

# COVID-19 FAQs for HCV Landlords



Revised November 25, 2020

The COVID-19 pandemic presents significant challenges for HUD and our PHA partners to continue to carry out HUD's fundamental mission to provide decent, safe, and sanitary affordable housing for low-income families. PHAs, owners, and families face significant difficulties as they comply with critically important advisories and directives from public health professionals, including social distancing and other preventive practices that will slow the spread of COVID-19 and reduce the risk of exposure. In recognition of these difficulties, HUD issued administrative relief through waivers allowing for alternative approaches to various aspects of PHA operations. This document compiles information and answers to commonly asked questions that are relevant to landlord/owners.

**HUD strongly encourages landlords to check with your PHA to see which waivers and alternative requirements your PHA is utilizing to keep families safely in their homes and reduce disruptions to landlords.**

The Office of Public and Indian Housing's COVID-19 resources may be found here [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/covid\\_19\\_resources#4](https://www.hud.gov/program_offices/public_indian_housing/covid_19_resources#4)

The following are resources used as references for the FAQs below.

**Frequently Asked Questions (3-30-2020)**

[https://www.hud.gov/sites/dfiles/PIH/documents/COVID19\\_FAQ\\_PIH\\_3-30-20.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/COVID19_FAQ_PIH_3-30-20.pdf)

**Notice PIH 2020-13 (HA), REV-1 (7-2-2020)**

<https://www.hud.gov/sites/dfiles/PIH/documents/ATT-SECOND-WAIVER-NOTICE.pdf>

**PIH Notice PIH-2020-08 (4-28-2020)**

<https://www.hud.gov/sites/dfiles/PIH/documents/PIH2020-08.pdf>

**Frequently Asked Questions (4-22-2020)**

[Note: The FAQ (4-22-2020) also contains FAQs from the CARES Act Eviction Moratorium Q&A for Public Housing Agency (<https://www.hud.gov/sites/dfiles/PIH/documents/PIH-HCV-Mod-Rehab-Eviction-QA.pdf>)]

[https://www.hud.gov/sites/dfiles/PIH/documents/COVID19\\_Round3-FAQs\\_04-22-20.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/COVID19_Round3-FAQs_04-22-20.pdf)

**Frequently Asked Questions for Public Housing Agencies (5-29-2020)**

[https://www.hud.gov/sites/dfiles/PIH/documents/COVID19\\_FAQSRound4final.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/COVID19_FAQSRound4final.pdf)

**Frequently Asked Questions for Public Housing Agencies (7-16-2020)**

[https://www.hud.gov/sites/dfiles/PIH/documents/COVID\\_FAQsRound5.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/COVID_FAQsRound5.pdf)

**Frequently Asked Questions for Public Housing Agencies (9-29-2020)**

<https://www.hud.gov/sites/dfiles/PIH/documents/Round6FAQsfinal.pdf>

**HUD PIH FAQs (11-18-2020)**

[https://www.hud.gov/sites/dfiles/PIH/documents/HUD\\_FAQs\\_CDC\\_Order\\_11182020.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/HUD_FAQs_CDC_Order_11182020.pdf)

**Q. What is HUD’s guidance on HQS inspections for PHAs that have halted or are considering halting HQS inspections for health and safety reasons. For new applicants and current residents who need to move into new residences, can we enter into a Housing Assistant Payment (HAP) contract for the new unit without having inspected the unit? [FAQ (4-22-2020)]**

A. In order to provide PHAs with the necessary flexibilities to continue to allow families to lease units and to postpone normally required HQS inspections for units under HAP contract, HUD is authorizing the use of the HQS related waivers and alternative requirements listed in PIH Notice 2020-05. PHAs are in the best position to determine which (if any) of the waivers should be applied to their HCV program based on the needs and current conditions in their local communities. HUD has provided relief in the following areas: initial inspection requirements; biennial inspections; interim inspections; PBV inspections; quality control inspections; housing quality standards; and initial HQS homeownership inspections. Under Section HQS-1 of the notice, HUD is waiving and providing alternative inspection requirements in order to place a unit under HAP contract and commence making payments. See the notice for additional information.

**Q. With the eviction moratorium, should we still send late notices to residents? Or wait until the 120-day moratorium is over? [FAQ (4-22-2020)]**

A. A PHA/owner may send a reminder notice of the late rent. However, the reminder notice must not include fees/charges for the nonpayment of rent, and the reminder notice cannot be a notice to vacate. After the moratorium expires, the PHA can proceed with their standard process. Residents cannot be required to vacate for at least 30 days after the end of the moratorium, and the PHA cannot issue a notice to vacate until at least July 25, 2020 (expiration of the moratorium). Residents retain their rights for due process and grievance proceedings under 24 CFR 966 Subpart B and 24 CFR 982.555.

**Q. Can an owner evict for drug abuse and other criminal activity? How about for other lease or program violations, like failure to report income or severe damage to the unit? [FAQ (4-22-2020)]**

A. Yes. The eviction moratorium found in Section 4024(b) of the CARES Act only applies to evictions related to nonpayment of rent or nonpayment of other charges to the tenant related to nonpayment of rent. The moratorium also prohibits the charging of other fees, penalties, or other charges due to the nonpayment of rent. Therefore, the owner can still undertake an eviction/termination of assistance action against a tenant for drug abuse and/or other criminal activity, as those are unrelated to nonpayment of rent. The same is true for other lease violations, although HUD encourages PHAs to consider delaying the initiation or completion of evictions for non-drug or non-crime related reasons until after state or local emergencies are over.

**Q. “Abandonment” of a unit is generally distinguished from “absence” from the unit by tenant’s failure to pay rent and failure to acknowledge or respond to notices from the**

**PHA/owner regarding overdue rent. If the family abandons their unit and does not pay rent, does the PHA/owner have to wait to evict? [FAQ (4-22-2020)]**

A. The term “abandonment” requires a fact-specific determination to be made as to the reasons behind the family not being in the unit. A family could have decided to quarantine with other family members, could be hospitalized, or could be prevented from returning to the unit due to an emergency declaration by the state. The PHA must take additional steps to ensure that the unit is in fact “abandoned” by the family before an eviction/termination of assistance action is taken against the household.

**Q. One of my assisted tenants was behind on rent payments prior to the CARES Act. Can I still proceed with termination and eviction? [FAQ (4-22-2020)]**

A. If the eviction proceeding was initiated before March 27, 2020, the proceeding would not be covered under the CARES Act and the eviction action can continue. However, HUD encourages PHAs to consider delaying the completion of evictions for non-drug or non-crime related reasons until after state or local emergencies are over. If an eviction proceeding was not initiated before March 27, 2020 for a household who was behind on rent, then the household is covered under the CARES Act and the PHA/owner cannot initiate a new eviction proceeding until after the moratorium. However, PHAs should review their state and local laws, as many are also enacting their own moratorium on evictions.

**Q. My tenant was late on rent prior to March 27, 2020, and was charged a late fee in January 2020 and February 2020. Can I collect fees for nonpayment of rent that were charged prior to the moratorium? [FAQ (4-22-2020)]**

A. Yes, fees that were charged for nonpayment of rent prior to March 27, 2020, may be collected during the moratorium. However, a PHA cannot charge new fees for nonpayment of rent from March 27, 2020 – July 24, 2020; a PHA cannot assess interest on late fees charged in January 2020 and February 2020.

**Q. During the moratorium, can fees for late payments accumulate and be charged after the moratorium? [FAQ (4-22-2020)]**

A. No. Per Section 4024(b)(2) of the CARES Act, fees in relation to nonpayment of rent cannot be charged. Therefore, fees cannot accrue. There should be no charges/fees, or accrual of charges/fees, for rent due the first of the month in April, May, June and July 2020.

**Q. I initiated an eviction prior to the moratorium. Can I continue? [FAQ (4-22-2020)]**

A. Yes, if you filed with the court of jurisdiction, you can continue the action if the court is operating, subject to any local eviction moratorium requirements.

**Q. If a market rate property has an HCV holder in one unit, does Section 4024 of the CARES Act extend to the entire property or only the voucher holder? [FAQ (4-22-2020)]**

A. If the market rate property has a federally backed mortgage, then Section 4024 of the CARES Act applies to the entire property. If the market rate property does not have a federally backed mortgage, then Section 4024 of the CARES Act only applies to the voucher holder. HUD does not have the authority to extend jurisdiction over unassisted tenants or the property that does not have a federal backed mortgage. However, owners should review their state and local laws, as many are also enacting their own moratorium on evictions.

**Q. How does the ban on evictions apply to mixed-finance public housing properties owned by third parties, which may also include Low Income Housing Tax Credit (LIHTC) units and/or may be covered by Federal Housing Administration (FHA) mortgage insurance? [FAQ (5-29-2020)]**

A. All mixed-finance public housing properties owned by third parties are covered under Section 4024 of the CARES Act, as are properties with LIHTC-financed units, and properties with FHA mortgage insurance. Private owners of mixed-finance projects must comply with the CARES Act eviction moratorium provisions, which prohibit evictions, fees, and penalties related to nonpayment of rent during the moratorium period. Please note that pursuant to [EM3](#)<sup>1</sup>, tenants may still be evicted for other lease violations/causes unrelated to nonpayment of rent.

