

**Update on  
Agency  
Operations  
Post-  
Pandemic**

**May 25, 2022**



## TODAY'S PRESENTERS

**Eric Oberdorfer**

Director of Policy and Program Development

# AGENDA

- Unwinding COVID Waivers
- Funding Considerations in the “New Normal”
- New and Upcoming HUD Regulations
- HUD’s Offices and Staffing



# Unwinding COVID Waivers



# BACKGROUND

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**Notice PIH 2021-14**

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**Restates all waivers and alternative requirements**

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**Most waivers are effective until December 31, 2021**

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# BACKGROUND

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**Notice PIH 2021-34**

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**Expedited Waiver Notice**

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**Expedited Waiver Process ended April 30, 2022**

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## GOOD CAUSE

- Increased vacancy
- Insufficient staffing levels to address administrative or maintenance backlogs
- Potential negative impacts to tenants or the onset of housing instability
- Local pandemic-specific delays or limitations caused by supply chain disruption, safety, or social distancing requirements
- Section Eight Management Assessment Program (SEMAP) indicators affected directly or indirectly because of the disruption to PHA operations caused by its adoption of CARES Act waivers.

## EXPIRED EXPEDITED WAIVERS

- Increase in Payment Standard during HAP Contract\*
- SEMAP Score
- Term of Voucher: Extensions of Term
- Homeownership: Maximum Term of Assistance
- Voucher Tenancy: New Payment Standard Amount



# CONTINUED OPERATIONAL FLEXIBILITIES

- Income Verification Hierarchy
  - May use alternate verification technique if third-party verification is unavailable
- Remote Video HQS Inspections
- PHA Oral Briefings
  - Webcast, in-person, video calls, phone, other methods
- Capital Fund Grant Deadline Extensions
  - 2-year extension for Capital Fund grants opened between April 11, 2020 and December 31, 2020
  - Does not extend to Capital Fund grants opened after December 31, 2020.

# CAPITAL PROGRAMS

- PH-3: Cost and Other Limitations: Types of Labor
  - Non-high performing PHAs may other initiate force account labor work for development and modernization activities if they are included in the Board approved Capital Fund Program 5-Year Action Plan approved by HUD
  - Actions must be specifically identified as force account labor
  - High-performing PHAs may use force account labor without HUD approval

# INSPECTIONS

- Delayed HQS Inspections
  - HQS-1: Initial Inspection Requirements
    - Must be completed by 6/30/22
  - HQS-2: PBV Pre-HAP Contract Inspections: PHA Acceptance of Completed Units
    - Where self-certification was used, PHAs must inspect the unit by 6/30/22
- HQS-5: HQS Inspection Requirement
  - Delayed inspections from CY 2020 must be completed by 6/30/22
  - Delayed inspections from CY 2021 must be completed by 12/31/22

- 12.e: Community Service and Self-Sufficiency Requirement (CSSR) Suspension
  - Families with nonexempt adult members who must perform CSSR will be subject to these requirements starting with the first annual reexamination after 4/30/22
  - Families who were previously under a “work-out” agreement, entered into prior to a PHA’s adoption of the waiver and/or mandatory suspension of CSSR, will resume agreement to rectify noncompliance
  - No hours could have accrued to a pre-existing work-out agreement during the suspension
  - Any hours accrued under the suspension may qualify as make-up hours to satisfy a work-out agreement

# PAYMENT STANDARDS

- Streamlined processing through Sept. 30, 2022
- Must show good cause:
  - Why the PHA needs the waiver
  - The impact on PHA operations or applicants if the waiver is not provided
  - The proposed waiver duration.
- The waiver may not extend past Dec. 31, 2022.

# PAYMENT STANDARDS

- Increase in Payment Standard During HAP Contract Term
  - This waiver would allow the PHA to increase the payment standard for a family at any time after the effective date of the increase, rather than waiting for the next regular reexamination.
- Term of Voucher: Extensions of Term
  - This waiver would allow PHAs to grant extensions of the initial voucher term, irrespective of what is written in the PHA's administrative plan.
- Voucher Tenancy: New Payment Standard Amount
  - This waiver would allow PHAs to establish payment standards from 111 to 120 percent of the Fair Market Rent (FMR).



