

# Public Housing, Coronavirus (CV)

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**Administering Agency:** HUD's Office of Public and Indian Housing (PIH)

**Year Started:** 1937

**Number of Persons/Households Served:**

1,661,575 residents in 802,805 households (HUD's [Resident Characteristics Report](#) as of November 30, 2020).

**Population Targeted:** All households must have incomes less than 80% of the area median income (AMI); at least 40% of new admissions in any year must have extremely low income, (incomes less than 30% of AMI) or the federal poverty level, whichever is greater.

## THE "CARES ACT"

Congress appropriated \$685 million in supplemental funding through the "CARES Act" for the Public Housing Operating Fund. The purpose of the supplemental funding was to prevent, prepare for, and respond to the coronavirus pandemic, including to provide additional funds for public housing agencies (PHAs) to maintain normal operations and to take other necessary actions during the coronavirus pandemic. This extra Operating Fund money was to be combined with a PHA's FY20 operating fund allocation. It was distributed using the "regular" Operating Fund formula.

### PIH Guidance

The Act also allowed PHAs to combine Capital Funds with Operating Funds until December 31, 2020 (extended to December 31, 2021 by [Notice PIH 2020-24](#) on September 14) in order to cover other expenses related to preventing, preparing for, and responding to coronavirus, including activities to support or maintain the health and safety of residents. The act also allowed new eligible activities to support education and child care for residents.

The Office of Public and Indian Housing (PIH)

issued [Notice PIH 2020-07](#) on April 28 providing guidance regarding use of that \$685 million, including how PHAs can mix their Capital Fund and Operating Fund. It also explained how PHAs could use the supplemental Operating Fund to support the health and safety of households and to provide education and childcare activities, the newly eligible activities. Specifically, the Notice listed potential uses:

1. To **prepare** for coronavirus, funds could be used before a local coronavirus outbreak in order to develop processes and procedures, and to take actions designed to help keep people healthy, reduce exposure to coronavirus, and slow the spread of the virus. Specific examples included:
  - Coordinating with providers of services needed to support residents as a result of coronavirus, including the cost of delivering goods, supplies, and equipment.
  - Coordinating with local health service providers for activities, including developing or providing guidance to staff or residents, travel for testing, or other reasons related to coronavirus.
  - Providing childcare for residents so they can continue to work and for staff performing essential functions.
2. To **prevent** the spread of coronavirus, funds could be used in a variety of ways:
  - Delivering supplies so staff or residents can shelter in place.
  - Transporting residents for coronavirus testing or other preventive health measures.
  - Protecting residents, particularly high-risk residents, from exposure through interaction with PHA staff.
3. To **respond** to the pandemic once coronavirus has spread to staff or residents, PHAs could use funds to care for those who become infected and to limit exposure and

spread of the virus. Funds could continue to be used after a local outbreak for any continuing expenses incurred due to the spread of coronavirus. Examples include:

- Caring for residents and staff who have tested positive but do not require hospitalization.
- Safely transporting residents or staff in need of medical attention.
- Coordinating with local schools and local governments to provide internet access and tablets or other low-cost computers for students.

Notice PIH 2020-07 indicated funds previously made available by formula under the Operating Fund and Capital Fund programs in prior appropriations could be used through December 31, 2020 for these purposes (extended to December 31, 2021 by [Notice PIH 2020-24](#) on September 14). In addition, the funds could be used for eligible activities during the period the pandemic impacts PHAs.

## REGULATION WAIVERS

PIH issued [Notice PIH 2020-05](#) on April 10 announcing waivers of various public housing and Housing Choice Voucher (HCV) statutory and regulatory requirements.

HUD encouraged PHAs to continue using available funding to house families, keep families in their homes, and conduct critical operations that could be done remotely and safely. Some critical public housing functions for PHAs listed in the Notice included ensuring occupancy of public housing units, processing minimum rent hardship exemptions, and completing reexaminations for households who have experienced a decreased income.

