-Sufficiency (FSS) Contract of Participation: Contract Extension
- PH and HCV-7: Waiting List: Opening and Closing; Public Notice
- HQS-1: Initial Inspection Requirements
- HQS-2: Project-Based Voucher (PBV) Pre-HAP Contract Inspections: PHA Acceptance of Completed Units
- HQS-3: Initial Inspection: Non-Life-Threatening Deficiencies (NLT) Option
- HQS-4: HQS Initial Inspection Requirement: Alternative Inspection Option
- HQS-5: HQS Inspection Requirement: Biennial Inspections
- HQS-6: HQS Interim Inspections
- HQS-7: PBV Turnover Unit Inspections
- HQS-8: PBV HAP Contract: HQS Inspections to Add or Substitute Units
- HQS-9: HQS Quality Control Inspections
- HQS-11: Homeownership Option: Initial HQS Inspection
- HCV-1: Administrative Plan
- HCV-2: Information When Family is Selected: PHA Oral Briefing
- HCV-3: Term of Voucher: Extensions of Term
- HCV-4: PHA Approval of Assisted Tenancy: When HAP Contract is Executed
- HCV-5: Absence from Unit
- HCV-6: Automatic Termination of HAP Contract
- HCV-7: Increase in Payment Standard During HAP Contract Term
- HCV-8: Utility Allowance Schedule: Required Review and Revision
- HCV-9: Homeownership Option: Homeownership Counseling
- HCV-10: Family Unification Program (FUP): FUP Youth Age Eligibility to Enter HAP Contract
- HCV-11: Family Unification Program (FUP): Length of Assistance for Youth
- HCV-12: Family Unification Program (FUP): Timeframe for Referral
- HCV-13: Homeownership: Maximum Term of Assistance
- HCV-14: Mandatory Removal of Unit from PBV HAP Contract
- PH-3: Cost and Other Limitations: Types of Labor
- PH-4: ACOP: Adoption of Tenant Selection Policies
- PH-5: Community Service and Self-Sufficiency Requirement (CSSR)
- PH-7: Over-Income Families
- PH-8: Resident Council Elections
- PH-9: Review and Revision of Utility Allowance

- PH-10: Tenant Notifications for Changes to Project Rules and Regulations
- PH-11: Designated Housing Plan Renewals

The availability period for the following waivers and alternative requirements is extended through December 31, 2021:

- PH-6: Energy Audits

The availability period for the specific administrative relief items is extended as follows:

- For item 11a: PHAS, HUD will resume issuing new PHAS scores starting with PHAs with FYE dates of 6/30/21.
- For item 11b: SEMAP, HUD will resume issuing new SEMAP scores starting with PHAs with FYE dates of 6/30/21.
- For item 12c: Extension of Deadline for Programmatic Obligation and Expenditure of Capital Funds, HUD is extending both the obligation end date and the expenditure end date for all Capital Fund grants that were open on April 10, 2020, by 18 months from the obligation and expenditure end date in LOCCS that was in effect on April 10, 2020.

The following Mod Rehab Program waivers and alternative requirements established in Notice PIH 2020-20 are extended through June 30, 2021, in this Notice:

- MR-0 Family Income and Composition: Annual examination; Income Verification Requirements
- MR-1 Family Income and Composition: Delayed Annual Examination
- MR-3 Family Income and Composition: Interim Examinations
- MR-4 Enterprise Income Verification (EIV) Monitoring
- MR-5 PHA Inspection Requirement: Annual Inspections
- MR-6 Adjustment of Utility Allowance

The following Mainstream voucher waivers and alternative requirements established in Notice PIH 2020-22 are extended through June 30, 2021, in this Notice:

- MS-1 Mainstream Initial Lease Term
- MS-2 Mainstream Criminal Background Screening
- MS-3 Mainstream Age Eligibility to Enter HAP Contract Statutory Authority



**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements**  
**(Refer back to the Notice using the item code for a full description and more detailed information.)**

HH

This chart summarizes the waivers authorized under this Notice and the availability period for each. As stated in Section 5, PHAs must keep written documentation on the waivers applied by the PHA as well as the effective dates. To fulfill those requirements, PHAs may but are not required to utilize the last two columns to record this information.

Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
PH and HCV-1 PHA 5-Year and Annual Plan Submission Dates: Significant Amendment Requirements	<u>Statutory Authority</u> Section 5A(a)(1), Section 5A(b)(1), Section 5A(g), Section 5A(h)(2)  <u>Regulatory Authority</u> §§ 903.5(a)(3), 903.5(b)(3), 903.13(c), 903.21, 903.23	<ul style="list-style-type: none"> <li>· Alternative dates for submission</li> <li>· Changes to significant amendment process</li> </ul>	<ul style="list-style-type: none"> <li>· Varies based on FYE</li> <li>· 12/31/20</li> </ul>	YES	April 20, 2020
PH and HCV-2 Family Income and Composition: Delayed Annual Examinations	<u>Statutory Authority</u> Section 3(a)(1)  <u>Regulatory Authority</u> §§ 982.516(a)(1), 960.257(a)	<ul style="list-style-type: none"> <li>· Permits the PHA to delay the annual reexamination of income and family composition</li> <li>· HCV PHAs must implement HCV-7 for impacted families if they implement this waiver</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul> All reexams due in CY20 must be completed by 12/31/20. Reexams due between 1/1/21 and 6/30/21 would need to be completed by 6/30/21.	YES	November 30, 2020