**Q. Is REAC granting an extension of time for filing appeals due to COVID-19? [FAQ (4-22-2020)]**

A. Yes. REAC will extend the deadline for submission of inspection appeals (Technical Reviews and Database Adjustments) and PHAS appeals. REAC will accept appeals within 60 days after resuming normal operations. Appeals received after the 60-day timeframe will be considered late and will not be honored. An example of an inspection appeal is for an inspection that was conducted prior to the outbreak of COVID-19 and the owner needs to appeal ownership of a fence. A PHAS appeal example is a financial submission that was approved prior to the outbreak of COVID-19 and there is a data error that the property owner would like corrected.

**Q. What if I am notified of a child with an elevated blood-lead level (EBLL) during a shelter-in-place order? Can someone enter the unit to do an environmental investigation (EI)? [FAQ (4-22-2020)]**

A. When responding to a report of a child with an EBLL, the PHA's first step is to verify the report and to notify the public health department as described in [PIH Notice 2017-13](#). When communicating with the health department, the PHA or owner (as applicable) should request guidance on whether the environmental investigation should proceed during the pandemic. PHAs should follow local health guidance on next steps. If the state

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<sup>1</sup> Frequently Asked Questions for Public Housing Agencies (5-29-2020)

or local health department cannot provide guidance, contact [Lead\\_Regulations@hud.gov](mailto:Lead_Regulations@hud.gov) with a courtesy copy to [PIH- COVID@hud.gov](mailto:PIH-COVID@hud.gov).

**Q. Does the ban on evictions apply to all tenants or only those tenants whose employment has been affected by COVID-19 and what happens when the moratorium expires? [FAQ updated (7-16-2020)]**

A. The temporary moratorium on: (1) evictions for nonpayment of rent and (2) fees and penalties related to nonpayment of rent, applies to all tenants, regardless of whether employment was affected by COVID-19. HUD encourages PHAs to alert residents that any rent missed during the moratorium will accumulate and still be due at the end of the 120 days. In April 2020, HUD provided PHAs with a flyer to provide to tenants that the eviction moratorium was in place, and in July 2020, HUD provided PHAs with a tenant brochure in the “Eviction Prevention and Stability Toolkit” that notifies residents that the end of the eviction moratorium is approaching and provides information to prevent an eviction. For any unpaid rent after the moratorium has ended, the household has the option to repay unpaid rent in a lump sum to avoid eviction. If the household is unable to pay a lump sum, the PHA or owner is strongly encouraged to set up a repayment agreement with reasonable payments spread over time. See FAQs [EM17](#)<sup>2</sup> and [EM18](#)<sup>2</sup> for information on how a PHA or owner can prevent evictions of families that have fallen behind on rent.

**Q. Can a PHA or owner charge fees for unpaid utilities during the moratorium? [FAQ (5-29-2020)]**

A. Per Section 4024(b)(2) of the CARES Act, fees in relation to nonpayment of rent cannot be charged. Therefore, if utilities are included in the lease agreement as part of rent, then fees for unpaid utilities cannot be charged and cannot accrue during the moratorium. Fees that have no relation to rent may be charged during the moratorium.

**Q. Does the eviction moratorium apply to tenants in LIHTC properties? [FAQ (5-29-2020)]**

A. Yes, the temporary eviction moratorium applies to tenants in LIHTC properties.

**Q. What should a Section 8 Housing Choice Voucher holder do if he/she believes they are being wrongfully evicted by their landlord during the moratorium? [FAQ (5-29-2020)]**

A. If a landlord issues a Housing Choice Voucher holder an eviction notice for nonpayment of rent during the moratorium, he or she should reach out to a local legal aid organization and/or the PHA as soon as possible. The tenant or their representative should inform the landlord that the eviction is against the law if it is based on nonpayment of rent between March 27, 2020 to July 24, 2020 and that no fees and penalties related to nonpayment of rent for that period can be charged. Payment of rent after the eviction moratorium ends is addressed in [EM1](#)<sup>2</sup>. PHAs should remind participating HCV landlords of the legal restrictions on evictions for nonpayment of rent.

