

THIS NOTICE IS PENDING PUBLICATION IN THE FEDERAL REGISTER.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6050-N-04]

Relief from HUD Public Housing and Section 8 Requirements Available During CY 2020 and CY 2021 to Public Housing Agencies to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Presidentially Declared Major Disasters

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notification.

SUMMARY: This notification advises the public that HUD, in order to more effectively and expeditiously respond to Presidentially declared Major Disaster Declarations (MDDs), is establishing for calendar year (CY) 2020 and CY 2021 an expedited process for the review of requests for relief from HUD regulatory and/or administrative requirements (“HUD requirements”) for Public Housing Agencies (PHAs) located in counties that are included in MDDs. PHAs located in areas covered by MDDs issued for which a related disaster occurs during CY 2020 and CY 2021 may request waivers of certain HUD Public Housing and Section 8 requirements and receive expedited review of such requests utilizing the flexibilities and expedited waiver process set out by this notification.

DATES: This document announces the waivers and flexibilities set out in this document as of the date of signature.

FOR FURTHER INFORMATION CONTACT: Tesia Irinyenikan, Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 3180, Washington, DC 20410-5000, or email PIH_Disaster_Relief@hud.gov. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background Information

On several occasions in recent years, after Presidential disaster declarations, HUD has published documents announcing waivers and flexibilities available to PHAs, Tribes, and Tribally Designated Housing Entities (TDHEs) located in areas covered by MDDs.¹ In the interest of expediting HUD's ability to provide administrative relief to PHAs in MDD declaration areas, based on HUD's past experience, HUD is publishing this notification on waivers and flexibilities that will be made available to PHAs on an expedited basis following MDDs. The notification is organized as follows:

- Section II describes the flexibilities that are currently available to MDD PHAs under statutes and/or regulations. MDD PHAs may avail themselves of these flexibilities, following the process described in Section IV of the notification.
- Section III describes certain HUD requirements that, if waived, may facilitate an MDD PHA's ability to participate in relief and recovery efforts. An MDD PHA may request a waiver of a HUD requirement not listed in Section III and receive expedited review of the request if the MDD PHA demonstrates that the waiver is

¹ See, Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Katrina Disaster Areas, 70 FR 57716 (October 3, 2005); Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Rita Disaster Areas; and Additional Administrative Relief for Hurricane Katrina, 70 FR 66222 (November 1, 2005); Extension of Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist With Recovery and Relief in Hurricanes Katrina, Rita, and Wilma Disaster Areas, 71 FR 78022 (December 27, 2006); Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Wilma Disaster Areas, 71 FR 12988 (March 13, 2006); Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Superstorm Sandy Disaster Areas, 77 FR 71439 (November 30, 2012); Relief From HUD Requirements Available to PHAs to Assist With Recovery and Relief Efforts on Behalf of Families Affected by Hurricanes Harvey, Irma, Maria and Future Natural Disasters Where Major Disaster Declarations Might be Issued in 2017, 82 FR 46821 (October 6, 2017) and; Relief From HUD Requirements Available During Calendar Year (CY) 2018 to Public Housing Agencies To Assist With Recovery and Relief Efforts on Behalf of Families Affected by Presidentially-Declared Major Disasters, 83 FR 46180 (September 12, 2018).

needed to assist in its relief and recovery efforts. An MDD PHA may not adopt any requested waiver prior to receiving HUD approval.

- Section IV describes certain HUD requirements that, if granted an exception, may facilitate an MDD PHA's ability to participate in relief and recovery efforts. An MDD PHA may request an exception not listed in Section IV and receive expedited review of the request if the MDD PHA demonstrates that the exception is needed to assist in its relief and recovery efforts. An MDD PHA may not adopt any requested exception prior to receiving HUD approval.
- Section V provides the instructions for submitting waiver requests.
- Section VI states that a Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Waiver requests approved by HUD pursuant to this notification will be published in the Federal Register and will identify the MDD PHAs receiving such approvals. The process that HUD will use in assessing applications for waivers and flexibilities is covered below.

This notification applies only to Presidentially declared MDDs that occurred during CY 2020 and CY 2021. However, upon finding of good cause, HUD may consider extending the time period of regulatory waivers or flexibilities described below, subject to statutory limitations and pursuant to 24 CFR 5.110.

Pursuant to the authority provided under the Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-36), HUD established waivers, administrative flexibilities and alternative requirements for numerous statutory and regulatory requirements for

the Public Housing program, the Housing Choice Voucher (HCV) program, Indian Housing Block Grant (IHBG) program and the Indian Community Development Block Grant (ICBG) program. The Office of Public and Indian Housing's CARES Act-related Policy Notices, and other COVID-19 resources can be found at HUD's Public and Indian Housing COVID-19 Resources webpage,

https://www.hud.gov/program_offices/public_indian_housing/covid_19_resources.

