



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:

Notice PIH 2018-08

Issued: May 18, 2018

Regional and Field Office Directors of
Public Housing
Public Housing Agencies
Regional Administrators
Responsible Entities

Expires: This Notice remains effective
until Amended, Superseded or Rescinded

Cross Reference(s): Section 26 of the Housing Act of 1937 (42 USC 1437x); 24 CFR Part 982; National Environmental Policy Act (42 USC 4321); 24 CFR § 58.5(i)(2), 24 CFR § 50.3(i)

SUBJECT: Application of HUD Notice SD-2017-01 to the Public Housing, Housing Choice Voucher and Project-Based Voucher Programs within the Boundaries of the Waikoloa Maneuver Area Formerly Used Defense Site on the Island of Hawai'i.

BACKGROUND: HUD published Notice SD-2017-01 on January 18, 2017. The Notice outlines HUD's policies for HUD-assisted properties in the Waikoloa Maneuver Area Formerly Used Defense Site (WMA FUDS). The Notice establishes minimum requirements for existing and proposed HUD-assisted properties located within the WMA FUDS that are subject to environmental review requirements, and notes that HUD program offices that established additional program-specific requirements will disseminate that information in a WMA FUDS Program Notice. In addition, Notice SD-2017-01 notes that program-specific Notices will have more information on imminent emergencies. For the purposes of this Notice, HUD-assisted properties mean Public Housing programs and properties.

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) requires federal agencies to incorporate environmental considerations in their planning and decision-making through a systemic interdisciplinary approach to avoid and mitigate negative impacts to human health and the environment. Specifically, all federal agencies are to prepare detailed statements assessing the environmental impact of and alternatives to major federal actions significantly affecting the environment. These statements are commonly referred to as Environmental Impact Statements (EIS) and Environmental Assessments (EA). Title I of NEPA contains a Declaration of National Environmental Policy. This states that it is the continuing policy of the federal government to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony.

Most Public Housing programs are subject to environmental review requirements under either 24 CFR Part 58 or Part 50. In accordance with categorical exclusions in 24 CFR Part

58 and 24 CFR Part 50, some Housing Choice Voucher (HCV) funds¹ are generally not subject to HUD environmental review requirements.

PURPOSE: This Notice confirms that the requirements of HUD Notice SD-2017-01 apply to all Public Housing and voucher programs that are subject to environmental review requirements, including the Project Based Voucher program, the Public Housing Capital Fund program, the Public Housing Operating Fund program, and some HCV funds². In addition, this Notice provides information about requirements for imminent emergencies in the WMA FUDS. Furthermore, this Notice puts forth the program-specific requirements for Public Housing programs.

REQUIREMENTS: HUD Notice SD-2017-01 established the following minimum requirements for existing and proposed HUD-assisted properties located within the WMA FUDS that are subject to environmental review requirements. These minimum mitigation requirements are in effect until a site closure letter or comparable document is issued by the State of Hawai`i Department of Health (HDOH) declaring the area or specific properties, safe for residential and/or commercial use. The only exception to the prohibition is “in an imminent emergency with certain conditions.”

In that case, work to avoid an imminent emergency is permitted if it is done in accordance with any HDOH requirements and, among other things, notification of the U.S. Army Corps of Engineers (USACE) Honolulu District Office, HDOH, and respective HUD program office, at least 24 hours in advance of the planned activity, unless there is a life-threatening emergency.

New ground-disturbing activities will not be allowed until a site closure letter is issued, except in an imminent emergency with certain conditions. Work to address an imminent emergency is permitted in the WMA FUDS if it is done in accordance with any HDOH requirements as well as the following:

1. Any surface or subsurface activity must include notification of the USACE Honolulu District Office, HDOH and the respective HUD program office, in advance of the planned activity;
2. Any surface or subsurface activity must be done with qualified unexploded ordnance (UXO) personnel and equipment in accordance with Department of Defense Explosive Safety Board Technical Paper 18; and
3. If subsurface activity is planned, provisions must be made to detect and remove UXO at a depth of at least 12” greater than the planned depth of excavation.

New non-ground disturbing activities will be allowed with certain conditions in project sites where the USACE has removed UXO from the surface and/or the land surface is covered with permanent impervious surfaces such as buildings and roads. Conditions include:

1. Notice to lessee, purchaser, or recipient that property is in the WMA FUDS prior to lease signing, closing on purchase, or commencing rehabilitation;

¹ Please see PIH Notice 2016-22 for more information on the environmental review requirements for the HCV program.

² Please see PIH Notice 2016-22 for more information on the environmental review requirements for the HCV program.

2. New title transfers must include deed notice or property location in WMA FUDS and deed restrictions on disturbing covered surfaces; and
3. Ensure written public education materials are provided, and community-wide public education campaigns are utilized.

