

CARES Act Waivers for PIH Programs

Overview of Notice PIH 2020-05


April 2020

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**CARES Act Waivers for PIH Programs:
Overview of Notice PIH 2020-05**


Samantha Sowards

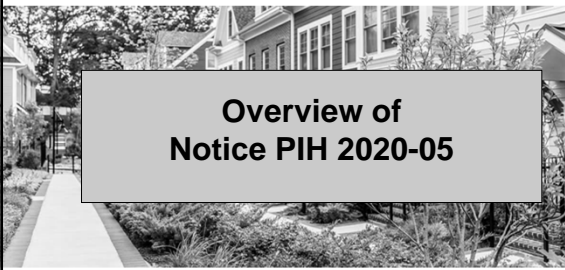


Nan McKay
AND ASSOCIATES, INC.
Experience — Leadership — Collaboration


**COVID-19 Information and
Resources**

- HUD has launched a webpage dedicated to its COVID-19 response
 - <https://www.hud.gov/coronavirus>
- Contains statements from various branches of HUD, fact sheets, FAQs, and other relevant information by HUD office and user role
 - Includes FAQs for PHAs and FAQs for specific PIH programs
- New FAQs should be issued this week





**Overview of
Notice PIH 2020-05**



Notice PIH 2020-05

- CARES Act gave PIH broad waiver authority
- HUD issued Notice PIH 2020-05 on April 10, 2020
- HUD is waiving and establishing alternative requirements for certain statutory and regulatory requirements
- PHAs may continue requesting regulatory waivers in accordance with PIH 2018-16 for items not covered in this notice
 - May not implement these until approved by HUD



Applicable Programs

- Public housing;
- Housing Choice Voucher (HCV);
 - Including special purpose vouchers
- Project Based Voucher (PBV);
- Indian housing programs



Effective Date

- Effective immediately
- May implement at any point during the applicability period



Applicability Period

- Short-term waivers provide essential flexibility when normal operations are severely disrupted
 - Generally expires July 31, 2020
- Long-term waivers allow PHAs to defer important but less critical functions
 - Generally expire December 31, 2020
- HUD may extend applicability period
- PHAs not required to keep the waiver in place for the entire period



Use of Waivers

- Implementation of waivers is optional
 - May implement some, all, or none of the waivers
 - If waiver provides an alternative requirement, must comply with terms and conditions of alternative requirement
 - Some are a minimum threshold vs some that are mandatory
- HUD notification/approval NOT required




Documentation

- Must keep written documentation that records :
 - Which waivers the PHA has applied to their programs
 - Effective dates
- Suggested format attached to the notice




Notification

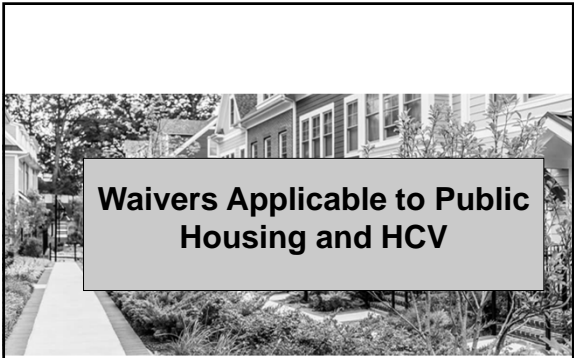
- If PHA applies any waivers, must notify participants and owners (where applicable) as soon as practicable of:
 - “Any impacts that the waiver and alternative requirements (where applicable) may have on them”
- By “whatever means is considered most effective”




Example

- Initially provide notification on the PHA’s website and as a voicemail message on main or general information phone
- Follow up with a formal written notice as circumstances allow
 - Must ensure effective communication to persons with disabilities and ensure meaningful access to LEP individuals






