



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
[Docket No. FR-6050-N-01]

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

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

ACTION: Notice.

SUMMARY: This notice advises the public that HUD, as a result of Presidentially declared Major Disaster Declarations (MDD) following Hurricanes Harvey, Irma and Maria has established an expedited process for the review of requests for relief from HUD regulatory and/or administrative requirements (“HUD requirements”) for public housing agencies (PHAs) and Tribes or tribally designated housing entities (TDHEs) that are located in Texas, U.S. Virgin Islands, Puerto Rico, Florida, and Georgia. The notice covers MDDs DR-4332, issued on August 25, 2017, DR-4335, issued on September 7, 2017, DR-4336, issued on September 10, 2017, DR-4337, issued on September 10, 2017, DR-4338, issued on September 15, 2017, DR-4339 issued on September 20, 2017 and DR-4340 issued on September 20, 2017. Specifically, these PHAs and Tribes/TDHEs may request waivers of HUD requirements and receive expedited review of such requests. In addition, this notice advises that PHAs, Tribes and TDHEs located in areas covered by MDDs issued during the remainder of 2017 may utilize the flexibilities and expedited waiver process set out by this notice.

DATES: Applicable Date: **[INSERT DATE OF PUBLICATION IN FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Shelia Bethea, Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4112, Washington, DC 20410-5000, telephone number (202) 402-

8120. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

From a period beginning on August 23, 2017, areas in Texas, U.S. Virgin Islands, Puerto Rico, Florida and Georgia experienced severe storms and flooding from Hurricanes Harvey, Irma and Maria. MDDs covering these areas were issued on August 25, 2017, DR-4332¹, DR-4335², September 7, 2017, DR-4336³, September 10, 2017, DR-4337⁴, September 10, 2017, DR-4338⁵, September 15, 2017, DR-4339⁶, September 20, 2017 and DR- 4340⁷, September 20, 2017.

In order to provide relief from certain HUD requirements governing programs administered by the Office of Public and Indian Housing (PIH) to PHAs and Tribes/THDEs that are located in areas covered by MDDs 4332, 4335, 4336, 4337, 4338, 4339 and 4340 (MDD PHAs; MDD Tribes/TDHEs) HUD is publishing this notice. The notice describes a number of

¹ <https://www.fema.gov/disaster/4332>, designating Aransas, Bee, Brazoria, Calhoun, Chambers, Colorado, Fayette, Fort Bend, Galveston, Goliad, Hardin, Harris, Jackson, Jasper, Jefferson, Kleberg, Liberty, Matagorda, Montgomery, Newton, Nueces, Orange, Refugio, Sabine, San Jacinto, San Patricio, Victoria, Waller, Wharton Counties in Texas.

² <https://www.fema.gov/disaster/4335>, designating St. John (Island) (County-equivalent), St. Thomas (Island) (County-equivalent) in U.S. Virgin Islands for Hurricane Irma and St. Croix for Hurricane Maria

³ <https://www.fema.gov/disaster/4336>, designating Canovanas (Municipio), Culebra (Municipio), Loiza (Municipio), Vieques (Municipio) in Puerto Rico for Hurricane Irma and Aguas Buenas, Aibonito, Arecibo, Arroyo, Barceloneta, Barranquitas, Bayamón, Caguas, Canóvanas, Carolina, Cataño, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Florida, Guayama, Guaynabo, Gurabo, Humacao, Jayuya, Juana Díaz, Juncos, Las Piedras, Loíza, Luquillo, Manati, Maunabo, Morovis, Naguabo, Naranjito, Orocovis, Patillas, Ponce, Rio Grande, Salinas, San Juan, San Lorenzo, Santa Isabel, Toa Baja, Toa Alta, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, and Yabucoa for Hurricane Maria.

⁴ <https://www.fema.gov/disaster/4337>, designating Alachua, Baker, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Columbia, DeSoto, Dixie, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lafayette, Lake, Lee, Levy, Manatee, Marion, Martin, Miami-Dade, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, Suwannee, Union, Volusia in Florida.

⁵ <https://www.fema.gov/disaster/4338>, designating Camden, Chatham, Coffee, Glynn, Liberty and McIntosh in Georgia.

⁶ <https://www.fema.gov/disaster/4339>, designating Puerto Rico.

⁷ <https://www.fema.gov/disaster/4340>, designating U.S. Virgin Islands.

flexibilities that are available to such PHAs and Tribes/TDHEs, lists HUD requirements that HUD is willing to waive upon request from a PHA or Tribe/TDHE, and provides for the expedited review of waiver requests. HUD is publishing this notice to assist MDD PHAs and Tribes/TDHEs in responding to this major disaster declarations and in contributing to long-term recovery. Further, given the number of natural disasters that have occurred and may occur this year, HUD has determined that PHAs, Tribes and TDHEs located in areas covered by MDDs issued during the balance of 2017 may utilize the flexibilities and expedited waiver process set out by this notice. HUD will publish a notice designating areas covered by future MDDs.