Some of the regulatory waivers and exceptions found in Notice PIH 2020-13 (HA), REV-1 (COVID-19 Statutory and Regulatory Waivers Alternative Requirements...), or its replacement, are also applicable to MDD PHAs. However, the authority, pursuant to the CARES Act, to waive statutory requirements is not applicable under this notice. An MDD PHA seeking a waiver of a HUD regulation listed below, or of any other HUD requirement needed to assist the MDD PHA in its relief and recovery efforts must submit a waiver request pursuant to the process that will be provided in Section V of this notification. HUD will not approve an MDD PHA's or other recipient's request to waive a fair housing, civil rights, labor standards, or HUD's environmental review requirements.

II. Flexibilities that are Available to MDD PHAs During CY 2020 and CY 2021

HUD is exercising discretionary authority from section 106 of the Department of Housing and Urban Development Reform Act of 1989 and consistent with 24 CFR 5.110 to provide relief from the requirements described in this section of this notification. Upon application to HUD and appropriate documentation of good cause, HUD may approve, as noted below, regulatory relief for disaster relief and recovery to MDD PHAs. If a PHA needs the regulatory relief for more time, please submit documentation of good cause, and HUD may consider extending the flexibilities, subject to statutory limitations and pursuant to 24 CFR

5.110, to facilitate an MDD PHA's ability to participate in relief and recovery efforts. Unless otherwise stated, the deadline for requesting waivers is four months after the initial MDD.

A. 24 CFR 990.145(b) (Public housing dwelling units with approved vacancies).

Section 990.145 lists the categories of vacant public housing units that are eligible to receive operating subsidy and are therefore considered to be "approved vacancies." Under Section 990.145(b)(2), a PHA shall receive operating subsidy for units that are vacant due to a federally declared, state declared or other declared disaster, subject to prior HUD approval, on a project-by-project basis. If an MDD PHA has a unit that has been vacated due to a Presidentially-declared disaster, then the MDD PHA, with HUD approval, may treat the unit as an "approved vacancy." Upon the request of an MDD PHA and HUD approval, on a case-by-case basis, such units may be considered approved vacancies for a period not to exceed 12 months from the date of HUD approval.

III. HUD Requirements that May Be Waived

For an MDD PHA, HUD will review requests for waivers of HUD requirements on an expedited basis. This section lists procedural and substantive requirements for regulatory waivers in event of an MDD. An MDD PHA may also request a waiver of a HUD requirement not listed in this section and receive expedited review of the request if the MDD PHA documents that the waiver is needed for major disaster relief and/or recovery. If a PHA needs the regulatory relief for more time, please submit documentation of good cause, and HUD may consider extending the waiver, subject to statutory limitations and pursuant to 24 CFR 5.110, to facilitate an MDD PHA's ability to participate in relief and recovery efforts. PHAs should note that waivers of essential program requirements such as property inspection or income verification will not be granted in their entirety although modifications or requirements may be considered.

Also, HUD's ability to grant waivers or approval of alternative requirements imposed by statute is limited to expressed statutory authority. PHAs should go through the hierarchy of verifying income as found in PIH Notice 2018-24 if sources of income are difficult to find. Similarly, while the requirement for Housing Quality Standards (HQS) inspections cannot be waived, HUD can consider variations to the acceptability criteria to HQS in case of disaster (under the authority of §982.401(a)(4)).

An MDD PHA seeking a waiver of a HUD requirement listed below or of any other HUD requirement needed to assist the MDD PHA in its relief and recovery efforts must submit a waiver request pursuant to the process that will be provided in Section IV of this notification. The request must be submitted to HUD not later than 4 months following the date of the relevant disaster declaration. HUD will not approve an MDD PHA's or other recipient's request to waive a fair housing, civil rights, labor standards, or environmental protection requirement.

A. 24 CFR 905.400(i)(5) (Capital Fund Formula; Replacement Housing Factor to reflect formula need for projects with demolition or disposition occurring on or after October 1, 1998, and prior to September 30, 2013). Section 905.400 describes the Capital Fund formula. Section 905.400(i)(5) limits the use of replacement housing funds to the development of new public housing. To help address housing needs because of the displacement caused by the MDD, HUD will consider waiving section 905.400(i)(5) to allow all unexpended Capital Fund Replacement Housing Factor Grants to be used for public housing modernization. Should HUD waive this requirement, the waiver will be in effect for funds obligated within 12 months from the date of HUD approval.