Waivers Applicable to Public Housing and HCV




PHA Policies

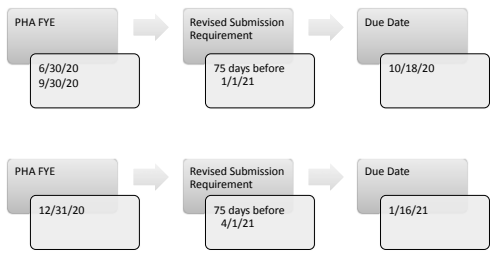
- Administrative plans and ACOPs may be revised on a temporary basis without Board approval
- Informally adopted revisions under this waiver must be formally adopted as soon as practicable following June 30, 2020
 - No later than July 31, 2020




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



5-Year and Annual Plans




- Does not apply to PHAs with FYE 3/31



**Significant Amendments
Requirement**

- Modifications to the Annual Plan may not be adopted until:
 - The PHA has called a board meeting that's open to the public; and
 - The modification is provided to and approved by HUD



**Significant Amendment
Alternative Requirement**

- Any change to PHA policy that would normally trigger significant amendment requirements may be implemented without triggering this process
 - Except for Section 18, Section 22, or RAD
- Must notify families of any impacts the significant amendment may have on them
 - By whatever means is most effective as soon as practicable
- Availability: Until July 31, 2020



Family Income and Composition



Excluded Income

- In an email dated 4/17/20, HUD confirmed that the \$600 temporary unemployment benefits are excluded
- HUD's COVID-19 FAQs for PHAs dated 3/31/20 state that the one-time stimulus payments are also excluded from annual income



**Family Income and
Composition**

Annual Reexams




Two Options for Annuals

- Delay annual reexams
 - Must be completed by 12/31/20
- Continue to conduct reexams but use streamlined income verifications




Income Verification Requirements Alternatives

- Requirement to follow the verification hierarchy is waived
 - PHAs may forgo third-party income verification for annuals, including use of EIV
- PHAs may consider self-certification the highest form of income verification for annuals
 - Examples: Over the phone (must be documented with a contemporaneous written record), through email, through postal mail with a self-certification form by the family, or other electronic communications




Income Verification Requirements Alternatives

- PHAs should remind families of their obligation to provide true and complete information
- No HUD requirement reexams be conducted in-person
 - Unless necessary as a reasonable accommodation
- PHA responsible for addressing discrepancies that may arise later
 - Example: IVT shows tenant kept working
- Availability: Ends July 31, 2020



Family Income and Composition

Interim Reexams



Interims

- HUD has not provided a waiver that would allow families to stop paying rent in PH or HCV
 - PHAs need procedures in place to allow for timely completion of interims for decreases in family income



**Interim Reexams
Requirements**

- PHAs must adopt policies about when and under what conditions a family reports changes in income or family composition
- At any time, the family may request an interim because of changes in income or family composition
 - PHA must make the determination within a reasonable time after the request




**Interim Reexams
Requirements**

- Use of EIV is required at mandatory reexams of family income and composition
- PHAs must follow the verification hierarchy listed in PIH 2018-18




Income Verification Requirements Alternatives

- Requirement to follow the verification hierarchy is waived
 - PHAs may forgo third-party income verification for interims, including use of EIV
- PHAs may consider self-certification the highest form of income verification for interims
 - Examples: Over the phone (must be documented with a contemporaneous written record), through email with a self-certification form by the family, or other electronic communications



Income Verification Requirements Alternatives

- No HUD requirement reexams be conducted in person
 - Unless necessary as a reasonable accommodation
- PHA responsible for addressing discrepancies that may arise later
 - Example: IVT shows tenant kept working
- PHA may review and adjust current interim reporting requirements
- Availability: Ends July 31, 2020



Enterprise Income Verification (EIV) Monitoring



EIV Monitoring

- Requirement
 - PHA must monitor EIV reports in accordance with PIH 2018-18
 - i.e. Deceased Tenant Report, Identity Verification Report, etc.
 - Availability: Ends July 31, 2020
- Alternative
 - HUD is waiving mandatory EIV monitoring requirements

Family Self-Sufficiency (FSS)


Contract of Participation
Extension



FSS Contract Extension

- Requirement
 - FSS contract of participation may be extended for a period not to exceed two years upon finding of "good cause"
 - Availability: Period of availability to extend the contract ends Dec 31, 2020
- Alternative
 - Circumstances around COVID-19 qualify as "good cause"

