



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

Special Attention of:
Regional and Field Office Directors of Public
Housing; Section 8 Financial Management Center;
Public Housing Agencies Administering Housing
Choice Voucher and Public Housing Programs;
Owners/Agents; Resident Management Corporations;
Resident Councils;

Notice PIH-2013-20 (HA)

Issued: August 8, 2013

This notice remains in effect until
updated, amended or superseded

References: PIH Notice 2009-41
24 CFR 5.110

Subject: Processing requests for regulatory waivers through appropriate field offices.

1. Purpose: This notice updates PIH notice 2009-41, which provided instructions for submitting requests for regulatory waivers in compliance with the Department of Housing and Urban Development (HUD) Reform Act of 1989. This update emphasizes the need for public housing agencies (PHAs) to initiate regulatory waivers with their appropriate Director, Office of Public Housing Program Center Coordinator (field office).

Waivers are relief from strict regulatory compliance upon a finding of good cause, subject to statutory limitations and waiver procedures pursuant to 24 CFR 5.110. Except as noted herein, PHAs are not to submit waiver requests directly to HUD Headquarters (HHQ) program offices.

2. Background: The authority to grant waivers of regulations administered by Public and Indian Housing (PIH) is delegated to the Assistant Secretary for PIH. On a quarterly basis, approved waivers are compiled for *Federal Register* publication pursuant to the HUD Reform Act of 1989. 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 Field Operations (OFO).

3. Process: Each regulatory waiver request must identify the regulation from which relief is sought and present justification pursuant to 24 CFR 5.110. Regulatory waivers are processed in three steps:

- a. PHA initiation of request with good cause justification and submission to their local Field Office;
- b. Field Office submits request with a recommendation to HHQ; and
- c. HHQ Program Office recommends final determination for approval by Assistant Secretary.

4. Exceptions: The following are exempt from the requirement to initiate requests directly to the appropriate field office.

- a. Temporary compliance waivers pursuant to PIH Notice 2013-3;
- b. Procedures enacted during Presidentially-declared disasters; and
- c. Regulatory waivers under the Office of Public Housing Investments (OPHI):

Under the mixed-finance program pursuant to 24 CFR 941 subpart F (or successor regulation at 24 CFR 905 subpart F), PHAs developing a mixed-finance project submit proposals and evidentiary documents to OPHI. OPHI assigns an OPHI grant manager to work with the PHA to attain HUD approval for the project. Waivers for mixed-finance projects are reviewed and processed by OPHI; field offices 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 941 submit the waiver request to their field office and follow the process outlined herein.

4. Quarterly Reports: On a quarterly basis, the Office of Program, Policy and Legislative Initiatives (OPPLI) and the HHQ program offices prepare reports of approved waivers for *Federal Register* publication processed through the Office of General Counsel.

5. Further Information: For information on the need for a regulatory waiver or on how to process a regulatory waiver request, contact the appropriate field office at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/about/field_office

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing