Housing Choice Vouchers, Coronavirus (CV)

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Administering Agency: HUD’s Office of Public and Indian Housing (PIH) as well as approximately 2,200 state and local public housing agencies (PHAs).

Year Started: 1974

Population Targeted: Seventy-five percent of all new and turnover voucher households must have extremely low income (less than 30% of the area median income, AMI, or the federal poverty line, whichever is higher); the remaining 25% of new voucher households can be distributed to residents with income up to 80% of AMI.

THE “CARES ACT”

Congress appropriated $1.25 billion supplemental funding through the “CARES Act” for the Housing Choice Voucher (HCV) Program. The purpose of the supplemental funding is 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.

Administrative Expenses

Of the $1.25 billion, $850 million was set aside for both administrative expenses and other expenses PHAs might incur with their HCV programs, including Mainstream vouchers. Those “other expenses” were new eligible activities determined by PIH. They include activities to support or maintain the health and safety of voucher households, as well as the costs related to retaining and supporting landlords, new eligible activities authorized by the “CARES Act.” A PHA’s FY20 “regular” HCV Administrative cost allocation could also be used for these new eligible activities.

HUD issued Notice PIH 2020-08 on April 28 providing guidance for $380 million of the $850 million set-aside. HUD issued Notice PIH 2020-18 addressing how PHAs can use the remaining $472 million portion of this set-aside.

HCV Renewal Funding and Short-Fall Funding Adjustments

Of the $1.25 billion, $400 million was set aside for adjustments in calendar year 2020 HCV renewal funding, including Mainstream vouchers, for PHAs that experience a significant increase in voucher per-unit costs due to extraordinary circumstances, such as decreasing tenant rent payments as tenant work hours are reduced or as they lose employment. Another use of this $400 million could be for a PHA that would otherwise have to terminate vouchers for households as a result of insufficient funding (shortfall). PIH issued Notice PIH 2020-17 addressing how PHAs can use this $400 million set-aside.

PIH Guidance

ADMINISTRATIVE EXPENSES

PIH issued Notice PIH-2020-08 on April 28 implementing a portion of the $850 million set aside for additional administrative fee funding and other expenses PHAs might incur in their HCV programs. PIH-2020-08 addressed $380 million of the $850 million set-aside for the administrative fee portion of the appropriation. It also established newly eligible activities that could be funded with these supplemental administrative fee amounts. Notice PIH 2020-24 extended the “period of availability” for all of this funding to December 31, 2021.

The $380 million supplemental administrative fee funding could be used for two purposes only:

- Any currently eligible HCV (including Mainstream voucher) administrative costs during the period the pandemic impacts PHAs. Currently eligible HCV administrative costs include necessary upgrades to information technology or computer systems to enhance telework capacities, and overtime pay for PHA staff to carry out HCV program responsibilities.
• New coronavirus-related activities, including activities to support or maintain the health and safety of residents, and costs related to retention and support of participating HCV property owners.

Notice PIH-2020-08 listed a variety of eligible coronavirus-related activities, and PIH added activities in following months, including through PIH Notice 2020-18. As of December 10, the list includes:

• Costs of procuring cleaning supplies and/or services to maintain safe and sanitary HCV units, including common areas and in-unit cleaning of all Project-Based Voucher (PBV) assisted units.

• Costs of relocating PHA staff and residents to health units or other designated units for testing, vaccination, hospitalization, or quarantine, or transportation to these locations to limit the exposure that could be caused by using mass transportation.

• Cost of additional supportive services vendors to respond to COVID-19.

• Costs to retain or increase owner participation in the HCV program, such as incentive costs. Incentive costs might include offering owners an incentive payment to participate in the HCV program, recognizing the added difficulties of making units available for HCV families to rent while stay-at-home orders or social distancing practices are in effect.

• Costs of providing childcare for the children of PHA staff that would not have otherwise been incurred; for instance, for children at home due to school closings, or for PHA staff working outside of regular work schedules.

• Costs associated with delivering goods, including food and medical supplies, to program participants in a manner that complies with the Centers for Disease Control (CDC) requirements.

• Public health-related security costs to enforce shelter-in-place and stay-at-home orders, or visitor-restriction policies for PHA-owned PBV projects.

• Administrative costs associated with implementing COVID-19-related activities that are not eligible HCV administrative costs, for example paying overtime to staff to carry out these COVID-19-related activities.

• Cost of hiring temporary employees to maintain program operations due to coronavirus.

• Costs related to office improvements, including improved systems for teleworking and/or rental of additional space, to ensure social distancing and other CDC recommended measures.

• One-time utility deposits to help families secure units.

• Other costs either directly or indirectly related to COVID-19 as determined eligible on a case-by-case basis at the Secretary’s discretion.