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
(Refer back to the Notice using the item code for a full description and more detailed information.)**

Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
PH and HCV-3 Family Income and Composition: Annual Examination; Income Verification Requirements	<u>Regulatory Authority</u> §§ 5.233(a)(2), 960.259(c), 982.516(a)  <u>Sub-regulatory Guidance</u> Notice PIH 2018-18	<ul style="list-style-type: none"> <li>· Waives the requirements to use the income hierarchy, including the use of EIV, and will allow PHAs to consider self-certification as the highest form of income verification</li> <li>· PHAs that implement this waiver will be responsible for addressing material income discrepancies that may arise later</li> </ul>	· 6/30/21	YES	April 20, 2020
PH and HCV-4 Family Income and Composition: Interim Examinations	<u>Statutory Authority</u> Section 3(a)(1)  <u>Regulatory Authority</u> §§ 5.233(a)(2), 982.516(c)(2), 960.257(a), (b) and (d), 960.259(c)  <u>Sub-regulatory Guidance</u> Notice PIH 2018-18	<ul style="list-style-type: none"> <li>· Waives the requirement to use the income verification requirements, including the use of EIV, for interim reexaminations</li> </ul>	· 6/30/21	YES	April 20, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
PH and HCV-5 Enterprise Income Verification (EIV) Monitoring	<u>Regulatory Authority</u> § 5.233  <u>Sub-regulatory Guidance</u> Notice PIH 2018-18	<ul style="list-style-type: none"> <li>· Waives the mandatory EIV monitoring requirements</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	April 20, 2020
PH and HCV-6 Family Self-Sufficiency (FSS) Contract of Participation: Contract Extension	<u>Regulatory Authority</u> § 984.303(d)	<ul style="list-style-type: none"> <li>· Provides for extensions to FSS contract of participation</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	April 20, 2020
PH and HCV-7 Waiting List: Opening and Closing; Public Notice	<u>Regulatory Authority</u> § 982.206(a)(2)  <u>Sub-regulatory Guidance</u> Notice PIH 2012-34	<ul style="list-style-type: none"> <li>· Waives public notice requirements for opening and closing waiting list</li> <li>· Requires alternative process</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	NO	N/A
HQS-1 Initial Inspection Requirements	<u>Statutory Authority</u> Section 8(o)(8)(A)(i), Section 8(o)(8)(C)	<ul style="list-style-type: none"> <li>· Changes initial inspection requirements, allowing for owner certification that there are no life-threatening deficiencies</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	April 20, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
	<u>Regulatory Authority</u> §§ 982.305(a), 982.305(b), 982.405	<ul style="list-style-type: none"> <li>· Where self-certification was used, PHA must inspect the unit no later than 1-year anniversary of date of owner’s certification</li> <li>· Will include reminder that HQS waiver does not include a waiver of 24 CFR 35.15, visual assessment for deteriorated paint</li> </ul>	<ul style="list-style-type: none"> <li>· 1-year anniversary of date of owner’s certification</li> </ul>		
HQS-2: Project-Based Voucher (PBV) Pre-HAP Contract Inspections: PHA Acceptance of Completed Units	<u>Statutory Authority:</u> Section 8(o)(8)(A)  <u>Regulatory Authority:</u> §§ 983.103(b), 983.156(a)(1)	<ul style="list-style-type: none"> <li>· Changes inspection requirements, allowing for owner certification that there are no life-threatening deficiencies</li> <li>· Where self-certification was used, PHA must inspect the unit no later than 1-year anniversary of date of owner’s certification</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> <li>· 1-year anniversary of date of owner’s certification</li> </ul>	NO	N/A

