



[FR-6301-N-01]

Regulatory and Administrative Requirement Waivers and Flexibilities Available to HUD Public Housing and Section 8 During CY 2022 and CY 2023 to Public Housing Agencies to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Presidentially Declared Disasters

AGENCY: Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: This notification advises the public of HUD’s expedited process for waivers and flexibilities from HUD regulatory and administrative requirements (“HUD requirements”) during Presidentially Declared Disasters (PDDs). To respond to PDDs, this notice establishes an expedited process for the review of waiver requests and flexibilities for calendar years (CY) 2022 and 2023, for Public Housing Agencies (PHAs) located within PDDs (PDD PHAs). PDD PHAs may make such requests utilizing the expedited process set forth in this notification.

DATES: Waivers and flexibilities set forth in this document are effective from January 1, 2022 until December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Tesia Irinyenikan, Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 3180, Washington, DC 20410-5000, phone 202-402-7026 (this is not a toll-free number) 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. How This Notice is Organized

This notice is organized as follows:

- Section I provides an outline for this notice.

- Section II describes the operating subsidy flexibility allowed under 24 CFR 990.145(b) (Public housing dwelling units with approved vacancies).
- Section III describes specific HUD requirements that may, per request and HUD approval, be waived or granted a flexibility to facilitate a PDD PHA's ability to participate in disaster relief and recovery efforts. A PDD PHA may request a waiver or flexibility of a HUD requirement not listed in Section III and receive an expedited review of the request if the PDD PHA demonstrates that the waiver or flexibility is needed to assist its disaster relief and recovery efforts. A PDD PHA may not adopt any requested waiver prior to receiving HUD approval.
- Section IV describes exceptions.
- Section V provides instructions for PDD PHAs on how to submit waiver, flexibility, and exception requests.

II. HUD Operating Subsidy flexibility in approved vacancies.

HUD, exercising discretionary authority from Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)), which is consistent with 24 CFR 5.110 (Waivers), is providing this flexibility regarding operating subsidy. Upon review of a PDD PHA's request via application, HUD may approve, as noted below, waivers and flexibilities for disaster relief and recovery to PDD PHAs. If a PHA needs the waivers and flexibilities for an extended period, it must submit documentation of good cause, and HUD may consider extension, subject to statutory limitations and pursuant to 24 CFR 5.110, to facilitate a PDD PHA's ability to participate in disaster relief and recovery efforts. Unless otherwise stated, the deadline for requesting waivers and flexibilities is 120 days after the initial PDD.

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

Under Section 990.145(b)(2), a PHA is eligible to receive operating subsidy for vacant public housing 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 a PDD PHA has one or

more units that have been vacated due to a PDD, then the PDD PHA, with HUD approval, may treat the unit as an “approved vacancy.” Upon the request of a PDD 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 or Granted a Flexibility on an Expedited Basis

For a PDD 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 PDD. A PDD PHA may also request a waiver of a HUD requirement not listed in this section and receive expedited review of the request if the PDD PHA documents that the waiver is needed for major disaster relief and/or recovery. If a PHA needs the regulatory relief for more time, the PDD PHA must 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 the PDD PHA’s ability to participate in disaster 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 may be considered. Also, HUD’s ability to grant waivers or approval of alternative requirements imposed by statute is limited to expressed statutory authority. If sources of household income are difficult to find, PHAs should go through the hierarchy of verifying income as found in Notice PIH 2018-24. 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)).

A PDD PHA seeking a waiver or flexibility of a HUD requirement listed below or of any other HUD requirement needed to assist the PDD PHA in its disaster relief and recovery efforts must submit a waiver request pursuant to the process that will be provided in Section V of this notification. The request must be submitted to HUD not later than 120 days following the date

of the relevant disaster declaration. HUD will not approve a PDD PHA's or other recipient's request to waive or be granted a flexibility for a fair housing, civil rights, labor standards, or environmental protection requirement.

A. 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 may consider requests to extend these reporting deadlines.

For PDD PHAs with a deadline to submit only audited financial information in accordance with 24 CFR 5.801(b) and (d) within 6 months after the date of the disaster related to the PDD, HUD may consider a request to waive the due date. For PDD PHAs with a deadline to submit unaudited financial information in accordance with 24 CFR 5.801(b) and (d) within 120 days before and up to 6 months after the date of the disaster related to the PDD, HUD may consider a request to waive the due date. For these PHAs, HUD also may consider a request to waive the due date of the audited financial information.

For situations beyond a PHA's control, HUD may consider requests from the PDD PHAs with financial submission due dates that fall outside these dates. 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.

