



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

Special Attention of:

Public Housing Agencies;
Public Housing Hub Office Directors;
Public Housing Program Center Directors;
Public Housing Division Directors;
Regional Directors;
Field Office Directors

NOTICE: PIH-2014-01 (HA)

Issued: January 9, 2014

Expires: Effective until amended,
superseded, or rescinded

Cross References:

PIH-2011-48 (HA)

PIH-2012-14 (HA)

Subject: Guidance on Reporting Public Housing Agency Executive Compensation Information

1. **Purpose.** This notice provides guidance on how to use the revised HUD-52725 form to report executive compensation.

2. **Background.** This notice supersedes those parts of PIH-2011-48 (HA) “Guidance on Reporting Public Housing Agency Executive Compensation Information and Conducting Comparability Analysis” that refer to the HUD-52725 form. The guidance in that notice pertaining to conducting comparability analysis remains in effect. Key changes include:

- a. there are no reporting exemptions;
- b. the submission date is not tied to the submission of the HUD-52723 form;
- c. data must be submitted for the top management official and top financial official;
- d. the types of compensation that must be reported have changed;
- e. compensation data is required for no more than three employees; and
- f. source of funds must be reported for those employees with total cash compensation exceeding \$155,500.

It is important to not confuse executive compensation reporting requirements with salary restrictions. Salary restrictions are explained in PIH-2012-14 (HA) “Guidance on Public Housing Salary Restrictions in HUD’s Federal Fiscal Year (FFY) 2012 Appropriations Act (P.L. 112-55).” That notice provided guidance on implementing the provision in HUD’s FFY 2012 Appropriations, P.L. 112-55, that limits the use of FFY 2012 Section 8 Tenant-Based Rental Assistance and Section 9 appropriations to pay salaries to public housing agency (PHA)

employees. The provisions of that notice have been extended by the Full-Year Continuing Appropriations Act, 2013 (P.L. 113-6) and the Continuing Appropriations Act, 2014 (P.L. 113-46).

3. Applicability. The requirements in this notice apply to all PHAs that administer a public housing or housing choice voucher program. Previously, HUD offered an exemption for a PHA that operated a housing choice voucher program only and received less than 50 percent of its funding for employees from HUD. That exemption is no longer available due to equity considerations. The reporting requirements apply to MTW as well as non-MTW agencies.

4. Reporting PHA executive compensation using the HUD-52725 form. Respondents must download the HUD-52725 form, enter and save the data using Excel, and submit the completed form to their field offices. The form with instructions will be posted with this notice on HUD.gov and HUDCLIPS. The HUD-52725 form is presented in an Excel workbook format, and contains user-friendly features such as drop-down lists and automatic entries. It is important that respondents use Excel to enter and save the data because the form has been designed to facilitate the transmission of the data to HUD. Because of this, respondents should not submit altered workbooks or hard copies of the form (e.g., PDF files, printed forms filled in by hand, or facsimile copies).

The types of compensation data collected on the form have changed. To capture the two most important types of compensation, HUD has introduced the concept of “cash compensation.” There are two types of cash compensation: (1) base salary; and (2) bonus and incentive compensation. Total cash compensation is the sum of these two components. A PHA must report cash compensation data for the most recent full calendar year or tax year. Please note that total cash compensation excludes some types of taxable compensation, and may be less than the total compensation reported on a W-2 form or 1099-MISC form.

A PHA must report the source of funds for those individuals with total cash compensation exceeding \$155,500. This is a new requirement that represents an additional burden for PHAs that pay relatively high levels of compensation. A PHA only has to report the amount of cash compensation that is paid for with funds originating from Section 8 and Section 9 appropriations. To help offset the additional burden associated with compiling cash compensation data and reporting source of funds, HUD has reduced the maximum number of employees for which data must be reported from five to three.

The revised form requires compensation data for the top management official and the top financial official. Previously, data was collected for the five highest paid employees without regard to job function. The revised form will still capture the highest paid employee, but also ensures that the compensation of the two top officials is also reported.

The form uses a small number of Internal Revenue Service (IRS) terms and concepts which can be found in the IRS documents “2012: Instructions for Form 990 Return of Organization Exempt From Income Tax” (<http://www.irs.gov/pub/irs-pdf/i990.pdf>) and “Schedule J (Form 990) 2013: Compensation Information” (<http://www.irs.gov/pub/irs-pdf/f990sj.pdf>). The IRS revises these documents annually, but it retains earlier versions on its website. The definitions HUD has borrowed from these documents are not likely to change, but

if there is a conflict, the definitions from the versions specifically referred to here will apply. HUD uses IRS definitions to define terms like “cash compensation” and “related organizations.”

5. Submissions. PHAs will be required to complete the HUD-52725 form and submit it to their appropriate field offices by no later than February 28, 2014. HUD is requesting that PHAs submit compensation data for the 2013 calendar year (or the tax year ending in 2013, if appropriate).

6. Authority. The collection is authorized pursuant to HUD’s specific oversight of the public housing operating fund that is found in the U.S. Housing Act of 1937 as amended, 42 U.S.C. 1437 et seq., particularly 42 U.S.C. 1437c(a)(1) and (f) and 42 U.S.C. 1437f(b)(1). Authority is also found in the Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.) (Department of HUD Act). Under the Department of HUD Act, HUD is provided general oversight and monetary authority over its funded programs. In particular, section 7(r)(1) of the Department of HUD Act (42 USC 3535(r)(1)) authorizes the Secretary to expend funds “for evaluating and monitoring” housing programs, including public housing and all other programs authorized under the U.S. Housing Act of 1937 and other HUD statutes, and for “collecting and maintaining data for such purposes.”

Additionally, the government-wide regulations governing grants and cooperative agreements to state, local, and federally recognized Indian tribal governments, which for HUD are found in 24 CFR part 85, provide in 24 CFR 85.42(e) as follows: “(e) Access to records —(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.”

7. Penalty for PHA non-compliance. In the event that a PHA fails to comply with the PHA executive compensation reporting requirements, HUD may impose temporary monetary sanctions on the PHA pursuant to Section 6(j)(4) of the U.S. Housing Act of 1937, as well as other remedies pursuant to HUD regulations. These provisions apply to MTW as well as non-MTW agencies.

8. Paperwork Reduction Act. The information collection requirements contained in this document are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 2501-3520. The OMB control number is 2577-0272. In accordance with the Paperwork Reduction Act, 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.

9. Further information. Inquiries about this notice should be directed to Harold Katsura at (202) 402-3042 or Harold.Katsura@hud.gov.

/s/

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