

FOR ACTION

MOTION: To Authorize the Executive Director to Take All Actions Necessary to Continue to Implement Any and All Applicable Waivers Identified in HUD Notice 2020-33(HA), REV-2, ("HUD Notice") dated November 30, 2020 for up to the Maximum Time Allowed Under the HUD Notice Which Are Deemed Appropriate and Necessary for the Continued Operations of the Hawaii Public Housing Authority ("HPHA") and in the Best Interests of the Residents in the HPHA's Housing Programs, the HPHA, and/or the State of Hawaii

(The Board may go into executive session pursuant to Hawaii Revised Statutes sections 92-4 and 92-5(a)(4) to consult with the Board's attorneys on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities as related to this motion.)

I. FACTS

- A. The Hawaii Public Housing Authority's (HPHA) programs are governed by a variety of federal, state, and agency statutes and rules, such as the United States Code, Code of Federal Regulations and Chapter 356D, Hawaii Revised Statutes (HRS).
- B. On March 4, 2020, the Governor of the State of Hawaii issued a Proclamation and subsequent Supplementary Proclamations dated March 16, 2020, March 21, 2020, March 23, 2020, March 31, 2020, April 16, 2020, April 25, 2020, May 5, 2020, May 18, 2020, June 10, 2020, July 17, 2020, August 6, 2020, August 20, 2020, September 22, 2020, October 13, 2020, November 16, 2020 and November 23, 2020 (hereinafter collectively referred to as "Emergency Proclamation"), which proclaimed an emergency for COVID-19. A copy of the Emergency Proclamation can be found on the Governor's website.
- C. The Emergency Proclamation suspended, as allowed by law, numerous Hawaii statutes for the "speedy and efficient relief of damages, losses, and suffering resulting" from the COVID-19 virus which continues to endanger communities.
- D. Pursuant to the Emergency Proclamation, the Governor further directed all State agencies and officers to take protective action in order to prevent the spread of COVID-19 and provide for the health, safety, and welfare of the

people as may be required, to assist in all efforts to eliminate the dangers addressed in the Emergency Proclamation.

- E. On April 10, 2020, the U.S. Department of Housing and Urban Development issued Notice PIH 2020-05, “COVID, Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant Programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program” which provides waivers and alternative requirements for numerous statutory and regulatory requirements for the HPHA’s federal public housing and housing choice voucher programs. A copy of the full HUD Notice is available on the HUD website at: <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-05pihn.pdf>.
- F. On November 30, 2020, the U.S. Department of Housing and Urban Development issued Notice PIH 2020-33(HA), REV-2, “COVID-19, Statutory and Regulatory Waivers and Alternative Requirements for the Public Housing, Housing Choice Voucher (including Mainstream and Mod Rehab), Indian Housing Block Grant and Indian Community Development Block Grant Programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program, Revision 2” which extends the deadlines set forth in Notice PIH 2020-05 and provides additional waivers and alternative requirements for numerous statutory and regulatory requirements for the HPHA’s federal public housing and housing choice voucher programs. HUD strongly encourages public housing agencies to utilize any and all waivers and alternative requirements as necessary to keep public housing and housing choice voucher programs operational to the extent practicable. A copy of the full HUD Notice is available on the HUD website at: <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-33pihn.pdf>.

II. DISCUSSION

- A. Included as Attachment A is a summary of public housing and housing choice voucher waivers and alternative requirements. The HPHA does not anticipate exercising all of the available waivers either because they are not applicable or not necessary at this time. However, it may be determined at a later date that the HPHA should implement additional available waivers.
- B. It is important to note the following:
 - 1. HUD has not provided waiver authority that would allow tenants to stop paying their portion of the rent.

2. Use of the HUD waivers is at the discretion of the public housing agencies; no special HUD approval is required.
 3. HPHA is required to keep written documentation that records which waivers the HPHA applied to its program and the effective dates.
 4. The HPHA is required to notify its residents and landlords of any impacts of the waiver by whatever means it considers most effective as soon as practicable.
 5. The HPHA is not required to keep the waiver/alternative requirement in-place for the full period of availability.
 6. HUD has waived the requirement to allow the PHAs Public Housing Admissions and Continued Occupancy Policy and the Section Administrative Plan to be revised on a temporary basis without Board approval.
 7. The PIH Notice allows PHAs to implement and informally adopt HUD waivers without formal board approval through March 31, 2021.
- C. Notwithstanding Chapters 15-185, 15-186, 15-193, 17-2000, 17-2020, 17-2021, 17-2028, 17-2032, 17-2033, 17-2036, 17-2038, Hawaii Administrative Rules (HAR), and any subsequent repeal, adoption or revisions, the HPHA is also proposing to extend Emergency Rules which address necessary changes to all aforementioned Hawaii Public Housing Authority HAR (which are presented under a separate action).
- D. The HPHA will use allowable HUD waivers to the extent allowed by law and in compliance with time limitations set forth in the federal notice, the Governor's Emergency Proclamation, State statute, and the HPHA's emergency administrative rules.
- E. Once approved by the HPHA Board of Directors, the agency will:
1. Post the waivers on the applicable state or county government website; and
 2. Take all required actions to inform the HPHA's residents about the implementation of any and all waivers.

