



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

OFFICE OF PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:
Office Directors of Public Housing;
Regional Directors; Public Housing
Agencies

NOTICE PIH 2021-38 (HA)

Issued: December 21, 2021

Expires: This Amendment remains in effect until amended, superseded, or rescinded.

Amendment to Notice PIH 2021-14 (HA)
Supersedes: Notices PIH 2020-33; PIH 2020-05; PIH 2020-13
Cross References: Notice PIH-2018-18;
Notice PIH-2019-11; Notice PIH-2011-64;
82 FR 5458 (January 18, 2017); 83 FR 35490 (July 26, 2018); Notice PIH-2020-22;
Notice PIH-2020-20

SUBJECT: COVID-19 Statutory and Regulatory Amendment to PIH Notice 2021-14 (HA), Providing for the Release of Public Housing Assessment System Scores for Federal Fiscal Year 2019

1. PURPOSE

The Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-136) provides the U.S. Department of Housing and Urban Development with broad authority to waive or establish alternative requirements for numerous statutory and regulatory requirements for the Public Housing program.

On March 27, 2020, the President signed the CARES Act into law, authorizing over \$2 trillion in emergency assistance and health care response for individuals, families and businesses affected by the COVID-19 pandemic, and emergency appropriations to support Executive Branch agency operations during the COVID-19 pandemic. The CARES Act further provides HUD with broad authority, in the context of the COVID-19 pandemic, to waive statutes and regulations (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment).

1. WAIVER AND ALTERNATIVE REQUIREMENT APPLICABILITY

With respect to the Public Housing program, the CARES Act provides that the Secretary may waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection or unforeseen circumstance as a result of the use of amounts made available under the CARES Act supplemental appropriations.

Under the Capital Fund Formula, and pursuant to 24 CFR 905.400(I), High Performing Public Housing Agencies (PHAs) receive a bonus of up to five percent. In addition, the total amount of Capital Funds that HUD has recaptured or not allocated to PHAs as a sanction for violation of expenditure and obligation requirements is allocated exclusively to High Performing PHAs.

Through this Amendment, HUD is modifying the process in 24 CFR 500.400(I) to define the list of High Performing PHAs for Federal Fiscal Year (FFY) 2021 Capital Fund Formula grant awards, based on FFY 2019 Public Housing Assessment System (PHAS) scores.

2. WAIVER AND ALTERNATIVE REQUIREMENT AUTHORITY

These waivers and alternative requirements are established under the authority of the CARES Act as well as the Secretary's finding that these waivers and alternative requirements are necessary for the safe and effective administration of the Public Housing and HCV programs, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19.

3. AMENDMENT TO SECTION 11: PHAS, SEMAP, AND UNIFORM FINANCIAL REPORTING STANDARDS

a-1: PHAS High Performer List for FFY 2021 Capital Fund Formula Grant Calculation

Regulatory Authority: 24 CFR 905.400 (I)

Description: As part of the Capital Fund Formula calculation for FFY 2021, to determine eligibility for the High Performer bonus, HUD is using final PHAS scores for the fiscal year end (FYE): December 31, 2018, March 31, 2019, June 30, 2019, and September 30, 2019. PIH Notice 2021-14 Section 11(a) states, "For any PHAs with a fiscal year end on or before December 31, 2021, HUD will not issue a new PHAS score unless the PHA requests that a new PHAS score be issued." Due to this provision, the quarter end final scores may not have been available or were pending release.

Despite the previous instructions in PIH Notice 2021-14 and due to the operational circumstances that PHAs faced during the COVID-19 pandemic, HUD will not require a PHA to request a new PHAS score be released for the Capital Fund Formula Grant Calculation for the FFY 2021 High Performer List process. To facilitate the creation of the High Performer list for FFY 2021, HUD has defined a more flexible process while PIH Notice 2021-14 remains in effect.

If the above mentioned FYE final PHAS scores are not available to determine eligibility, HUD will use the most recent final PHAS score of record to determine eligibility as a High Performer.

If the PHA's most recent final score of record is not a High Performer, and the PHA has a pending High Performer designation for the above mentioned FYEs, HUD will release that pending PHAS score and designation, and the PHA will be included on the list for the High Performer Bonus. That High Performer designation for December 31, 2018, March 31, 2019, June 30, 2019, or September 30, 2019, will become the PHA's score and designation of record and be available for all PHAS related purposes moving forward until the next PHAS score and designation are issued.

Period of Availability: The period of availability ends on December 31, 2021.

Further Information. Questions concerning this Notice should be submitted by email to the following HUD mailbox: PIH-covidwaivers@hud.gov.

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