

9/29/2020

**PUBLIC HOUSING ADMISSIONS AND CONTINUED OCCUPANCY POLICY (ACOP)
TEMPORARY ADDENDUM DOCUMENT**

INTRODUCTION

On April 10, 2020, HUD issued Notice PIH 2020-05. Pursuant to the authority provided under the Coronavirus Aid, Relief and Economic Security (CARES) Act, HUD is waiving and establishing alternative requirements for numerous statutory and regulatory requirements for the Public Housing Program. These waivers provide administrative flexibilities and relief to and relief to public housing agencies (PHAs), in response to the COVID-19 national emergency. Use of these waivers is at the discretion of the PHA. On July 2, 2020, HUD issued Notice PIH 2020-13, a revision to 2020-05, restating the waivers and alternative requirements, extending the period of availability for previously established waivers and alternative requirements, and issuing technical amendments to several of the previously established waivers and alternative requirements.

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).

HUD has allowed PHAs to revise its Public Housing ACOP on a temporary basis without Board Approval with the understanding that said revisions must be formally adopted no later than December 31, 2020. This document, with Board approval, contains the PHA's policies for implementation. The PHA must also evaluate whether adoption of any of the temporary policies would constitute a significant amendment to its annual plan, and must revise the annual plan if necessary.

The temporary provisions that this PHA is adopting are as follows:

1. Family Income and Composition: Delayed Annual Examination
2. Family Income and Composition: Annual Examination-Income Verification Requirements
3. Family Income and Composition: Interim Examinations
4. Enterprise Income Verification (EIV) Monitoring
5. Community Service and Self-Sufficiency Requirement (CSSR)
6. Over-Income Families
7. Review and Revision of Utility Allowances
8. Tenant Notifications for Changes to Project Rules and Regulations
9. Public Housing Agency Annual Self-Inspections

1. 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 emergency, HUD is waiving this statutory and regulatory requirement to permit PHAs to delay annual reexaminations of HCV and public housing families.

Period of Availability: All annual recertifications due in Calendar Year (CY) 2020 must be completed by December 31, 2020.

PHA Policy:

The PHA will implement this policy

2. 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: PIH Notice 2018-18

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

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 December 31, 2020.

PHA Policy:

The PHA will implement this policy

3. PH AND HCV-4: FAMILY INCOME AND COMPOSITION: INTERIM EXAMINATIONS

Statutory Authority: Section 3(a)(l) 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: PIH Notice 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. 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 pandemic, 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. 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 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 December 31, 2020.

PHA Policy:
The PHA will implement this policy.

4. PH AND HCV-5: ENTERPRISE INCOME VERIFICATION (EIV) MONITORING

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

Sub-regulatory Guidance: PIH Notice 2018-18

Description: PIH Notice 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 December 31, 2020.

PHA Policy:
The PHA will implement this policy.

5. 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 March 31, 2021.

PHA Policy:

The PHA will implement this policy

6. 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 December 31, 2020.

PHA Policy:

The PHA will implement this policy.

7. 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 December 31, 2020.

PHA Policy:

The PHA will implement this policy

8. 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 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.

PHA Policy:

The PHA will implement this policy