HUD also encouraged PHAs to use alternative processes such as transmitting information electronically to households, conducting briefings online, conducting conference calls or using self-service features on a PHA's website if available, and providing business-reply envelopes or secure drop-box apparatuses for households that did not have access to the internet to submit documents

or rent payments.

PHAs had the discretion to use all, some, or none of the waivers. The waivers listed in the Notice were effective immediately for PHAs that elect to adopt them. PHAs could adopt the waivers at any time during the period of a waiver's availability. The "period of availability of most waivers were extended by two later Notices, [Notice PIH 2020-13](#) and [Notice PIH 2020-33](#), each updating the previous one. As of November 30, many of the waivers are now set to expire on June 30, 2021; however, as the pandemic continues, check the [Public and Indian Housing COVID-19 Resources webpage](#) for subsequent updates. Some waivers had special 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.

If a PHA chose to apply any of the waivers, it was required to notify residents and owners of any impacts that the waiver might have on them by whatever means the PHA considered most effective as soon as practicable. A PHA could initially provide notification by placing information on its website and as a voice-mail message and then follow up with more formal written notice as circumstances allowed. Notice PIH 2020-13 added that PHAs must post publicly or otherwise make available to the public a list of all waivers and alternative requirements the PHA chose to apply.

### Public Housing-Specific Waivers

Five of the waivers from Notice PIH 2020-05 specifically about public housing are of note:

***Adoption of Tenant Selection Policies in the ACOP*** (PH-4). HUD waived the requirement that PHA policies in the Admissions and Continued Occupancy Plans (ACOP) be formally approved by the Board of Commissioners. Instead any informally adopted revisions to the ACOP under this waiver must be formally adopted no later than June 30, 2021.

***Community Service and Self-Sufficiency Requirements*** (PH-5). HUD suspended the community service and self-sufficiency requirement (CSSR). If a PHA adopts this waiver, tenants will not be subject to CSSR until a family's

next annual reexamination. At a family's next annual reexamination, a PHA should report on Form HUD-50058 each individual's CSSR status as either exempt (for those who are exempt), or pending for those who are otherwise eligible but for which the suspension prevents a PHA 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. The period of availability ends on June 30, 2021.

**Resident Council Elections** (PH-8). HUD waived the regulation that there be elections of resident council members at least once every three years for each member. A PHA 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 June 30, 2021.

**Utility Allowance Review and Revision** (PH-9). HUD waived the requirement that a PHA review utility allowances at least annually and revise them if required on the basis of the review. PHAs may delay the review and update of utility allowances due in calendar year 2020, but must complete a review and update by June 30, 2021.

**Tenant Notifications about Changes to Project Rules and Regulations** (PH-10). Regulations require a PHA to provide 30-day notice to families about changes to policies, rules, and special charges to families. HUD waived this requirement. However, advance notice must be provided for any changes related to tenant charges. PHAs must still provide adequate notification to families within 30 days of making such changes. The period of availability ends on June 30, 2021.

### **Waivers Applying to Public Housing and Vouchers**

Some of the waivers applied to both public housing and a PHA's voucher program. Five are of special note:

**Delayed Annual Examinations** (Waiver PH and HCV-2). HUD waived the requirement for an annual reexamination of family income and

composition for both public housing and HCV families. All annual recertifications due in Calendar Year (CY) 2020 must be completed by December 31, 2020, and those due between January 1, 2021 and June 30, 2021 must be completed by June 30, 2021.

**Annual Examinations – Income Verification Requirements** (Waiver PH and HCV-3). HUD waived the requirement that PHAs use the Enterprise Income Verification (EIV) System to verify tenant employment and income during annual income recertifications, if a PHA chooses to conduct annual recertifications instead of using the delay allowed by Waiver PH and HCV-2 above. PHAs could consider using income self-certification verification to process annual reexaminations. Self-certification could take place over the telephone (but must be documented by PHA staff with a written record), through an email or postal mail with a self-certification form by the tenant, or through other electronic communications. The period of availability ends on June 30, 2021.