HCV RENEWAL FUNDING AND SHORT-FALL FUNDING ADJUSTMENTS

Of the overall $1.25 billion, $400 million was set aside for additional HCV housing assistance payments (HAP). These additional HAP payments are for adjustments in calendar year 2020 HCV renewal funding (including Mainstream vouchers) for PHAs that experience a significant increase in voucher per-unit costs due to “extraordinary circumstances,” such as decreasing tenant rent payments as their work hours are reduced or as they lose jobs. This set-aside can also be used to provide extra HAP funding because PHAs would otherwise have to terminate vouchers for households as a result of insufficient funding (Shortfall Funds). PIH issued Notice PIH 2020-17 addressing how PHAs can use this $400 million set-aside.

Shortfall Funds.

Notice PIH 2020-17 states that PIH would give priority to the Short Fall funds category, which provided assistance to PHAs that would otherwise have to terminate voucher assistance due to insufficient funds. If the “CARES Act” funds were not sufficient to cover shortfall needs, PIH used any remaining calendar year (CY) 2020 HAP renewal set-aside funds (Earlier in the year
PIH set aside $100 million within PIH’s overall appropriation for various purposes such as shortfall funding, extraordinary circumstances, portability costs, and Project-Based Vouchers.

PIH identified two Shortfall Scenarios. Shortfall Scenario 1 applied to PHAs already in a Shortfall Prevention Team (SPT) confirmed shortfall on March 31, 2020. Shortfall Scenario 2 applied to PHAs that were not in an SPT-confirmed shortfall as of March 31, 2020 but were confirmed to be in one after that date. PIH accepted Shortfall Fund applications on a rolling basis. While there was no deadline to submit applications, PHAs had until December 31, 2020 to spend the funds.

**Extraordinary Circumstances.**

PHAs that experience a significant increase in voucher per-unit costs in CY20 could apply for assistance until March 31, 2021. Notice PIH 2020-24 gave those PHAs until December 31, 2021 to spend the funds. PHAs are likely experiencing such increased costs because many residents are experiencing reduced income due to fewer hours at their jobs or to losing their jobs as a result of the pandemic. PIH had two application designations: “priority status” and “regular status.” Priority status was for PHAs that had a HAP reserve less than the amount needed to cover three months of HAP expenses. Regular status PHAs did not receive funds until November, if set-aside funds were still available. PHAs have until December 31, 2021 to spend these funds.

**REGULATION WAIVERS**

PIH issued Notice PIH 2020-05 on April 10 announcing waivers of various Housing Choice Voucher (HCV) and public housing 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 HCV functions for PHAs listed in the Notice included issuing vouchers so families can find housing, processing Requests for Tenancy Approvals (RFTAs) so families can be approved to move into a home, processing requests for portability moves, processing minimum rent hardship exemptions, and completing reexaminations for households who have experienced reduced 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 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.

**HCV-Specific Waivers**

Six of the waivers from Notice PIH 2020-05 specifically about Housing Choice Vouchers are of
HOUSING QUALITY STANDARDS WAIVERS

HQS Initial Inspection Requirements (Waiver HQS-1). PIH waived the requirements relating to a PHA inspecting an HCV-assisted home before any assistance payment is made in order to determine whether a unit meets HQS. To place a unit under a housing assistance payment (HAP) contract and begin making payments, instead of conducting an initial inspection a PHA may rely on an owner’s certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in a unit or units in question. At minimum, a PHA must require the owner to provide a certification. A PHA may add other requirements or conditions in addition to the owner’s certification. PHAs may accept an owner’s self-certification until June 30, 2021. A PHA is required to conduct an HQS inspection on a unit as soon as reasonably possible, but no later than the one-year anniversary of the date of the owner’s certification.

HQS Initial Inspection: Non-Life-Threatening Deficiencies (NLT) Option (Waiver HQS-3). The HCV statute offers a PHA the option to choose to approve an assisted tenancy, execute a HAP contract, and begin making housing assistance payments on a unit that fails the initial HQS inspection, provided the unit’s failure to meet HQS is the result only of non-life-threatening (NLT) conditions. The statute requires a PHA to withhold housing assistance payments from the owner if the NLT conditions are not corrected within 30 days. PIH waived the requirement that a PHA withhold the payment if the NLT repairs are not made in 30 days. Instead, a PHA may provide an extension of up to an additional 30 days for an owner to make NLT repairs and a PHA may continue to make payments to an owner during the 30-day extension. If an owner has not made the NLT repairs by the end of an extension period, a PHA must withhold payments. The period of availability ends on June 30, 2021.

HQS Interim Inspections (Waiver HQS-6). PIH waived the current requirement regarding instances when a household or government official notifies a PHA that an HCV-assisted home (tenant-based or project-based) is not complying with HQS. Instead, if a reported deficiency is life-threatening, a PHA must notify an owner of the reported life-threatening deficiency and indicate that the owner must either correct the life-threatening deficiency within 24 hours of a PHA notification or provide documentation (e.g., text or email a photo to the PHA) that the reported deficiency does not exist. If a reported deficiency is non-life-threatening, a PHA must notify an owner of the reported deficiency within 30 days and the owner must either make the repair or document that the deficiency does not exist within 30 days of a PHA notification or any PHA-approved extension. A PHA may add other requirements or conditions in addition to the owner’s documentation. The period of availability ends on June 30, 2021.

