

COVID-19 STATUTORY AND REGULATORY WAIVERS (NOTICE PIH 2020-05)
City of Miami Housing Choice Vouchers (HCV) Program

FAMILY INCOME AND COMPOSITION: DELAYED ANNUAL EXAMINATION

Description: PHAs are required to conduct a reexamination of family income and composition at least annually.

Waiver: HUD is waiving this statutory and regulatory requirement to permit PHAs to delay annual reexaminations of HCV and Mod Rehab families.

Alternative Requirement: All annual recertifications due in Calendar Year 2020 must be completed by December 31, 2020. However, if the PHA delays annual reexaminations for HCV families under this authority, it must also comply with the alternative requirement regarding the application of an increase in the payment standard amount during the Housing Assistance Payment (HAP) contract term if applicable, so as not to delay the application of the increased payment standard amount to the family's HAP calculation.

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on December 31, 2020

FAMILY INCOME AND COMPOSITION: ANNUAL EXAMINATION-INCOME VERIFICATION REQUIREMENTS

Description: PHAs are required to use the Enterprise Income Verification (EIV) System for verification of family income at the annual examination. 24 CFR § 5.233(a)(2) requires PHAs to use EIV as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with §5.236 and administrative guidance issued by HUD.

Waiver: HUD is waiving the requirements to use the income hierarchy described by PIH Notice 2018-18 and will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV, if the PHA wishes to conduct the annual recertification rather than delaying the family's annual recertification.

Alternative Requirement: During the allowable period of availability, PHAs may consider self-certification as the highest form of income verification to process annual reexaminations. This may occur over the telephone (but must be documented by PHA staff with a contemporaneous written record), through an email or postal mail with a self-certification form by the tenant, or through other electronic communications. PHAs that conduct annual examinations under this waiver/alternative requirement will be responsible for addressing any material discrepancies that may arise later. If this is the case, the PHA must take enforcement action in accordance with their policies and procedures.

Date Applied: Not applied. The City of Miami will continue to use the EIV System.

Duration: Ends on July 31, 2020

FAMILY INCOME AND COMPOSITION: INTERIM EXAMINATIONS

Description: For the HCV and Mod Rehab programs, PHAs are required to adopt policies (in their Administrative Plans and Admissions and Continued Occupancy Plans (ACOPs), respectively) prescribing when and under what conditions the family must report a change in family income or composition. However, at any time that a family requests an interim determination of family income or composition because of any changes since the last determination, the PHA must make the interim determination

within a reasonable time after the family's request. PHAs are required to use EIV for verification of family income at interim reexamination. 24 CFR § 5.233(a)(2) requires PHAs to use EIV as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with §5.236 and administrative guidance issued by HUD.

Waiver: HUD is waiving the requirements to use the income hierarchy as described by PIH Notice 2018-18 and will allow PHAs to forgo third-party income verification requirements for interim reexaminations, including the required use of EIV.

Alternative Requirement: During the allowable period of availability, PHAs may consider self-certification as the highest form of income verification to process interim reexaminations. This may occur over the telephone (with a contemporaneous written record by the PHA staff person), through an email with a self-certification form by the family, or through other electronic communications. PHAs that conduct interim reexaminations under this waiver/alternative requirement will be responsible for addressing any material discrepancies that may arise later. If this is the case, the PHA must take enforcement action that is consistent with its policies and procedures.

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on July 31, 2020

ENTERPRISE INCOME VERIFICATION (EIV) MONITORING

Description: PIH Notice 2018-18 specifies the required monitoring of EIV reports. PHAs are required to monitor the Deceased Tenants Report, the Identity Verification Report, the Immigration Report, the IVT Report, the Multiple Subsidy Report, and the New Hires Report on a monthly basis.

Waiver: HUD is waiving the mandatory EIV monitoring requirements.

Alternative Requirement: None

Date Applied: Not applied. The City of Miami will continue to monitor these reports on a monthly basis.

Duration: Ends on July 31, 2020

WAITING LIST: OPENING AND CLOSING; PUBLIC NOTICE

Description: Regulation 24 CFR § 982.206(a)(2) provides that when a PHA opens its waiting list, the PHA must give public notice by publication in a local newspaper of general circulation, and also by minority media and other suitable means.