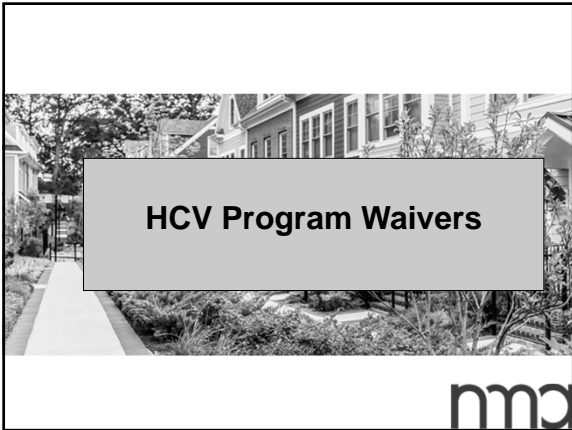
Waiting List Opening and Closing
Public Notice




Waiting List Public Notice

- Requirement
- When opening the waiting list, must give public notice by publication in a local newspaper of general circulation, minority media, and other suitable means
- Availability: Ends July 31, 2020


- Alternative
- PHA may provide public notice in a message on the main/general information phone number and through PHA's website
 - Must ensure effective communication for persons with disabilities and LEP persons



HCV Program Waivers



General HCV Program Waivers



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Information When Family is Selected

PHA Oral Briefing


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Oral Briefing

- Requirement
- When PHA selects a family for HCV or PBV, must conduct an oral briefing
- Availability: Ends July 31, 2020
- Alternative
- PHAs may conduct briefings by other means
 - Webcast, video call, or expanded information packet
 - Must ensure effective communication

Term of Voucher


Extensions of Term



Extensions of Term


- Requirement
- PHA may grant one or more extensions of the initial voucher term in accordance with the PHA's admin plan
- Alternative
- PHA may provide extensions even though it has been unable to formally amend PHA policy

▪ Availability: Ends July 31, 2020



PHA Approval of Assisted Tenancy


When HAP Contract is Executed




When Contract is Executed

- Requirement
- PHA may not make HAP payments until HAP contract is executed
- Must use best efforts to execute before lease starts
- Must be executed no later than 60 days from the beginning of the lease term—any HAP contract executed after that is void
- Availability: Ends July 31, 2020

- Alternative
- May execute a HAP contract after the 60-day deadline and pay HAP retroactive to the beginning of the lease term
- PHA and owner must execute the HAP contract no later than 120 days from the beginning of the lease term




Absence from Unit



Absence from Unit

- Requirement
- Family may not be absent from unit for more than 180 consecutive calendar days for any reason
- Availability: Ends December 31, 2020—May not make payments beyond that date, HAP contract will terminate if family is still absent

- Alternative
- PHA may continue HAP payments and not terminate the HAP contract due to extenuating circumstances
 - E.g., hospitalization, extended stays at nursing homes, caring for family members



Automatic Termination of HAP Contract



Automatic Termination

- Requirement
- When HCV family's income increases to extent that the HAP payment would be \$0, PHAs must terminate HAP contract 180 days after the last HAP payment to the owner
- Availability: Ends December 31, 2020


- Alternative
- Upon written notice to the owner and family, PHA may extend period of time following the last payment to the owner
- PHA determines length of extension
 - May not extend beyond December 31, 2020

Increase in Payment Standard under HAP Contract Term



Payment Standard Increase

- Requirement
- If payment standard is increased during the HAP contract term, increased amount applied at the effective date of the family's first regular reexam on or after the effective date
- Alternative
- May apply increased payment standard at any time (e.g., interim, owner rent increase) after the effective date of the increase
 - No later than the effective date of the family's first regular reexam following the change




Payment Standard Increase Alternatives

- If PHA has delayed the family's annual under the waiver described earlier
 - PHA must use the increased payment standard beginning the date the family's first regular reexam would have been effective in absence of the waiver; or
 - PHA may conduct an interim where the only change is the increased payment standard
- In either case, payment standard increase must be effective no later than the family's first regular reexam following the increase
- Availability: Ends December 31, 2020

