

FLASH ALERT

OCTOBER 2018 / www.bdophafinance.com

UPDATED GUIDANCE FOR REGULATORY WAIVERS

HUD published PIH Notice 2018-16 on September 28, 2018 to update instructions for public housing agencies (PHAs) on how to submit requests for regulatory waivers and add instructions for waivers for PHAs in Presidentially declared Major Declared Disasters (MDD) areas. Regulatory waivers provide relief from certain requirements for good cause, subject to statutory limitations and pursuant to 24 CFR 5.110. This PIH Notice supersedes PIH Notices 2013-20 and 2009-41.

Even though the Public and Indian Housing's Assistant Secretary will approve the waiver request, the PHA will submit their request to their field office. Each waiver request must identify the regulation from which relief is sought and provide justification pursuant to 24 CFR 5.110. There is generally a four step process when requesting a waiver;

1. PHA will submit a waiver request to their field office;
2. The field office submits the waiver request to HUD Headquarters. The submission to HUD Headquarters will include a recommendation from the field office;
3. HUD Headquarters will prepare a final determination for approval by the Assistant Secretary;
4. PHAs will receive a signed response to their waiver request by email with copies sent to the field office and applicable program office, such as Housing Choice Vouchers.

If the PHA is requesting a disaster related waiver, then the requesting PHA must be in an area with an active MDD designation to be eligible for expedited reviews. Each disaster request must still identify the regulation from which relief is sought and present a good cause justification pursuant to 24 CFR 5.110. Instead of a four step process, an MDD waiver request is only a three step process:

1. PHA initiates a request with good cause justification and transmits to HHQ at PIH_Disaster_Relief@hud.gov with a copy to FO;
2. HUD Headquarters prepares a final determination for approval by the Assistant Secretary;

3. PHAs will receive a signed response to their waiver request by email with copies sent to the field office and applicable program office,

Typically, all waiver requests will start with the field office except MDD requests (as noted above) and waivers requested to be approved the program office of Public Housing Investments. The Office of Public Housing Investments will review waivers primarily for the 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.

Unfortunately, HUD does not provide any timeline regarding how long it will take to approve or deny a waiver request. HUD does state the waiver request will be completed timely and disaster waiver requests will be expedited due to HUD's priority to best serve the disaster impacted families and the PHA. Quarterly, HUD will publish the approved waivers in the Federal Register.

CONTACT

BRIAN ALTEN

BSO Partner

215-940-7812 / balten@bdo.com1801 Market Street / Suite 1700
Philadelphia, PA 19103

ABOUT BDO PHA FINANCE

BDO PHA Finance, a division of BDO USA, LLP, provides accounting and management consulting services to Public Housing Authorities (PHAs) nationwide. We are proud to be making a difference for the housing authorities that serve communities throughout the United States.

© 2018 BDO USA, LLP. All rights reserved.