



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 2020-05**

Issued: April 10, 2020

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amended, superseded or rescinded.

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

---

**SUBJECT:** COVID-19 Statutory and Regulatory Waivers for the Public Housing,  
Housing Choice Voucher, Indian Housing Block Grant and Indian Community  
Development Block Grant programs, Suspension of Public Housing Assessment  
System and Section Eight Management Assessment Program

**1. 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.

This notice also provides information on additional actions HUD is taking, including the temporary suspension of the Public Housing Assessment System (PHAS) and the Section Eight Management Assessment Program (SEMAP).

**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 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 current public health emergency, 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 issuance of this notice, HUD is exercising 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.

Note that the CARES Act also provides supplemental funding for the Public Housing and HCV programs as well as additional funding flexibilities with Operating and Capital funds for the Public Housing program. HUD will publish additional guidance describing the eligible uses of these additional funds, the allowable fungibility between the Operating and Capital Funds, and the process by which HUD will distribute the funds for the public housing and HCV program. HUD will also publish Implementation Notices in the very near future for both the IHBG and ICDBG programs funded under the CARES Act. These Notices will further describe eligible uses as well as the process by which HUD will distribute these funds.

### **3. CONTINUED OPERATIONS DURING THE COVID-19 NATIONAL EMERGENCY**

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 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 plans to continue to issue more waiver relief as the COVID-19 pandemic unfolds, 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 waivers and alternative requirements listed in this notice effective immediately for those PHAs that elect to adopt them. PHAs may adopt the use 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.

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-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.

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 record 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 an attachment 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 notify 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. HUD recognizes that the COVID-19 public health emergency 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 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 are effective for immediate use by PHAs as of the date of this notice. The specific statute and regulation being waived (or solely the regulation if no statutory requirement is being waived), the period of availability, and the alternative requirement (if applicable), are found in sections 7 through 12 of this notice. The period of

availability for these waivers/alternative requirements, collectively or individually, may be 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.

The period of availability for the Public Housing and HCV waivers is in most cases either one of short-term or longer-term duration. Short-term waivers generally end on July 31, 2020, while the longer-term waivers typically expire on December 31, 2020. Short term waivers provide PHAs with essential flexibilities when normal operations are severely disrupted. Longer term waivers include waivers that permit PHAs to defer important but less critical functions to focus on their most vital responsibilities and effectively manage their transition back to normal operations. 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.

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 COVID-19. 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 FY20 Consolidated Appropriations Act (Public Law 116-94).

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.

## **7. WAIVERS APPLICABLE TO BOTH 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), 903.21

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 submit 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:

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.

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 public health emergency 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.

Period of Availability: The period of availability for the waiver of the significant amendment process ends on July 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 emergency, 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 recertifications due in Calendar Year (CY) 2020 must be completed by December 31, 2020.

**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 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).