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
HQS-3 Initial Inspection: Non-Life-Threatening Deficiencies (NLT) Option	<u>Statutory Authority</u> Section 8(o)(8)(A)(ii)  <u>Sub-regulatory Guidance</u> HOTMA HCV Federal Register Notice January 18, 2017	<ul style="list-style-type: none"> <li>✓ Allows for extension of up to 30 days for owner repairs of non-life threatening conditions</li> </ul>	<ul style="list-style-type: none"> <li>✓ 6/30/21</li> </ul>	YES	April 20, 2020
HQS-4 HQS Initial Inspection Requirement: Alternative Inspection Option	<u>Statutory Authority</u> Section 8(o)(8)(A)(iii)  <u>Sub-regulatory Guidance</u> HOTMA HCV Federal Register Notice January 18, 2017	<ul style="list-style-type: none"> <li>✓ Under Initial HQS Alternative Inspection Option - allows for commencement of assistance payments based on owner certification there are no life-threatening deficiencies</li> <li>✓ Where self-certification was used, PHA must inspect the unit no later than 1-year anniversary of date of owner's certification</li> </ul>	<ul style="list-style-type: none"> <li>✓ 6/30/21</li> <li>✓ 1-year anniversary of date of owner's certification</li> </ul>	YES	April 20, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
HQS-5 HQS Inspection Requirement: Biennial Inspections	<u>Statutory Authority</u> Section 8(o)(D)  <u>Regulatory Authority</u> §§ 982.405(a), 983.103(d)	<ul style="list-style-type: none"> <li>· Allows for delay in biennial inspections</li> <li>· PHAs must require owner certification there are no life-threatening deficiencies</li> <li>· All delayed biennial inspections must resume by 6/30/21 and be completed by 12/31/21</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> <li>· 12/31/21</li> </ul>	YES	April 20, 2020
HQS-6 HQS Interim Inspections	<u>Statutory Authority</u> Section 8(o)(8)(F)  <u>Regulatory Authority</u> §§ 982.405(g), 983.103(e)	<ul style="list-style-type: none"> <li>· Waives the requirement for the PHA to conduct interim inspection and requires alternative method</li> <li>· Allows for repairs to be verified by alternative methods</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	NO	N/A
HQS-7 PBV Turnover Unit Inspections	<u>Regulatory Authority</u> § 983.103(c)	<ul style="list-style-type: none"> <li>· Allows PBV turnover units to be filled based on owner certification there are no life-threatening deficiencies</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	April 20, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
		<ul style="list-style-type: none"> <li>· Allows for delayed full HQS inspection NLT than 1-year anniversary of date of owner's certification</li> </ul>	<ul style="list-style-type: none"> <li>· 1-year anniversary of date of owner's certification</li> </ul>		
<p>HQS-8: PBV HAP Contract: HQS Inspections to Add or Substitute Units</p>	<p><u>Statutory Authority</u> Section 8(o)(8)(A)</p> <p><u>Regulatory Authority</u> §§ 983.207(a), 983.207(b)</p> <p><u>Sub-regulatory Guidance</u> HOTMA HCV Federal Register Notice January 18, 2017</p>	<ul style="list-style-type: none"> <li>· Allows for PBV units to be added or substituted in the HAP contract based on owner certification there are no life-threatening deficiencies</li> <li>· Allows for delayed full HQS inspection NLT 1-year anniversary of date of owner's certification</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> <li>· 1-year anniversary of date of owner's certification</li> </ul>	<p>NO</p>	<p>N/A</p>
<p>HQS-9 HQS Quality Control Inspections</p>	<p><u>Regulatory Authority</u> §§ 982.405(b), 983.103(e)(3)</p>	<ul style="list-style-type: none"> <li>· Provides for a suspension of the requirement for QC sampling inspections</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	<p>YES</p>	<p>April 20, 2020</p>

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
HQS-10 Housing Quality Standards: Space and Security	<u>Regulatory Authority</u> § 982.401(d)	<ul style="list-style-type: none"> <li>· Waives the requirement that each dwelling unit have at least 1 bedroom or living/sleeping room for each 2 persons.</li> </ul>	Remains in effect one year from lease term or date of this Notice, whichever is longer	NO	N/A
HQS-11 Homeownership Option: Initial HQS Inspection	<u>Statutory Authority</u> Section 8(o)(8)(A)(i), Section 8(y)(3)(B) <u>Regulatory Authority</u> § 982.631(a)	<ul style="list-style-type: none"> <li>· Waives the requirement to perform an initial HQS inspection in order to begin making homeownership assistance payments</li> <li>· Requires family to obtain independent professional inspection</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	April 20, 2020
HCV-1 Administrative Plan	<u>Regulatory Authority</u> § 982.54(a)	<ul style="list-style-type: none"> <li>· Establishes an alternative requirement that policies may be adopted without board approval until 3/31/21</li> <li>· Any provisions adopted informally must be adopted formally by 6/30/21</li> </ul>	<ul style="list-style-type: none"> <li>· 3/31/21</li> <li>· 6/30/21</li> </ul>	YES	April 20, 2020