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<sup>2</sup> Frequently Asked Questions for Public Housing Agencies (7-16-2020)

**Q. After the moratorium expires, when can a notice to vacate be issued for nonpayment of rent and what would be the earliest vacate date in the notice? [FAQ (5-29-2020)]**

A. Section 4024(c) of the CARES Act indicates that PHAs/owners cannot require a tenant to vacate until 30 days after the expiration of the eviction moratorium. Therefore, the earliest date that a notice to vacate could be provided is July 25, 2020 with a vacate date of August 24, 2020. However, July 25, 2020 is a Saturday, so the PHA/owner should follow their state and local laws, as some state or local jurisdictions may prohibit a notice to vacate from being served on a weekend.

**Q. Can a remote video inspection (RVI) meet the current regulatory requirements for HQS inspections as well as the requirement for PHAs to inspect their public housing units? Do you envision that this will be a tool that can be used into the future (not just through the COVID-19 period)? [FAQ updated (7-16-2020)]**

A. A Remote Video Inspection (RVI) can be utilized to meet regulatory inspection requirements for the Housing Choice Voucher. As described in PIH Notice 2020-13, REV-1 PH-12, an RVI can be an option for PHA self-inspections. RVI is a regular HQS/public housing inspection performed remotely with a “proxy” inspector with the PHA HQS/PH inspector remotely directing the inspection. The Department will issue additional guidance for best practices that PHAs can follow. HUD envisions that, once the process is mature, this method can be used by PHAs into the future (not just through the COVID-19 response period).

**Q. If tenants request temporary relocation during the quarantine, what are a PHA’s options for addressing the request? [FAQ (5-29-2020)]**

A. Residents may experience significant stress about their safety related to COVID-19 transmission and may ask for temporary relocation out of multi-unit properties. PHAs can request additional information from the resident to verify the need for relocation. PHAs are not required to grant these requests in advance of a specific health department directive. Health departments often recommend that residents self-isolate within their current home. PHAs can request verification from a medical health professional or the state or local health department as part of reviewing special requests related to COVID-19. PHAs can allow current resident families to use vacant units for temporary relocation if separation is recommended by the health department or a medical health professional. PHAs can also purchase a unit for quarantine. See question [EU25](#)<sup>3</sup>.

**Q. Where can I refer residents that have health issues or symptoms, but no primary care provider? [FAQ (5-29-2020)]**

A. Residents can find a Health Center through the U.S. Department of Health and Human Services’ Health Resources and Services Administration via [findahealthcenter.hrsa.gov](http://findahealthcenter.hrsa.gov).

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<sup>3</sup> FAQ (7-16-2020)

Additionally, the non-profit [National Center for Health in Public Housing](https://www.nchph.org/training-and-technical-assistance/maps/) provides an interactive map at [nchph.org/training-and-technical-assistance/maps/](https://www.nchph.org/training-and-technical-assistance/maps/). This map shows health care facilities within a five-mile radius of public housing buildings and Public Housing Authorities. To find Health Centers near public housing in a specific state, click on the filter icon (funnel) in the upper left and enter the state abbreviation. You can also get a list of the Health Centers by pulling up the attribute table at the bottom of the screen. For more guidance, please visit NCPH's [COVID-19 resources](#).

**Q. My annual reexaminations are due July 1. If we were to extend the date to August 1, would our next reexam date be August 1, (full year) or July 1? [FAQ (7-16-2020)]**

A. The waiver authority granted in PIH Notice 2020-13, REV-1, PH and HCV-2 permits PHAs to delay annual reexaminations. When annual reexaminations are delayed (processed late), the effective date of the rent change may be modified to ensure the tenant is provided with proper 17 notice of the change. The date of the next annual reexamination is up to the PHA, provided it is completed within 12 months of last reexam, so the next reexam needs to be completed no later than August 1, 2021.

**Q. Can a PHA or owner continue to provide an allowance for childcare expenses if the parent/guardian/caretaker is unemployed due to the pandemic? There are assisted families who are reporting a mandatory unpaid furlough or decreases in wage income, who are now eligible and receiving unemployment benefits, but continue to be required to pay childcare expenses to maintain their slot with their regular childcare provider when they are able to return to work. [FAQ (7-16-2020)]**

A. HUD regulations permit a childcare expense to enable a family member to seek employment, be employed, or further his/her education. See 24 CFR 5.603(b) and 5.611(a)(4). Being furloughed or receiving unemployment benefits as a result of COVID-19 does not, on its face, show that the family is not seeking employment. Other factors may be taken into consideration due to COVID-19. Therefore, if a family is receiving unemployment benefits due to COVID-19 and is required to continue paying childcare expenses, the PHA/owner can continue providing the deduction for childcare, absent a showing that the family is no longer seeking employment.