**Interim Income Examinations** (Waiver PH and HCV-4). HUD waived the requirement that PHAs use third-party income verification, including the required use of the Enterprise Income Verification (EIV) System. PHAs could consider using income self-certification verification to process interim income reexaminations. Self-certification could take place over the telephone (but must be documented by PHA staff with a written record), through an email or postal mail with a self-certification form by the tenant, or through other electronic communications. The period of availability ends on June 30, 2021.

**Wait List Opening and Closing Public Notice** (Waiver PH and HCV-7). HUD waived the requirement that when a PHA opens its waiting list it give the public notice by publishing a notice in a local newspaper of general circulation and also by minority media and other suitable means. A PHA could provide public notice in a voicemail message on its main or general information telephone number and through its website. A PHA must ensure that it uses effective communication for persons with disabilities,

including persons with hearing, visual, and other communication-related issues. The period of availability ends on June 30, 2021.

**PHA 5-Year and Annual Plan Submission** (Waiver PH and HCV-1). Significant amendments to a PHA Plan could be made without a meeting of the PHA board of directors that is open to the public. However, changes related to Section 18 demolition/disposition, Section 22 voluntary conversion of public housing to vouchers, and the Rental Assistance Demonstration (RAD) are still subject to the substantial amendment requirements. A PHA is required to notify public housing residents and HCV households of any impacts that a significant amendment might have on them by whatever means it considers most effective as soon as practicable. For example, a PHA might need to initially provide this notification by placing information on its website and as a voice-mail message, followed up with more formal written notice as circumstances allow.

## FREQUENTLY ASKED QUESTIONS (FAQS)

In addition to regulatory waivers, PIH issued a series of Frequently Asked Questions (FAQs), starting in March and continuing with five updates through [September 29](#). PIH will likely continue updating FAQs as needed as the pandemic continues. There are far too many FAQs to mention, but 11 are presented here (note, sometimes the FAQ numbers change over time as PIH reorganizes the FAQs).

**OC9:** PHAs can restrict visitors from public housing properties and require that certain persons in common areas or the office wear cloth face coverings or their own masks. PHAs should consider that residents will still need to receive essential services, such as food deliveries, medications, and direct service professionals (DSP) [e.g., personal care assistants (PCAs) or home health aides (HHAs)] responsible for caring for older adults and/or persons with disabilities. Restrictions should track with CDC guidance and recommendations from state or local health officials. Regarding

cloth face coverings, follow CDC guidance. Now that many cities and states have adopted mask policies, the PHA's mask policy should reference them. Once those policies are adopted, HUD regulations require tenants to abide by them as a condition of the lease.

**OC18:** An earlier version of this FAQ acknowledged that although some applicants might have trouble obtaining identifying documents such as Social Security numbers or birth certificates, a PHA cannot allow households to move in and verify documents later. However, waiver PH/HCV-3 in [Notice PIH 2020-05](#) did allow self-certifications for annual income verification for households already assisted.

**OC34:** A PHA or owner may continue to provide the deduction for childcare expenses if a parent, guardian, or caretaker is unemployed due to the pandemic and the parent/guardian is required to continue paying childcare expenses in order to maintain the childcare slot. HUD regulations permit a childcare expense to be deducted from income calculations to enable a family member to seek employment, be employed, or further their education. Being furloughed or receiving unemployment benefits as a result of coronavirus does not alone show that the family is not seeking employment.

**OC26:** Explains how a PHA can set up a repayment agreement for a resident unable to report an income decrease to zero due to the coronavirus. PIH "strongly urges" PHAs to allow for retroactive rent adjustments during an interim income reexamination. [Notice PIH 2018-18](#) recommends the monthly retroactive rent payment plus the amount of current rent a resident pays be affordable and not exceed 40% of adjusted monthly income. A PHA, with a resident's agreement, could suspend the repayment agreement for a set period of time, have quarterly check-ins to reevaluate the resident's situation, or wait until the resident reports increased income. Existing repayment agreements can be restructured if there is a change (decrease or increase) in a resident's income.