# Funding The New Normal





# Operating Fund



# OPERATING FUND CONCERNS

- Operating Fund Formula may not be an accurate reflection of what is happening on the ground.
- Not all PHA's have been able to collect rents at pre-COVID levels
  - HUD's Operating Fund formula considers rents charged, not rents collected.
  - HUD bases its funding request off the Operating Fund formula which assumes PHA's are collecting all rents charged.
  - HUD is assuming PHAs are collecting more income from tenant rents than they may be.
- Data HUD uses to forecast future inflation is slightly outdated and does not reflect the current increases in inflation levels



# Voucher Utilization

## HUD UTILIZATION GOALS

- Increase HCV Utilization to 98% by Sept. 2022
- Increase **HCV Utilization to 100%** by Sept. 2023
- Go to [www.hud.gov/hcv](http://www.hud.gov/hcv)

# NAHRO SUGGESTIONS

## ■ Unilateral PIH Actions:

- Clarify guidance that admin fees can be used for activities and expenses like security deposits, screening fees, etc., that help with utilization
- Complete the HCV guidebook so there's a single reference source for running the program
- Travel to regional/state conferences to discuss new HUD resources that can help improve utilization rates
- Quickly implement site-based waiting lists for PBV projects.

# NAHRO SUGGESTIONS

- **Cooperation from Congress:**
  - Increase PBV caps so more vouchers can be project-based, especially in areas where units are hard to find
  - Increase funding for Admin Fees and add additional activities to Admin fees that help to increase utilization
  - Provide additional flexibilities in payment standards where needed
  - Create a national source of income discrimination law
  - Streamline inspection protocols.



# PHAS/SEMAP

## PHAS/SEMAP

- PHAS and SEMAP scoring resumed in CY 2022
  - Some inspections occurred prior
- HUD provided an expedited waiver process for waiving SEMAP scores for FY 2022
- HUD did not provide a waiver to waive PHAS
  - PHAs can reach out to HUD if they are concerned their PHAS scores will be significantly impacted by the pandemic
  - Relief for TARS
  - Still using UPCS until NSPIRE is implemented

# HUD NOTICE PIH 2022-02

- HUD Notice PIH 2022-02
  - Relief for TARS
    - 80% or greater = 5points
    - 60% - 79% = 2 points
  - UPCS inspections still being used with a 28-day notification (better than 14-day notification) for at least CY 2022.
  - If concerns reach out to HUD REAC TAC





# New and Upcoming Regulations





# Section 3

## SECTION 3 IMPLEMENTATION GUIDANCE

- Section 3 Final Rule released in Sept. 2020
  - Went into effect July 2021
- Final Rule:
  - Defines Section 3 Workers and Targeted Section 3 Workers
  - Set Section 3 benchmarks
  - Requires tracking of labor hours and changes certain reporting requirements
- Little guidance provided on reporting

## WHO MUST MEET SECTION 3 BENCHMARKS?

- PHAs with 250 or more units of Public Housing
- PHAs with less than 250 Public Housing units do not need to track for benchmarks, but must submit a qualitative report on their Section 3 efforts
- Any PHA undertaking a project that costs more than \$200,000
- Any PHA undertaking a project with more than \$100,000 funding from HUD's Lead Hazard Control and Healthy Homes Program

# DEFINITIONS

- **Two Types of Section 3 Workers**
  - Section 3 worker
  - Targeted Section 3 worker

# DEFINITIONS

## ■ **Section 3 Worker**

- Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:
  - The worker's income for the previous or annualized calendar year is below the income limit established by HUD (low- or very-low income) within the service area or neighborhood of the area.
  - The worker is employed by a Section 3 business concern.
  - The worker is a YouthBuild participant.

# DEFINITIONS

- **Targeted Section 3 Worker**
  - A worker employed by a Section 3 business concern; or
  - A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
    - A resident of public housing or Section 8-assisted housing;
    - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
    - A YouthBuild participant.

## SECTION 3 REPORTING

- The total number of labor hours worked;
  - The total number of labor hours worked by Section 3 workers; and
  - The total number of labor hours worked by Targeted Section 3 workers.
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- Can look back 5 years.
  - Annual Reporting



## SECTION 3 BENCHMARKS

- To meet the safe harbor, PHAs with 250 or more Public Housing units must ensure:
  - **25 percent** or more of the total labor hours worked by all workers employed by the PHA are Section 3 workers
  - **5 percent** or more of the total labor hours worked by all workers employed by the PHA are Targeted Section 3 workers

## SECTION 3 BENCHMARKS

- To meet the safe harbor, PHAs with projects (Section 3 project) costing \$200,000 or more or \$100,000 or more if the funding comes from HUD's Lead Hazard Control and Healthy Homes Program:
  - **25 percent** or more of the total labor hours worked are Section 3 workers
  - **5 percent** or more of the total labor hours worked are Targeted Section 3 workers