**Q. When can we resume HQS inspections? [FAQ (7-16-2020)]**

A. PHAs may choose to resume HQS inspections at any time they believe it is safe and appropriate to do so. PHAs have the option of applying the waivers in PIH 2020-05, REV-1 related to HQS inspections until the period of availability expires (currently December 31, 2020). PHAs also have the option to perform remote video inspections (RVI) as detailed in the Remote Inspection section of this FAQ and HUD encourages PHAs to do so.

**Q. Can PHAs change their policy on the frequency of HQS inspections for units under HAP contract (e.g. from at least annually to at least biennially) during the COVID-19 outbreak? [FAQ (7-16-2020)]**

A. Under HCV, the PHA must conduct HQS inspections on units under HAP contract at least biennially (or triennially for designated small, rural PHAs). PHAs that have chosen to inspect HCV units more frequently (annually) may revise their policies on the frequency of inspections and may certainly choose to revert back to more frequent inspections at any time, including after the COVID-19 pandemic has passed. (See PIH Notice 2016-05 for additional information on moving to biennial inspections). PIH Notice 2020-13, REV-1: HQS-5 details PHA's additional flexibility to delay biennial inspections.

**Q. When the unit is inspected and the unit does not pass due to a life-threatening HQS item, does the PHA give the owner time to correct the fail? [FAQ (7-16-2020)]**

A. Yes. As would typically be the case, when the unit is inspected and is found to have a life-threatening deficiency, the PHA must notify the owner and give 24 hours for correction.

**Q. Is the PHA required to cancel the HAP contract and recover the HAP paid if the unit fails with the first inspection after the waiver? [FAQ (7-16-2020)]**

A. No. If a PHA has applied any of the HQS waivers that allow the PHA to rely on the owner certification to fulfill HQS inspection requirements, and the unit fails when the PHA conducts the required follow-up inspection or an interim inspection, the owner would be notified of deficiencies and have the standard timeframe for correction: 24 hours for life-threatening conditions or 30 days for non-life threatening. The PHA would not retroactively abate housing assistance payments or otherwise require the owner to repay housing assistance payments previously paid to the owner unless the PHA determined that the owner had knowingly falsely certified that that the owner had no reasonable basis to have knowledge that life-threatening conditions existed in the unit at the time of the certification.

**Q. Can our PHA accept a verbal statement from a tenant or an applicant who wants to self-certify for VAWA? [FAQ (7-16-2020)]**

A. As described in PIH Notice 2017-08; Section 8.2 (a), PHAs and owners are not required to ask for documentation when an individual presents a claim for VAWA protections; the PHA or owner may instead choose to provide benefits to an individual based solely on the individual's verbal statement or other corroborating evidence. HUD recommends that PHAs and owners develop written policies for how and under what circumstances a verbal statement will be accepted (e.g., the PHA was aware of the abuse and encouraged the victim to request VAWA protections). It is recommended that in cases where a PHA or owner decides to rely on such information, the PHA or owner document, in a confidential manner, the individual's verbal statement or other corroborating evidence.

**Q. Can PHAs use CARES Act HCV Administrative fees for a landlord incentive program that provides a recoupable incentive payment if the landlord terminates the HAP contract after one year? If so, what happens with the recouped funds after the end of the period of availability? [FAQ (7-16-2020)]**

A. PHAs can have flexibility to structure landlord incentive payments in different ways to encourage owner participation and retention. Any funds remaining after the end of the period of availability will be recaptured by HUD.

**Q. How can my PHA recruit more landlords to the HCV program during the COVID-19 pandemic? [FAQ (9-29-2020)]**

A. Under the CARES Act, and as further elaborated in [PIH Notice 2020-08](#), PHAs may use CARES Act Administrative Fees for “Costs to retain or increase owner participation in the HCV Program, such as incentive costs (e.g., the PHA offers the property owner/landlord an incentive payment to participate in recognition of added difficulties of making units available for HCV families to rent while stay-at-home orders or social distancing practices are in effect.)”. In addition to this, as part of the Secretary’s Landlord Task Force Initiative, HUD is releasing a variety of tools to help PHAs plan and implement strategies to increase landlord participation in their HCV programs. HUD released one chapter of the HCV landlord strategy guidebook at [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/landlord/guidebook](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/landlord/guidebook); more will follow soon.

This guidebook shares strategies that public housing agencies (PHAs) may implement to increase landlord participation and satisfaction with their HCV programs. In addition, HUD’s landlord resource page at [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/landlord](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/landlord) includes links to webinars on HCV landlord participation and reference sheets on important aspects of the HCV program for landlords. PHAs may also consider using the waivers and alternative requirements of [PIH Notice 2020-13, REV-1](#) to streamline aspects of the HCV Program that impact landlords.