The notice is organized as follows:

- Section II describes the flexibilities that are available to MDD PHAs, where such flexibilities are built into statute and/or regulation. MDD PHAs may avail themselves of these flexibilities, following the process described in Section IV of the notice.
- Section III describes requirements of HUD's Indian programs that may be waived.
- Section IV 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 IV and receive expedited review of the request if the MDD PHA demonstrates that the waiver is needed in order to assist in its relief and recovery efforts. An MDD PHA may not adopt any requested waiver prior to receiving HUD approval.
- Section V describes the process HUD has established for MDD PHAs to provide notice to and/or request approval from HUD regarding statutory or regulatory

flexibilities and/or to request waivers of HUD requirements. Waiver requests will be handled on an expedited, case-by-case basis. Consistent with section 7(q) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), a regulated party that seeks a waiver of HUD regulations must request a waiver from HUD in writing. HUD will permit other methods of waiver transmission as necessary. The waiver request must specify the need for the waiver. Typically, the request is submitted to the HUD field office, which reviews the request and submits its recommendation to HUD headquarters. HUD headquarters then responds to the regulated party in writing. Since the damage to property and the displacement of families and individuals in the disaster areas is massive, and the need for relief from HUD requirements may be necessary, HUD will expedite the processing of waiver requests from MDD PHAs, providing for concurrent review by the HUD field office and HUD headquarters.

- 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 notice will be published in the Federal Register and will identify the MDD PHAs receiving such approvals.

II. Flexibilities that are Available to MDD PHAs

HUD is exercising discretionary authority to provide relief from the requirements described in this section. Upon notification to HUD or upon HUD approval, as noted below, relief is granted to MDD PHAs. Relief from the requirements must benefit families affected by

the disasters, for example by enabling MDD PHA staff to focus on relief and recovery efforts. Section IV of this notice describes the process an MDD PHA must follow to provide notification to and/or to request approval from HUD. Such notification and/or request must be made by **[INSERT DATE 90 DAYS AFTER OF PUBLICATION IN FEDERAL REGISTER]**.

A. 24 CFR 905.306 (Extension of deadline for obligation and expenditure of Capital Funds). Section 9(j)(1) of the United States Housing Act of 1937 (1937 Act) requires PHAs to *obligate* Capital Funds not later than 24 months after the date on which the funds became available, or the date on which the PHA accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units, plus the period of any extension approved under section 9(j)(2) of the Act. Section 9(j)(5)(A) of the 1937 Act requires a PHA to *expend* Capital Funds not later than 4 years after the date on which the funds become available for obligation, plus the period of any extension approved under section 9(j)(2). Section 9(j)(2) of the 1937 Act authorizes the Secretary to extend the time period for the obligation of Capital Funds for such period as the Secretary determines necessary if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to an event beyond the control of the PHA. The severe storms and flooding in Texas were beyond the control of MDD PHAs and caused such massive and widespread destruction and displacement that HUD is willing to extend the obligation deadline under section 9(j)(1) of the 1937 Act pursuant to section 9(j)(2)(A)(v) of the 1937 Act for an additional 12 months, upon the request of an MDD PHA. The extension of the section 9(j) obligation and extension deadlines made in this notice also applies to the implementing regulation at 24 CFR 905.306.

B. 24 CFR 984.105(d) (Family Self-Sufficiency minimum program size). 24 CFR 984.105(d) defines the circumstances under which a PHA may, upon HUD approval, operate a

program that is smaller than the required program size. HUD has determined that an MDD PHA's ability to operate a program that meets the minimum program size requirements may be infeasible due to circumstances related to MDDs 4332, 4335, 4336, 4337, 4338, 4339 and/or 4340. Upon the submission to HUD of a certification (as defined in 24 CFR 984.103) and upon request by an MDD PHA, HUD will grant an exemption from the minimum program size requirement for a period of 24 months from the effective date of this notice.

C. 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), a PHA shall receive operating subsidy for units that are vacant due to a 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 severe storms and flooding, 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. Requirements of HUD's Indian Programs That May Be Waived

HUD is exercising discretionary authority to provide relief from the requirements described in this section since the damage to property and the displacement of families and individuals is significant and the need to provide regulatory relief in many areas is readily apparent. Upon notification to HUD or upon HUD approval, as noted below, relief is temporarily granted to MDD Tribes/TDHEs. Relief from the requirements must benefit families affected by the disasters, for example by enabling MDD Tribe/TDHE staff to focus on relief and recovery efforts. To avail themselves of the waivers in this section, MDD Tribes/TDHEs must

notify their Area Office of Native American Programs (AONAP) in advance of their intent to exercise the waiver, and must keep documentation on file at the Tribe/TDHE of good cause for exercising such waiver. Such notification and/or request must be made by **[INSERT DATE 90 DAYS AFTER OF PUBLICATION IN FEDERAL REGISTER]**.