**OC27:** PIH adjusts a provision in [Notice PIH 2018-18](#) that stated “if the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA must terminate the family’s tenancy or assistance, or both.” Upon reviewing the regulations, PIH concluded that if a PHA uses its discretion not to terminate a household, the PHA can restructure the existing repayment agreement for an amount affordable for the household. PIH encourages such flexibility.

**OC14:** PIH encourages PHAs to make the effective date of an interim income reexamination effective the month immediately following a family’s request. (Note, PIH is still triggering an interim income reexamination only when a resident requests one, even though many residents do not know that they have a right to request an interim income reexamination.) However, PIH also notes that a PHA may adopt a policy that would make the effective date of an interim income reexamination retroactive to the first of the month following the date of the actual decrease in income, as opposed to the first of the month following the interim reexamination. PIH encourages PHAs to consider implementing interim reexamination policies that allow for retroactive adjustments in response to the pandemic.

#### **A number of FAQs addressing domestic violence were added in July:**

**RH12:** A PHA can decide to open its waitlist only to applicants who qualify for a homeless or a “Violence Against Women Act” (VAWA) preference. PIH recognizes that certain populations face increased vulnerability during the coronavirus pandemic and encourages PHAs to consider adopting a local preference(s) for admission of individuals and families experiencing homelessness and families that include victims of domestic violence, dating violence, sexual assault, or stalking. RH12 reminds PHAs that [Notice PIH 2012-34](#) provides guidance on how PHAs may open the waiting list only to applicants who qualify for a homeless or VAWA preference.

**RH13:** PHAs are reminded that they can provide a voucher to a public housing tenant requesting a VAWA Emergency Transfer when there are no available public housing units. The regulations require Emergency Transfer plans to include policies for assisting a tenant who is seeking an external emergency transfer under VAWA out of the covered housing provider’s program or project, as well as a tenant who is seeking an external emergency transfer under VAWA into the covered housing provider’s program or project. PHAs may set a limited preference in their HCV program for VAWA Emergency Transfers from their public housing program. More information on establishing such a preference is in [Notice PIH 2013-15](#).

**RH20:** PIH reminds PHAs that when a domestic violence survivor requests an emergency transfer, lease bifurcation, or other VAWA protections, PHAs are prohibited from requiring a survivor to provide third-party documentation of their survivor status, unless submitted documentation contains information that conflicts with existing information already available to a PHA or owner.

**RH14:** PIH reaffirms guidance from [PIH Notice 2017-08](#) that a PHA can accept a verbal statement from a tenant or an applicant who wants to self-certify for VAWA protections. PHAs and owners are not required to ask for documentation when an individual presents a claim for VAWA protections; the PHA or owner may instead choose to provide benefits to an individual based solely on the individual’s verbal statement or other corroborating evidence. HUD recommends that PHAs and owners develop written policies for how and under what circumstances a verbal statement will be accepted.

**RH17:** PIH notes that many survivors of violence, especially domestic violence, may be feeling trapped during the pandemic. Because of job loss, sheltering in place requirements, and restrictions on public transportation, individuals who are in a violent residential situation may feel like they cannot leave. Therefore, PIH encourages PHAs to provide notice to residents, including remotely through their website and phone

messages, that the PHA can still process requests for protections under VAWA. In addition, HUD suggests reminding individuals that shelter-in-place policies do not require anyone to stay in a violent or unhealthy situation, and that police officers can still respond to 911 calls by visiting any facility that is restricting visitors.

HUD also encourages publicizing the National Domestic Violence Hotline (1-800-799-7233), funded by the U.S. Department of Health and Human Services (HHS), where there is more information at [www.thehotline.org](http://www.thehotline.org). HUD also encourages PHAs to reach out to their local social services departments to see what resources are still available during this time.

## REAC INSPECTIONS

HUD's Real Estate Assessment Center (REAC) posted *COVID-19 FAQs: Public & Multifamily Housing Property Inspections* on November 11, posing 56 easy-to-read questions with answers regarding conducting REAC physical inspections during the coronavirus pandemic. The frequently asked questions (FAQs) address both public housing and HUD-assisted private Multifamily properties. Below are highlights of the FAQs of most interest to residents and advocates.