**Q. An external group asked my PHA to share information about waivers and alternative requirements implemented. What are the requirements to share that information? [FAQ (9-29-2020)]**

A. As described in [PIH Notice 2020-13, REV-1](#) PHAs must post publicly or otherwise make available to the public a list of all waivers and alternative requirements the PHA chooses to apply in addition to notifying affected residents and owners of the impact of applicable waivers and alternative requirements. This posting could be on a website, the PHA’s social media page, or on a bulletin board in the PHA office.

**Q. If an Asset Management Project (AMP) is a mixed-finance property not owned by the PHA, is the PHA obligated to provide the supplemental Operating Fund grant amount to**

**the property in accordance with the terms of the Regulatory and Operating (“R&O”) agreement for Operating Funds? [FAQ (9-29-2020)]**

A. Mixed-finance projects owned by third-party owners have a Regulatory and Operating Agreement (R&O) that specifies how that project will be operated and how the PHA will provide Operating Funds to that project. This document is approved by HUD prior to the initial project closing and executed by the PHA and the third-party owner. Although there are variations in the methodology, many PHAs have committed to provide a percentage of operating subsidy received from HUD to a specific mixed finance project.

CARES Act Supplemental Operating Funds are Operating Fund grants, and PHAs should provide Supplemental Operating Funds in conformance with their approved R&O. For example, if a PHA has committed to provide 90 percent of the Operating Funds it received from HUD to a mixed-finance project, it should pass along the same 90 percent of Supplemental Operating Funds.

PHAs and third-party owners should note that CARES Act Supplemental Operating Funds have certain key differences from normal Operating Funds. The CARES Act Supplemental Operating Funds must be used for immediate needs, and the period of performance ends December 31, 2021, meaning the funds will be de-obligated from LOCCS and returned to Treasury if not expended by then. CARES Act funds must be transferred by the PHA to the third-party owner immediately upon draw down from LOCCS. Any Supplemental Operating Funds transferred to a third-party owner are considered expended at the time of transfer. This transfer must occur by December 31, 2021 to meet the period of performance requirement.

[PIH Notice 2020-07](#) provides flexibility to a PHA to move funding from one project to another project because of COVID-19 needs. PHAs may transfer Supplemental Operating Funds amounts to third party owners in excess of what is required by the R&O. As PHAs assess their portfolios in light of the COVID crisis, they should confer with the third-party owner to assess the needs of mixed-finance projects. PHAs should be cognizant that third-party owners are also struggling with a precipitous drop in rent and operating challenges related to keeping all residents in their projects safe and healthy.

**Q. Do PHAs, landlords, Tribes or TDHEs have to notify residents of the CDC Order and Declaration? [FAQ (11-18-2020)]**

A. While the Order does not mandate resident notification, HUD strongly encourages PHAs, landlords, Tribes or TDHEs to notify their residents that the CDC eviction moratorium is in place and that execution of the declaration referenced in the Order is necessary to be covered by the CDC order. In addition, HUD strongly recommends that PHAs, landlords, Tribes or TDHEs who are notifying residents of termination while the Order remains in effect document that they have informed the resident of the protections available to them under this Order. PHAs, landlords, Tribes or TDHEs should also review their state or local laws, as some may have different notification requirements regarding the moratorium and providing the Declaration to residents. In an effort to assist with

resident notification, PIH provided PHAs, Tribes and TDHEs with an eviction moratorium flyer to help address resident concerns regarding rent and the moratorium. Distribution of the flyer can be through various methods at the discretion of the PHA, Tribe or THDE, for example, e-mail, mail, or posting on a unit door. If practicable, PHAs, Tribes and TDHEs could also post in public areas of the apartment building (lobby, laundry, meeting rooms), post on their webpages and social media, and/or include in neighborhood community flyers.

**Q. Can residents who are “covered persons” be evicted for reasons other than not paying full rent? [FAQ (11-18-2020)]**

A. Covered persons may still be evicted for reasons other than not paying full rent or making a full housing payment. The Order does not prevent covered persons from being evicted for:

- (1) engaging in criminal activity while on the premises;
- (2) threatening the health or safety of other residents;
- (3) damaging or posing an immediate and significant risk of damage to property;
- (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- (5) violating any other contractual obligation of a tenant’s lease, other than the timely payment of rent or similar housing-related payment (including nonpayment or late payment of any fees, penalties, or interest).