B. 24 CFR 982.503(c) (HUD approval of exception payment standard amount). 24 CFR 982.503(c) authorizes HUD to approve an exception payment standard amount that is

higher than 110 percent of the published fair market rent (FMR). Typically, a PHA must provide data about the local market to substantiate the need for an exception payment standard. In a major disaster declaration situation, however, the typical data sources may fail to capture conditions on the ground. In these cases, HUD considers the most recently available data on the rental market, prior to the disaster, then estimates the number of households seeking housing units in the wake of the disaster to arrive at an emergency exception payment standard amount. In the event of a disaster, HUD will consider, based on this data, whether exception payment standard amounts up to 150 percent of the FMR have a good cause justification even in the absence of supporting data. If so, an MDD PHA may request this payment standard. Upon approval by HUD, an exception payment standard adopted pursuant to this notification may be adopted for any Housing Assistance Payments (HAP) contract entered as of the effective date of this notification. HUD intends for these exception payment standards to remain in effect until HUD implements changes to the FMRs in the affected areas under an MDD. MDD PHAs are reminded that increased per-family costs resulting from the use of exception payment standards may result in a reduction in the number of families assisted or may require other cost-saving measures for an MDD PHA to stay within its funding limitations.

C. 24 CFR 982.633(a) (Occupancy of home). This section establishes the requirement that PHAs may make HAP for homeownership assistance only while a family resides in their home and must stop HAP no later than the month after a family moves out. HUD will consider a request from an MDD PHA wishing to waive this requirement to allow families displaced from their homes located in areas affected by MDD(s) to comply with mortgage terms or make necessary repairs. A PHA requesting a waiver of this type must show good cause by demonstrating that the family is not already receiving assistance from another source. **Note:** An

MDD PHA must separately request a waiver of the requirement at § 982.312 (that a family be terminated from the program if they have been absent from their home for 180 consecutive calendar days).

D. Waivers not identified FR-6050-N-04. An MDD PHA may request a waiver of HUD requirement not listed in Section III of this notice. Please be reminded that HUD will only consider waivers or flexibilities subject to statutory limitations and pursuant to 24 CFR 5.110. COVID-19 MDDs are not covered under this notice. Agencies seeking administrative or regulatory relief due to a COVID-19 MDD, must follow the guidance prescribed in specific COVID-19 notices issued by the Office of Public and Indian Housing, pursuant to the Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 136-36). See e.g., PIH Notice 2020-05, issued April 10, 2020.

IV. Exceptions

Notice PIH 2012–10, Section 8(c) (Verification of the Social Security Number (SSN)). PHAs are required to transmit form HUD–50058 not later than 30 calendar days following receipt of an applicant’s or participant’s SSN documentation. HUD is willing to consider a request to extend this requirement to 90 calendar days, for a period not to exceed 12 months from the date of HUD approval.

V. Notification and Expedited Waiver Process During CY 2020 and CY2021 – Instructions

HUD has developed a checklist (**Attachment A to this notification**) that an MDD PHA must complete and submit to take advantage of the provisions identified in this notification and the expedited review of waiver requests. Each provision on the checklist indicates the documentation that must accompany the MDD PHA’s submission. Each request for a waiver

(Section 3 of the checklist) must include a good-cause justification stating why the waiver is needed for the PHA's relief and recovery efforts.

To complete the checklist, take the following steps:

1. ***Copy and paste*** the checklist found in **Attachment A** into a new document on your computer, saving the document with the following filename format: FR-6050-N-04-XX123. The Federal Register docket number (FR-6050-N-04), a hyphen, then your Agency's HA Code. For example: FR-6050-N-04-AL123. HUD will consider other methods of submission as needed.
2. Complete the section titled "Information about Requesting Agency" in its entirety. This section must be complete. An official of the MDD PHA must sign where indicated. If the information about the requesting agency is incomplete or the checklist has not been signed, then the checklist will be returned without review.
3. Complete Sections 1, 2, and/or 3 of the checklist, as applicable, noting the documentation (if any) that accompanies each provision.
4. Address an email to both **PIH_Disaster_Relief@hud.gov** and your HUD Field Office Public Housing Director. In the subject line, type "PHA Name – PHA Code - MDD Disaster Relief – Month and Year". For example, Allenway Housing Authority-AL123-MDD Disaster Relief-October 2020.
5. Attach the completed checklist, letter of justification, and all supporting documentation as applicable to your email.
6. Click "Send."

Checklists and any supporting documentation or information must be submitted not later than 4 months following the MDD. Requests submitted AFTER that time period will not be considered except in special cases outside of the agency's control.