The waivers shall remain posted on the HPHA's website while in effect.

III. RECOMMENDATION

That the Board of Directors Authorize the Executive Director to Take All Actions Necessary to Continue to Implement Any and All Applicable Waivers Identified in HUD Notice 2020-33(HA), REV-2, ("HUD Notice") dated November 30, 2020 for up to the Maximum Time Allowed Under the HUD Notice Which Are Deemed Appropriate and Necessary for the Continued Operations of the Hawaii Public

Housing Authority ("HPHA") and in the Best Interests of the Residents in the HPHA's Housing Programs, the HPHA, and/or the State of Hawaii

Attachment A: Summary of Public Housing and Housing Choice Voucher Waivers and Alternative Requirements to be Implemented by the HPHA

Prepared by: Benjamin Park, Chief Planner ^{RP}

Approved by the Board of Directors
on the date set forth above
 As Presented [] As Amended



Robert J. Hall
Chairperson

Attachment A

Below is a list of the topics subject to statutory and regulatory requirements waivers identified in HUD Notice PIH 2020-33.

A. Waivers that Apply to Both the Public Housing Program and the Housing Choice Voucher Program:

1. PHA 5-Year and Annual Plan Submission Dates, Significant Amendment Requirements. This waiver allows for PHA Annual Plan to be submitted by 12/31/20.
2. Family Income and Composition: Delayed Annual Examination
This allows annual reexaminations to be delayed until 6/30/21.
3. Family Income and Composition: Annual Examination-Income Verification Requirements. Allows for self-certification and waives third-party income verification through 6/30/21.
4. Family Income and Composition: Interim Examinations. Allows for self-certification and waives third-party income verification through 6/30/21.
5. Enterprise Income Verification (EIV) Monitoring. Suspends monitoring requirements through 6/30/21.
6. Family Self-Sufficiency (FSS) Contract of Participation; Contract Extension. Provides for extensions to FSS contract of participation through 6/30/21.
7. Waiting List: Opening and Closing; Public Notice. Waives public notice requirements for opening and closing waiting list. Requires alternative process through 6/30/21.
8. Uniform Financial Reporting Standard; Filing of Financial Reports; Reporting Compliance Dates as required.
9. PHA Reporting Requirements on HUD Form 50058. Suspends submittal dates and allows for submittal within 90 days of the effective date of action through 12/31/20.

B. Waivers that Apply to the Housing Choice Voucher Program:

1. HQS-1: Initial Inspection Requirements. Changes initial inspection requirements, allowing for owner certification that there are no life-threatening deficiencies, but does not include assessment for deteriorated

paint. Where self-certification was used, must inspect the unit no later than 1-year anniversary of date of owner's certification – 6/30/21.

2. HQS-2: Project-Based Voucher (PBV) Pre-HAP Contract Inspections, PHA Acceptance of Completed Units. Owner certification that life threatening conditions do not exist in the unit. Where self-certification was used, must inspect the unit no later than 1-year anniversary of date of owner's certification – 6/30/21.
3. HQS-3: Initial Inspections: Non-Life-Threatening Deficiencies (NLT) Option. Allows for extension of up to 30 days for owner repairs of non-life threatening conditions through 6/30/21.
4. HQS-4: Initial Inspection Requirement. Alternative Inspection option Under Initial HQS Alternative Inspection Option – allows for commencement of assistance payments based on owner certification there are no life-threatening deficiencies. Where self-certification was used, must inspect the unit no later than 1-year anniversary of date of owner's certification – 6/30/21.
5. HQS-5: HQS Inspection Requirement-Biennial Inspections Allows for delay in biennial inspections and must require owner certification there are no life-threatening deficiencies. All delayed biennial inspections must resume by 6/30/21 and be completed by 12/31/21.
6. HQS-6: Interim Inspections. Waives the requirement to conduct interim inspection and requires alternative method. Allows for repairs to be verified by alternative methods through 6/30/21.
7. HQS-7: PBV Turnover Unit Inspections. Owner certification that life threatening conditions do not exist in the unit through 6/30/21. Allows for delayed full HQS inspection NLT than 1-year anniversary of date of owner's certification.
8. HQS-8: PBV HAP Contract-HQS Inspections to Add or Substitute Units. Owner certification that life threatening conditions do not exist in the unit – 6/30/21. Allows for delayed full HQS inspection NLT 1-year anniversary date of owner's certification.
9. HQS-9: Quality Control Inspections. May delay until no later than 6/30/21.
10. HQS-10: Housing Quality Standards; Space & Security. Waiving 1 bedroom or living/sleeping room for a 2-person requirement for current lessees one year from lease term or date of PIH 2020-33 Notice.