**Q. During the CDC eviction moratorium, do covered persons still owe rent to their PHA, landlord, Tribe or THDE? [FAQ (11-18-2020)]**

A. Yes. Covered persons still owe rent to their PHA, landlord, Tribe or THDE. The Order halts residential evictions only temporarily. Covered persons still must fulfill their obligation to pay rent and follow all other terms of their lease and rules of the place where they live. Covered persons must use best efforts to make timely partial payments that are as close to the full payment as their individual circumstances permit, considering other nondiscretionary expenses.

When the Order expires, a covered person will owe their landlord any unpaid rent and any fees, penalties, or interest as a result of their failure to pay rent on a timely basis during the period of the Order. The CDC eviction moratorium differs from the CARES Act eviction moratorium in this regard: fees for nonpayment of rent from March 27, 2020 – July 24, 2020 could not be charged.

HUD encourages PHAs, landlords, Tribes and TDHEs to consider entering into repayment agreements for all outstanding payments with residents facing financial difficulties during the COVID-19 National Emergency.

**Q. Is it the responsibility of the PHA, landlord, Tribe, or TDHE to verify the truthfulness of the certifications? [FAQ (11-18-2020)]**

A. PHAs, landlords, Tribes, or TDHEs are not required to verify the certifications in the declaration. The Order states that residents must make a certification to the truthfulness of the information provided in the declaration under the penalty of perjury.

**Q. If a PHA, landlord, Tribe or TDHE initiated an eviction for nonpayment of rent before the effective date of the CDC Order but has not completed the eviction, does the CDC Order apply? [FAQ (11-18-2020)]**

A. Yes. Any evictions for nonpayment of rent that were initiated prior to September 4, 2020, but have yet to be completed, are subject to the Order. Any resident who qualifies as a “covered person” and is still present in a rental unit is entitled to protections under the Order. Any eviction that occurred prior to September 4, 2020 is not subject to the Order.

**Q. Do PHAs have to notify HCV landlords of the CDC Order and Declaration? [FAQ (11-18-2020)]**

A. HUD strongly encourages PHAs to notify the HCV landlords that the CDC eviction moratorium is in and that it differs from the now expired CARES Act eviction moratorium.

## **COVID-19 Waivers Available to PHAs**

Through PIH Notice 2020-13 (HA), REV-1, HUD is allowing PHAs to waive certain requirements. Adopting and implementing waivers is a PHA-level decision. HUD strongly encourages landlords to check with your PHA(s) to see which (if any) waivers your PHA(s) are adopting and implementing.

**Q. What is the first step in determining which waivers apply to my situation? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. The use of these waivers is at the discretion of the individual PHA. A PHA may choose to apply all, some, or none of the waivers to their Public Housing and HCV programs. PHAs may continue to request regulatory waivers from HUD in accordance with Notice PIH 2018- 16 for waivers that are not covered by this Notice, however, the PHA may not implement those waivers until the waiver request is approved by HUD. Some of the waivers require the use of alternative requirements. If the PHA adopts a waiver with an alternative requirement, the PHA must comply with all the terms and conditions of the alternative requirement. Please see the individual waiver descriptions for information on the applicable alternative requirements. PHAs are required to keep written documentation that record which waivers the PHA applied to their programs(s) and the effective dates. A summary of the available waivers/alternative requirements and a suggested format for such documentation is included as Attachment I to 6 this Notice<sup>4</sup>. A PHA does not need to notify HUD or receive HUD approval to begin utilizing these

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<sup>4</sup> Notice PIH 2020-13 (HA), REV-1

waivers/alternative requirements. However, HUD may subsequently require the PHA to provide information to HUD on the waivers used by the PHA and the date the PHA applied the waiver to its program(s). If a PHA chooses to apply any of the waivers provided for in this Notice, the PHA is required to publicly post or otherwise make available to the public a list of such waivers and alternative requirements by whatever means it considers most effective (e.g., posting to its Web site, posting in central and any satellite offices and properties) as soon as practicable.

**Q. What if I need an Initial Inspection? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. HUD is waiving these requirements and providing an 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 the 1-year anniversary date of the owner's certification. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. The period of availability for a PHA to accept an owner's self-certification for an initial inspection ends on December 31, 2020. For any unit for which a PHA accepted an owner's self-certification, the PHA must conduct an HQS inspection as soon as reasonably possible but no later than the 1-year anniversary of the date of the owner's certification.