## SECTION 3 BENCHMARKS

- PHAs certify compliance with Section 3 priorities and benchmarks
  - These are accepted absent evidence to the contrary
- **If a PHA does not meet the safe harbor established in the benchmarks, it must submit a qualitative report on their efforts to meet Section 3 requirements.** (Regulation lists 14 qualitative efforts – not an exhaustive list)
- PHAs with less than 250 units of public housing only submit a qualitative report on their efforts

# SMALL AGENCY REPORTING

- **Small PHA**

- A public housing authority that manages or operates fewer than 250 public housing units.
- Must still meet Section 3 requirements, however only required to report qualitatively on how they met those requirements

## SECTION 3 BENCHMARKS

- Benchmarks will be updated at least once every 3 years in the *Federal Register* with an opportunity for the public to comment
- Currently, HUD will use a single nationwide Section 3 benchmark but may establish varying benchmarks in the future based on:
  - Geography
  - Housing financial assistance
  - Other variables

## SECTION 3 IMPLEMENTATION GUIDANCE

- Notice PIH 2022-10
- Provides Guidance on
  - Transition period activities
  - Reporting
  - Contracting and procurement
  - Monitoring and compliance
  - Recordkeeping
  - Complaints
  - Training for Section 3

## SECTION 3 IMPLEMENTATION GUIDANCE

- New reporting system
  - Section 3 reporting system not ready for use
    - Will not be ready before August
  - Agencies should retain all information related to Section 3 reporting requirements in case agencies have to input information retroactively



# NSPIRE Standards



# INSPECTION IMPROVEMENTS TIMELINE

- **2019 – Analysis and Design**
  - **Demonstration listening session**
  - **14-day notice released**
  - **Stakeholder outreach**
  - **Demonstration Notice Released**

# INSPECTION IMPROVEMENTS TIMELINE

- **2020 – COVID**
  - **3/20 - Demonstration on pause, inspections stop**
- **2021 – Inspections resume**
  - **6/21 - High-risk public housing properties evaluated through NSPIRE for life threatening deficiencies**
  - **6/21 - Demonstration Resumes**
  - **6/21 - 14-day notice extended to 28 days**

# INSPECTION IMPROVEMENTS TIMELINE

- **2022 – Inspections**
  - High risk properties return to **UPCS** inspections, **PHAS** scores reinstated
  - Demonstration extended through **April 30, 2023**
- **2022 – Demonstration**
  - Test, evaluate, validate, and refine **NSPIRE Protocol**
- **2022 – Regulations**
  - Standards and final rule scheduled to be finalized and released this summer
- **2023: NSPIRE replaces UPCS**

## DESIRED OUTCOME OF NEW INSPECTION MODEL

### **Protect families and Reflect the true physical condition**

- Convey HUD's property management expectations to owners - failing scores remain unacceptable
- Strengthen current standards, scoring models, and protocols used to assess properties
- Implement stricter enforcement protocols against owners who are not meeting standards

## GOALS OF THE INSPECTION

- Ensure families are living in decent and safe housing
- Enhance accuracy through:
  - Better identification of substandard properties
  - Increased objectivity and defensibility of inspections
  - Streamlined inspection processes
- Evaluate the National Standards for the Physical Inspection of Real Estate (NSPIRE) model