HQS Space and Security (Waiver HQS-10). PIH waived the requirement that each home have at least one bedroom or living/sleeping room for every two people, if a PHA wants to assist a current HCV participant (tenant-based or project-based) who needs to add a member or members to the assisted household as a result of the coronavirus emergency. This provision does not apply to an initial or new lease. A participant must not enter into a new lease for a unit that does not comply with the space and security standards. The waiver will be in effect for the duration of the current lease term or one year from the date of this Notice (November 30), whichever period of time is longer.

GENERAL HCV WAIVERS

Oral Briefing (Waiver HCV-2). PIH waived the requirement that a PHA give a family an oral briefing when it is selected to participate in either the HCV or PBV program. Instead, a PHA must conduct a briefing by other means such as a webcast, video call, or expanded information packet. A PHA must ensure that the method of communication for the briefing effectively communicates with, and allows for equal participation of, each family member, including those with vision, hearing, and other communication-related disabilities, and ensures
meaningful access for persons with limited English proficiency. The period of availability ends on June 30, 2021.

**Extension of the Voucher Search Term** (Waiver HCV-3). PIH waived the requirement that extension(s) of the voucher “term” (the time allowed for a household with a voucher to find and lease a home) must be accordance with a PHA’s Administrative Plan. This will allow a PHA to provide extensions even though it has been unable to formally amend its policy in the Administrative Plan. The period of availability ends on June 30, 2021.

**Waivers Applying to HCV and Public Housing**

Some of the waivers applied to both PHA’s voucher program and to its public housing. 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 HCV and both public housing 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 HCV households and public housing residents 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 2020 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 10 are presented here (note, sometimes the FAQ numbers change over time as PIH reorganizes the FAQs).

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.

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.

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. HUD also encourages PHAs to reach out to their local social services departments to see what resources are still available during this time.

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 a voucher must have an oral briefing about the voucher program when they apply and must be able to have
an informal review if a PHA denies them a voucher. Households with a voucher (termed “participants”) must be able to have an informal hearing if they want to contest a PHA’s decisions about household income determination, utility allowance, or unit size, or if a PHA proposes terminating their voucher.

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.

REMOTE VIDEO HQS INSPECTION GUIDANCE

PIH issued Notice PIH 2020-31 on November 12 providing guidance on how PHAs can conduct Housing Quality Standards (HQS) inspections using Remote Video Inspections (RVIs). As the Notice explains, with RVIs an HQS inspector performs an inspection from a remote location using video streaming technology with a person at the inspection site serving as a proxy. The proxy follows the direction of the HQS inspector throughout the entire inspection process. RVIs were introduced earlier in FAQs PIH posted in the context of the coronavirus.

If a PHA chooses to use RVI inspections, PIH recommends that the tenant or landlord or property manager attend the inspection. PHAs should notify a tenant that the HQS inspection will be conducted remotely, explain why RVI will be used, and provide a contact phone number and email for a tenant to ask questions or express concerns.

Before conducting an RVI, a PHA and relevant parties should agree to use RVI rather than on-site inspection by PHA staff. For an initial inspection of an unoccupied unit, this agreement is usually with the owner/landlord and does not include the household applying for a voucher because, according to PIH, a potential tenant might not have legal access yet. (Advocates think this is an unduly legal approach that limits an applicant’s ability to assess the quality of a potential new home.) For a unit already occupied by a voucher household, the agreement is usually with the tenant or other adult household member. If an agreement cannot be reached, the PHA then follows the usual procedures for on-site inspections.

A proxy must be chosen to conduct the in-unit inspection. A proxy must be chosen by mutual consent among a PHA, landlord, and tenant. A proxy can be a landlord, property representative, tenant, or any adult associated with the tenancy. Proxies must be certified, which involves completing a free online Lead-based Paint Visual Assessment Training Course for properties built before 1978 where a child under six lives or will live. A proxy must also be able to determine whether there is smell of natural gas, Methane, or other noxious gas.

RVI entails the proxy remotely following the directions of the HQS inspector and streaming the RVI. On the exterior, a proxy must examine all sides of a structure, including fences and outbuildings, visually examining paint conditions of all siding, trim, windows, porches, steps, columns, and any other painted areas. On the interior, a proxy must review each room separately and visually examine the paint conditions of walls, ceilings, steps, floors, doors, door frames, and windows, including window troughs. For deteriorated paint (including cracked, chipped, or otherwise damaged paint), a proxy must document the amount of deterioration, indicating whether the scale is greater or less than the HUD de minimis amounts.

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