Indian Housing Block Grant (IHBG) Program Waivers

A. 24 CFR 1000.156 and 1000.158 (Total Development Cost (TDC) Limits). The IHBG regulations provide that affordable housing developed, acquired, or assisted under the IHBG program must be of moderate design. TDC limits are published annually to provide recipients with affordable housing cost standards. These standards can be exceeded by 10 percent with AONAP approval and can be exceeded further if Headquarters approval is obtained. A Tribe must submit a justification to HUD to increase the TDC limit of a unit or project. Due to the impact of the hurricanes and the need to expedite the rehabilitation of damaged homes, HUD has determined that there is good cause to temporarily waive these requirements to allow Tribes impacted by Hurricanes Harvey, Irma, or Maria to exceed the current TDC maximum by 20 percent without HUD review or approval if the Tribe maintains documentation that indicates that housing will be for IHBG eligible families and the design, size, and amenities are moderate and comparable to housing in the area. This requirement is waived for a period of one year from the effective date of this notice. The TDC limits can be exceeded by more than 20 percent if the Tribe receives written approval from HUD Headquarters. These requirements are also waived to permit the current TDC limits to be used for both single-family and multi-family housing.

Indian Community Development Block Grant (ICDBG) Waivers

B. 24 CFR 1003.305; 24 CFR 1003.400(a) and (b); 24 CFR 1003.401; and Section I.A.1.b of FY 2017 Indian Community Development Block Grant (ICDBG) NOFA

(Application Requirements for ICDBG Imminent Threat Funds and Amending ICDBG Single Purpose Grants). These ICDBG regulations provide that applicants must: (1) provide independent verification of the urgency and immediacy of the threat; (2) demonstrate that no other funding source is available to address the threat for which funds are requested; (3) submit the information specified in the annual ICDBG NOFA, located in Section I.A.1.b of the FY 2017 ICDBG NOFA; and (4) meet all funding criteria for ICDBG Imminent Threat grants in 24 CFR 1003, Subpart E, when requesting an amendment to use an ICDBG Single Purpose grant to address imminent threats to health and safety. Given the urgent need to address the damage from Hurricanes Harvey, Irma or Maria, and the well documented impact of the disasters, these requirements may cause unnecessary delays to recovery. Accordingly, HUD determines that there is good cause to waive 24 CFR 1003.305, 1003.400(a) and (b), 1003.401(b), and Section I.A.1.b of the FY2017 ICDBG NOFA, to the extent necessary to permit Indian Tribes located in areas affected by Hurricanes Harvey, Irma or Maria to more expeditiously request and receive ICDBG Imminent Threat grants, or to use an existing ICDBG grant to address imminent threats to health and safety. A Tribe that is seeking an ICDBG Imminent Threat grant must instead send a written request to its Area Office of Native American Programs (ONAP) describing (1) the damage caused by the disaster, (2) the amount of assistance requested to address the damage, (3) the activities that the Tribe intends to carry out with the Imminent Threat grant, and (4) certify that information on the Tribe/TDHE's plans to use ICDBG Imminent Threat or existing ICDBG funds has been published or posted for residents of the community in order to meet the alternative citizen participation requirements in Section III.D. of this Notice. This documentation need not be in writing if HUD determines that providing written documentation is impracticable. A Tribe that is seeking to use its ICDBG grant funds to address imminent threats

to health and safety must also follow the process outlined above in lieu of the process outlined in these regulations and NOFA. HUD will review this information and determine whether to approve the Tribe for an ICDBG Imminent Threat grant, or to approve the Tribe's ICDBG amendment request.

C. 24 CFR 1003.604 (ICDBG Citizen Participation Requirements). The ICDBG regulations at 24 CFR 1003.604(a)(2) require applicants to consult with residents prior to submitting their funding applications. Due to the impact of Hurricanes Harvey, Irma or Maria, Indian Tribes may need to either quickly apply for an ICDBG Imminent Threat grant, or amend their existing ICDBG Single Purpose grants to address the damage from the disasters. The citizen participation requirements have the potential to delay the ability of ICDBG grantees and applicants to address the damage from the disasters. Accordingly, HUD has determined that there is good cause to temporarily waive 24 CFR 1003.604(a)(2) so that the Tribe will not have to hold one or more meetings to obtain the views of residents on disaster recovery needs. This requirement is waived for a period of one year from the effective date of this notice. Tribes will continue to be required, however, to meet the citizen participation requirements by publishing or posting information on their plans to use ICDBG Imminent Threat grant funds, or amend their ICDBG Single Purpose grant(s), and accepting and considering comments. The Tribe will be required to certify in its application for funding or for amendment that information has been published or posted for residents of the community in order to meet the citizen participation requirement.