New non-ground disturbing activities will not be allowed in project sites where USACE has not removed UXO from the surface or the land surface is not covered, until a site closure letter is issued.

HUD will continue to support **existing HUD-assisted properties** located within the WMA FUDS as long as notice and public education materials are provided to land owners and residents. All proposed new activities and renewals on these sites must comply with these requirements.

APPLICATION TO PUBLIC HOUSING, HOUSING CHOICE VOUCHER AND PROJECT-BASED VOUCHER PROGRAMS: The attached Unexploded Ordnance Hazards Disclosure – Waikoloa Maneuver Area (WMA) form is required to be completed annually until remediation is complete and the local regulatory agency issues the appropriate site closure document(s).

These requirements apply to all Public Housing programs that are subject to environmental review requirements, including some HCV funds³, the Project Based Voucher program, funding received from the Public Housing Capital Fund program, and the Public Housing Operating Fund program.

These requirements also apply to HCV program funds that are generally not subject to environmental review requirements.⁴ PHAs shall not issue new vouchers for properties located within the boundaries of the WMA FUDS on the island of Hawai`i unless the PHA complies with the ground-breaking/non-groundbreaking requirements of this Notice as discussed below.

Public Housing programs must take the following specific actions to meet the requirements of HUD Notice SD-2017-01 for **new non-ground disturbing activities** and **existing HUD-assisted properties**.

For HCV funds that are generally not subject to environmental review requirements, the following actions must take place prior to any new leasing:

- PHA must provide educational training concerning UXO dangers to incoming HCV household members at all orientation meetings concurrent with the initial issuance of the voucher and upon renewal, which must include information on below grade gardening and landscaping; and
- PHA must obtain a signed acknowledgement from the HCV participant that the subject unit is located in a FUDS area (submitted with Request for Tenancy Approval (RTA)).

³ Please see PIH Notice 2016-22 for more information on the environmental review requirements for the HCV program.

⁴ Please see PIH Notice 2016-22 for more information on the environmental review requirements for the HCV program.

For all other Public Housing programs, including the Project-Based Voucher program, funding received from the Public Housing Capital Fund program, the Public Housing Operating Fund program and HCV funds that are subject to environmental review requirements, the following actions must be taken:

- Within 120 days of this Notice, the PHA or owner must record a Notice of Environmental Covenant and Environmental Use Restrictions identifying the UXO risk on all HUD-assisted sites located in the Waikoloa Maneuver Area FUDS and install the appropriate signage with UXO warnings;
- Within 120 days of this Notice, any public housing properties where undeveloped land with identified or potential hazards exists (absence of buildings, paving and other improvements) that is accessible to resident(s) and/or the public, shall have an appropriate physical barrier installed to restrict access;
- Within 120 days of this Notice, the PHA or owner must have a signed acknowledgement from each currently assisted household that they are aware the public housing development or project-based voucher development is located in a FUDS area. The PHA shall require that all new households submit a similar acknowledgement form prior to occupancy (submitted with Tenancy Application);
- In the Tenant Lease, the PHA or owner must require annual educational training concerning UXO dangers for the head of household. Such Tenancy Addendum must also place restrictions on any ground disturbance, including limitations on on-site below-grade gardening and landscaping and/or recreation;
- Work to address an imminent emergency is permitted in the WMA FUDS if it is done in accordance with the requirements described herein;
- Within 120 days of this Notice, the PHA or owner must amend all management documents to reflect the UXO risk stipulating that ground disturbance activities are not permitted, except in imminent emergency situations with certain conditions. Management documents include, but are not limited to, Tenant Lease, House Rules, Maintenance Work Plan, Management Plan, etc.;
- Within 120 days of this Notice, the PHA or owner must ensure availability of annual community-wide public education on UXO dangers, including written materials, by entering a cooperative agreement with an acceptable agency or contractor to provide such training. If the PBV property is non-PHA owned, the owner must submit the educational training to the PHA for review and approval.

This Notice does not preclude Public Housing Agencies or Responsible Entities from establishing additional requirements. In addition, Uniform Relocation Act requirements will apply to PHAs performing land rehabilitation or redevelopment activities that may displace existing HUD-assisted residents.

Title VI, Fair Housing Act, and other nondiscrimination or equal opportunity complaints on the basis of HUD's environmental justice regulations should be filed with the San Francisco Office of Fair Housing and Equal Opportunity (FHEO).

PAPERWORK REDUCTION ACT: The information collection requirements contained in this Notice are pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of

information unless the collection displays a currently valid OMB control number. The active information collections contained in this Notice are pending approval under the PRA OMB Control Number 2577-0169.

Please direct any questions to Susanne A. Sotirchos, Program Environmental Clearance Officer, Public Housing. Ms. Sotirchos can be reached at (202) 402-2086, or by email at Susanne.A.Sotirchos@hud.gov.

/s/

Dominique Blom
General Deputy Assistant Secretary for Public
and Indian Housing