11. HQS-11: Home ownership Option-Initial HQS Inspection. Family must obtain independent professional inspector by 6/30/21.
12. HCV-1: Revisions to the Administrative Plan. Can revise on a temporary basis without Board approval through 3/31/21. Board approval required by 6/30/21.
13. HCV-2: Information When Family is Selected-PHA Oral Briefing. Allows for other means such as a webcast, video call, or expanded information packet until 6/30/21.
14. HCV-3: Term of Voucher-Extension of Term. Can extend until 6/30/21.
15. HCV-4: PHA Approval of Assisted Tenancy-When HAP Contract is Executed. Provides for HAP payments for contracts not executed within 60 days and must not pay HAP to owner until HAP contract is executed through 6/30/21.
16. HCV-5: Absence from Unit. Allows discretion on absences longer than 180 consecutive days through 6/30/21. Must not make HAP payments beyond to 12/31/20 for units vacant more than 180 consecutive days.
17. HCV-6: Automatic Termination of HAP Contract. Allows to extend the period of time after the last HAP payment is made before the HAP contract terminates automatically through 6/30/21.
18. HCV-7: Increase in Payment Standard under HAP Contract Term. No need to wait until re-examination to increase HAP subsidy until 6/30/21.
19. HCV-8: Utility Allowance Schedule-Required Review and Revision. Provides for delay in updating utility allowance schedule through 6/30/21.
20. HCV-9: Homeownership Option-Homeownership Counseling. Not required until 6/30/21.
21. HCV-10: Family Unification Program (FUP) FUP Youth Age Eligibility to Enter HAP Contract. Age requirement increased to not more than 26 years of age until 6/30/21.
22. HCV-11: Family Unification Program (FUP) Length of Assistance for Youth. Suspends terminations of assistance for FUP youth who will reach the 36-month limit between April 10, 2020, and December 31, 2020 through 6/30/21.

23. HCV-12: Family Unification Program (FUP) Timeframe for Referral. Allows to accept referrals of otherwise eligible youth who will leave foster care within 120 days through 6/30/21.
24. HCV-13: Homeownership Maximum Term of Assistance. Extends homeownership assistance for up to 1 additional year through 6/30/21.
25. HCV-14: Mandatory Removal of Unit from PBV HAP Contract. Allows PBV unit under contract for a period of time that extends beyond 180 days from the last HAP but does not extend beyond 12/31/20 through 6/30/21.
26. SEMAP: Retain prior year SEMAP score until HUD resumes issuing new SEMAP scores.
27. MS-1: Mainstream Initial Lease Term. May enter initial lease terms of less than one year through 6/30/21.
28. MS-2: Mainstream Criminal Background Screening. May establish, as an alternative requirement, screening requirements for Mainstream voucher applicants through 6/30/21.
29. MS-3: Mainstream Age Eligibility to Enter HAP Contract Statutory Authority. May choose to expand the definition of an eligible non-elderly family member to include those who were issued a voucher prior to turning 62 and were not yet 63 on the effective date of the HAP Contract through 6/30/21.

C. Waivers that Apply to the Public Housing Program:

1. PH-1: Fiscal Closeout of Capital Grant Funds. Extension of deadlines for ADCC and AMCC as required.
2. PH-2: Total Development Costs. Up to 25% with HUD approval to exceed up to 50%. Complete development proposal would need to be submitted by 12/31/21.
3. PH-3: Cost and Other Limitations; Types of Labor. Allows for the use of a force account labor (HPHA employees) for modernization activities until 6/30/21.
4. PH-4: ACOP: Adoption of Tenant Selection Policies. Can revise on a temporary basis without Board approval through 3/31/21. Formal Board approval needed by 6/30/21.
5. PH-5: Community Service and Self-Sufficiency Requirement (CSSR). Suspending 8-hour community service until next reexamination or 6/30/21.

6. PH-6: Energy Audits. Allows for delay in due dates of energy audits through 12/31/21.
7. PH-7: Over-Income Families. Changes timeframes for determination of over-income when a delay in the annual reexamination occurs as a result of adoption of waiver PH and HCV-2 through 6/30/21.
8. PH-8: Resident Council Elections. New elections requirements are suspended until 6/30/21.
9. PH-9: Review and Revision of Utility Allowances. Must be completed by 6/30/21.
10. PH-10: Tenant Notification for Changes to Project Rules and Regulations. Waiving 30-day notice requirement until 6/30/21.
11. PH-11: Designated Housing Plan Renewals. Extends the Plan's effective period through June 30, 2021 for Plans due to expire between July 2, 2020 and June 30, 2020 and waived through 6/30/21.
12. PH-12: Public Housing Agency Annual Self-Inspections. Waives the requirement to inspect each project through 12/31/20.
13. PH-13: Over-Income Limit Termination Requirement. Waives requirement that a family whose income has exceeded the over-income limit for two consecutive years be terminated within 6 months of the third income determination and allowed to remain in public housing and charged FMR – 6/30/21.
14. PH-14: Annual Choice of Rent. Allows families additional opportunity to select an income-based or flat rent through 6/30/21.
15. PHAS: Allows for alternatives related to inspections and allows for retention of prior year's score until HUD resumes issuing new PHAS scores.
16. Extension of Deadline for Programmatic Obligation and Expenditure of Capital Funds. 18-month extension from current obligation and expenditure end dates.