Utility Allowance Schedule


Required Review and Revision



Review and Revision

- Requirement
- PHAs must review utility allowance schedule each year and revise if there has been a change of 10% or more in the rate since the last revision
- Availability: Any review and update of UAs that were due at some point in CY 2020 must be completed no later than December 31, 2020

- Alternative
- PHAs may delay the review and update of utility allowances




Homeownership Option

Homeownership Counseling



Homeownership Counseling Requirement


- To be eligible for homeownership assistance, family must participate in agency-provided counseling
- Before family can receive assistance, family must attend and satisfactorily complete PHA-required pre-assistance homeownership and housing counseling program
- Eligible family may move under portability and purchase a unit if RHA is administering a voucher homeownership program and accepting new homeownership families, but family must attend RHA's briefing and counseling sessions



**Homeownership Counseling
Alternative**


- PHA may permit the family to purchase the home without fulfilling the normally applicable pre-assistance homeownership counseling requirements

- Availability: Ends July 31, 2020



**Family Unification Program
(FUP)**


FUP Youth Age Eligibility to Enter
HAP Contract



FUP Youth Age

▪ Requirement	▪ Alternative
▪ FUP youth must be not more than 24 years of age (before their 25th birthday) to be eligible to be placed under HAP contract	▪ PHA may execute a HAP contract on behalf of any otherwise eligible FUP youth not more than 25 years of age (before their 26th birthday)

- Availability: Ends December 31, 2020



Housing Quality Standards (HQS)



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Overview

- PHAs who delay inspection under waivers must inspect units as soon as reasonably possible when it is again safe to do so
- Must complete all delayed unit inspections no later than the date specified in the notice
 - Or an extension provided by HUD
- If waivers are adopted, PHA retains the right to conduct an HQS inspection on any assisted unit at any time

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Overview

- Use of these waivers does not:
 - Relieve owners of their responsibilities under the HAP contract
 - Restrict the PHA from enforcing owner obligations under the HAP contract
 - Create any right of a third-party (like the family) to require enforcement by HUD or the PHA or make any claim against HUD or the PHA for damages, injunction or other relief for alleged failure to enforce HQS

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HQS Waivers

- PHA may enter into a HAP contract without conducting an inspection for:
 - Initial inspections in HCV
 - HOTMA use of alternative inspections in HCV and PBV
 - Pre-HAP contract inspections in PBV
 - Unit turnover inspections in PBV
 - Adding/substituting units in PBV




HQS Waivers

- PHA may rely on 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 a minimum, must require owner's certification but PHA may add additional requirements
- Must conduct the inspection as soon as reasonably possible
 - No later than October 31, 2020




Applicability

- Also applies to PHA-owned units if the independent entity is unable to perform inspections
- Period to accept owner self-certification ends July 31, 2020
- Period to inspect the unit ends October 31, 2020




Housing Quality Standards (HQS)

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




Initial Inspections - NTL Option Requirements

- Under HOTMA, PHA may approve assisted tenancy, execute a HAP contract, and pay HAP if a unit fails initial HQS inspection if there are no life-threatening conditions
- If NLT are not corrected within 30 days, PHA must withhold HAP



Initial Inspections - NTL Option Alternatives

- HUD waived requirement to withhold HAP if NLT repairs aren't made within 30 days
- PHA may provide an extension of up to an additional 30 days and continue to make payments
- After 30-day extension, PHA withholds HAP
- Available for both HCV and PBV and PHA-owned units



Initial Inspections - NTL Option Availability

- Period to approve additional extension ends July 31, 2020
 - Period to make repairs may extend further
- Period to inspect units placed under HAP contract under this provision ends October 31, 2020



Housing Quality Standards (HQS)

Biennial Inspections



Biennial Inspections

- Requirement
- PHA must inspect the unit not less than biennially during the term of the HAP contract
- Alternative
- PHA may delay biennial inspections for both PBV and HCV as well as PHA-owned units
- Must be completed no later than Oct 31, 2020


**Housing Quality Standards
(HQS)**

Interim Inspections




**Interim Inspections
Requirement**

- Upon notification by the family or government official that the unit does not comply with HQS, the PHA must inspect the unit within:
 - 24 hours if life-threatening
 - 15 days if the unit is NLT
- HUD may waive in the event of extraordinary circumstances




**Interim Inspections
Requirement**

- PHA is not required to conduct an on-site inspection to verify repairs have been made
- May rely on alternative verification methods
 - Photos submitted by owner
 - Tenant certification




**Interim Inspections
Alternative**

- If life-threatening
 - PHA must notify the owner who must either correct the deficiency within 24 hours or provide documentation deficiency does not exist
 - Text or email a photo to the PHA
- If non-life-threatening
 - PHA must notify the owner within 30 days and owner must either make the repair or document deficiency does not exist within 30 days of PHA notification or PHA-approved extension
- PHA may add other documentation requirements



**Interim Inspections
Availability**

- Applies to HCV, PBV, and PHA-owned units
- Ends July 31, 2020
 - After July 31, 2020, PHA must conduct the HQS inspection in accordance with applicable time periods



**Housing Quality Standards
(HQS)**

Quality Control Inspections



Quality Control Inspections

- Requirement
- PHA must conduct supervisory quality control inspections of a sampling of units under contract
- Availability: Period of availability ends October 31, 2020
- Alternative
- HUD is waiving this requirement

Housing Quality Standards (HQS)

Space and Security



Space and Security

- Requirement
- At least 1 bedroom or living/sleeping room for each 2 persons
- Applies to HCV and PBV
- Availability: Waiver in effect for the duration of the current lease term or one year from the date of this notice, whichever is longer
- Alternative
- Family may add member(s) as a result of COVID-19 even if the unit would not meet HQS space standards
- Does not apply to an initial or new lease
- Participant must not enter into a new lease for the unit

Housing Quality Standards (HQS)

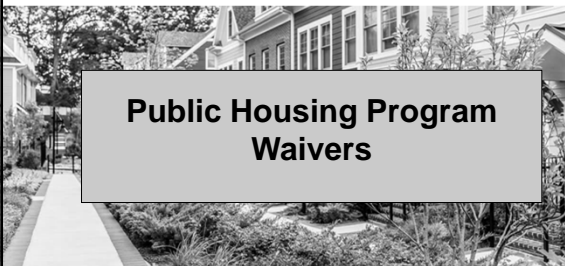
Homeownership Option
Initial HQS Inspection




Homeownership

- Requirement
- PHA may not commence monthly homeownership assistance payments until the PHA has inspected the unit and determined it passes HQS
- Alternative
- HUD is waiving this requirement
- Family still required to obtain an independent inspector and PHA is still required to review independent inspection and may disapprove the unit

▪ Availability: Ends July 31, 2020



Public Housing Program Waivers




Community Services and Self-Sufficiency Requirement (CSSR)




CSSR

- Requirement
- Non-exempt PH residents must contribute 8 hours per month of community service or participate in an economic self-sufficiency program, or a combination of both
 - Noncompliance is grounds for non-renewal of the lease at the end of lease term
- Availability: Ends March 31, 2021

- Alternative
- HUD is suspending the CSSR
- Tenants would not be subject to CSSR until their next annual
- At next annual, 50058 should show each individual's status as *exempt* (for exempt individuals) or *pending* (suspension prevents PHA from determining compliance)
 - After annual, CSSR becomes effective again for next cycle



Over-Income Families



Over-Income Families

- Requirement
- PHAs are required to terminate or charge an alternative rent to families whose income exceeds the maximum income level for 2 consecutive years
- Availability: Ends December 31, 2020
- Alternative
- If PHA adopts delayed annual waiver, family may remain in their unit and continue to pay the same rent until the PHA conducts the next annual that would impact the family