# NSPIRE MODEL – CONCEPTUAL VIEW

## 3 Types of Inspections – Confidence Increased

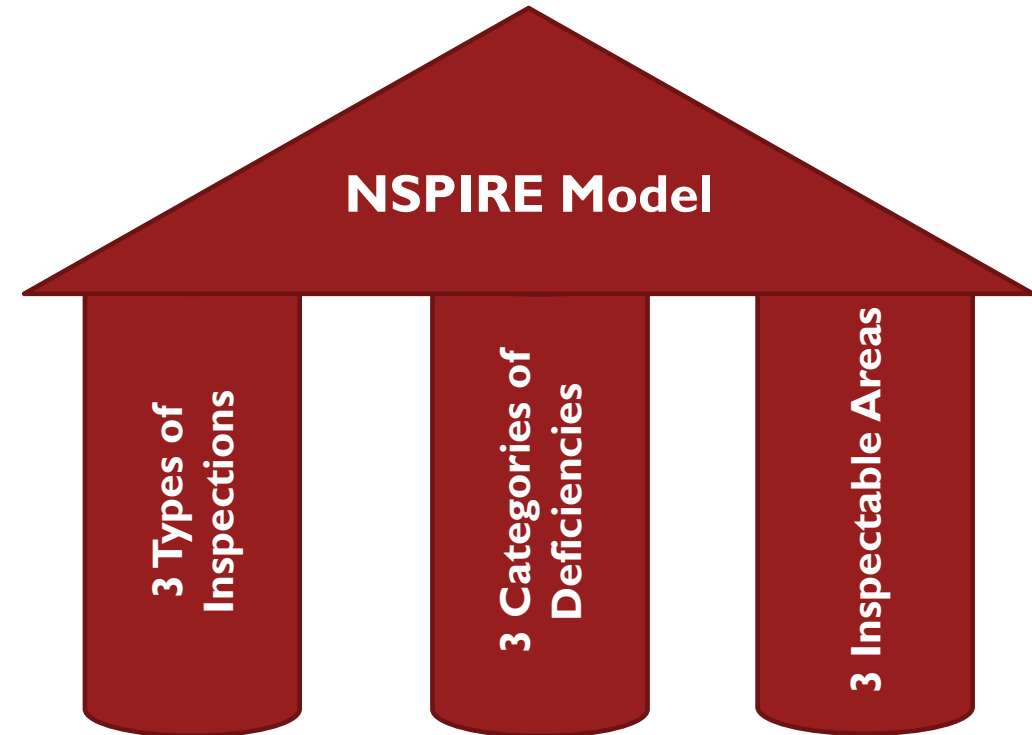
- Property Owner/Agent (POA) Self-Inspections
- REAC Contracted Inspections
- HUD Quality Assurance Inspections

## 3 Categories of Deficiencies – Resident Focused

- Safety and Health – Emergency Work Order
- Function and Operability – Routine Work Order
- Condition and Appearance – Route Work Order

## 3 Inspectable Areas – Complexity Reduced

- Unit – 50% of total score
- Inside – 25% of total score
- Outside – 25% of total score



Underpinned by 3 mutually supporting components

# NSPIRE PROPOSED RULE

- Three inspectable areas
  - Inside
  - Outside
  - Unit
- New annual self-inspection and reporting requirements
- New administrative process for the treatment of health and safety deficiencies
- Reduces administrative burdens on small, rural PHAs

## WHAT IS NEXT WITH THE NSPIRE RULE

- HUD must review the comments received on the proposed rule
- Still awaiting final rule – expected to be released this summer
- HUD continues to work on standards – expected to be finalized by summer
- Expected to be implemented in 2023
- NSPIRE-V?





# HOTMA

## HOTMA SECTION 102, 103, 104

- In September 2019, HUD released a proposed rule on implementing certain provisions of HOTMA
- The proposed rule focused specifically on 3 sections of HOTMA
  - Section 102 – Income Reviews
  - Section 103 – Over-Income Tenants of Public Housing
  - Section 104 – Asset Limitations

## SECTION 102 – INCOME REVIEWS

- Use of prior year income over annualization of income
- Removes Earned Income Disallowance
- Changes to definition of annual income
- Changes to income exclusions
- Changes to adjusted income

## SECTION 103 – OVER-INCOME RESIDENTS IN PUBLIC HOUSING

- Over-income if at 240% of VLI (very low-income) for 2 consecutive years
- Once rule is final housing is either:
  - Terminated
  - Charged an alternative rent in accordance with the PHA ACOP

## SECTION 104 – ASSET LIMITS

- Changes to:
  - Asset restrictions
  - Real property ownership
  - Some PHA discretion is provided
- Self-certification of assets under \$50,000 and real property
- Net family assets



# Family Self-Sufficiency

# FSS FINAL RULE

- Final rule released on May 17
  - Goes into effect June 16
  - PHAs must be in compliance by November 14

# FSS FINAL RULE

- Makes certain changes to the program
  - Minimum program size
    - Approved exceptions from 3 years to 5 years
  - Cooperative agreements
    - Agreements with Multifamily properties to make a voluntary FSS program available to owner's assisted tenants
  - Contract of Participation (CoP)
  - Simplifies FSS escrow calculations
  - Porting FSS Families





# Davis Bacon

# UPDATES TO DAVIS BACON

- Proposed rule released in March, NAHRO submitted comments May 17
- Does not change \$2,000 threshold for projects that must meet Davis Bacon requirements
- Adds additional step to determine “prevailing wage” in an area
  - Concerns that costs for construction may increase



# HUD Offices and Staffing



# HUD IN 2022

- One-day per pay period in person – will change soon! Union contract negotiations ongoing
- Concerns with recruitment
- Huge amount retirements on the horizon
  - Loss of institutional knowledge
  - Lots of new field office staff



QUESTIONS?

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