Waiver: HUD is waiving this requirement.

Alternative Requirement: The PHA may provide public notice in a voicemail message on its main or general information telephone number and through its website (if such a PHA website is available). PHAs must comply with applicable fair housing and other civil rights requirements including ensuring effective communication with persons with hearing, visual, and other communication-related disabilities. The voicemail notice also must comply with all other applicable civil rights requirements, including ensuring meaningful access for persons with limited English proficiency.

Date Applied: To commence on April 10, 2020 for Mainstream Vouchers (if needed).

Duration: Ends on July 31, 2020

INITIAL INSPECTION REQUIREMENTS

Description: Section 8(o)(8)(A)(i) of the USHA of 1937 requires that the PHA must inspect the unit before any assistance payment is made to determine whether the unit meets HQS. Section 8(o)(8)(C) requires

the PHA to conduct the initial inspection within certain time frames after receiving the RFTA. Section 982.305 provides that the PHA may not approve the assisted tenancy or execute a HAP contract until the unit has been inspected by the PHA and passes HQS. Additionally, Section 982.305 requires that the PHA must inspect the unit to determine that the unit satisfies the HQS before beginning of the initial lease term, and that the PHA must perform this inspection within either 15 days or within a reasonable time depending on the size of the PHA.

Waiver: HUD is waiving this requirement.

Alternative Requirement: In order to place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question instead of conducting an initial inspection. At minimum the PHA must require this owner certification. However, the PHA may add other requirements or conditions in addition to the owner's certification but is not required to do so. The PHA is required to conduct an HQS inspection on the unit as soon as reasonably possible but no later than October 31, 2020.

Date Applied: To commence on April 10, 2020 (if needed and with owner certification attached).

Duration: The period of availability for PHAs to accept owner's self-certification for an initial inspection ends on July 31, 2020. The period of availability to inspect a unit that was placed under HAP contract based on the owner's self-certification ends on October 31, 2020.

INITIAL INSPECTION: NON-LIFE-THREATENING DEFICIENCIES (NLT) OPTION

Description: Section 8(o)(8)(A)(ii) of the USHA of 1937 provides the PHA with the option to choose to approve an assisted tenancy, execute the HAP contract, and begin making housing assistance payments on a unit that fails the initial HQS inspection, provided the unit's failure to meet HQS is the result only of NLT conditions. The statute further requires that the PHA must withhold housing assistance payments from the owner if the NLT conditions are not corrected within 30 days.

Waiver: HUD is waiving the requirement that the PHA must withhold the payment if the NLT repairs are not made in 30 days.

Alternative Requirement: The PHA may provide an extension of up to an additional 30 days to the owner to make the NLT repairs and continue to make payments to the owner during the period of that maximum 30-day extension. If the owner has not made the NLT repairs by the end of the PHA extension period, the PHA must withhold payments.

Date Applied: To commence on April 10, 2020 (if needed).

Duration: The period of availability for the PHA to approve an extension of up to an additional 30 days ends on July 31, 2020. The extension to make the NLT repairs may extend beyond July 31, 2020, depending on the date the PHA approved the extension.

HQS INITIAL INSPECTION REQUIREMENT – ALTERNATIVE INSPECTION OPTION

Description: Section 8(o)(8)(A)(iii) of the USHA of 1937 provides the PHA with the option to authorize occupancy of a unit prior to the initial inspection being completed if the unit had in the previous 24 months passed an alternative inspection. Under the statute the PHA may then make assistance payments retroactive to the beginning of the lease term once the unit had been determined to meet HQS pursuant to the PHA's inspection. The HOTMA HCV Federal Register Notice that implemented this statutory option further provided that the PHA must inspect the unit within 15 days of the RFTA.

Waiver: HUD is waiving the requirement that the PHA must conduct its own inspection of the unit in order to commence making assistance payments under the Initial Inspection – Alternative Inspection option.