Fiscal Closeout of Capital Grant Funds



Cap Fund Fiscal Closeout

- Requirements
- Actual Development Cost Certificate (ADCC)
 - Submitted 12 months from the date of completion or HUD termination of a development activity
- Actual Modernization Cost Certificate (AMCC)
 - Submitted not later than 12 months from the activity's expenditure deadline
- Alternative
- HUD is extending the deadlines for an ADCC and AMCC that fell between March 1, 2020, and September 30, 2020, by six months




Total Development Costs




Total Development Costs Requirement

- PH regulations establish a maximum project cost representing the total amount of PH funds that can be used for development of a PH project
 - HUD publishes Total Development Cost (TDC) and Housing Construction Cost (HCC) limits periodically
- Limits may not be exceeded without a HUD-approved waiver or HUD-approved exception



Total Development Costs Alternative

- Amount of PH funds committed to development of a project may exceed applicable TDC and HCC limits by 25% without a waiver
- Amounts in excess of 25% and up to 50% may be approved by HUD program office on a case-by-case basis with sufficient justification



**Total Development Costs
Alternative**

- If a project still exceeds the limits after HUD-approved increase is taken into consideration, PHA may submit a request for an exception or request a waiver for other good cause



**Total Development Costs
Availability**

- Applies to PH development, mixed-finance development, and Choice Neighborhoods development—all other requirements of development still apply
- A complete development proposal must be submitted to HUD no later than December 31, 2021, for a project to be eligible for this waiver



Costs and Other Limitations


Types of Labor




Types of Labor

- Requirement
- Non-high performer PHAs may use force account labor for modernization only when the use of such has been included in a CFP 5-Year Action Plan approved by the board and HUD
- Availability: Ends December 31, 2020

- Alternative
- Non-high performer PHAs may use force account labor for modernization activities even if not included in the PHA's 5-Year Action Plan




Energy Audits



Energy Audits

- Requirement
- PHAs are required to complete an energy audit for each PHA-owned project not less than once every five years
- Availability: One year beyond the date of the energy audit deadline in 2020 for the impacted project

- Alternative
- HUD is suspending the performance of audits for one year for those that were due before December 31, 2020



Resident Council Elections




Resident Council Elections

- Requirement
- 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 council member
- Availability: Ends July 31, 2020

- Alternative
- PHAs may 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 July 31, 2020




Review and Revision of Utility Allowances



Utility Allowances

- Requirement
- PHA must review at least annually the basis on which UAs have been established and revise if required on the basis of that review
- Availability: Any review and update of UAs that were due sometime in CY 2020 must be completed by the end of 2020

- Alternative
- PHAs may delay the review and update of UAs




Tenant Notifications for Changes to Project Rules and Regulations

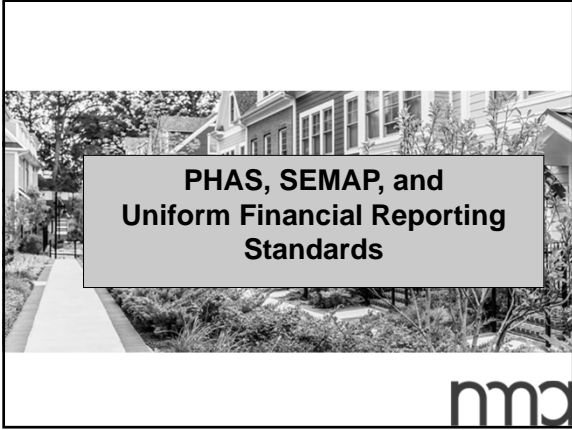


Notifications for Changes


- Requirement
- PHAs are required to provide 30-day notice to impacted families for changes to policies, rules, and special charges to families
- Availability: Ends July 31, 2020

- Alternative
- HUD is waiving the requirement for advanced notice
 - Except advance notice must be provided for changes related to tenant charges
- PHAs must still provide adequate notification to impacted families within 30 days of making such changes






**PHAS, SEMAP, and
Uniform Financial Reporting
Standards**




**PHAS & SEMAP
Alternatives**

- For PHAs with PHAS/SEMAP scores pending as of 4/10/20 or with FYE on or before December 31, 2020, HUD will:
 - Not issue a new PHAS/SEMAP score
 - Unless the PHA requests it
 - Carry forward the most recent PHAS/SEMAP score on record
- Availability: HUD will resume issuing new scores beginning with PHAs with FYE dates of March 31, 2021



