



MEMORANDUM

Date: May 19, 2020

To: Wallingford Housing Authority Board of Commissioners

From: Kelly McDermott, Executive Director

Re: Notice PIH 2020-05 – COVID-19 Statutory and Regulatory Waivers

This memo serves as a response to HUD’s PIH notice issued on April 10, 2020, providing Public Housing Authorities with waivers in reference to the COVID-19 pandemic.

PIH PURPOSE:

Pursuant to the authority provided under the Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-136), HUD is waiving and establishing 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.

These waivers provide administrative flexibilities and relief to public housing agencies (PHAs), Indian tribes, and tribally designated housing entities (TDHEs) in response to the COVID-19 national emergency. With respect to the Public Housing and HCV programs, use of these waivers 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.

PH and HCV-3: Family Income and Composition: Annual Examination - Income Verification requirements

Regulatory Authority: 24 CFR § 5.233(a)(2)
Sub-regulatory Guidance: PIH Notice 2018-18

Description: PHAs are required to use the Enterprise Income Verification (EIV) System for verification of family income at the annual examination. 24 CFR § 5.233(a)(2) requires PHAs to use EIV as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with §5.236 and administrative guidance issued by HUD. PIH Notice 2018-18 describes the required verification hierarchy process PHAs must follow. HUD understands that documentation may be difficult to obtain as a result of the COVID-19 public health emergency. PHAs are also

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Nicholas Lombardi, Chairman Robert G. Wiedenmann, Vice Chairman Frank Stellato, Commissioner
Jim Loughlin, Commissioner Geraldine Bronner, Tenant Commissioner



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 PIH Notice 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 when adopting these flexibilities.

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

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

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

WHA Response:

WHA will utilize this waiver and accept self-certification to support income changes and will review EIV at the next regular re-certification. If families are able to provide third party documentation that will accepted, MHA will not request documentation that may require the family to break shelter in place orders and potentially expose themselves to COVID-19.

the interim determination within a reasonable time after the family's request. In most cases, the reason a family requests an interim determination is due to a loss in income or a change in family composition.

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

To assist PHAs that may be prioritizing the processing of interim reexaminations due to decreases in family income and mitigate the challenges of transferring documentation during

periods of shelter-in-place/stay-at-home efforts in response to the COVID-19 emergency, HUD is waiving the requirements to use the income verification hierarchy as described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for interim reexaminations, including the required use of EIV. During the allowable period of eligibility, PHAs may consider self-certification as the highest form of income verification to process interim reexaminations. This may occur over the telephone (with a contemporaneous written record by the PHA staff person), through an email with a self-certification form by the family, or through other electronic communications.

As noted in the previous waiver description, there is no HUD requirement that income and family composition examinations and recertifications must be conducted in-person unless it may be necessary as a reasonable accommodation for a person with a disability as long as applicable public health guidelines are followed (e.g., social distancing) and any local and state ordinances is followed.

PHAs that conduct interim reexaminations under this waiver/alternative requirement will be responsible for addressing any material discrepancies that may arise later. For example, if a tenant self-certified that the tenant lost their job, but later the EIV IVT Report shows the tenant's employment continued, the PHA must take enforcement action that is consistent with its policies and procedures.

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 July 31, 2020.

WHA Response:

WHA will utilize this waiver and will accept self-certification of income changes if necessary. Families will be notified that the provided information will be verified at the next recertification. WHA will make all interim income decreases effective the month it is reported, this is temporary change to the Admin Plan through July 31, 2020 to assist households with decreased income.

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

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

Sub-regulatory Guidance: PIH Notice 2012-34

Description: The regulation provides 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. Recognizing the foreseeable difficulties in complying with this requirement in light of the COVID-19 emergency, 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. 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 July 31, 2020.

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 October 31, 2020.

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

Period of Availability: The period of availability for PHAs to accept owner’s self-certification for an initial inspection ends on July 31, 2020. The period of availability for the PHA to inspect a unit that was placed under HAP contract based on the owner’s self-certification ends on October 31, 2020.