Alternative Requirement: The PHA may commence assistance payments at the beginning of the lease term based on the alternative inspection and the owner’s certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question. At minimum, the PHA must require this owner’s certification. The PHA may add other requirements or conditions in addition to the owner’s certification but is not required to do so. The PHA must conduct the HQS inspection for the unit for which it has commenced assistance payments under this waiver authority as soon as reasonably possible but no later than October 31, 2020.

Date Applied: To commence on April 10, 2020 (if needed and with owner certification attached).

Duration: The period of availability for the waiver to place a unit under HAP contract and commence payments ends on July 31, 2020. The period of availability for the PHA to inspect a unit placed under HAP contract under this waiver authority is October 31, 2020.

HQS INTERIM INSPECTIONS

Description: Section 8(o)(8)(F) of the USHA of 1937 requires that upon notification to the PHA by a family or government official that the assisted unit does not comply with the HQS, the PHA must inspect the unit within 24 hours of when the PHA received the notification if the condition is life-threatening. 24 CFR 982.405(g) provides that if the reported condition is not life-threatening, the PHA must inspect the unit within 15 days. The regulation further provides that in the event of extraordinary circumstances HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

Waiver: HUD is waiving these requirements.

Alternative Requirement: If the reported deficiency is life-threatening, the PHA must notify the owner of the reported life-threatening deficiency. The owner must either correct the life-threatening deficiency within 24 hours of the PHA notification or provide documentation (e.g., text or email a photo to the PHA) that the reported deficiency does not exist. In the case of a reported non-life-threatening deficiency, the PHA must notify the owner of the reported deficiency within 30 days and the owner must either make the repair or document that the deficiency does not exist within 30 days of the PHA notification or any approved PHA extension. The PHA may add other requirements or conditions in addition to the owner’s documentation but is not required to do so. As is the case under the current HCV program requirements, the PHA is not required to conduct an on-site inspection to verify the repairs have been made but may rely on alternative verification methods (e.g., photos submitted by the owner, tenant certification, etc.).

Date Applied: To commence on April 10, 2020 (if needed and with owner certification attached).

Duration: The period of availability ends on July 31, 2020. After July 31, 2020, the PHA must conduct the HQS inspection in accordance with the applicable time periods upon notification by a family or government official that the assisted unit does not comply with the HQS.

HQS QUALITY CONTROL INSPECTIONS

Description: 24 CFR § 982.405(b) requires PHAs to conduct supervisory quality control inspections of a sampling of units under contract.

Waiver: HUD is waiving this regulatory requirement.

Alternative Requirement: None

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on October 31, 2020

HOUSING QUALITY STANDARDS; SPACE AND SECURITY

Description: 24 CFR § 982.401(d) establishes a minimum standard for adequate space for both an HCV and PBV-assisted family. Specifically, it requires that each dwelling unit have at least 1 bedroom or living/sleeping room for each 2 persons.

Waiver: HUD is waiving this requirement for PHAs where the PHA wishes to assist a current participant that needs to add a member or members to the assisted household as a result of the COVID-19 emergency, and the additional family members would result in the unit not meeting the space and security standards. This provision does not apply to an initial or new lease. A participant must not enter into a new lease for a unit that does not comply with the space and security standards.

Alternative Requirement: None

Date Applied: To commence on April 10, 2020 (if needed).

Duration: For any family occupying a unit that does not meet the space and security requirements pursuant to this waiver, the waiver will be in effect for the duration of the current lease term or one year from the date of this notice, whichever period of time is longer.

INFORMATION WHEN FAMILY IS SELECTED – PHA ORAL BRIEFING

Description: When the PHA selects a family to participate in either the HCV or PBV program, the PHA must give the family an oral briefing.

Waiver: HUD is waiving this requirement.

Alternative Requirement: The PHA will be allowed to conduct the briefing by other means such as a webcast, video call, or expanded information packet. The PHA must ensure that the method of communication for the briefing effectively communicates with, and allows for equal participation of, each family member, including those with vision, hearing, and other communication-related disabilities, and ensures meaningful access for persons with limited English proficiency.

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on July 31, 2020

TERM OF VOUCHER – EXTENSIONS OF TERM

Description: 24 CFR § 982.303(b)(1) provides that at its discretion, the PHA may grant a family one or more extensions of the initial voucher term in accordance with the PHA policy as described in the PHA Administrative Plan.