**PHAS Physical Inspections
Alternatives**

- HUD is waiving the inspection requirement and alternatively postponing inspections for all PHAs until further notice
 - Except where it is a threat to life or property
 - HUD will primarily rely on residents' complaints and potentially other sources, such as news articles, Congressional inquiries, and FO requests to identify threat to life or property




Uniform Financial Reporting Standards

Filing of Financial Reports
Reporting Compliance Dates



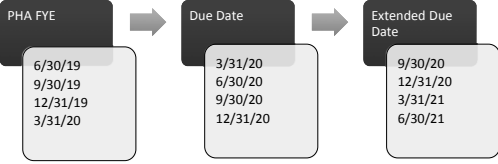
UFRS Reporting Requirements

- PHAs must 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
- PHAs must submit their:
 - Unaudited financial statements not later than 60 calendar days after the end of their fiscal year
 - Audited financial statements not later than 9 months after the end of their fiscal year




UFRS Reporting Alternatives

- Deadlines to submit audited financial information extended



PHA FYE	Due Date	Extended Due Date
6/30/19	3/31/20	9/30/20
9/30/19	6/30/20	12/31/20
12/31/19	9/30/20	3/31/21
3/31/20	12/31/20	6/30/21



UFRS Reporting Alternatives

- Deadlines to submit unaudited financial information extended

Category	Original Date	Extended Date
PHA FYE	12/31/19	3/31/20
Due Date	2/29/20	5/31/20
Extended Due Date	8/31/20	11/30/20

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Other Waivers and Administrative Relief


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PHA Reporting Requirements on HUD Form 50058

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50058 Reporting Requirements Requirements

- PHAs must submit 50058s no later than 60 calendar days from the effective date of any action recorded on line 2b
- HUD monitors the timeliness of reporting and may sanction a PHA for late reporting




50058 Reporting Requirements Alternatives

- HUD is waiving the 60-day deadline
 - PHAs must submit 50058s for transactions impacted by implemented waivers and alternative requirements within 90 days of the effective date of action
 - HUD encourages PHAs with operational capacity to do so to continue submitting 50058s within the normal 60-day timeframe



50058 Reporting Requirements Alternatives

- Waiver of 50058 submission requirements could impact PHA's ability to submit 50058 forms in PIC and potentially result in fatal errors
 - PIH will issue guidance and provide workarounds to avoid potential PIC issues



**50058 Reporting Requirements
Alternatives**

- PIH will not require PHAs that receive a fatal error during 50058 PIC submissions to resubmit, consistent with reporting provisions waiver
- PIH encourages PHAs to not resubmit these forms until after PIH issues revised guidance
- For PHAs that submit forms successfully in the interim period before the new reporting guidance is issued, PIH may require corrections and resubmission
- Availability: Ends Dec 31, 2020



Designated Housing Plans

HUD 60-Day Notification




60-Day Notification

- | | |
|---|--|
| ▪ Requirement | ▪ Alternative |
| ▪ HUD must 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 within 60 days the plan is considered accepted | ▪ HUD is waiving the 60-day notification requirement for those plans submitted after March 1, 2020 |
- Availability: Ends July 31, 2020, unless subsequently extended by HUD




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




**Extension of Deadline
Requirements**

- PHAs must 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 approved extension
- HUD may extend obligation time period as necessary if failure to obligate in a timely manner is due to event beyond PHA's control



**Extension of Deadline
Requirements**

- PHAs must expend Capital Funds not later than four years after the date on which the funds became available for obligation, plus the period of any approved extension
 - 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



**Extension of Deadline
Alternatives and Availability**

- HUD is extending both the obligation end date and the expenditure end date for all open Capital Fund grants by one year from the current obligation and expenditure end date
 - However, no programmatic expenditure end date will be extended beyond one month prior to the closure of the relevant appropriation account