VI. Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

Dated: 11/5/2020

/s/
R. Hunter Kurtz
Assistant Secretary for Public and
Indian Housing

[Billing Code 4210-67]

ATTACHMENT A - Checklist

Relief from HUD Public Housing and Section 8 Requirements Available During CY 2020 and CY 2021 to Public Housing Agencies to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Presidentially Declared Major Disasters

Information about Requesting Agency

NAME OF PHA: _____

PHA CODE: _____

Address: _____

City or Locality: (must be covered under PDD) _____

Parish: _____

Date of Submission: _____

Signature of PHA Official: _____

Name/Title of PHA Official: _____

Phone number of PHA Official: _____

Section 1. List the Presidentially-Declared Major Disaster your agency is under:

Section 2. Insert an “X” next to the applicable flexibilities.

An MDD PHA may adopt the flexibilities listed below.

- A. 24 CFR 990.145(b) (Public housing dwelling units with approved vacancies).**
(Public Housing Financial Management Division)

My agency requests HUD approval to treat certain vacant public housing units in our inventory as approved vacancies for the continued receipt of Operating Subsidy. I have attached a project-by-project listing of the units for which this approval is requested. I understand that any units that remain vacant shall be considered approved vacancies only for a period not to exceed 12 months from the date of HUD approval.

Section 3. Insert an “X” next to the applicable waiver requests.

An MDD PHA may request a waiver of a HUD requirement listed below or of any other HUD requirement and receive expedited review of the request, if the MDD PHA demonstrates that the waiver is needed for relief and recovery purposes. **Each request must include a good-cause justification for the waiver, documenting why the waiver is needed for such purposes.** No requested waiver may be implemented unless and until written approval from HUD has been obtained.

- A. 24 CFR 905.400(i)(5) (Capital Fund Formula; Replacement Housing Factor to reflect formula needs for projects with demolition or disposition occurring on or after October 1, 1998, and prior to September 2013).** (Office of Capital Improvements)

My agency requests a waiver of 24 CFR 905.400(i)(5) to allow for the use of Capital Fund Replacement Housing Factor grants with undisbursed balances for public housing modernization. I understand that this waiver will be in effect only for funds obligated within 12 months from the date of HUD approval.

— **B. 24 CFR 982.503(c) (HUD approval of exception payment standard amount).** (Housing Voucher Management and Operations)

My agency requests to establish an exception payment standard amount that is higher than 110 percent of the published fair market rent (FMR). I have attached our proposed emergency exception payment standard schedule, which shows both the dollar amounts requested and those amounts as a percentage of the FMRs in effect at the time of the request. I understand that any approved exception payment standard will remain in effect until HUD revises the FMRs for the area. I also understand that increased per-family costs resulting from the use of such exception payment standard may result in a reduction in the number of families assisted or may require my agency to adopt other cost-saving measures.

— **C. 24 CFR 982.633(a) (Occupancy of home).** (Housing Voucher Management and Operations)

My agency requests a waiver of 24 CFR 982.633(a) so that we may continue HAP for homeownership for families displaced from their homes if needed to comply with mortgage terms or make necessary repairs. We have determined that the family is not receiving assistance from another source. I understand that such payments must cease if the family remains absent from their home for more than 180 consecutive calendar days.

— **D. Waivers not identified in the PIH Notice, Relief from HUD Public Housing and Section 8 Requirements Available During CY2020 and 2021 to PHAs to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Presidentially Declared Major Disasters [FR-6050-N-04].**

My agency seeks waivers of the HUD requirements listed below. None of the requests are to waive a fair housing, civil rights, labor standards, or environmental review requirements. I have included documentation justifying the need for the waivers.

Section 4. Insert an “X” next to the applicable exception request.

An MDD PHA may request an exception of the HUD requirement listed below and receive expedited review of the request, if the MDD PHA demonstrates that the exception is needed for relief and recovery purposes. **Each request must include a good-cause justification for the exception, documenting why the exception is needed for such purposes.** No requested exception may be implemented unless and until written approval from HUD has been obtained.

— **Notice PIH 2012–10, Section 8(c) (Verification of the Social Security Number (SSN)).** (Real Estate Assessment Center)

My agency requests a waiver of section 8(c) of Notice PIH 2012–10 to allow for the submission of Form HUD–50058 90 calendars days from receipt of an applicant’s or participant’s SSN documentation. I understand that this waiver will be in effect for a period not to exceed 12 months from the date of HUD approval.

Regulation	Description
<i>Example: 24 CFR 982.54</i>	<i>Example: A waiver of this regulation will facilitate our agency’s capacity to participate in relief and recovery efforts by...</i>