D. Section II.A.3 of the Fiscal Year 2015, 2016 and 2017 Indian Community Development Block Grant (ICDBG) Notices of Funding Availability (Housing Rehabilitation Limits). The ICDBG NOFA places a limit on the amount grantees can spend on

per unit housing rehabilitation costs. Due to the impact of Hurricanes Harvey, Irma or Maria, Tribes may need to exceed these limits for reasons including but not limited to: (1) existing ICDBG housing rehabilitation projects may have incurred damage and rectifying that damage reasonably increases the per unit cost, (2) the disaster may have created the need for new and unplanned housing rehabilitation that is complicated and/or made more expensive by storm related damage, and (3) the cost of construction materials and labor may have increased due to increased demand in the affected areas. HUD has determined that there is good cause to waive the ICDBG housing rehabilitation limits to allow Tribes to incur costs that more fully address disaster recovery needs. These standards can be exceeded with prior approval of the AONAP. When requesting approval from the AONAP to use this waiver flexibility, Tribes should include a statement of the scope of work and projected costs.

IV. 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 requirements for which HUD anticipates receiving such requests. 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 relief and recovery purposes. This documentation need not be in writing if HUD determines that providing written documentation is impracticable.

HUD expects that any waiver granted pursuant to this notice will benefit families affected by the disasters, for example by enabling MDD PHA staff to focus on relief and recovery efforts.

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 recover efforts must submit a waiver request pursuant to the process outlined in Section IV of this notice. HUD will not approve an

MDD PHA's or other recipient's request to waive a fair housing, civil rights, labor standards, or environmental requirement. The request must be submitted to HUD not later than **[INSERT DATE 90 DAYS AFTER OF PUBLICATION IN FEDERAL REGISTER]**.

A. 24 CFR 5.512(d) (Verification of eligible immigration status; Secondary verification). Section 5.512 describes the process by which verification of eligible immigration status must be undertaken for families seeking assistance under certain HUD programs. In circumstances under which secondary verification must be requested, Section 5.512(d) provides a PHA with 10 calendar days from the date of receipt of the results of the primary verification to request secondary verification from Immigration and Customs Enforcement (ICE). To initiate secondary verification, 24 CFR 5.512(d)(2) requires that the PHA provide ICE with “photocopies of the original [ICE] documents required for the immigration status declared (front and back), attached to the [ICE] document verification request form G-845S (Document Verification Request), or such other form specified by the [ICE].” HUD is willing to consider a request from an MDD PHA to extend the timeframe for secondary verification requests to ICE to 90 calendar days, for any primary verification result received after the effective date of this notice where a secondary request is required, for a period not to exceed 12 months from the date of HUD approval.

B. 24 CFR 5.801(c) and 5.801(d)(1) (Uniform financial reporting standards; Filing of financial reports; Reporting compliance dates). Section 5.801 establishes uniform financial reporting standards (UFRS) for PHAs (and other entities). Section 5.801(c) requires that PHAs submit financial information in accordance with 24 CFR 5.801(b) annually, not later than 60 days after the end of the fiscal year of the reporting period. Section 5.801(d)(1) requires that PHAs submit their *unaudited* financial statements not later than 60 calendar days after the end of

their fiscal year and that PHAs submit their *audited* financial statements not later than 9 months after the end of their fiscal year. HUD is willing to consider requests to extend these reporting deadlines. Specifically, for MDD PHAs with fiscal years ending December 31, 2016, and March 31, 2017, the deadline for submission of financial information in accordance with 24 CFR 5.801(b) and the deadline for submission of audited financial statements may be extended to 13 months. For MDD PHAs with fiscal years ending June 30, 2017, September 30, 2017, and December 31, 2017, the deadline for submission of financial information in accordance with 24 CFR 5.801(b) and the deadline for submission of unaudited financial statement may be extended to 180 calendar days, and the deadline for submission of audited financial statements may be extended to 13 months.

C. 24 CFR 902 (Public Housing Assessment System). Part 902 sets out the indicators by which HUD measures the performance of a PHA. The indicators measure a PHA's physical condition, financial condition, management operations, and Capital Fund obligation and occupancy. For an MDD PHA that has a fiscal year end of June 30, 2017, September 30, 2017, December 31, 2017, March 31, 2018, or June 30, 2018, HUD is willing to consider a request to waive the inspection and scoring of public housing projects, as required under 24 CFR 902

D. 24 CFR 905.322(b) (Fiscal closeout). Section 905.322(b) establishes deadlines for the submission of an Actual Development Cost Certificate (ADCC) and an Actual Modernization Cost Certificate (AMCC). Specifically, the ADCC must be submitted 12 months from the date of completion/termination of a modernization activity, and the AMCC must be submitted not later than 12 months from the activity's expenditure deadline. Upon request from an MDD PHA, HUD is willing to extend these deadlines by 12 months.