WHA Response:

WHA will not utilize this waiver and will continue to conduct initial inspections during this period as units are vacant. However, in the event that a unit is occupied and needs to have an initial inspection and WHA will conduct an inspection prior to October 31, 2020.

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 (Jan. 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.

WHA Response:

WHA will utilize this waiver and adopt the Non-Life Threatening Deficiencies (NLT) according to Housing Opportunity Thorough Modernization Act (HOTMA) of 2016. WHA will conduct initial inspections and allow commencement of the HAP payment for the subject property. WHA will allow one 30 day extension for NLT deficiencies, owner must request the 30 day extension prior to the end of initial 30 day correction period.

The period of availability for approve an extension ends on July 31, 2020. The extension to make the NLT repairs may extend beyond July 31, 2020, depending on the date the PHA approved the extension.

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 July 31, 2020. After July 31, 2020, 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.

WHA Response:

If/When an HQS deficiency is reported to WHA, we will promptly notify the owner of the reported deficiency and the required remedy date. WHA will supply the owner with a self-certification form that will require both the owner and participant's signature in order for the deficiency to be considered remedied. Pursuant to PIH 2020-05 WHA will conduct a physical inspection no later than October 31, 2020.

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)

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

WHA Response:

If/When a PBV contract has a unit addition/substitution, WHA may allow the unit to be filled without conducting an initial inspection and instead utilize an owner's certification that no life threatening conditions exist in the unit. WHA will provide the owner with the self-certification form and follow up with the tenant within 30-days of move-in to confirm no deficiencies exist. Pursuant to PIH 2020-05 MHA will conduct a physical inspection no later than October 31, 2020.

HQS-9: HQS Quality Control Inspections

Regulatory Authority: 24 CFR § 982.405(b)

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 October 31, 2020.

WHA Response:

WHA will resume conducting Quality Control Inspections no later than October 31, 2020.

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 foreseeable difficulties in complying with this requirement in light of the COVID-19 emergency, HUD is waiving the requirement to allow the PHA administrative plan to be revised on a temporary basis without Board approval. As an alternative requirement any informally adopted revisions under this waiver authority must be formally adopted as soon as practicable following June 30, 2020, but no later than July 31, 2020.

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

WHA Response:

When/if WHA does a revision of the Admin Plan, we will make available to the public for review and seek board approval no later than July 31, 2020. Currently we will adopt the draft interim policy allowing for only earned income to be reported in between annual re-certifications.

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

Regulatory Authority: 24 CFR § 982.301(a)(3), § 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 July 31, 2020.

WHA Response:

If/When WHA has a new applicant, moving family, or porting family, we will conduct the briefing via email, mail, Zoom and telephone depending on the needs of the family.

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 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 July 31, 2020.

WHA Response:

WHA will grant extensions to voucher holders searching that have been impacted by the extenuating circumstances related to COVID-19.

HCV-5: Absence from unit

Regulatory Authority: 24 984.312

Description: Allow for PHA discretion on absences from units longer than 180 day. PHA must not make HAP payment beyond December 31, 2020 for units vacant more than 180 consecutive days.

WHA Response:

WHA will allow for more 180 days absence for the unit and will stop any HAP payments for a vacant unit by December 31, 2020.

HCV-7: Increase in Payment Standard

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 HAP payment for the family beginning on the effective date of the family's first regular re-examinations 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.

WHA Response:

WHA will use the new payment standard at the interim.

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 December 31, 2020.

WHA Response:

WHA will update the HCV utility schedule no later than December 31, 2020.

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 the end of 2020.

WHA Response:

WHA will update the PH utility schedule no later than December 31, 2020.

SEMAP

Regulatory Authority: 24 CFR Part 985

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 a that 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 March 31, 2021.

WHA Response:

WHA will not submit a SEMAP report for FY 2020 and instead will have the previous score carried over.

11c: Financial Reporting

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:

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