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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
HCV-2 Information When Family is Selected: PHA Oral Briefing	<u>Regulatory Authority</u> §§ 982.301(a)(1), 983.252(a)	<ul style="list-style-type: none"> <li>· Waives the requirement for an oral briefing</li> <li>· Provides for alternative methods to conduct required voucher briefing</li> </ul>	· 6/30/21	YES	April 20, 2020
HCV-3 Term of Voucher: Extensions of Term	<u>Regulatory Authority</u> § 982.303(b)(1)	<ul style="list-style-type: none"> <li>· Allows PHAs to provide voucher extensions regardless of current PHA policy</li> </ul>	· 6/30/21	YES	April 20, 2020
HCV-4 PHA Approval of Assisted Tenancy: When HAP Contract is Executed	<u>Regulatory Authority</u> § 982.305(c)	<ul style="list-style-type: none"> <li>· Provides for HAP payments for contracts not executed within 60 days</li> <li>· PHA must not pay HAP to owner until HAP contract is executed</li> </ul>	· 6/30/21	YES	April 20, 2020
HCV-5 Absence from Unit	<u>Regulatory Authority</u> § 982.312	<ul style="list-style-type: none"> <li>· Allows for PHA discretion on absences from units longer than 180 days</li> <li>· PHAs must not make HAP payments beyond</li> </ul>	· 6/30/21	YES	April 20, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
		12/31/20 for units vacant more than 180 consecutive days			
HCV-6 Automatic Termination of HAP Contract	<u>Regulatory Authority § 982.455</u>	· Allows PHA to extend the period of time after the last HAP payment is made before the HAP contract terminates automatically.	· 6/30/21	YES	April 20, 2020
HCV-7 Increase in Payment Standard During HAP Contract Term	<u>Regulatory Authority § 982.505(c)(4)</u>	· Provides PHAs with the option to increase the payment standard for the family at any time after the effective date of the increase, rather than waiting for the next regular reexamination.	· 6/30/21	NO	N/A
HCV-8 Utility Allowance Schedule: Required Review and Revision	<u>Regulatory Authority § 982.517</u>	· Provides for delay in updating utility allowance schedule	· 6/30/21	NO	N/A

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
HCV-9 Homeownership Option: Homeownership Counseling	<u>Statutory Authority</u> Section 8(y)(1)(D)  <u>Regulatory Authority</u> §§ 982.630, 982.636(d)	· Waives the requirement for the family to obtain pre-assistance counseling	· 6/30/21	NO	N/A
HCV-10 Family Unification Program (FUP): FUP Youth Age Eligibility to Enter HAP Contract	<u>Statutory Authority</u> Section 8(x)(2)	· Allows PHAs to increase age to 26 for foster youth initial lease up	· 6/30/21	NO	N/A
HCV-11 Family Unification Program (FUP): Length of Assistance for Youth	<u>Statutory Authority</u> Section 8(x)(2)	· Allows PHAs to suspend terminations of assistance for FUP youth who will reach the 36-month limit between April 10, 2020, and December 31, 2020	· 6/30/21	NO	N/A
HCV-12 Family Unification Program (FUP): Timeframe for Referral	<u>Statutory Authority</u> Section 8(x)(2)	· Allows PHAs to accept referrals of otherwise eligible youth who will leave foster care within 120 days	· 6/30/21	YES	July 2, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
HCV-13 Homeownership: Maximum Term of Assistance	<u>Regulatory Authority</u> § 982.634(a)	<ul style="list-style-type: none"> <li>• Allows a PHA to extend homeownership assistance for up to 1 additional year</li> </ul>	<ul style="list-style-type: none"> <li>• 6/30/21</li> </ul>	NO	N/A
HCV-14 Mandatory Removal of Unit from PBV HAP Contract	<u>Regulatory Authority</u> §§ 983.211(a); 983.258	<ul style="list-style-type: none"> <li>• Allows a PHA to keep a PBV unit under contract for a period of time that extends beyond 180 from the last HAP but does not extend beyond December 31, 2020</li> </ul>	<ul style="list-style-type: none"> <li>• 6/30/21</li> </ul>	YES	April 20, 2020
PH-1 Fiscal Closeout of Capital Grant Funds	<u>Regulatory Authority</u> § 905.322(b)	<ul style="list-style-type: none"> <li>• Extension of deadlines for ADCC and AMCC</li> </ul>	Varies by PHA	YES	April 20, 2020
PH-2 Total Development Costs	<u>Regulatory Authority</u> § 905.314(c) - (d)	<ul style="list-style-type: none"> <li>• Waives the TDC and HCC limits permitting approval of amounts in excess of published TDC by 25% to 50% on a case by case basis</li> </ul>	Applies to development proposals submitted to HUD no later than December 31, 2021	NO	N/A