E. 24 CFR 905.314(b)–(c) (Cost and other limitations; Maximum project cost; TDC limit). Section 905.314(b)–(c) establishes the calculation of maximum project cost and the calculation of total development cost. In order to facilitate the use of Capital Funds for repairs and construction for needed housing in the disaster areas, HUD is willing to waive the total development cost (TDC) and housing cost cap limits for all work funded by the Capital Grant (Capital Grant Funds with undisbursed balances and HOPE VI funds) until issuance of 2018 TDC levels. MDD PHAs that request to waive this provision and receive approval to do so must strive to keep housing costs reasonable given local market conditions, based upon the provisions outlined in 2 CFR Part 200.

F. 24 CFR 905.314(j) (Cost and other limitations; Types of labor). This section establishes that non-high performer PHAs may use force account labor for modernization activities only when the use of force account labor for such activities has been included in a Board-approved Capital Fund Program 5-Year Action Plan. HUD is willing to waive this requirement to allow for the use of force account labor for modernization activities even if this activity has not been included in the non-high performer MDD PHA's 5-Year Action Plan. This waiver will be in effect for a period not to exceed 12 months from the date of HUD approval.

G. 24 CFR 905.400(i)(5) (Capital Fund Formula; Limitation of Replacement Housing Funds to New Development). 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 as a result of the displacement caused by the severe storms and flooding, HUD is willing to waive 905.400(i)(5) to allow all Capital Fund Replacement Housing Factor Grants with undisbursed balances to be used for public housing

modernization. This waiver will be in effect for funds obligated within 12 months from the date of HUD approval.

H. 24 CFR 960.202(c) (Tenant selection policies) and 982.54(a) (Administrative plan). Section 960.202(c)(1) provides that public housing tenant selection policies must be duly adopted and implemented. Section 982.54(a) provides that a PHA's Section 8 administrative plan must be formally adopted by the PHA Board of Commissioners or other authorized PHA officials. For temporary revisions to an MDD PHA's public housing tenant selection policies or Section 8 administrative plan that an MDD PHA wishes to put into place to address circumstances unique to relief and recovery efforts, HUD is willing to consider requests to waive the requirements for formal approval. Any waiver request must include documentation that an MDD PHA's Board of Commissioners or an authorized MDD PHA official supports the waiver request and must identify the temporary revisions, which shall be effective for a period not to exceed 12 months from the date of HUD's approval. Additionally, any waiver request is limited to revisions that do not constitute a significant amendment or modification to the MDD PHA plan; pursuant to Section 5(A)(g) of the 1937 Act, HUD cannot waive the approval by the board or other authorized PHA officials if the proposed revision would constitute a significant amendment or modification to the PHA plan. Finally, HUD cannot waive any terms within a PHA's own plan or state law requiring the approval of the board or authorized PHA officials.

I. 24 CFR 965.302 (Requirements for energy audits). This section establishes the requirement that all PHAs complete an energy audit for each PHA-owned project under management, not less than once every 5 years. HUD is willing to consider a request for audits due to take place in FY 2017 an additional 12 months after December 31, 2016, to complete such an audit.

J. 24 CFR 982.206(a)(2) (Waiting List; Opening and closing; Public notice). This section describes where a PHA must provide public notice when it opens its waiting list for tenant-based assistance. HUD is willing to consider a request from an MDD PHA that wishes, in lieu of the requirement to provide notice in a local newspaper of general circulation, to provide public notice via its Web site, at any of its offices, and/or in a voice-mail message, for any opening of the waiting list for tenant-based assistance that occurs within a period not to exceed 12 months from the date of HUD approval. MDD PHAs that request a waiver of this requirement and receive HUD approval must consider the fair housing implications of the means by which they choose to provide public notice. For example, an MDD PHA that chooses to provide public notice at its offices must consider the impact on persons with disabilities, who may have difficulty visiting the office in-person. Similarly, an MDD PHA that chooses to provide public notice via voice-mail message must consider how it will reach persons with hearing impairments and persons with limited English proficiency. HUD maintains the requirement that an MDD PHA must also provide the public notice in minority media. Any notice must comply with HUD fair housing requirements.

K. 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 natural disaster situation, however, the typical data sources 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. HUD has decided,

based on this data, that exception payment standard amounts up to 150 percent of the FMR are justified and that an MDD PHA may therefore request a waiver to establish an exception payment standard up to 150 percent of the FMR without providing supporting data. Upon approval by HUD, an exception payment standard adopted pursuant to this notice may be adopted for any Housing Assistance Payment (HAP) contract entered as of the effective date of this notice. HUD intends for these exception payment standards to remain in effect until HUD implements changes to the FMRs in the affected areas. 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.