B. 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 PDD PHAs with fiscal year end (FYE) dates within 4 months before and up to 10 months after the effective date of the PDD, HUD may consider a request to waive the physical inspection and scoring of public housing projects, as required under [24 CFR part 902](#). For situations beyond the PHA's control, HUD may consider requests from PDD PHAs with a FYE date that falls outside these dates.

C. [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. However, 2 CFR 200.344 requires submission of all financial, performance and other reports no later than 120 calendar days after the end date of the period of performance. In accordance with 2 CFR 200.344(b), HUD may authorize an extension; however, if the PHA does not submit all reports within one year, HUD must report the failure under the OMB designate integrity and performance system. To exceed 12 months, HUD may consider a case-by-case exception under 2 CFR 200.102(a).

D. [24 CFR 905.314\(b\)-\(c\)](#) (Cost and other limitations; Maximum project cost; TDC limit).

42 U.S.C. 1437d(b) requires HUD to calculate total development costs, which may not be exceeded “unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.” Section 905.314(b)-(c) establishes the calculation of maximum project cost and the calculation of total development cost.

To facilitate the use of Capital Funds for repairs and construction for needed housing in the disaster areas, HUD may consider waiving the total development cost (TDC) and housing cost cap limits for all work funded by the Capital Grant (with unexpended Capital Grant funds and HOPE VI funds) until the next issuance of TDC levels. PDD 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](#).

E. [24 CFR 905.314\(j\)](#) (Cost and other limitations; Types of labor).

This section establishes that for high performer PHAs, they may use force account labor for modernization and development activities without including it in a Board-approved Capital Fund Program 5-Year Action Plan. HUD may waive this requirement to allow for the use of force account labor for modernization **only** activities for non-high performers even if this activity has not been included in the non-high performer PDD PHA's 5-Year Action Plan. Should HUD waive this requirement, the waiver will be in effect for a period not to exceed 12 months from the date of HUD approval.

F. [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 PDD, HUD may 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 a period not to exceed 12 months from the date of HUD approval.

G. [24 CFR 960.202\(c\)\(1\)](#) (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 PDD PHA's public housing tenant selection policies or Section 8 administrative plan that an PDD PHA wishes to put into place to address circumstances unique to relief and recovery efforts, HUD may consider requests to waive the requirements under 960.202(c)(1) and 982.54(a) noted above. Any waiver request must include documentation that an PDD PHA's Board of Commissioners or an authorized PDD 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 would be limited to revisions that do not constitute a significant amendment or modification to the PHA or MTW plan; pursuant to Section 5A(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 or MTW 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.

H. 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 may consider a request from a PDD PHA that wishes, in lieu of the requirement to provide notice in a local newspaper of general circulation, to provide public notice via its website, 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.

PDD PHAs that request a waiver of this requirement and receive HUD approval, must comply with applicable fair housing and other civil rights requirements when they provide public notice. For example, an PDD 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 PDD 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 PDD PHA must also provide the public notice in minority media. Any notice must comply with HUD fair housing requirements.

I. 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. 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 PDD 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. PDD 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 PDD PHA to stay within its funding limitations.

J. 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 may consider a request from an PDD PHA that wishes to waive this requirement to house families displaced due to natural disasters. Should the waiver be granted, it will be in effect only for HAPs entered into during the up to 12-month period following the date of HUD approval, and then only with the written consent of the family. HUD will not waive reasonable accommodation requirements. For any family occupying a unit pursuant to this waiver, the waiver will be in effect for the initial lease term.

K. 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 may consider a request from a PDD PHA wishing to waive this requirement to allow families displaced from their homes located in areas affected by PDD(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 PDD 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.

L. 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 may consider a request from an PDD PHA that wishes to extend family contracts for up to 3 years, if such extensions are merited based on circumstances deriving from PDDs. Any waiver granted pursuant to this request will be in effect for requests made to the PDD PHA during a period not to exceed 12 months from the date of HUD approval.

M. 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 a PDD PHA that has a SEMAP score due during CY 2022 or CY 2023, HUD may consider a written request to carry forward the last SEMAP score received by the PHA.

N. Notice PIH 2018-24, Section 8(c) Verification of the Social Security Notice (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 may 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.

O. 24 CFR 970.15(b)(1)(ii) (*Specific criteria for HUD approval of demolition requests*).

For Section 18 demolition applications (and disposition applications) justified by location obsolescence for PDD PHAs, HUD will accept an environmental review performed under 24 CFR part 50 or 24 CFR part 58 if HUD determines the environmental review indicates the environmental conditions jeopardize the suitability of the site or a portion of the site and its housing structures for residential use.