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
PH-3 Cost and Other Limitations: Types of Labor	<u>Regulatory Authority</u> § 905.314(j)	<ul style="list-style-type: none"> <li>· Allows for the use of force account labor for modernization activities in certain circumstances</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	NO	N/A
PH-4 ACOP: Adoption of Tenant Selection Policies	<u>Regulatory Authority</u> § 960.202(c)(1)	<ul style="list-style-type: none"> <li>· Establishes an alternative requirement that policies may be adopted without board approval until 3/31/21</li> <li>· Any provisions adopted informally must be adopted formally by 6/30/21</li> </ul>	<ul style="list-style-type: none"> <li>· 3/31/21</li> <li>· 6/30/21</li> </ul>	YES	April 20, 2020
PH-5 Community Service and Self-Sufficiency Requirement (CSSR)	<u>Statutory Authority</u> Section 12(c)  <u>Regulatory Authority</u> §§ 960.603(a) and 960.603(b)	<ul style="list-style-type: none"> <li>· Temporarily suspends CSSR</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	April 20, 2020
PH-6 Energy Audits	<u>Regulatory Authority</u> § 965.302	<ul style="list-style-type: none"> <li>· Allows for delay in due dates of energy audits</li> </ul>	<ul style="list-style-type: none"> <li>· 12/31/21</li> </ul>	YES	April 20, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
PH-7 Over-Income Families	<u>Statutory Authority</u> Section 16(a)(5)  <u>Sub-regulatory Guidance</u> Housing Opportunity Through Modernization Act of 2016: Final Implementation of the Public Housing Income Limit 83 FR 35490, Notice PIH 2019-11	<ul style="list-style-type: none"> <li>Changes to timeframes for determination of over-income when a delay in the annual reexamination occurs as a result of adoption of waiver PH and HCV-2</li> </ul>	<ul style="list-style-type: none"> <li>6/30/21</li> </ul>	YES	April 20, 2020
PH-8 Resident Council Elections	<u>Regulatory Authority</u> § 964.130(a)(1)	<ul style="list-style-type: none"> <li>Provides for delay in resident council elections</li> </ul>	<ul style="list-style-type: none"> <li>6/30/21</li> </ul>	NO	N/A
PH-9 Review and Revision of Utility Allowance	<u>Regulatory Authority</u> § 965.507	<ul style="list-style-type: none"> <li>Provides for delay in updating utility allowance schedule</li> </ul>	<ul style="list-style-type: none"> <li>6/30/21</li> </ul>	NO	N/A
PH-10 Tenant Notifications for Changes to Project Rules and Regulations	<u>Regulatory Authority</u> § 966.5	<ul style="list-style-type: none"> <li>Advance notice not required except for policies related to tenant charges</li> </ul>	<ul style="list-style-type: none"> <li>6/30/21</li> </ul>	YES	April 20, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
PH-11 Designated Housing Plan Renewals	<u>Statutory Authority</u> Section 7(f)	<ul style="list-style-type: none"> <li>• Extends the Plan’s effective period through June 30, 2021 for Plans due to expire between July 2, 2020 and June 30, 2021</li> </ul>	<ul style="list-style-type: none"> <li>• 6/30/21</li> </ul>	N/A	N/A
PH-12 Public Housing Agency Annual Self-Inspections	<u>Statutory Authority</u> Section 6(f)(3)  <u>Regulatory Authority</u> § 902.20(d)	<ul style="list-style-type: none"> <li>• Waives the requirement that the PHA must inspect each project</li> </ul>	<ul style="list-style-type: none"> <li>• 12/31/20</li> </ul>	YES	April 20, 2020
PH-13 Over-Income Limit: Termination Requirement	<u>Statutory Authority</u> Section 16(a) as amended by section 103 of HOTMA  Implementation Notice: Housing Opportunity Through Modernization Act of 2016: Final Implementation of Public Housing Income Limit, 83 Fed. Reg. 35,490 (July 26, 2018)	<ul style="list-style-type: none"> <li>• Waives the requirement that a family whose income has exceeded the over-income limit for the locality for two consecutive years be terminated within 6 months of the third income determination.</li> <li>• As an alternative requirement, over-income families will remain public housing</li> </ul>	<ul style="list-style-type: none"> <li>• 6/30/21</li> </ul>	YES	November 30, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
		households instead of being terminated and will be charged the applicable FMR as the family's monthly rental amount.			
PH-14 Annual Choice of Rent	<u>Statutory Authority:</u> 42 USC 1437a(a)(2)(A)  <u>Regulatory Authority</u> § 960.253	<ul style="list-style-type: none"> <li>· Allows families an additional opportunity to select an income-based or flat rent</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	November 30, 2020
11a PHAS	<u>Regulatory Authority</u> 24 CFR Part 902	<ul style="list-style-type: none"> <li>· Allows for alternatives related to inspections</li> <li>· PHA to retain prior year PHAS score unless requests otherwise</li> </ul>	HUD will resume issuing new PHAS scores starting with PHAs with FYE dates of 6/30/21	YES	November 30, 2020
11b SEMAP	<u>Regulatory Authority</u> 24 CFR Part 985	<ul style="list-style-type: none"> <li>· PHA to retain prior year SEMAP score unless requests otherwise</li> </ul>	HUD will resume issuing new SEMAP scores starting with PHAs with FYE dates of 06/30/21	YES	November 30, 2020



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11b-1 SEMAP	<u>Regulatory Authority</u> § 985.105(d)	<ul style="list-style-type: none"> <li>· Allows field offices to perform a remote SEMAP confirmatory review instead of an on-site confirmatory review before changing a PHA's rating from troubled to standard or high performer</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	November 30, 2020
11b-2 SEMAP	<u>Regulatory Authority</u> § 985.101(a)	<ul style="list-style-type: none"> <li>· Waives the requirement for PHAs to submit an annual SEMAP certification in PIC within 60 days of FYE during the period of time that HUD will roll forward prior year SEMAP scores</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>	YES	November 30, 2020
11c Uniform Financial Reporting Standards: Filing of Financial Reports; Reporting Compliance Dates	<u>Regulatory Authority</u> §§ 5.801(c), 5.801(d)(1)	<ul style="list-style-type: none"> <li>· Allows for extensions of financial reporting deadlines</li> </ul>	Varies by PHA FYE	YES	April 20, 2020