L. 24 CFR 982.401(d) (Housing quality standards; Space and security). This section establishes a standard for adequate space for an HCV-assisted family. Specifically, it requires that each dwelling unit have at least 1 bedroom or living/sleeping room for each 2 persons. HUD is willing to consider a request from an MDD PHA that wishes to waive this requirement to house families displaced due to the severe storms and flooding. The waiver will be in effect only for HAPs entered into during the 12-month period following the date of HUD approval, and then only with the written consent of the family. For any family occupying a unit pursuant to this waiver, the waiver will be in effect for the initial lease term.

M. 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 is willing to 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) 4332,4335,4337, 4338, 4339

and/or 4340 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 that wishes in addition to 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 must do so separately.

N. 24 CFR 984.303(d) (Contract of participation; contract extension). Part 984 establishes the requirements for the Section 8 and Public Housing Family Self-Sufficiency (FSS) Program. Section 984.303(d) authorizes a PHA to extend a family's contract of participation for a period not to exceed 2 years, upon a finding of good cause, for any family that requests such an extension in writing. HUD is willing to consider a request from an MDD PHA that wishes to extend family contracts for up to 3 years, if such extensions are merited based on circumstances deriving from MDD(s) 4332,4335,4337, 4338, 4339 and/or 4340. Any waiver granted pursuant to this request will be in effect for requests made to the MDD PHA during a period not to exceed 12 months from the date of HUD approval.

O. 24 CFR part 985 (Section 8 Management Assessment Program (SEMAP)). Part 985 sets out the requirements by which section 8 tenant-based assistance programs are assessed. For an MDD PHA that has a fiscal year end of September 30, 2017, December 31, 2017, or March 31, 2018, HUD is willing to consider a request to carry forward the last SEMAP score received by the PHA.

P. 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.

R. Notice PIH 2012-7, Section 9 and 4. HUD will not process a SAC application that is incomplete or deficient on a substantial item (e.g. supporting information required under 24 CFR sections 970.7(a)(1) - (17) (environmental review must still be performed)). HUD is willing to consider a request to waive this for MDD PHAs in order to allow these PHAs to apply for tenant protection vouchers (TPVs) after the submission of a SAC application based on imminent health and safety issues (in accordance with PIH Notice 2017-10).

S. 24 CFR 970.15(b)(1)(ii). For Section 18 demolition applications (and disposition applications) justified by location obsolescence, in addition to accepting an environmental review performed by HUD under 24 CFR part 50, for MDD PHAs, HUD is willing to accept an environmental review performed under 24 CFR part 58 if HUD determines the part 58 review indicates the environmental conditions jeopardize the suitability of the site or a portion of the site and its housing structures for residential use.

T. 24 CFR 970.15(b)(2) and PIH 2012-7, Section 14. For Section 18 demolition applications (and disposition applications) justified by obsolescence, HUD generally shall not consider a program of modifications to be cost-effective if the costs of such program exceed 62.5 percent of total development cost (TDC) for elevator structures and 57.14 percent of TDC for all other types of structures in effect at the time the application is submitted to HUD. In addition, HUD requires that PHAs support rehabilitation cost-estimate by a list of specific and detailed work-items identified on form HUD-52860-B and other criteria outlined in PIH Notice 2012-7, Section 14. HUD is willing to consider requests to waive these requirements if MDD PHAs submit other evidence (e.g. insurance adjuster reports, condemnation orders from local

municipalities, photographs) that support the MDD PHA's certification that a program of modifications is not cost-effective.

U. Notice PIH 2012-7, Section 14. HUD approves Section 18 demolition applications (and disposition applications justified by physical obsolescence HUD is willing to consider requests to waive these criteria for MDD PHAs if they submit other evidence (e.g. insurance adjuster reports, photographs) that support the MDD PHA's certification that a program of modifications is not cost-effective.

V. Notice PIH 2017-10, Section 6(F)(2)(a). The maximum number of TPVs available to PHAs for public housing removal actions is based on the occupancy of the public housing units at the time the Section 18 demolition or disposition application is approved by HUD. If MDD PHAs have vacated units based on imminent health and safety prior to the submission of a TPV application, HUD is willing to consider making TPVs available for units that were occupied immediately prior to the disaster.

V. Notification and Expedited Waiver Process – Instructions

HUD has developed a checklist (Attachment A to this notice) that an MDD PHA must complete and submit to take advantage of the provisions identified in this notice 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. Download the checklist to your computer, saving the document with the following filename: FR-5987-N-01. Your Agency's HA Code (e.g., FR-5987-N-01.MI001). HUD will consider other methods of submission as needed.
2. Complete the section titled Information about Requesting Agency. 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 HUD HQ and your Field Office Public Housing Director. In the subject line, type "Hurricane Harvey/Irma Disaster Relief." Email: PIH_Disaster_Relief@hud.gov
5. Attach the completed checklist to your email.
6. Click "Send."