P. 24 CFR 970.15(b)(2) (*Specific criteria for HUD approval of demolition requests*).

For Section 18 demolition applications justified by obsolescence, HUD requires that PHAs support the cost estimate by a list of specific and detailed work items that require rehabilitation or repair, as identified on form HUD-52860-B and other criteria outlined in PIH Notice 2018-04, Section A. HUD may consider requests to waive these requirements if a PDD PHA submits other evidence (*e.g.*, insurance adjuster reports, condemnation orders from local municipalities, and photographs) that support the PDD PHA's certification that a program of modifications is not cost-effective.

IV. Exceptions

A PDD PHA may request an exception of a HUD requirement not listed in Section II or III of this notice. HUD will only consider such exception requests subject to statutory limitations and pursuant to 24 CFR 5.110.

V. Instructions for Notification and Expedited Approval Process for PDD PHAs During CY 2022 and CY2023

A PDD PHA seeking a waiver or flexibility of a HUD requirement listed within this notice or of any other HUD requirement needed to assist the PDD PHA in its disaster relief and recovery efforts must submit a request pursuant to the process that will be provided in this section. HUD will not approve a PDD PHA's or other recipient's request to waive or be granted a flexibility for a fair housing, civil rights, labor standards, or HUD's environmental review requirements.

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

HUD has developed a checklist ([Attachment A](#) to this notice) that a PDD PHA must complete and submit to take advantage of the waivers identified in this notice and the expedited review of waiver requests. Each provision on the checklist indicates the documentation that must accompany the PDD 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 disaster 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-6301-N-01-XX123. This format includes the *Federal Register* docket number (FR-6301-N-01), a hyphen, then your Agency's HA Code. For example: FR-6301-N-01-AL123.

2. Complete the section titled “Information about Requesting Agency” in its entirety.

This section must be complete. An official of the PDD 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 checklists, 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 - PDD Disaster Relief – Month and Year.” For example, Allenway Housing Authority-AL123-PDD Disaster Relief-October 2022.
5. Attach the completed checklist, letter of justification, and all supporting documentation as applicable to your email. HUD will consider other methods of submission as needed.

Checklists and any supporting documentation or information must be submitted not later than 120 days following the PDD. Requests submitted after that time 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).

VII. Paperwork Reduction Act

The information collections referenced in this Notice have been approved by OMB pursuant to the Paperwork Reduction Act under, OMB Control Number 2577-0292.

Dominique G. Blom,
General Deputy 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 2022 and CY 2023 to Public Housing Agencies to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Presidentially Declared 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:

Email address of PHA Official:

Section 1. List the Presidentially Declared Disaster (PDD) your agency is under:

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

A PDD PHA may adopt the flexibility listed below.

	A. 24 CFR 990.145(b) (Public housing dwelling units with approved vacancies). (Public Housing Financial Management Division)
	<i>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.</i>

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

A PDD 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 PDD PHA demonstrates that the waiver is needed for disaster 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.

	<i>A. 24 CFR 5.801(c) and 5.801(d)(1) (Uniform financial reporting standards; Filing of financial reports; Reporting compliance dates).</i>
	<i>B. 24 CFR 902 (Public Housing Assessment System).</i>
	<i>C. 24 CFR 905.322(b) (Fiscal closeout); 2 CFR 200.344(b) (Closeout)</i>

	<i>D. 24 CFR 905.314(b)-(c) (Cost and other limitations; Maximum project cost; TDC limit).</i>
	<i>E. 24 CFR 905.314(j) (Cost and other limitations; Types of labor).</i>
	<i>F. 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).</i>
	<i>G. 24 CFR 960.202(c)(1) (Tenant selection policies) and 982.54(a) (Administrative plan).</i>
	<i>H. 24 CFR 982.206(a)(2) (Waiting List; Opening and closing; Public notice).</i>
	<i>I. 24 CFR 982.503(c) (HUD approval of exception payment standard amount).</i>
	<i>J. 24 CFR 982.401(d) (Housing quality standards; Space and security).</i>
	<i>K. 24 CFR 982.633(a) (Occupancy of home).</i>
	<i>L. 24 CFR 984.303(d) (Contract of participation; contract extension).</i>
	<i>M. 24 CFR part 985 (Section 8 Management Assessment Program (SEMAP)).</i>
	<i>N. Notice PIH 2018-24, Section 8(c) (Verification of the Social Security Number</i>
	<i>O. 24 CFR 970.15(b)(1)(ii) (Specific criteria for HUD approval of demolition requests).</i>
	<i>P. 24 CFR 970.15(b)(2) (Specific criteria for HUD approval of demolition requests).</i>
	<i>Q. Waivers not identified in this PIH Notice 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 requirement. I have included documentation justifying the need for the waivers.</i>