



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Public Housing Agencies and related interests
Public Housing Field and Regional Directors

NOTICE PIH-2018-16

Issued: September 28, 2018

This notice remains in effect until amended, superseded or rescinded. This notice supersedes Notices PIH 2013-20 and 2009-41

Cross Reference: 24 CFR 5.110

Subject: Regulatory Waivers

1. Purpose: To update instructions for public housing agencies (PHAs) on how to submit requests for regulatory waivers and to add instructions for waivers for PHAs in Presidentially-declared Major Declared Disasters (MDD) areas.

2. Background: Regulatory waivers provide relief from certain requirements upon a finding of good cause, subject to statutory limitations and pursuant to 24 CFR 5.110. The authority to grant waivers of regulatory requirements administered by the Office of Public and Indian Housing (PIH) is delegated to PIH's Assistant Secretary.

3. General Process for Waiver Requests: PHAs initiate regulatory waivers with their appropriate Field Office (FO). Unless a request relates to an exemption noted herein, PHAs do not submit waiver requests directly to HUD Headquarters (HHQ), Program Offices or to PIH's Assistant Secretary. Each regulatory waiver request must identify the regulation from which relief is sought and present justification pursuant to 24 CFR 5.110. The steps for the general regulatory waiver process are:

- a. PHA submits request for a waiver with good cause justification to its FO;
- b. FO submits the request to with a recommendation to HHQ at **PIH_OFO_Waivers@hud.gov**;
- c. HHQ Program Office prepares final determination for approval by Assistant Secretary; and
- d. PHAs receive the signed response to their waiver request by email with copies sent to the applicable program office and FO.

4. Special Process for Disaster Requests: For disaster related waivers, the requesting PHA must be in an area with an active MDD designation and eligible for expedited reviews. Each disaster request must still identify the regulation from which relief is sought and present a good cause justification pursuant to 24 CFR 5.110 and the applicable annual Federal Register Notice - Relief from HUD Requirements Available to Public Housing Agencies to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Presidentially Declared

Disasters. The process for disaster waivers is:

- a. PHA initiates a request with good cause justification and transmits to HHQ at **PIH_Disaster_Relief@hud.gov** with a copy to FO;
- b. HHQ Program Office prepares final determination for approval by Assistant Secretary; and
- c. PHA receives the signed response by email with copies sent to FO and applicable program office.

5. Exceptions: The following are exempt from the requirement to initiate requests directly to the appropriate FO:

- a. Waiver requests for PHAs in an MDD (as described above); and
- b. Certain regulatory waivers under the Office of Public Housing Investments (OPHI):

Under the mixed-finance program pursuant to 24 CFR 905 subpart F, PHAs developing a mixed-finance project submit proposals and evidentiary documents to an OPHI-assigned grant manager. Waivers for mixed-finance projects are submitted to and processed by the OPHI grant manager; FOs are not responsible for processing these waivers. Waivers for mixed-finance projects may include but are not limited to: identity of interest waivers to allow the project's developer to also serve as general contractor, evidentiary review waivers to allow for a streamlined review process, or waivers of total development cost (TDC) limits to allow for higher construction costs. PHAs seeking regulatory waivers under the remaining subparts of 24 CFR 905 submit the waiver request to their FO and follow the process outlined herein.

6. Internal HUD review and process: Generally, responses to regular waiver requests are issued timely depending on the complexity of the request. Disaster waivers are expedited due to PIH priority to best serve disaster-impacted families and PHAs. The Office of Field Operations (OFO) receives, tracks, monitors, and reports on disaster waivers. Non-disaster and non-mixed-finance waivers (as described above) are received from the FO, tracked and monitored by the applicable HHQ Program Office.

Each HHQ Program Office is responsible for securing concurrence from the Office of General Counsel (OGC) and, if the PHA is in judicial or administrative receivership, concurrence from the Office of Receivership and Oversight (ORO).

7. Quarterly Reports: On a quarterly basis, as required by the HUD Reform Act of 1989, the Office of Program, Policy and Legislative Initiatives (OPPLI) and the HHQ Program

Offices prepare a summary of approved waivers for *Federal Register* publication and process the summary through HUD HHQ OGC.

_____/s/_____
Dominique Blom
General Deputy Assistant Secretary
for Public and Indian Housing