Waiver: HUD is waiving the requirement that the extension(s) must be in accordance with the PHA's Administrative Plan in order to allow the PHA to provide extensions even though it has been unable to formally amend its policy in the Administrative Plan.

Alternative Requirement: None

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on July 31, 2020

PHA APPROVAL OF ASSISTED TENANCY – WHEN HAP CONTRACT IS EXECUTED

Description: 24 CFR § 982.305(c) provides that the PHA may not make any housing assistance payments to the owner until the HAP contract is executed. The regulation provides that the PHA must use best efforts to execute the HAP contract before the beginning of the lease term and that the HAP contract must be executed no later than 60 days from the beginning of the lease term. Any HAP contract executed after the 60-day period is void and the PHA may not pay any housing assistance payments to the owner.

Waiver: HUD is waiving the regulatory requirement to allow PHAs to execute the HAP contract after the 60-day deadline has passed and make housing assistance payments back to the beginning of the lease term.

Alternative Requirement: The PHA and owner must execute the HAP contract no later than 120 days from the beginning of the lease term.

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on July 31, 2020

ABSENCE FROM UNIT

Description: 24 CFR § 982.312 requires that a family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason.

Waiver: HUD is waiving this regulatory requirement to allow the PHA at its discretion to continue housing assistance payments and not terminate the HAP contract due to extenuating circumstances (e.g., hospitalization, extended stays at nursing homes, caring for family members).

Alternative Requirement: None

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on December 31, 2020 (the PHA may not make payments beyond December 31, 2020, and the HAP contract will terminate on that date if the family is still absent from the unit)

AUTOMATIC TERMINATION OF HAP CONTRACT

Description: 24 CFR § 982.455 provides that when an HCV family's income increases to the extent that the housing assistance payment is reduced to \$0, PHAs are required by this regulation to automatically terminate HAP contracts 180 days after the last housing assistance payment to the owner.

Waiver: In recognition that the COVID-19 emergency is creating economic and employment instability for many families, as well as situations where families may on a temporary basis be adding members whose additional income may result in a \$0 HAP subsidy calculation, HUD is waiving this requirement.

Alternative Requirement: The PHA, upon written notice to the owner and family, may extend the period of time following the last payment to the owner that triggers the automatic termination of the HAP contract. The extension beyond the normally applicable 180 days is determined by the PHA but may not extend beyond December 31, 2020.

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on December 31, 2020

INCREASE IN PAYMENT STANDARD UNDER HAP CONTRACT TERM

Description: 24 CFR § 982.505(c)(4) requires that if the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount shall be used to calculate the

monthly housing assistance payment for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.

Waiver: HUD is waiving this requirement.

Alternative Requirement: The PHA is allowed to apply the increased payment standard at any time (e.g., interim reexamination, owner rent increase) after the effective date of the increase in the payment standard amount, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change. Note that if the PHA has delayed the family's annual recertification under the waiver authority listed above (FAMILY INCOME AND COMPOSITION: DELAYED ANNUAL EXAMINATIONS), the PHA must use the increased payment standard amount to calculate the family's HAP beginning the date that the family's first regular examination would have been effective in the absence of the waiver. Alternatively, the PHA may conduct an interim reexamination where the only change is the increased payment standard amount. Regardless of the method used, the participant must receive the increased payment standard no later than the effective date of the family's first regular reexamination following the increased payment standard.

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Ends on December 31, 2020

UTILITY ALLOWANCE SCHEDULE – REQUIRED REVIEW AND REVISION

Regulatory Authority: 24 CFR § 982.517

Description: 24 CFR § 982.517 requires the PHA to review its schedule of utility allowances each year and revise its allowance for a utility category if there has been a change of 10 percent or more in the utility rate since the last time the utility allowance schedule was revised.

Waiver: HUD is waiving this requirement to allow PHAs to delay the review and update of utility allowances.

Alternative Requirement: None

Date Applied: To commence on April 10, 2020 (if needed).

Duration: Any review and update of utility allowances that were due at some point in time in CY 2020 must be completed no later than December 31, 2020.