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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
12a PHA Reporting Requirements on HUD Form 50058	<u>Regulatory Authority</u> 24 CFR Part 908, § 982.158  <u>Sub-regulatory Guidance</u> Notice PIH 2011-65	<ul style="list-style-type: none"> <li>✓ Waives the requirement to submit 50058 within 60 days</li> <li>✓ Alternative requirement to submit within 90 days of the effective date of action</li> </ul>	<ul style="list-style-type: none"> <li>✓ 12/31/20</li> </ul>	NO	N/A
12b Designated Housing Plans: HUD 60-Day Notification	<u>Statutory Authority</u> Section 7(e)(1)	<ul style="list-style-type: none"> <li>✓ Allows for HUD to delay notification about designated housing plan</li> </ul>	<ul style="list-style-type: none"> <li>✓ 7/31/20</li> </ul>	N/A	N/A
12c Extension of Deadline for Programmatic Obligation and Expenditure of Capital Funds	<u>Statutory Authority</u> Section 9(j)  <u>Regulatory Authority</u> § 905.306(d)(5)	<ul style="list-style-type: none"> <li>✓ Provides an 18-month extension</li> </ul>	For all open Capital Fund grants, an 18-month extension from the obligation and expenditure end dates in LOCCS as of April 10, 2020	YES	April 20, 2020
12d Section 6(j) 1- and 2-Year Substantial Improvement	<u>Statutory Authority</u> Section 6(j)(3)(B)(ii)	<ul style="list-style-type: none"> <li>✓ For PHAs designated as troubled prior to the date of this Notice that have not received a PHAS</li> </ul>	The period of availability for this waiver and alternative	NO	N/A

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
Requirements	<u>Regulatory Authority</u> 24 CFR § 902.75(d)	assessment for the first full fiscal year after the initial notice of the troubled designation, HUD will: (1) evaluate the 1-year substantial improvement benchmark based on the first released score for fiscal years ending on or after June 30, 2022; and, (2) toll the evaluation of the 2-year recovery benchmark to the next sequential fiscal year	requirement: (1) is effective on the date of this Notice; and, (2) will continue through June 30, 2023, at which time HUD will reevaluate any additional impacts of this waiver on any PHA in the process of being evaluated.		
MR-1 Family Income and Composition: Delayed Annual Examination	<u>Statutory Authority</u> Section 3(a)(1)  <u>Regulatory Authority</u> 24 CFR § 882.515(a)	· Waives statutory and regulatory requirement to permit PHAs to delay annual reexaminations of Mod Rehab families	· 6/30/21		
MR-0 Family Income and Composition: Annual examination; Income	<u>Regulatory Authority:</u> §5.233(a)(2)  <u>Sub-regulatory Guidance</u>	· Waives the requirements to use the income hierarchy	· 6/30/21		

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Verification Requirements	Notice PIH 2018-18	described by Notice PIH 2018-18 and will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV, if the PHA wishes to conduct the annual reexam rather than delaying the family's annual reexam as permitted under MR-1			
MR-3 Family Income and Composition: Interim Examinations	<u>Statutory Authority</u> Section 3(a)(1)  <u>Regulatory Authority</u> 24 CFR §§ 5.233(a)(2), 882.515(b)  <u>Sub-regulatory Guidance</u> Notice PIH 2018-18	Waives requirements to use the income verification hierarchy as described by Notice PIH 2018-18. Allows PHAs to forgo third-party income verification	6/30/21		

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
		<ul style="list-style-type: none"> <li>requirements for interim reexams, including the required use of EIV</li> <li>· During the allowable period of eligibility, PHAs may consider self-certification as the highest form of income verification to process interim reexams</li> </ul>			
MR-4 Enterprise Income Verification (EIV) Monitoring	<u>Regulatory Authority</u> § 5.233  <u>Sub-regulatory Guidance</u> Notice PIH 2018-18	<ul style="list-style-type: none"> <li>· Waiving the mandatory EIV monitoring requirements.</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>		
MR-5 PHA Inspection Requirement: Annual Inspections	<u>Regulatory Authority</u> § 882.516(b)	<ul style="list-style-type: none"> <li>· Waives the annual inspection requirement and allows PHAs to delay annual inspections for Mod Rehab units</li> <li>· All delayed annual inspections must be</li> </ul>	<ul style="list-style-type: none"> <li>· 6/30/21</li> </ul>		