**Q. Must a landlord or owner with newly rehabilitated or constructed units, which fall under an Agreement to Enter into the HAP Contract (AHAP) receive an inspection to certify that work has been completed? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. If the PHA has imposed an additional requirement under the AHAP for newly constructed or rehabilitated projects, the PHA may choose to allow the owner to certify that the PHA requirement has been met instead of inspecting the housing to make that determination. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. The period of availability for PHAs to accept owner's self-certification for the pre-HAP inspection/completion of work requirement ends on December 31, 2020. For any unit for which a PHA accepted an owner's self-certification, the PHA must conduct an HQS inspection as soon as reasonably possible but no later than the 1-year anniversary of the date of the owner's certification.

**Q. What happens if the initial inspection fails with Non-Life-Threatening Deficiencies (NLT)? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. HUD is waiving the requirement that the PHA must withhold the payment if the NLT repairs are not made in 30 days. Instead, 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. This NLT initial inspection option is available to the PHA for both tenant-based units and project-based units. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. The period of availability for the PHA to approve an extension of up to an additional 30 days ends on December 31, 2020. The extension to make the NLT repairs may extend beyond December 31, 2020, depending on the date the PHA approved the extension. For example, if the PHA approved the extension on December 15, 2020, the maximum extension provided to the owner would be January 15, 2021.

**Q. What happens if the initial inspection fails with Life-Threatening Deficiencies? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. HUD is waiving these requirements and establishing an alternative requirement for both tenant-based and PBV units. If the reported deficiency is life-threatening, the PHA must notify the owner of the reported life-threatening deficiency and that 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.). This waiver may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. The period of availability ends on December 31, 2020. After December 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.

**Q. What if my unit is due for a biennial inspection? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. HUD is waiving this requirement and is allowing PHAs to delay biennial inspections for both tenant-based and PBV units. All delayed biennial inspections must be completed as soon as reasonably possible but no later than one year after the date the biennial inspection would have been required absent the waiver. This waiver and alternative requirement may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. The PHA must conduct the delayed biennial inspection as soon as reasonably possible but no later than one year after the date the biennial inspection would have been required absent the waiver.

**Q. What does a landlord need to do if notified by a PHA that a unit requires an interim inspection because the unit does not comply with HQS standards (as reported by a family member or a government official)? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. HUD is waiving these requirements and establishing an alternative requirement for both tenant-based and PBV units. If the reported deficiency is life-threatening, the PHA must notify the owner of the reported life-threatening deficiency and that 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.). This waiver may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. The period of availability ends on December 31, 2020. After December 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.

**Q. What happens if I need an HQS inspection to turn my PBV unit to over to a new family or to add units? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. The regulation requires that before providing assistance to a new family in a PBV contract unit, the PHA must inspect the unit. HUD is waiving this regulatory requirement and providing as an alternative requirement 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 to allow a new family to occupy the vacated PBV unit. 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 the HQS inspection on the unit as soon as 19 reasonably possible, but no later than the 1-year anniversary date of the owner's certification. This waiver may also be applied to PHA-owned units if the independent entity is unable to perform the inspection. The period of availability to fill a turnover PBV unit without conducting an HQS inspection ends on December 31, 2020. For any unit for which a PHA accepted an owner's self-certification, the PHA must conduct an HQS inspection as soon as reasonably possible but no later than the 1-year anniversary of the date of the owner's certification.

**Q. What if the family wants to add another member or members to the household as a result of the COVID-19 pandemic? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. The regulation 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. 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 pandemic, 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. 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

**Q. What if I haven't been able to execute my HAP contract and the deadline has passed? Can I still execute the contract and get paid? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. The PHA may not make any housing assistance payments to the owner until the HAP contract is executed. The regulation provides that 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. 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 22 payments back to the beginning of the lease term. However, the PHA and owner must execute the HAP contract no later than 120 days from the beginning of the lease term. The period of availability to execute the HAP contract after the normally 60-day period from the beginning of the lease term ends on December 31, 2020.

**Q. What happens if the family's income increases to the extent that the housing assistance payments would typically be reduced to \$0? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. When an HCV family's income increases to the extent that the housing assistance payment is reduced to \$0, PHAs are required to terminate HAP contracts 180 days after the last housing assistance payment to the owner. In recognition that the COVID-19 pandemic 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. As an 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. The period of availability for the extension ends December 31, 2020. The PHA may not extend the HAP contract beyond December 31, 2020.

**Q. What happens if the family is absent from the unit for more than 180 days? [PIH Notice 2020-13 (HA), REV-1 (7-2-2020)]**

A. The regulation requires that a family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. 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). The period of availability for the PHA to choose to continue making HAP payments despite the family's absence of more than 180 consecutive days 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.