**Question 1.** REAC repeats information in a Memorandum from August 10 about how properties will be selected for REAC inspection. REAC will select properties for inspection in counties considered low-risk for six consecutive weeks based on the latest COVID-19 data from Johns Hopkins University and health risk scoring methodology from the Harvard Global Health Institute.

REAC developed a map that categorizes states and localities by four risk categories: low risk (green), moderately low risk (yellow), moderately high risk (orange), and high risk (red). A map posted on the [REAC webpage](#) brings up an Excel spreadsheet showing each state and county health risk score when clicking on a state. As of December 14, only American Samoa was rated low risk, and Northern Mariana Islands was rated moderately low risk. Guam, Maine, New Hampshire, Puerto Rico, and the Virgin Islands

were rated moderately high risk. All the rest were rated high risk.

**Question 2.** Public housing properties in high-risk counties that are overdue for a REAC inspection will be inspected no earlier than January 1, 2021, unless the PHA requested a 2020 Public Housing Assessment System (PHAS) assessment.

**Question 8.** Only in-person inspections for Uniform Physical Condition Standards (UPCS) will be conducted, but REAC might consider remote inspections in the future.

**Question 10.** REAC inspectors must: be tested for COVID-19 on a regular basis; wear Personal Protective Equipment (PPE), including masks and gloves; frequently use hand sanitizer; practice physical distancing, and follow local and state guidelines.

**Question 21.** Inspectors must change or sanitize gloves between unit inspections.

**Question 22.** Neither HUD nor the REAC inspector will provide residents with PPE. PHAs are reminded that the CARES Act allows PHAs to use Public Housing Operating Fund Supplemental Assistance to provide PPE for residents.

**Question 19.** Property representatives may require an inspector to have their temperature taken if recommended or required by local or state guidelines.

**Question 20.** A REAC inspector may ask about any known COVID-19 cases currently at a property.

**Question 23.** Only one property representative escort and an inspector are allowed to enter a unit during inspection.

**Question 24.** If a resident in a sample unit for inspection who is at high risk does not want an inspector to enter their home, the inspector will select an alternate unit.

**Question 26.** If an inspector observes an Exigent Health and Safety (EHS) condition, the deficiency must be corrected.

## ACCESSIBLE REMOTE HEARINGS AND BRIEFINGS

PIH issued [Notice PIH 2020-32](#) providing best practices for PHAs to determine whether barriers exist for persons with disabilities or persons with limited English proficiency (LEP) when hearings or briefings need to be conducted remotely, for example in the context of the coronavirus pandemic because in-person hearings and briefings are ill-advised. The Notice will remain in effect after the pandemic. Notice 2020-32, issued on November 20, is a welcome response to issues raised by the National Housing Law Project in consultation with many legal services attorneys.

PHAs must ensure equal opportunity and nondiscrimination for individuals with disabilities and LEP persons under Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964, and the “Fair Housing Act.”

People applying for public housing must be able to have an informal hearing if a PHA decides they are not income-eligible or a PHA otherwise denies them admission to public housing. Residents of public housing (termed “participants”) must be able to have a grievance hearing if the resident disputes any PHA action or failure to act regarding termination of assistance, or requests for household composition changes, transfers to a different unit, or rent re-determination.

When a remote hearing or briefing uses videos or telephones, all materials to be presented during the remote hearing or briefing, whether paper or electronic, must be provided to a participant beforehand and the participant must be provided an accessible means by which to transmit their own evidence through email or text. PHAs are reminded that some participants may prefer paper printouts, paper might be better because participants might not have access to printers, and because viewing documents on a phone or small screen can be difficult.

## FORECAST FOR 2021

PIH is likely to issue additional guidance in the form of Notices, FAQs, and waivers until the pandemic completely resides.

## FOR MORE INFORMATION

NLIHC, 202-662-1530, [www.nlihc.org](http://www.nlihc.org).

The Public and Indian Housing COVID-19 Resources webpage, <https://bit.ly/2KjbPik>.