Checklists and any supporting documentation or information must be submitted not later than **[INSERT DATE 90 DAYS AFTER OF PUBLICATION IN FEDERAL REGISTER]**. Requests submitted after **[INSERT DATE 90 DAYS AFTER OF PUBLICATION IN FEDERAL REGISTER]** will not be considered, nor will HUD consider any waiver requests submitted to this email address that are unrelated to relief and recovery efforts.

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: October 3, 2017.

Dominique Blom, General Deputy Assistant
Secretary.

[FR-6050-N-01]

ATTACHMENT A
Relief from HUD Requirements
Available to Public Housing Agencies to Assist with
Recovery and Relief Efforts on Behalf of Families
Affected by Hurricanes Harvey, Irma and Hurricane Maria

Information about Requesting Agency

NAME OF PHA:

PHA CODE:

Address:

City or Locality:

Parish:

Date of Submission: [may not be after [insert date that is 90 calendar days from effective date of notice]]

Signature of PHA Official: _____

Name/Title of PHA Official:

Phone number of PHA Official:

Section 1. Insert an “X” next to the applicable category (A, B, C or D).

Category A: My agency is located in one of the counties that received a Major Disaster Declaration on August 25, 2017 [MDD 4332]. *Aransas, Bee, Brazoria, Calhoun, Chambers, Colorado, Fayette, Fort Bend, Galveston, Goliad, Hardin, Harris, Jackson, Jasper, Jefferson, Kleberg, Liberty, Matagorda, Montgomery, Newton, Nueces, Orange, Refugio, Sabine, San Jacinto, San Patricio, Victoria, Waller, Wharton*

[Category B: Category B will include counties included in Major Disaster Declaration for Hurricane Irma; MDD 4335, 4336, 4337, 4338]. *St. John (Island) (County-equivalent), St. Thomas (Island) (County-equivalent), Canovanas (Municipio), Culebra (Municipio), Loiza (Municipio), Vieques (Municipio), Alachua, Baker, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Columbia, DeSoto, Dixie, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lafayette, Lake, Lee, Levy, Manatee, Marion, Martin, Miami-Dade, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, Suwannee, Union, Volusia, Camden, Chatham, Glynn, Liberty and McIntosh.*

[Category C: Category C will include counties included in Major Disaster Declaration for Hurricane Maria; MDD 4339 and 4340]. *St. Croix (Island) (County-equivalent), Aguas Buenas, Aibonito, Arecibo, Arroyo, Barceloneta, Barranquitas, Bayamón, Caguas, Canóvanas, Carolina, Cataño, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Florida, Guayama, Guaynabo, Gurabo, Humacao, Jayuya, Juana Díaz, Juncos, Las Piedras, Loíza, Luquillo, Manati, Maunabo, Morovis, Naguabo, Naranjito, Orocovis, Patillas, Ponce,*

Rio Grande, Salinas, San Juan, San Lorenzo, Santa Isabel, Toa Baja, Toa Alta, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, and Yabucoa.

- ___ **[Category D: Category D is for PHAs, Tribes and TDHEs located in areas covered by MDDs issued during the remainder of 2017]**

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

An MDD PHA may adopt the flexibilities listed below.

- ___ **A. 42 U.S.C. 1437g(j)(1) and (j)(5)(A) (Extension of deadline for obligation and expenditure of Capital Funds).** (Office of Capital Improvements)

My agency requests that HUD extend the deadline for the obligation and expenditure of Capital Funds for an additional 12 months. We will maintain documentation substantiating the need for this extension.

- ___ **B. 24 CFR 984.105 (Family Self-Sufficiency minimum program size).** (Housing Voucher Management and Operations; Public Housing Management and Occupancy)

My agency submits the certification required by 24 CFR 984.103 and will operate an FSS program that is smaller than the required program size for up to 24 months from [insert effective date of notice].

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

My agency requests HUD approval to treat certain public housing units in our inventory as approved vacancies. 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 5.512(d) (Verification of eligible immigration status; Secondary verification).** (Housing Voucher Management and Operations; Public Housing

Management and Occupancy)

My agency requests a waiver of 24 CFR 5.512(d) to extend the timeframe for secondary verification requests to Immigration and Customs Enforcement from 30 to 90 days. I understand that, if approved, this waiver will be in effect for a period not to exceed 12 months from the date of HUD approval.

— **B. 24 CFR 5.801(c) and 5.801(d)(1) (Uniform financial reporting standards; Filing of financial reports; Reporting compliance dates).** (REAC)

My agency requests a waiver of 24 CFR 5.801(c) to extend the deadline for reporting of unaudited financial information to 180 days and of 24 CFR 5.801(d)(1) to extend the reporting deadline for audited financial information to 13 months.