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
		completed as soon as reasonably possible but no later than one year after the date the annual inspection would have been required absent the waiver			
MR-6 Adjustment of Utility Allowance	<u>Regulatory Authority</u> § 882.510	· Waives the requirement to allow PHAs to delay the review and update of utility allowances	· 6/30/21		
MS-1 Mainstream Initial Lease Term	<u>Statutory Authority</u> Section 8(o)(7)(A)  <u>Regulatory Authority</u> § 982.309(a)(2)(ii)	· PHA may enter initial lease terms of less than one year regardless of whether the shorter lease term is a prevailing market practice	· 6/30/21		
MS-2 Mainstream Criminal Background Screening	<u>Statutory Authority</u> 42 U.S.C. 13663(a), 42 U.S.C. 13661	· PHAs may establish, as an alternative requirement, screening	· 6/30/21		

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
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Item	Statutory and regulatory waivers	Summary of alternative requirements	Availability Period Ends	Did the PHA implement the waiver or alternative requirement?	Date of PHA adoption.
	<u>Regulatory Authority</u> §§ CFR 5.856, 982.553(a)	requirements for applicants for Mainstream vouchers which are distinct from those in place for its HCV program in general			
MS-3 Mainstream Age Eligibility to Enter HAP Contract Statutory Authority	<u>Statutory Authority</u> 42 U.S.C. 8013(k)(2)	As an alternative requirement, the PHA may choose to expand the definition of an eligible non-elderly family member to include those who were issued a voucher prior to turning 62 and were not yet 63 on the effective date of the HAP Contract	6/30/21		

**Attachment II: Summary of IHBG and ICDBG Statutory and Regulatory Waivers and Alternative Requirements**

COVID-19 Statutory and Regulatory Waivers for ONAP programs		
Item	Statutory and Regulatory Waivers	Waiver/Alternative Requirement Summary
13a. Application Process for IHBG-CARES Grants and Indian Housing Plan (IHP) Requirements	Statutory Authority: Section 101(b), Section 102, and Section 103 of NAHASDA  Regulatory Authority: 24 C.F.R. §§ 1000.214; 1000.218;1000.220; 1000.224; 1000.226; 1000.228;1000.230; and 1000.232	<i>Abbreviated IHP to Receive IHBG-CARES Grant Funding:</i> Applicants for IHBG-CARES funding must submit an abbreviated IHP specifying how the funds will be used.
		<i>Recipients that did Not Submit an IHP in FY2020:</i> A Tribe or TDHE that did not submit a timely or compliant IHP in FY 2020 may still qualify for an IHBG-CARES grant.
		<i>IHP Certifications:</i> IHBG recipients that cannot provide HUD with IHP certifications may still submit an Abbreviated IHP provided an authorized official of the IHBG recipient provides a statement on inability to secure certifications.
		<i>Reprogramming of FY2020 IHBG Funding:</i> FY2020 IHBG funds may be reprogrammed to address COVID-19 through streamlined process.



**Attachment II: Summary of IHBG and ICDBG Statutory and Regulatory Waivers and Alternative Requirements**

13b. IHP Submission Deadline for Annual IHBG Formula Grants	Statutory Authority: Section 101(b) and 102(a) of NAHASDA,  Regulatory Authority: 24 CFR §§ 1000.214, 1000.216, 1000.225	IHP Submission Deadlines Extended	Original IHP Due Date	Extension
			1/17/2020	10/16/2020
			4/17/2020	10/16/2020
			7/18/2020	1/17/2021
13c. Annual Performance Report Submission Deadline	Statutory Authority: Sections 403 and 404 of NAHASDA, Regulatory Authority: 24 CFR § 1000.514	APR Submission Deadlines Extended	Original APR Due Date	Extension
			3/30/2020	9/27/2020
			6/29/2020	12/30/2020
			9/30/2020	12/30/2020
13d. Income Verification	Regulatory Authority: 24 CFR § 1000.128	IHBG recipients may deviate from their current written admissions and occupancy policies, including allowing less frequent income recertifications, remote income verification, and self-certification over the phone or email.		
13e. Public Health Services	Statutory Authority: Section 202(3) of NAHASDA	Recipients may use IHBG-CARES funding to carry out a wide range of public health services.		

**Attachment II: Summary of IHBG and ICDBG Statutory and Regulatory Waivers and Alternative Requirements**

<p>13f. COVID-19-Related Assistance to Non-Low Income and Non-Native Families</p>	<p>Statutory Authority: Section 201(b) of NAHASDA, Regulatory Authority: 24 CFR §§ 1000.104, 1000.106, 1000.108, 1000.110, 1000.312, 1000.314, 1000.318</p>	<p>Recipients may use IHBG-CARES funding to prevent, prepare for, and respond to COVID-19 through certain limited activities that provide assistance to all affected and threatened people without regard to income limits or Indian status.</p>
<p>13g. Useful Life</p>	<p>Statutory Authority: Section 205 of NAHASDA, Regulatory Authority: 24 CFR §§ 1000.141, 1000.142, 1000.143, 1000.144, 1000.146, 1000.147</p>	<p>If the assistance is related to inhibiting the spread of COVID-19 to low-income Indian families and the Tribal community, Recipients may use IHBG-CARES funding to assist housing units without determining and maintaining affordability during their useful life.</p>
<p>13h. Total Development Cost (TDC) Limits</p>	<p>Regulatory Authority: 24 CFR §§ 1000.156, 1000.158, 1000.160, 1000.162</p>	<p>Recipients may exceed TDC by 20 percent without HUD approval for dwelling and non-dwelling units developed, acquired or assisted to prevent, prepare for, and respond to COVID-19.</p>
<p>13i. Prohibition Against Investment of CARES Act Grant Funds</p>	<p>Statutory Authority: Section 204(b) of NAHASDA, Regulatory Authority: 24 CFR § 1000.58</p>	<p>Recipients are prohibited from investing any IHBG funding provided under the CARES Act.</p>