For requests to waive the deadline to report audited financial information, my agency has a fiscal year end of 12/31/16 or 3/31/17.

For requests to waive the deadlines to report both unaudited financial information and audited financial information, my agency has a fiscal year end of 6/30/17, 9/30/17 or 12/31/17.

— **C. 24 CFR 902 (Public Housing Assessment System).** (REAC)

My agency requests a waiver of the inspection and scoring of public housing projects, as required under 24 CFR 902. My agency has a fiscal year end of 6/30/17, 9/30/17, 12/31/17, 3/31/18, or 6/30/18.

— **D. 24 CFR 905.322(b) (Fiscal closeout)** (Office of Capital Improvements)

My agency requests a waiver of 24 CFR 905.322(b) to extend the deadline for submission of the Actual Development Cost Certificate and the Actual Modernization Cost Certificate by 12 months.

— **E. 24 CFR 905.314(b)–(c) (Cost and other limitations; Maximum project cost; TDC limit).** (Office of Capital Improvements)

My agency requests a waiver of 24 CFR 905.314(b)–(c), which establish the calculation of maximum project cost and total development cost limits for the Capital Fund program. I understand that this waiver is in effect only until 2018 TDC limits have been published.

— **F. 24 CFR 905.314(j) (Cost and other limitations; Types of labor)** (Office of Capital Improvements)

My agency requests a waiver of 24 CFR 904.314(j) to allow for the use of force account labor for modernization activities even if this activity has not been included in our agency's 5-Year Action Plan. I understand that this waiver will be in effect for a period not to exceed 12 months from the date of HUD approval.

— **G. 24 CFR 905.400(i)(5) (Capital Fund Formula; Limitation of Replacement Housing**

Funds to New Development) (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.

— **H. 24 CFR 960.202(c) (Tenant selection policies) and 24 CFR 982.54(a) (Administrative plan).** (Housing Voucher Management and Operations; Public Housing Management and Occupancy)

My agency requests a waiver of 24 CFR 960.202(c)(1) and/or 24 CFR 982.54(a) so that our public housing tenant selection policies and section 8 administrative plan may be revised on a temporary basis, without formal approval, to address circumstances unique to relief and recovery efforts. I have attached documentation that our Board of Commissioners or an authorized PHA official supports the waiver request. I have also attached documentation identifying the temporary revisions. The adoption of these revisions does not constitute a significant amendment to our PHA plan, nor does state law prevent us from adopting the revisions without formal approval. I understand that these revisions will be in effect for a period not to exceed 12 months from the date of HUD's approval.

— **I. 24 CFR 965.302 (Requirements for energy audits).** (Public Housing Management and Occupancy)

My agency requests a waiver of 24 CFR 965.302 to provide us with an additional 12 months after December 31, 2017, to complete our audits.

— **J. 24 CFR 982.206(a)(2) (Waiting List; Opening and closing; Public notice).** (Housing Voucher Management and Operations)

My agency requests a waiver of 24 CFR 982.206(a)(2) so that we can provide public notice of the opening of our waiting list via our Web site, at any of our offices, and/or in a voice-mail message in lieu of providing notice in a local newspaper of general circulation. I understand that this waiver is in effect for a period not to exceed 12 months from the date of HUD approval.

— **K. 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.

— **L. 24 CFR 982.401(d) (Housing quality standards; Space and security).** (Housing Voucher Management and Operations)

My agency requests a waiver of 24 CFR 982.401(d) so that we may allow families to occupy units that are smaller than our occupancy standards would otherwise dictate. I understand that this waiver is in effect only for HAPs entered into during the 12-month period following the date of HUD approval, and then only with the written consent of the family.

— **M. 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.

— **N. 24 CFR 984.303(d) (Contract of participation; contract extension).** (Public Housing Management and Occupancy; Housing Voucher Management and Operations)

My agency requests a waiver of 24 CFR 984.303(d) so that a family's contract of participation may be extended for up to 3 years. I understand that such extensions may be made only during the 12-month period following the date of HUD approval.

— **O. 24 CFR 985.101(a) (Section 8 Management Assessment Program (SEMAP)).** (Housing Voucher Management and Operations)

My agency requests a waiver of 24 CFR 985.101(a) so that our SEMAP score from the previous year may be carried over. My agency has a fiscal year end of 9/30/17, 12/31/17, or 3/31/18.

— **P. Notice PIH 2012–10, Section 8(c) (Verification of the Social Security Number (SSN))** (REAC)

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.

— **Q. Waivers not identified in FR-6050-N-01.**

My agency seeks waivers of the HUD requirements listed below. I have included documentation justifying the need for the waivers.

| 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> |
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