**Attachment II: Summary of IHBG and ICDBG Statutory and Regulatory Waivers and Alternative Requirements**

<p>13j. IHBG-CARES Funds Not Counted in Undisbursed Funds Factor</p>	<p>Regulatory Authority: 24 CFR § 1000.342</p>	<p>IHBG-CARES funds will not count towards an IHBG recipient’s prior years’ undisbursed funds when applying the Undisbursed Funds Factor under the IHBG formula.</p>
<p>14a. Citizen Participation</p>	<p>Statutory Authority: Section 104 of the Housing and Community Development Act of 1974 (HCD Act)  Regulatory Authority: 24 CFR § 1003.604</p>	<p>Indian tribes are not required to hold one or more meetings to obtain the views of residents before applying for ICDBG-CARES grant funding or amending their FY 2019/2020 ICDBG grants to address COVID-19.</p>
<p>14b. Application Process for ICDBG-CARES Grants and Funding Criteria  Regulatory Authority: 24 CFR §§ 1003.400, 1003.401, 1003.402; Section I.A.1.b. of FY19/20 ICDBG Notice of Funding Availability (NOFA)</p>	<p><i>1) Criteria for Funding:</i> With respect to applications for ICDBG-CARES grants and FY 2019/2020 ICDBG Imminent Threat grants to address the COVID-19 crisis, the urgency and immediacy of the threat will be presumed.</p>	
	<p><i>2) Grant Ceilings:</i> Current grant ceilings are waived for ICDBG-CARES and will be set in an ICDBG-CARES Implementation Notice to be published in the very near future.</p>	
	<p><i>3) Reimbursement of Costs and Letter to Proceed:</i> ICDBG applicants and grantees to receive ICDBG-CARES grants do not have to demonstrate other Tribal funding sources cannot be made available to alleviate the threat and may use the funding to cover or reimburse costs to prevent, prepare for, and respond to COVID-19 without a Letter to Proceed from the area ONAP.</p>	

**Attachment II: Summary of IHBG and ICDBG Statutory and Regulatory Waivers and Alternative Requirements**

<p>14c. Removal of Public Services 15 Percent Cap under FY 2019 and FY 2020 ICDBG Grants</p>	<p>Statutory Authority: Section 105 of the HCD Act; Regulatory Authority: 24 CFR § 1003.201(e); FY 19/20 ICDBG NOFA</p>	<p>4) <i>Availability of Funds:</i> If ICDBG-CARES grant funds are not awarded in a fiscal year, HUD reserves the right to adjust how funding is awarded to ensure needs of Tribes are met, including possibly setting aside a portion of funding to address the needs of Tribes with the greatest needs.</p> <p>HUD is eliminating the 15 percent cap on FY 2019/2020 ICDBG funding (both Single Purpose and Imminent Threat grants).</p>
<p>14d. Rental Assistance, Utility Assistance, Food, Clothing, and Other Emergency Assistance</p>	<p>Statutory Authority: Section 105 of the HCD Act; Regulatory Authority: 24 CFR § 1003.207(b)(4)</p>	<p>ICDBG grant funds may be used to provide emergency payments for low and moderate income individuals or families impacted by COVID-19 for items such as food, medicine, clothing, and other necessities, as well as utility payment assistance.</p>
<p>14e. Purchase of Equipment</p>	<p>Regulatory Authority: 24 CFR §§ 1003.207(b)(1); 1003.201(c)(1)(ii)</p>	<p>Grantees may use of ICDBG funds for the purchase of medical and personal protective equipment to prevent, prepare for, and respond to the COVID-19.</p>

**Attachment II: Summary of IHBG and ICDBG Statutory and Regulatory Waivers and Alternative Requirements**

<p>14f. Operating Expenses for Public Facilities</p>	<p>Regulatory Authority: 24 CFR § 1003.207(b)(2)</p>	<p>Grantees may use ICDBG funds to pay operating and maintenance expenses of any public facility, to the extent it is used for COVID-19-related purposes but not for staffing costs of public facilities.</p>
<p>14g. New Housing Construction by Tribes</p>	<p>Statutory Authority: Section 105 of the HCD Act, Regulatory Authority: 24 CFR § 1003.207(b)(3)</p>	<p>ICDBG grantees may use ICDBG funds to carry out new housing construction under certain conditions without having to use a CBDO.</p>